



ANNUAL REPORT  
2008-09

ICAC

INDEPENDENT COMMISSION  
AGAINST CORRUPTION

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Mr President  
Mr Speaker

I am pleased to furnish to you the ICAC Annual Report for the year ended 30 June 2009. The report has been prepared in accordance with the requirements of the *Independent Commission Against Corruption Act 1988* and the *Annual Reports (Departments) Act 1985*.

Pursuant to section 78(2) of the ICAC Act, I recommend that this report be made public immediately.

This recommendation allows either presiding officer of the Houses of Parliament to make the report public, whether or not Parliament is in session.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'J. Cripps', is written over a light blue circular official stamp.

The Hon Jerrold Cripps QC  
Commissioner

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# Foreword

ICAC

INDEPENDENT COMMISSION  
AGAINST CORRUPTION

“It has been gratifying to serve as Commissioner during this five-year period of sustained corruption fighting”

Commissioner the Hon Jerrold Cripps QC, pictured with receptionist, Rachel Forder.

The 2008–09 year has seen the Independent Commission Against Corruption continue to fight and prevent corruption in the NSW public sector, in an era when community expectations of how governments and their bureaucracies operate mean that the work of the Commission is as important as ever.

The last financial year has seen the finalisation of two of the Commission's more prominent investigations in recent times; one involving fraud and bribery at RailCorp and the other involving corruption at Wollongong City Council.

The RailCorp investigation uncovered almost \$19 million in improperly allocated contracts that were awarded to companies owned by RailCorp employees, their families and/or friends in return for more than \$2.5 million in corrupt payments. It resulted in the Commission making a total of 96 corrupt conduct findings against 31 people, and stating its opinion that the advice of the Director of Public Prosecutions should be sought with respect to the prosecution of 33 people for 663 offences. The Commission

also made 40 corruption prevention recommendations to RailCorp to help it manage corruption risks effectively, especially those associated with procurement.

The investigation into Wollongong City Council centred on corrupt conduct in relation to planning matters. This investigation uncovered disturbing levels of corrupt conduct, with corruption established in five levels of the organisation, and resulted in a total of 27 corruption prevention recommendations, 20 of which related specifically to Wollongong City Council. Seven recommendations address corruption risks associated with the NSW planning system and are directed to the Department of Planning, the Minister for Planning or, in one case, to all NSW local government councils.

Earlier reports on this investigation that were tabled in the previous financial year involved the Commission invoking two particular powers for the first time: recommending that consideration be given to all civic offices in relation to the Council being declared vacant, and recommending



that consideration be given to suspending the development consent granted by the Council for the \$100 million "Quattro development", with a view to its revocation, due to the "serious corrupt conduct" of the council planner and developer involved. Both of these recommendations were implemented.

These are two investigations that contributed to the 13 investigation reports the Commission furnished to Parliament this year, which is almost twice the number it presented in the previous year.

The Commission again reduced the average time taken to report to its Assessment Panel, achieving a 21% improvement, despite a slight increase in the number of matters received this year to 2,714.

In 2008–09, the Commission recommended that the advice of the DPP be sought with respect to the prosecution of 51 people for criminal offences. This is a 122% increase on the 23 people in respect of whom such recommendations were made in the previous year. It also made corrupt conduct findings against 52 people.

The Commission was again extremely active this year with its corruption prevention function. To assist local government and relevant state government agencies deal with the corruption risks associated with planning processes, highlighted in the Wollongong City Council investigation, the Commission delivered presentations and seminars to more than 1,100 councillors, council managers, planners and other key personnel.

It also delivered 86 corruption prevention workshops, which is more than double the 42 delivered in 2007–08.

A total of 84 corruption prevention recommendations were made in investigation reports, compared to 57 in 2007–08, and the Commission received 252 telephone / email advice requests, compared with 211 the previous year.

Furthermore, in 2008–09 a major Commission research project showed that there has been a significant increase in the adoption of corruption prevention methods across the NSW public sector since 2001.

In keeping with its continued commitment to cooperate fully with its oversight bodies, the Commission responded promptly and accurately to 35 questions on notice from the Parliamentary Committee on the ICAC and seven information requests from the Inspector of the ICAC. It also fully cooperated with an audit undertaken by the Inspector.

During the reporting year, the Commission made a submission to Parliament recommending amendments to section 37 of the ICAC Act. The Commission is seeking to have the immunities with respect to civil and disciplinary proceedings withdrawn.

It has been the Commission's experience that most witnesses who are involved in corrupt conduct knowingly

give false evidence without fear of reprisal. The legislation provides that a person who gives false evidence is liable to a period of imprisonment for five years. In fact, successful prosecutions for giving false evidence rarely result in a prison term. As a result, the community appears to be largely unaware of, and some witnesses unconcerned by, the consequences of giving false evidence. The legislation makes it plain that the Parliament considered that for the Commission to function effectively, people need to be aware that the giving of false evidence may result in a gaol term.

This Annual Report is my final one as the ICAC Commissioner, as my tenure will expire in November 2009.

It has been gratifying to serve as Commissioner during this five-year period of sustained activity, which has seen the Commission continue its fight against corruption while constantly promoting, educating and researching ways to prevent its occurrence in the first place. It has also been a special time, as the Commission celebrated its 20th anniversary in March this year (see next pages).

Over the past five years, the Commission has received more than 11,200 matters, conducted 50 formal investigations, held more than 30 public inquiries over 186 days, plus 211 compulsory examinations, and made 354 corruption prevention recommendations. It has also provided corruption prevention advice during that period on more than 1,400 occasions.

While I believe the need for an Independent Commission Against Corruption in NSW has not diminished, it is also important for agencies, governments and the Parliament to respond to and address corrupt conduct themselves. And as the RailCorp experience has revealed, over several investigations covering many years, there is a time when governments should step in.

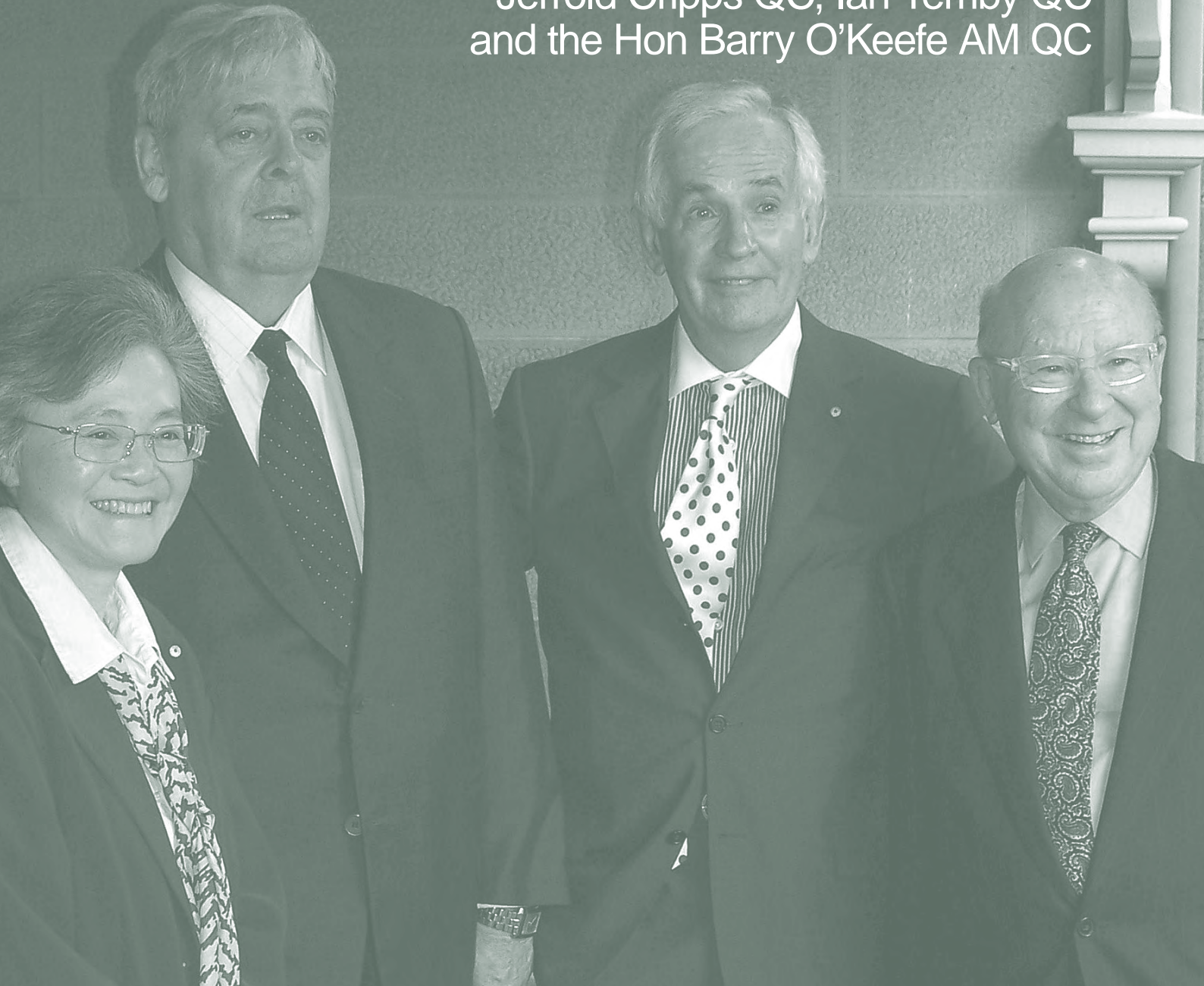
I have every confidence that the excellent work of the Commission will continue in the future. However, governments must remember that while the Commission consistently works to its optimum, resourcing is an ongoing issue that must be addressed to enable the Commission to maintain the high standards of service it delivers to the people of NSW.

I would like to take this opportunity to acknowledge the contribution and dedication of all those I have worked with during my time at the Commission, and to thank all the individuals and agencies, past and present, who have helped make the Commission a world-leading agency in exposing and preventing corruption.



The Hon Jerrold Cripps QC  
Commissioner

ICAC Commissioners, past and present, Irene Moss AO, the Hon Jerrold Cripps QC, Ian Temby QC and the Hon Barry O'Keefe AM QC



**9 August 1988**

The ICAC (Amendment) Bill receives royal assent from the Governor

**13 September 1988**

Premier announces the appointment of the first ICAC Commissioner, Ian Temby QC

**13 March 1989**

The ICAC begins operations with the commencement of the ICAC Act and Ian Temby QC's term as Commissioner

**14 November 1994**

The Hon Barry O'Keefe AM QC commences his term as Commissioner

**1 January 1997**

The NSW Police Integrity Commission is established and assumes responsibility for investigating allegations of police corruption

**14 November 1999**

Irene Moss AO commences her term as Commissioner

**1988**

**1988**

**1989**

**1994**

**1997**

**1999**

Milestones



# 20th anniversary of the ICAC

## ICAC celebrates 20 years of fighting and preventing corruption

**“I commend the bill to honourable members. I suggest they study it closely and when we come to debate the measure they bear clearly in mind the very great responsibility they hold in trust for the people of this State – to ensure that the public institutions that are central to a democratic society are beyond reproach and deserving of public confidence”**

With these words the then NSW Premier, the Hon Nick Greiner, commended the ICAC (Amendment) Bill to the NSW Legislative Assembly during its second reading on 26 May 1988, bringing NSW, and Australia, another step closer to the establishment of the country's first dedicated public sector independent anti-corruption body.

The establishment of the Commission was in response to growing community concern about the integrity of public administration in NSW. This followed events that included the imprisonment of a Chief Magistrate and a Cabinet Minister, criminal trials of senior officials, and an inquiry into the police force, which led to the discharge in disgrace of a Deputy Commissioner of Police.

The Commission began operations on 13 March 1989, the day the *Independent Commission Against Corruption Act 1988* (the ICAC Act) commenced, with Ian Temby QC as the inaugural Commissioner.

Under the terms of the ICAC Act, the Commissioner is appointed for a five-year, non-renewable term. The current Commissioner, the Hon Jerrold Cripps QC, is the fourth Commissioner of the ICAC, following Ian Temby QC, the Hon Barry O'Keefe AM QC and Irene Moss AO.

Over the past two decades, the Commission has undertaken many major investigations that have led or contributed to legislative reform, major improvements in public sector administration and even to the removal of members of Parliament and local government councillors.

The Commission's achievements over the past 20 years (to 30 June 2009) include:

- receiving more than 37,000 individual matters
- conducting more than 290 formal investigations
- conducting close to 100 public inquiries
- making nearly 750 corruption prevention recommendations
- providing corruption prevention advice on 5,100 occasions
- conducting 17 rural and regional outreach programs across NSW (since 2001).

Today, the Commission is recognised internationally as a leading corruption-fighting organisation, and it receives requests for advice and training from countries all over the world. Its work to expose and minimise corruption in the NSW public sector continues.

**2001**

The ICAC conducts its first rural and regional outreach visit

**14 November 2004**

The Hon Jerrold Cripps QC commences his term as Commissioner

**23 October 2007**

The ICAC hosts the inaugural Australian Public Sector Anti-Corruption Conference, which attracts 528 Australian and international delegates

**13 March 2009**

The ICAC marks its 20th anniversary

**19 May 2009**

New ICAC research shows that the NSW public sector's corruption risk management has improved from 2001 to 2007

**2001**

**2004**

**2007**

**2009**

**2009**



# CHAPTER 1

# Overview

The Independent Commission Against Corruption was established as an **independent and accountable body** by the *Independent Commission Against Corruption Act 1988* in response to **growing community concern** about the integrity of public administration in NSW.

The principal objectives of the Commission are:

- **investigating, exposing and preventing** corruption
- **educating** public authorities, public officials and members of the public **about corruption** and its **detrimental effects**.



# Our mission

Combat corruption and improve the integrity of the NSW public sector.

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### What we do

The Commission receives and analyses complaints from members of the public and public officials, and reports made by the principal officers of public sector organisations and Ministers of the Crown. The Commission also conducts research to identify specific areas of corruption risk.

The Commission has extensive powers of investigation and may conduct hearings in public or in private to obtain evidence of corruption. It works to minimise corruption by providing advice, information, resources and training to public sector organisations to remedy existing or potential corruption problems, and helps organisations to identify and deal with significant corruption risks.

The Commission is a public authority, but is independent of the government of the day. It is accountable to the people of NSW through the NSW Parliament.

### 2008–09: The year in review

The Commission's Strategic Plan 2008–12 sets out four key result areas:

- Exposing corruption
- Preventing corruption
- Accountability
- Our organisation.

In 2008–09 each Division developed and worked to an individual annual operational plan aligned with the Strategic Plan. Each Division reported quarterly to the Executive Management Group against its operational plan.

The following sections set out the Commission's objectives for each key result area, and summarise our activity and performance against each in 2008–09.

More detailed information and results for each key result area are provided in Chapters 2 to 6.

## Exposing corruption

One of the Commission's functions is to investigate and publicly expose corrupt conduct. The ICAC Act gives the Commission broad jurisdiction to investigate any allegation or circumstance which, in its opinion, implies that corrupt conduct has occurred. The Commission can also investigate conduct likely to allow, encourage or cause corrupt conduct.

The objectives for investigations are to:

- detect and investigate corrupt conduct
- identify corruption prevention issues through investigations
- ensure a best practice approach for all investigations
- enhance complaint-handling processes
- maintain strategic alliances to optimise investigative outcomes.

A detailed description of ICAC activities and results relating to this key result area is outlined in Chapter 2 (Assessing matters) and Chapter 3 (Investigating corruption). Table 1 opposite sets out the key quantitative results for workload, work activity and performance for this key result area in 2008–09.

## Achievements

In 2008–09, the Commission:

- again reduced the average time taken to report matters to our Assessment Panel, achieving a 21% improvement, despite a slight increase in the number of matters received
- recommended that the advice of the DPP be sought with respect to the prosecution of 51 people for criminal offences, which is a 122% increase on the previous year's recommendations
- published 13 investigation reports
- commenced 58 preliminary investigations
- conducted seven public inquiries over 28 days, in one of which a Commission lawyer was Counsel Assisting, and conducted 33 compulsory examinations, in 31 of which our in-house lawyers acted as Counsel Assisting
- made findings of corrupt conduct against 52 people
- helped facilitate asset restraint or forfeiture made to a total value of \$2,634,000 through four pending matters referred to the NSW Crime Commission.

## Looking forward

In 2009–10, our Assessments Section will:

- reduce the time taken to present matters to the Assessment Panel by 10%
- further reduce the time taken to finalise matters by 10%
- further improve our induction procedures for new starters
- continue to make staff professional development and morale a priority, including holding courses on communication styles and stakeholder negotiation, and giving staff the opportunity to work in other areas of the Commission, through participation in cross-divisional projects.

In 2009–10, our Investigation Division will:

- ensure that investigations comply with all relevant legislative and internal requirements
- ensure that investigations are enhanced through ongoing review of methodology to incorporate best practice models of investigative techniques
- ensure investigative techniques are flexible enough to meet the challenges of evolving technology and adapt to new forms of corrupt conduct
- continually assess training needs and identify specific training modules to maintain the professionalism of staff within the Investigation Division
- continually monitor trends and issues in the public sector with a view to developing proactive approaches to investigations
- focus on identifying appropriate matters to refer to the NSW Crime Commission for consideration of action to forfeit illegally obtained assets and the proceeds of crime.

**Table 1: Key quantitative results for corruption exposure activities**

Measure	Target*	2008–09	2007–08	2006–07
Matters received	n/a	2,714	2,702	2,149
Average time to deal with matters (days) in Assessments	80	75	87	97
Preliminary investigations commenced	n/a	58	78	66
Investigations commenced	n/a	7	12	12
Investigations finalised in six months	n/a	35	38	53
Percentage of investigations completed within 12 months	>90%	87%	90%	92%
Number of public inquiries	n/a	7	11	4
Number of public inquiry days	n/a	28	51	24
Number of compulsory examinations	n/a	33	70	49
Number of persons subject to corrupt conduct findings	n/a	52	51	17
Number of investigation reports to Parliament	n/a	13	7	5
Percentage of investigation reports completed within three months of completion of public inquiry	80%	77%	71%	25%
Number of persons subject to prosecution arising from investigations	n/a	21	6	7
Number of persons subject to disciplinary actions commenced arising from investigations	n/a	0	2	3

\* For measures which reflect incoming work or activity beyond the control of the Commission, targets are not set and not applicable (n/a) appears in the target column.

## Preventing corruption

The ICAC Act requires the Commission to actively examine policy, and operating and management procedures in the public sector to minimise or eliminate opportunities for corrupt behaviour.

The objectives for preventing corruption are to:

- proactively focus our resources, through the use of Task Groups, on high-risk organisations and activities
- provide advice, education and training on corruption prevention to the NSW public sector
- encourage public reporting of corruption.

A detailed description of Commission activities and results for this key result area is outlined in Chapter 4 (Preventing corruption). Table 2 sets out the key quantitative results for workload, work activity and performance for this key performance area in 2008–09.

## Achievements

In 2008–09, the Commission:

- delivered targeted, face-to-face prevention sessions to over 1,100 councillors, council managers, planners and other key personnel on corruption risks associated with planning and development processes
- made 84 corruption prevention recommendations arising from public inquiries, compared to 57 the previous year
- completed a major research project which showed a significant increase in the adoption of corruption prevention methods across the public sector between 2001 and 2007
- increased corruption prevention training for managers by 55%
- reduced the total number of staff hours required to deliver training despite an increase in training presentations

- delivered a substantial corruption prevention report on RailCorp which recommended significant changes to procurement management and corruption risk management within the agency.

## Looking forward

In 2009–10, the Commission will:

- continue its approach of focusing its corruption prevention resources on high-risk areas, at levels such as state policy and senior management, and where it can reasonably be expected to have a significant impact
- continue to educate the public sector and the public generally about the Commission's role and functions through the outreach programs, provision of electronic and print resources, and training and education delivery

- organise, in conjunction with the NSW Ombudsman and the Institute of Public Administration Australia (IPAA) NSW, the eighth National Investigations Symposium, scheduled for November 2010
- work with the Crime and Misconduct Commission (Queensland) and the Corruption and Crime Commission (WA), to help organise the third Australian Public Sector Anti-Corruption Conference, to be held in Perth in 2011.

**Table 2: Key quantitative results for corruption prevention and education activities**

Measure	Target*	2008–09	2007–08	2006–07
Telephone / email requests for corruption prevention advice	n/a	252	211	244
Written requests for corruption prevention advice	n/a	22	25	32
Corruption prevention advice relating to complaints and reports of corrupt conduct	n/a	34	44	60
Rural and regional outreach visits	2	2	2	2
Training sessions delivered	40	87	58	39
Corruption prevention recommendations in investigation reports published in the period	n/a	84	57	113
Percentage of corruption prevention recommendations in investigation reports addressed, as at 30 June 2009**	80%	93%	76%	91%
Percentage of public inquiries which resulted in the making of corruption prevention recommendations	90%	85%	80%	85%
Number of external visitor sessions on ICAC website	n/a	372,782	568,170	478,821
Number of editions of <i>Corruption Matters</i> newspaper published	2	2	2	2
Number of advice tipsheets	n/a	0	4	4
Number of prevention or research reports published	3	3	2	6

\* For measures which reflect incoming work or activity beyond the control of the Commission, targets are not set and not applicable (n/a) appears in the target column.

\*\* For 2008–09, this number refers to recommendations that have been partially or fully implemented. It can also include when an agency has considered the recommendation and found an alternative way of addressing the issue. In previous years, "addressed" also included if the agency did not agree.



## Accountability

The ICAC Act confers significant powers and discretion on the Commissioner and staff. Given these extensive powers it is important that there is a comprehensive accountability framework in place to ensure the Commission's powers are not abused and that it meets its legislative responsibilities.

The objectives for accountability are to:

- provide timely, accurate and relevant reporting to the Inspector of the ICAC and the Parliamentary Committee on the ICAC
- ensure all business activity complies with all regulatory and standards requirements
- report publicly about the work of the Commission.

## Achievements

In 2008–09, the Commission:

- continued our commitment to cost-effective hearing processes, by using in-house lawyers at one of our public inquiries and at 31 of our compulsory examinations
- reviewed all requests for the exercise of statutory powers to ensure they met relevant legislative and internal requirements
- made submissions to the Government and our Parliamentary Committee about changes to the law necessary for us to investigate and prevent corruption more effectively
- responded promptly and accurately to 35 questions on notice from our Parliamentary Committee and seven information requests from the Inspector of the ICAC, and cooperated fully with an audit undertaken by the Inspector.

## Looking forward

In 2009–10, the Commission will:

- ensure our lawyers continue to review all applications for the exercise of statutory powers for compliance with relevant legislative and internal requirements
- respond to our Parliamentary Committee and Inspector with timely, accurate and relevant information
- continue to identify areas where changes to the law could improve our delivery of investigative and corruption prevention outcomes
- increase the number of training presentations by our lawyers to ensure our staff are aware of existing and new legislative requirements
- continue to provide high-level and cost-effective legal support to all public inquiries and compulsory examinations.

**Table 3: Key quantitative results for accountability activities**

Measure*	2008–09	2007–08	2006–07
Parliamentary Committee on the ICAC meetings	3	1	1
NSW Ombudsman inspections of telephone intercept and controlled operation records	2	2	3
Number of reports provided to the Inspector of the ICAC	7	15	11
Number of audits conducted by the Inspector of the ICAC	1	1	2
Number of assumed identity audits	1	1	1

\* Because these measures reflect work or activity beyond the control of the Commission, targets cannot be set.

## Our organisation

The Commission is committed to developing as a learning organisation, providing a safe and satisfying workplace.

The objectives for our organisation are to:

- continue to develop as a learning organisation that embraces a culture of continuous improvement, excellence and sharing of knowledge
- provide a safe, equitable, productive and satisfying workplace
- be a lead agency in our governance and corporate infrastructure
- monitor our performance to ensure work quality and effective resource management.

## Achievements

In 2008–09, the Commission:

- completed the planning and development of the new complaints-handling and case management system (MOCCA) and our new internet website
- completed commissioning of new IT infrastructure
- implemented a new online helpdesk system
- successfully completed triennial re-certification audit for accreditation to the ISO 27001 standard for information security
- conducted an organisational review of the Information Management and Technology Unit, and implemented the resulting recommendations
- negotiated a new three-year ICAC Award with the Public Service Association.

## Looking forward

In 2009–10, the Commission will:

- implement the Commission's new capability framework position description templates in readiness for the NSW Government's rollout of its new E-recruitment system
- finalise the re-design of our new internet and intranet websites to enhance the public's access to information about the Commission and streamline online business processes and operations
- ensure that our new MOCCA complaints-handling and case management system can "go live" by the end of 2009 to increase efficiency and provide better support for our operational areas
- continue to focus on staff training and personal development by continuing to provide an average of at least five training sessions for each staff member.

**Table 4: Key quantitative results for activities relating to our organisation**

Measure	Target*	2008–09	2007–08	2006–07
Average full-time equivalent staff numbers	116.1	111.9	116.1	111.5
Participants in training courses	580	648	490	803
Average training sessions per employee	>5	5.8	4.2	5.2

\* For measures which reflect incoming work or activity beyond the control of the Commission targets are not set, and not applicable (n/a) appears in the target column.

## Financial overview

### Operating result

ICAC's operating surplus was \$928,000.

	\$'000
Expenses	18,052
Revenue	771
Gain on disposal	11
Net Cost of Services	17,270
Government contributions	18,198
Surplus for the 2008–09 year	928

### Balance sheet

Assets	4,821
Liabilities	1,912
Net assets	2,909

### Revenue

ICAC is funded through government contributions with internally generated income of .771 million contributing 4.3% towards expenses.

### Expenses

Employee-related expenses were \$13.496 million (74.8%), other operating expenses \$3.953 million (21.9%) and depreciation \$0.603 million (3.3%).

### Assets

Assets increased by \$1.21 million (33.5%) to \$4.821 million, largely due to refurbishment of our leased premises, plant and equipment and surplus from operations (which will be returned to NSW Treasury).

### Liabilities

Liabilities increased by \$0.283 million (17.4%) to \$1.912 million, largely due to increased employee provisions and rollover to the following financial year of unexpended NSW Treasury capital allocations.

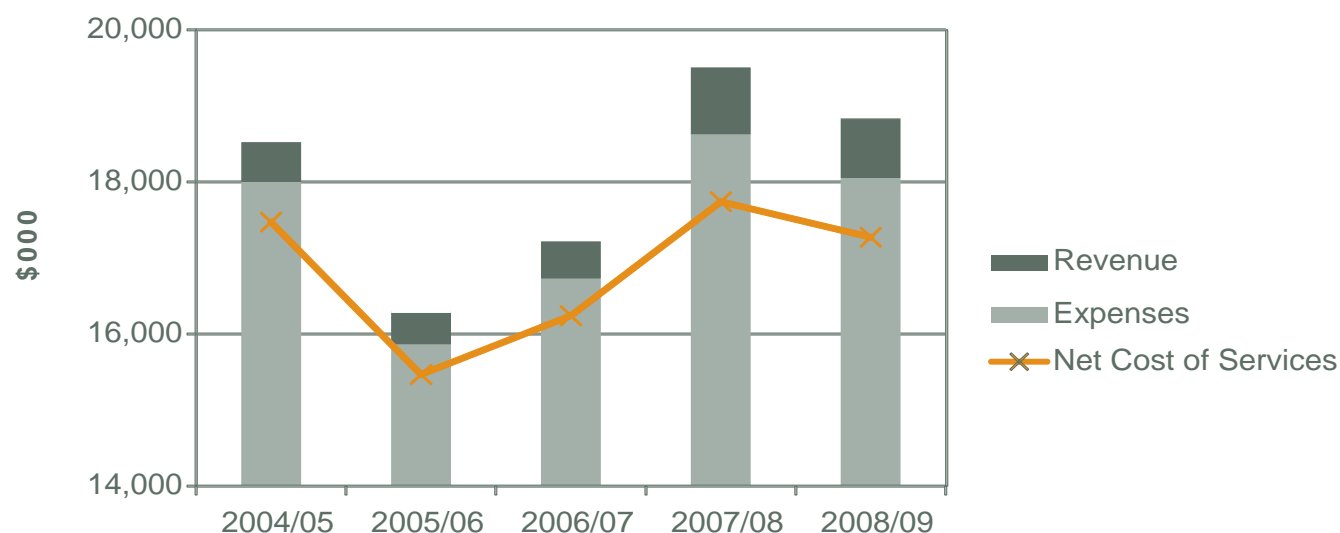
### Net equity

Equity increased by \$0.926 million (46.7%) due to expenditure on assets, including replacement of information technology equipment such as computers.

**Table 5: Net Cost of Services, 2004–05 to 2008–09**

	2004–05 \$'000	2005–06 \$'000	2006–07 \$'000	2007–08 \$'000	2008–09 \$'000
Total expenses	17,997	15,860	16,729	18,622	18,052
Total revenue	527	415	487	882	771
Gain/(loss) on sale of non-current assets	–	(22)	(1)	–	11
<b>Net Cost of Services</b>	<b>17,470</b>	<b>15,467</b>	<b>16,243</b>	<b>17,740</b>	<b>17,270</b>

**Figure 1: Net Cost of Services, 2004–05 to 2008–09**





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Members of the ICAC's Assessments Section.  
Assessments received and managed 2,714 matters in  
the 2008–09 year.



## CHAPTER 2

# Assessing matters

**“We improved turnaround times** while maintaining our focus on the **quality of service provided** to stakeholders”

**Jacqueline Fredman**  
Manager, Assessments



# Highlights

2008–09

- We **again reduced** the average time taken to report matters to our Assessment Panel, achieving **a 21% improvement**, despite a slight increase in the number of matters received
- We contributed to the Commission's education function by compiling a **ministers' guide** on their newly created duty to report corrupt conduct
- We chaired a cross-divisional working party, which **revised the conduct categories** for the information we receive to make them more specific and easier to understand
- We focused on **rewarding strong performers** and on **staff retention** through the introduction of a policy for staff to progress to a more senior level
- We **broadened staff understanding** of the public sector through visits to places of direct relevance to Assessment Officers' work, including observing Parliamentary Committee hearings and question time, and a tour of a corrections centre
- We **improved induction and training materials**, including development of a subject matter training guide compiled by Assessments staff

# Assessments: Key objectives

Detect corrupt conduct.

Enhance complaint-handling procedures.

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## About the Assessments Section

The Commission deals with corrupt conduct involving or affecting the entire NSW public sector (except NSW Police). This includes state government agencies, local government authorities, members of Parliament and the judiciary.

We actively encourage members of the public and public officials to report suspected corrupt conduct. Principal officers (including heads of state government agencies and general managers of councils) are required to report any matter that they reasonably suspect involves or may involve corrupt conduct.

As a result of recent legislative amendments, NSW Ministers of the Crown now must also report matters they reasonably suspect involve or may involve corrupt conduct to either the Commission or to the head of an agency responsible to the minister.

The Commission's Assessments Section receives and registers all complaints and reports, makes an initial assessment and seeks further information as required. It then reports all matters within jurisdiction to the Assessment Panel for a decision about how each matter should be handled.

The section has 14 full-time staff, one temporary staff member and a budget of \$1,163,180. It is led by the Manager, Assessments, Jacqueline Fredman.

## The year in review

In 2008–09, 2,714 matters were received and managed by the Assessments Section, slightly more than in the previous year, when 2,702 matters were received.

### Challenges we faced in 2008–09

We had staff shortages during the year. Assessments' Deputy Manager and the Team Leader each spent considerable time as part of a cross-divisional team developing the new Commission case management system (MOCCA) and the Manager spent several months on maternity leave. In December 2008, the Team Leader was seconded to the Health Care Complaints Commission. While this gave some staff members the opportunity to act in higher duties, it left the Section with fewer staff to assess matters, which had a potential impact on productivity and morale. Despite carrying high case loads from time to time during the year, Assessment Officers performed well under pressure, aided by the Section's collegiate spirit.

Another challenge encountered was the practice of some agencies and members of Parliament of referring matters which did not involve suspected corrupt conduct to the Commission for its information. This practice can raise expectations in members of the public that their matter involves corrupt conduct and, as such, that action will be taken by the Commission. Assessments has sought to address this by improving the quality of its fact sheets outlining what should be referred, by liaising directly with relevant agencies and by compiling guidelines for ministers regarding their reporting obligations.

### How we performed in 2008–09

The Assessments Section has a number of internal performance measures for its activities, and this year achieved significant improvements against these measures.

#### Time taken to report matters to the Assessment Panel

The average time taken to present matters to the Panel fell from 73 days in 2007–08 to 60 days in 2008–09, representing a 21% improvement. This includes some matters that are presented to the Panel two, or in some cases, three times after further enquiries have been undertaken. In 2006–07 the average time taken to present matters to the Panel was 82 days, meaning that there has been a 27% improvement in performance over the past three years.

In relation to the time taken to present a matter on the first occasion to the Assessment Panel, the average in 2008–09 was 24 days. In 2009–10, we will aim to improve on this figure by 10%.

#### Average time taken to finalise a matter

Last year we had set ourselves a target of reducing finalisation rates by 10% in 2008–09. We exceeded this and achieved a 14% reduction, from 87 days in 2007–08 to 75 days this year.

### How we compare to other agencies with similar functions

#### Number of matters received and assessed

It is difficult to benchmark the Commission's performance against similar bodies as the two major comparable bodies, the Queensland Crime and Misconduct Commission (CMC) and the WA Corruption and Crime Commission (CCC), also undertake investigations of police misconduct and major crime matters and therefore have significantly more staff and larger budgets. The figures below have isolated only the matters handled by those agencies that relate to the general public sector, the same function undertaken by the ICAC.

The ICAC received and assessed 2,714 matters in relation to the general public sector this year. In 2007–08, the CMC received 1,618 general public sector matters, the CCC received 1,710 general public sector complaints and the NSW Police Integrity Commission (PIC) received 1,422 complaints.

#### Ratio of staff to matters received

In relation to Commission staff working in the Assessments Section, the ratio for the 2007–08 and 2008–09 years of staff relative to matters received was approximately 1:197. This compares favourably to the ratio for the CMC and the CCC, whose ratio of total matters received in the 2007–08 year, relative to the number of staff in their Assessments areas or equivalent, was approximately:

- The CMC 1:105
- The CCC 1:128



## Support provided to other areas

The Assessments Section aims to provide value not only to the NSW community and its public officials but also to other areas of the Commission. We ensure that serious and systemic matters, on which the Commission is required by legislation to focus its attention, are quickly identified and referred for investigation. Once again in 2008–09 we were able to lend direct support to other areas of the Commission. We assisted the Investigation Division with some of its activities, such as the execution of search warrants and monitoring of telephone intercepts. Assessment Officers were also seconded to the Investigation Division for short periods to assist in times of high workload and to provide professional development for the officers involved.

We assisted the Corruption Prevention, Education and Research Division by taking part in outreach programs (regional visits) in the Western Sydney and South Coast regions. As in previous years, the Manager of the Assessments Section gave a presentation as part of the Corruption and Anti-Corruption Executive Masters Program, run by the Australian National University's Crawford School of Economics and Government in conjunction with the Commission.

## Profile of matters received

In 2008–09 the Commission received 2,714 matters, the majority of which came from three sources:

- members of the public lodging complaints under section 10 of the ICAC Act (section 10 complaints) representing 31.7% of all matters
- principal officers of NSW public sector agencies, who have a duty to report suspected corrupt conduct under section 11 of the ICAC Act (section 11 reports), representing 24.8% of all matters
- public sector employees lodging complaints under the *Protected Disclosures Act 1994* (the Protected Disclosures Act), being 9.7% of all matters received.

As well as section 10 complaints, section 11 reports and protected disclosures, the Commission receives information about other matters and from other sources. This includes dissemination of information from federal and state law enforcement bodies and “own initiative” investigations by the Commission.

A new category of “feedback” will be introduced from 1 July 2009 to cover situations where a member of the public offers commentary or provides feedback about the Commission's activities and the information does not warrant reporting to the Assessment Panel.

Table 6 shows all matters received by category for 2008–09, as well as a comparison with the previous two years.

**Table 6: Matters received by category in 2008–09, compared to the previous two years**

Category	2008–09		2007–08		2006–07	
Complaints from the public (section 10 complaints)	860	(31.7%)	946	(35.0%)	680	(31.6%)
Reports from public sector agencies (section 11 reports)*	674	(24.8%)	579	(21.4%)	522	(24.3%)
Information	400	(14.7%)	427	(15.8%)	361	(16.8%)
Protected disclosures	262	(9.7%)	282	(10.4%)	194	(9.0%)
Outside jurisdiction	255	(9.4%)	252	(9.3%)	174	(8.1%)
Enquiry	239	(8.8%)	199	(7.4%)	198	(9.2%)
Dissemination	23	(0.8%)	11	(0.4%)	17	(0.8%)
Intelligence report	1	(0.0%)	1	(0.0%)	0	(0.0%)
Own initiative	0	(0.0%)	5	(0.2%)	3	(0.1%)
Referrals from Parliament	0	(0.0%)	0	(0.0%)	0	(0.0%)
<b>Total</b>	<b>2,714</b>		<b>2,702</b>		<b>2,149</b>	

\* The figure represents the number of section 11 reports received. As some agencies report by schedule, their reports may contain more than one matter. In 2008–09 the Commission received 77 schedules containing reports on 760 matters.

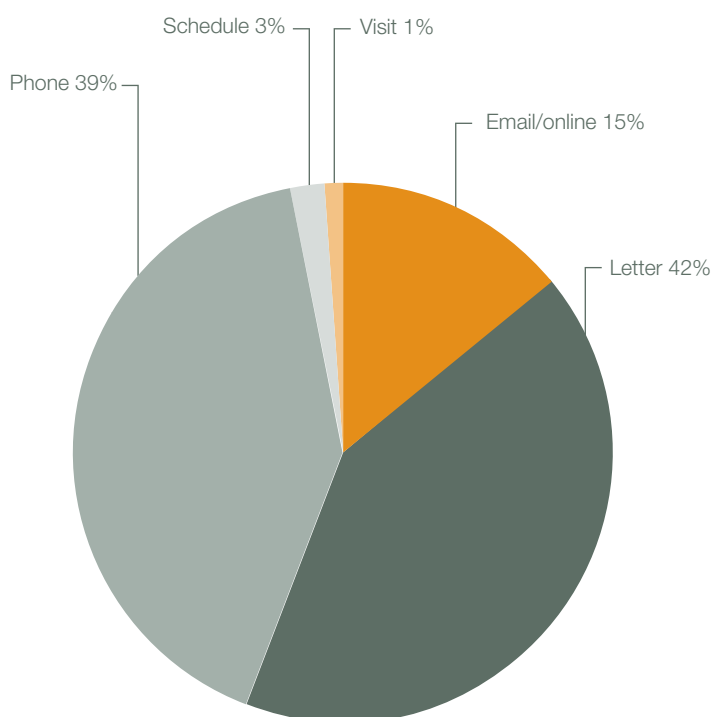
While Table 6 demonstrates relative consistency with 2007–08, there was an increase in section 11 reports, up from 579 to 674, representing a 16% increase. The percentage of section 11 reports relative to the total number of matters received increased from 21.4% to 24.8%. This increased incidence of principal officer reporting could be due to a number of factors, and is not necessarily indicative of an increase in corrupt activity; rather it is more than likely reflective of principal officers' (and, in recent times, ministers') increasing awareness and understanding of their responsibility to detect and report suspected corrupt conduct.

The Commission receives information in a number of ways. Members of the public and public sector employees can report matters to the Commission in writing, by telephone or email, in person or online via a complaints form on the Commission website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

Figure 2 below shows that in 2008–09 most people referred their matter or complaint to the Commission by letter, closely followed by telephone.

The Commission accepts anonymous complaints. In 2008–09, 17% of complaints from members of the public and 35% of complaints made by public officials under the Protected Disclosures Act were anonymous. In the 2007–08 year these figures were 16% and 30% respectively.

**Figure 2: Mode of initial contact for all matters received in 2008–09**



## Complaints from the public

Under section 10 of the ICAC Act, any person can make a complaint to the Commission about a matter that concerns or may concern corrupt conduct defined in the ICAC Act. The ICAC refers to complaints made by members of the public – as well as those made by public sector employees which do not meet the criteria to be classified as a protected disclosure under the Protected Disclosures Act – as section 10 complaints.

In 2008–09 the Commission received 860 section 10 complaints, compared with 946 the previous year, a 9% reduction. The reduction in the number of section 10 complaints received, relative to the 2007–08 year, is not considered to be of statistical significance. There was a major spike in section 10 complaints from 2006–07 to 2007–08 (680 to 946), which the Commission attributed to the publicity generated by Operation Atlas, the inquiry into Wollongong City Council during the 2007–08 year.

Table 7 shows the different government sectors about which allegations of corrupt conduct were made in section 10 complaints in 2008–09.

As in past years, the government sector which is most frequently complained about is the local government sector, with section 10 complaints relating to this sector accounting for 37% of the total received (compared with 41% last year).

In the Commission's experience, over-representation of local government in the complaints statistics is due to the high level of people's interaction with local government and the personal interest many take in its decisions. Other ICAC data supports this view, showing that development applications are among the most frequently complained about public sector activities.

Some incoming matters do not, even if substantiated, amount to corrupt conduct. The Commission can, depending on the nature of the matter and its level of seriousness, refer matters to the agency in question under section 19 of the ICAC Act for that agency to take any action deemed appropriate.

Case Study 1 (page 26) concerns a local council and is an example of a matter which resulted in Assessments referring the allegations to the council for its information under section 19. Even if a matter does not involve corrupt conduct, it may involve issues that give rise to a perception of a conflict of interest or highlight performance issues that may warrant disciplinary action. In such circumstances, the Commission considers it prudent to inform the agency concerned. It is usual not to disclose details of the source of the information.

**Table 7: Complaints from the public (section 10) in 2008–09, showing allegations by government sector**

Sector	Section 10 complaints	%
Local government	378	37%
Transport, ports and waterways	94	9%
Government and financial services	80	8%
Law and justice	64	6%
Community and human services	61	6%
Custodial services	59	6%
Health	43	4%
Natural resources and environment	39	4%
Education (except universities)	38	4%
Policing	36	4%
Consumer and trade	23	2%
Land, property and planning	22	2%
Universities	14	1%
Parliament	13	1%
Energy	11	1%
Aboriginal affairs and services	10	1%
Tourism, sport, recreation and gaming	8	1%
Emergency services	7	1%
Other – unspecified	6	1%
Arts and heritage	3	0%
Employment and industrial relations	2	0%

Note: A matter may contain allegations relating to more than one sector. Percentages are based on the total number of allegations made in section 10 complaints, not the number of complaints.

The five most frequent workplace activities about which the Commission received complaints from the public, as well as the five most frequent types of conduct alleged, are shown in Tables 8 and 9 on the following page.

As was the case in 2006–07 and 2007–08, building and development approvals were the most frequent workplace activities mentioned in allegations. This year, favouritism / nepotism was the most frequent type of conduct mentioned, closely followed by collusion. In 2008–09 the Commission reviewed its categorisation of

matters received, on the basis that categories such as “nepotism” and “collusion” are arguably too broad to be useful in analysing what specific conduct is alleged.

Appendix 1 provides a full list of the workplace activities and types of conduct about which the Commission received complaints, protected disclosures and reports.

**Table 8: Complaints from the public (section 10) in 2008–09, showing the five most frequent types of workplace activities mentioned**

Workplace activity	Section 10 complaints	%
Building and development applications / rezoning	388	22%
Employment practices	198	11%
Purchase of goods and services / tendering / contracting	143	8%
Other – area of workplace activity unspecified	129	7%
Law enforcement	123	7%

**Table 9: Complaints from the public (section 10) in 2008–09, showing the five most frequent types of conduct alleged**

Type of corrupt conduct	Section 10 complaints	%
Favouritism / nepotism	201	12%
Collusion	185	11%
Failure to take action / negligence	166	10%
Breach of policy or procedure	141	9%
Failure to disclose or abuse of conflict of interest	137	8%

## CASE STUDY 1: ALL IN THE FAMILY

The estranged wife of an electrical contractor alleged that her former husband had had a longstanding personal relationship with an employee at the local council. This, she contended, resulted in him winning contracts with the council. She claimed that information she had seen on his laptop computer was material he had been given about his competitors affording him an unfair advantage. Further, his mother worked at the council and he had not disclosed this in a tender application she saw on the computer. His father was allegedly friendly with the mayor, which, the complainant claimed, would have assisted him in winning contracts. Assessments conducted enquiries with the council about whether the mayor had had any involvement in the awarding of the relevant tenders; he had not. The council was well aware of the relationship between its employee and the contractor. There was nothing to suggest that the contractor's mother was in a position to obtain information which would assist her son in winning work. The complainant contended that she had seen electronic messages indicating her former husband and the council employee were spending time together during business hours, which was during periods when that employee was "working from home". While the Commission took no action in relation to the allegations, it did refer the allegations regarding the council employee not working from home as claimed to the council for its information.

## Protected disclosures

NSW public sector employees who raise corruption allegations about a NSW agency or official may be entitled to receive protection under the *Protected Disclosures Act 1994* if their complaint meets certain criteria. The Protected Disclosures Act makes it an offence to take retaliatory action against someone who has made a protected disclosure.

In 2008–09, the Commission received 262 protected disclosures from public sector employees, down slightly from 282 in the previous year. Table 10 shows the number of allegations in the top five categories by government sector for protected disclosures received during the year. As with section 10 complaints, the largest number of allegations in this category concerned local government.

Prior to making any enquiries about protected disclosure allegations, the Commission seeks written authority from the complainant for his or her identity to be disclosed during any such enquiries. When consent is not given, the Commission may, under section 22 of the Protected Disclosures Act, disclose confidential information if it is considered necessary to effectively investigate a matter or it is in the public interest to do so.

The five most frequent workplace activities about which the Commission received protected disclosures, as well as the five most frequent types of conduct alleged, are shown in Tables 11 and 12.

As was the case in 2006–07 and 2007–08, employment practices was the most frequent workplace activity mentioned in protected disclosure allegations. In 2008–09 favouritism / nepotism was the type of conduct most frequently mentioned in allegations, followed by breach of policy or procedure.

Appendix 1 provides a full list of the workplace activities and types of conduct about which the Commission received protected disclosures and reports.

Protected disclosures are received by the ICAC from all levels of the public sector. Both the agency and the officer making the complaint are responsible for ensuring that confidentiality is maintained, according to the provisions of the Protected Disclosures Act. Protected disclosures can range from allegations about colleagues to concerns about the conduct of the officers responsible for protected disclosures in the agency.

In Case Study 2 (page 28), a regional departmental officer was concerned about a decision made out of head office contrary to a recommendation not to renew the funding of a private sector organisation. This case study serves to highlight the desirability of communication taking place within an agency, to avoid speculation by staff members that a decision may be corruptly motivated. In Case Study 3 (page 28) a councillor blew the whistle on arrangements for purchasing gifts for overseas visits, with an interesting twist.

**Table 10: Protected disclosure allegations by government sector, 2008–09**

Sector	Protected disclosures	%
Local government	83	29%
Transport, ports and waterways	42	15%
Health	27	10%
Custodial services	25	9%
Education (except universities)	23	8%

**Table 11: Protected disclosure allegations in 2008–09, showing the five most frequent types of workplace activities mentioned**

Workplace activity	Protected disclosures	%
Employment practices	198	29%
Staff management	91	13%
Purchase of goods and services / tendering / contracting	53	8%
Use of public resources	49	7%
Internal reporting	46	7%



**Table 12: Protected disclosure allegations 2008–09, showing the five most frequent types of conduct alleged**

Type of corrupt conduct	Protected disclosures	%
Favouritism / nepotism	93	15%
Breach of policy or procedure	71	12%
Misuse or theft of resources by public official	61	10%
Failure to disclose or abuse of conflict of interest	58	9%
Harassment / victimisation / discrimination	53	9%

## CASE STUDY 2: TO FUND OR NOT TO FUND

A senior strategy officer within a state government department reported that the minister had allocated a substantial sum of money to a private sector organisation to run arts-based projects for vulnerable people. There was allegedly no procurement process in place for the allocation of the funds and the funds had not been spent in accordance with the general principles guiding the strategy. It was alleged that the director of the private sector organisation had previously worked with the minister. The complainant had recommended that the organisation not receive funding for the following year as the officer did not believe that it had produced quality work. Contrary to the officer's recommendation, there was a decision made to fund that organisation once again. Assessments conducted enquiries and established that the decision to allocate further funding had been made by a panel comprising two senior regional and two senior head office staff members. There was nothing to suggest that the decision to continue to fund the organisation was due to any relationship the minister may have had with its director. As for the contention that the outcomes produced by the organisation were not in keeping with any relevant strategy, that was a service issue and not a matter warranting the Commission's involvement.

## CASE STUDY 3: BE CAREFUL WHAT YOU WISH FOR

A councillor made a protected disclosure in person to the Commission. The councillor was concerned about arrangements in relation to 'sister city' visits and particularly the mayor's actions in taking expensive gifts, paid for by the council. The councillor claimed that the mayor had used a council credit card for private purposes during the trips. Assessments liaised with the Corruption Prevention, Education and Research Division and undertook enquiries with the council concerned. These assessment enquiries involved examining the arrangements for the trips and also whether any policies existed governing the bestowing of gifts. It transpired that while the mayor had undertaken self-funded trips to the various cities, ratepayer-funded gifts of considerably more than a token nature were bestowed on sister cities. The mayor had not, however, used a council credit card as alleged. Assessments recommended to the council that it consider requiring the mayor to reimburse council for the value of the gifts, given that the mayor was not on official business at the time. The council replied, noting that it would take the suggestion into consideration and advised Assessments that several years ago a similar incident had occurred: several councillors on a self-funded trip had taken ratepayer-funded gifts and enjoyed alcohol at the council's expense. In an ironic twist, one of the named councillors was the then mayor and the maker of the protected disclosure to the Commission!

## Reports from public sector agencies and ministers

Section 11 of the ICAC Act requires principal officers of NSW public sector agencies, such as chief executive officers, directors general of state government agencies and general managers of local councils, to report suspected corrupt conduct to the ICAC. In December 2008 the ICAC Act was amended to provide that NSW Ministers of the Crown have a duty to report suspected corrupt conduct either to the Commission or to the head of an agency responsible to that minister.

The majority of matters reported by principal officers and ministers involve suspected conduct within organisations for which they are responsible, although sometimes principal officers and ministers also advise the Commission of corrupt conduct they suspect in other public sector agencies.

Principal officers and ministers are required to report suspicions of corrupt conduct promptly as delays can impair the ICAC's ability to detect and expose corrupt activity.

In 2008–09, the ICAC received 674 section 11 reports, compared to 579 the previous year. Table 13 shows the number of times allegations related to a particular sector of the NSW Government.

As in 2006–07 and 2007–08, most allegations of corrupt conduct were made against local government. This year, the percentage of section 11 reports relating to local government decreased from 30% to 27%.

The five most frequent types of workplace activities about which the Commission received section 11 reports, as well as the five most frequent types of conduct alleged, are shown in Tables 14 and 15.

Case Study 4 (page 30) concerns allegations about cronyism within a university. While the allegations were not substantiated, the investigation did reveal inadequacies in the existing policies, which can represent a corruption risk if left unaddressed.

**Table 13: Section 11 reports received in 2008–09, showing allegations by sector**

Sector	Section 11 reports	%
Local government	195	27%
Custodial services	92	13%
Health	88	12%
Universities	61	9%
Community and human services	49	7%

**Table 14: Allegations in reports from public sector agencies (section 11) in 2008–09, showing the five most frequent types of workplace activities mentioned**

Workplace activity	Section 11 reports	%
Codes of conduct	288	21%
Employment practices	230	17%
Building and development applications / rezoning	112	8%
Purchase of goods and services / tendering / contracting	112	8%
Use of public resources	106	8%

**Table 15: Reports from public sector agencies (section 11) in 2008–09, showing the five most frequent types of conduct alleged**

Type of corrupt conduct	Section 11 reports	%
Misuse or theft of resources by public official	210	16%
Fabricate or falsify information / forgery / fraud / tamper with information	166	13%
Breach of policy or procedure	151	12%
Failure to disclose or abuse of conflict of interest	102	8%
Bribery / gift / secret commission	85	6%

## CASE STUDY 4: BUDDY COUNT

A university's vice-chancellor reported under section 11 of the ICAC Act, allegations that its chief operating officer and deputy vice-chancellor had appointed "buddies" to senior positions without them going through an interview process. The university advised the Commission that it was proposing to investigate the allegations, but to outsource that investigation, given that its audit area reported to one of the people complained about. The Commission requested a copy of the investigation report upon its completion. The report was analysed by Assessments. There was nothing to suggest that the appointments had failed to comply with the university's policies, nor that cronyism was prevalent. The appointments were for short-term and not permanent positions, and as such did not require either advertising or submission of a formal application. However, it was apparent that the university's policies, in particular relating to the retention of consultants, were not as clear as they could be. The university undertook to review its operational arrangements. Assessments advised the university that the Commission's Corruption Prevention, Education and Research Division was able to provide advice or comments in relation to any proposed policy amendments.



Assessment Officer Jenny Ryan. The Assessments Section received and managed more than 2,700 matters in 2008–09.

## How matters are analysed

The Commission is required under section 12A of the ICAC Act to, as far as practicable, focus attention and resources on serious and systemic corrupt conduct.

The assessment process considers:

- whether allegations are within the Commission's jurisdiction
- whether allegations are serious or suggest systemic corruption risks or issues
- what information or evidence is potentially available
- ultimately, what action, if any, the Commission should take on a matter.

Commission officers analyse the information received to determine whether there are trends across a particular sector, such as local government or licensing, in a particular agency, or even in a particular unit of that agency. Information is analysed to determine whether corruption is occurring, or if there are appropriate systems in place for the agencies involved to minimise opportunities for corruption. Complaints and reports that highlight corruption risk areas and trends help the Commission to target its corruption prevention work (see Chapter 4 for more information).

The Commission often receives information that on the face of it appears very serious. In these matters, Assessment Officers often have to make enquiries to obtain further information to ensure the analysis of the matter is complete. This may involve contacting or interviewing the individuals who brought the matter to the Commission's attention, or obtaining further information and/or documents from the public sector agency concerned.

The Commission receives a lot of information which, while it may have substance, should not be investigated by the Commission as it is relatively minor. In addition, the Commission receives material that lacks substance and does not warrant being investigated or otherwise pursued. These matters are generally declined or, if relevant to another agency, referred on. In 2008–09, 372 matters were referred on to other agencies, compared to 414 the previous year.

## The assessment process and decisions

Every matter received by the Commission is registered on a database and individually assessed by members of the Assessments Section who take into account:

- whether the matter is serious and/or systemic
- whether or not corrupt conduct is involved
- whether there is a reasonable line of enquiry to pursue
- what information has been provided or could be obtained
- whether existing information supports the allegations
- any prior or current related matters.

All matters (except for those outside the Commission's jurisdiction, for example complaints relating to NSW Police, a federal authority or private enterprise) are reported to the Assessment Panel, which is composed of the Deputy Commissioner and the Executive Directors of the Investigation Division, the Corruption Prevention, Education and Research Division and the Legal Division, as well as the Manager of the Assessments Section, who acts as the convenor. The panel usually meets twice a week and is responsible for determining what action, if any, should be taken on every matter received. If a matter is complex or needs further enquiries before an appropriate course of action can be determined, it may be reported to the Assessment Panel on several occasions. Consensus is usually reached by the Assessment Panel on how a matter should be dealt with, but in cases where this does not happen, the matter will be referred to the Commissioner for a final decision.

Reports submitted to the Assessment Panel include the allegations, supporting information, the outcome of any enquiries, an initial assessment of the matter and recommendations for future action.

For each matter, the Assessment Panel considers whether it is within the ICAC's jurisdiction, whether it presents opportunities for identifying serious or systemic corruption, whether it is being or could be adequately handled by another agency and, even if corrupt conduct is not apparent, whether an agency's systems and controls put the organisation at risk of corruption.

The Deputy Commissioner, Theresa Hamilton, is the Chair of the Assessment Panel and directly supervises the Manager, Assessments. Ms Hamilton and Ms Fredman are responsible for the integrity of

Assessment Panel reporting processes and ensure that decisions of the Assessment Panel are implemented.

After considering a matter, the Assessment Panel makes one of five decisions.

### 1. Refer to another agency or take no action

The Commission's role is to focus on serious or systemic corrupt conduct as far as practicable.

A significant number of the matters the Commission receives can be appropriately referred to other investigation agencies, such as the NSW Ombudsman and the Department of Local Government. Some may be disciplinary or administrative matters that can be referred to the agency concerned. Other matters may have already been adequately dealt with by the agency reporting the matter.

Many other matters do not meet the definition of corrupt conduct in the ICAC Act and therefore do not warrant any action by the Commission, other than to notify the person who provided the information of the Commission's decision.

After considering the results of any initial enquiries, the Assessment Panel decides whether a matter should be referred or does not warrant any further action. There were 2,300 matters in the 2008–09 year which were either referred to another agency or no action was taken by the Commission, representing 85.1% of Assessment Panel decisions.

### 2. Requesting an investigation and report by another agency

If an allegation of corrupt conduct is made about an agency, the Commission has the power under sections 53 and 54 of the ICAC Act to require that agency to conduct its own internal investigation and then report its findings to the Commission. The Commission does this after consulting with the agency and establishing that it is appropriate for the agency to deal with the matter. This power is usually used for relatively serious matters that an agency can adequately and properly investigate itself. In this way, the Commission oversees the investigation by the agency.

In 2008–09, the Commission made 27 referrals under sections 53 and 54 of the ICAC Act, requiring public authorities to investigate allegations of corruption involving their agency, compared to 26 in the previous year. This is in line with the clear direction in the ICAC Act (section 12A) that the Commission should always take into account the responsibility and role public authorities have in preventing corruption.

Case Study 5 is an example of a section 53 referral which resulted in termination of the services of a procurement manager. In addition, the agency undertook to remedy systems weaknesses identified and to minimise the risk of staff responsible for procurement being courted by potential and existing contractors.

### 3. Conduct assessment enquiries

If the Assessment Panel decides that a matter should be considered further – but may not yet warrant investigation – assessment enquiries may be undertaken. In 2008–09 there were 137 matters in which such enquiries were undertaken.

Depending on the outcome of assessment enquiries, the Commission may decide to pursue the matter no further or to refer it to another agency. In some cases, assessment enquiries may lead to an investigation.

### 4. Provide corruption prevention analysis and/or advice

If a matter appears to mainly involve systemic issues rather than instances of corrupt conduct – or the corrupt conduct has been dealt with but wider problems appear to exist – corruption prevention staff may evaluate the situation and give advice on enhancing an agency's capacity to minimise the risk of corruption or preventing the problem happening again. In 2008–09, 44 matters were referred to corruption prevention staff for analysis and/or advice.

### 5. Undertake an investigation

If a matter is very serious and is likely to need the Commission's special powers to investigate the allegations, such as requiring the production of evidence, executing a search warrant or conducting covert operations, the Commission is likely to investigate the matter itself (see Chapter 3: Investigating corruption). Such matters are usually referred to the Investigation Division or, in some cases, the Legal Division for preliminary investigation or investigation. Only a small number of matters, with the potential to expose significant or systemic corrupt conduct, will meet the criteria for a full investigation. Once a decision to investigate has been made, the matter is overseen by a different executive-level committee, the Strategic Investigation Group (SIG), which also gives direction on handling each investigation. Chapter 3 has more detail on investigations and the SIG's processes. Fifty-eight matters were referred for preliminary investigation in 2008–09.

Table 16 summarises all Assessment Panel decisions in 2008–09.



**Table 16: Decisions by the Assessment Panel in 2008–09, compared to the previous two years**

Decisions to act upon a matter	2008–09		2007–08		2006–07	
Referred to Assessments Section for further enquiries (includes sections 53/54 referrals)	303	(11.2%)	269	(9.4%)	253	(12.4%)
Referred to the Corruption, Prevention, Education and Research Division for further action	44	(1.6%)	38	(1.3%)	41	(2.0%)
Referred for preliminary investigation or investigation	58	(2.1%)	78	(2.7%)	73	(3.6%)
Total number of decisions to act upon a matter	402*	(14.9%)	384**	(13.3%)	367	(18.0%)
Decisions to decline a matter						
Immediate referral to another agency or no action taken by the ICAC, following initial enquiries or research when needed	2,300	(85.1%)	2,493	(86.7%)	1,673	(82.0%)
<b>Total number of decisions made</b>	<b>2,702</b>		<b>2,877</b>		<b>2,040</b>	

\* Two decisions involved referral to both Investigations and Assessments. Hence, the total number of decisions to act is two less than the sum of each type of decision to act.

\*\* One decision involved referral to both Corruption Prevention, Education and Research and Assessments. Hence, the total number of decisions to act is one less than the sum of each type of decision to act.

## CASE STUDY 5: MATES' RATES

A procurement manager at a public authority was alleged to have received gifts and benefits from a particular company providing industrial services. The allegation was received by the Commission from a former employee of that company. He alleged that the manager had accepted hospitality such as a corporate box at major sporting events and that he had had extensive decking and roofing work done to his home carried out by the company at markedly reduced rates. The manager was accused of providing the company's principal with information to enable him to secure a \$600,000 contract, which the manager was partly responsible for awarding. The allegations were referred by the Commission to the agency under sections 53 and 54 of the ICAC Act for investigation and report back, which resulted in many of the allegations being substantiated. The manager was found to have had a longstanding relationship with the contractor's principal, with whom he regularly socialised. He was found to have breached a number of the authority's policies, of which he would have been well aware, having recently undertaken training. As a result of the findings, the authority took steps to terminate the manager's employment; to re-tender for certain work; to carry out fraud risk assessments relating to procurement; and to introduce a policy of randomly questioning contractors to determine whether they may be offering certain employees of the authority gifts or benefits.

## Outcomes of matters

The ICAC records outcomes of all matters once they have been closed, including its own action and that of the agencies that are the subject of an allegation, where known. As the ICAC has wide discretion about what matters to

pursue and must focus on serious and systemic corruption, it does not know the outcome of all matters received.

Table 17 shows the known and recorded outcomes for all section 10, section 11 and protected disclosure matters that the ICAC closed during 2008–09.

**Table 17: Outcomes recorded for substantive matters closed during 2008–09**

	Section 10	Protected disclosures	Section 11	Total
Number of persons subject to recommendations that advice of Director of Public Prosecutions be sought for prosecution*	15	11	25	51**
ICAC compulsory examination*	15	2	13	30†
ICAC public inquiry*	3	0	4	7
ICAC investigation*	11	16	23	50††
ICAC intelligence assessment completed – matter not investigated	0	0	0	0
Intelligence or technical product passed to another agency	1	0	1	2
Matter referred to another law enforcement agency	8	6	4	18
Systemic issue identified by ICAC	9	10	12	31‡
Referred to the agency for action	14	29	112	155
Referred to the agency for information	238	93	23	354
No further action taken by the ICAC	700	194	604	1,498
Disciplinary action taken by the agency: Counselling	5	2	33	40
Disciplinary action taken by the agency: Dismissal	1	2	36	39
Disciplinary action taken by the agency: Other	10	3	51	64
Disciplinary action taken by the agency: Resignation	0	3	22	25
Systemic issues addressed by the agency: Amendments to policy and procedure	6	8	35	49
Systemic issues addressed by the agency: Other	4	10	33	47
Systemic issues identified by the agency and recommendations made: Amendments to policy and procedure	6	10	42	58
Systemic issues identified by the agency and recommendations made: Other	2	6	20	28
No action warranted by the agency	148	41	69	258

\* These outcomes were recorded as they occurred and therefore not all these matters were necessarily closed in 2008–09.

\*\* Charges were recommended regarding four persons as a result of a section 20 matter. Additionally, one person had charges recommended against him in one section 11 matter and one section 10 matter.

† There was a total of 33 compulsory examinations in the reporting period, three of which were from a matter other than a section 10 matter, protected disclosure or section 11 matter.

†† Seven investigations arose as a result of dissemination matters.

‡ Systemic issues were also identified in relation to one information and two dissemination matters.

# The year ahead

**In 2009–10, we will focus on responsiveness and staff training. We will:**

- **reduce the time** taken to present matters initially to the Assessment Panel by 10%
- **further reduce** the time taken to finalise matters within Assessments by 10%
- further **improve our induction procedures** for new Assessments staff
- continue to make **staff professional development and morale** a priority, including holding courses on communication styles and stakeholder negotiation, and giving staff the opportunity to work in other areas of the Commission, for example through participation in cross-divisional projects.



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Chief Investigators Jock Lang, Bernadette Dubois and Steve Osborne with Executive Director, Investigation Division, Mick Symons.

## CHAPTER 3

# Investigating corruption

“The Investigation Division was challenged in this period by the **complexity of matters** under investigation and the **demands of supporting the court processes** from previous investigations”

**Mick Symons**  
Executive Director, Investigations





# Highlights

2008–09

- There was a **122% increase (from 23 to 51)** in the number of persons subject to recommendations that DPP advice be sought for prosecution
- We provided expert investigative support to **seven public inquiries** over 28 sitting days and **33 compulsory examinations**
- In relation to the forfeiture of the proceeds of crime, in four pending matters referred by us to the NSW Crime Commission, assets have been restrained or forfeiture orders made to a **total value of \$2,634,000**
- We completed **77% of our investigation reports** within three months of the end of the public inquiries, up from 71% in 2008–08 and 25% in 2006–07

# Investigations: Key objectives

Detect and investigate corrupt conduct.

Identify corruption prevention issues through investigations.

Ensure a best practice approach for all investigations.

Maintain strategic alliances to optimise investigative and preventative outcomes.

## IN THIS CHAPTER

About the Investigation Division	39	Matters we investigated in 2008–09	43
The year in review	40	Use of statutory powers	45
How we investigate	42	Public inquiries and compulsory examinations	47
Continuous improvement of investigation practices and administration	43	Investigation outcomes	47
Strategic alliances to optimise investigative outcomes	43	The year ahead	49

## About the Investigation Division

The Commission's Investigation Division is responsible for conducting investigations into serious and systemic corruption. The Executive Director is Mick Symons. In the reporting period, the division had an average of 38 officers, against a designated strength of 43, with a total budget of \$5,503,728.

The Investigation Division uses overt and covert investigation techniques to uncover corruption, including using the coercive powers available to the Commission under the ICAC Act. The Division is split into two areas: the investigation section and the surveillance and technical unit.

## The year in review

### Challenges we faced in 2008–09

Nine matters that resulted from ICAC investigations were concluded in court this year, compared to one matter last year. Briefs were also prepared for the Director of Public Prosecutions in respect of 36 new matters. The preparation of prosecution briefs and court attendances has impacted on the time available for the Commission's primary function of investigating and exposing serious and systemic corruption.

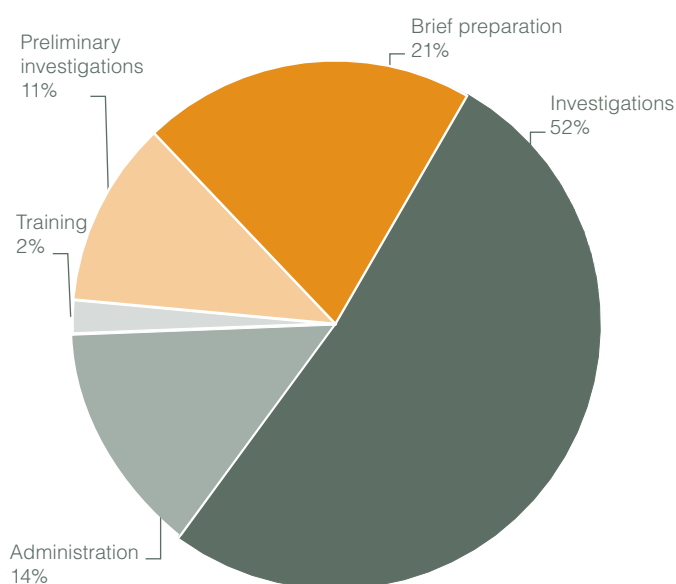
As a result, the number of investigations undertaken by the Division dropped from 78 to 57.

Corruption investigations are complex and resource-intensive. These factors limit the number of investigations that the Commission can undertake, which means that we cannot always meet the expectations of people who refer matters to the Commission for investigation.

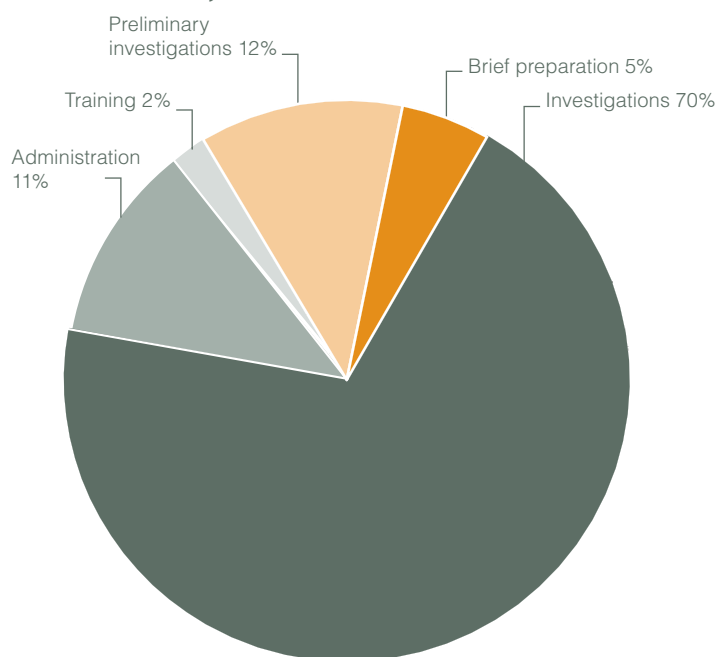
The number of staff in the Investigation Division dropped to 38 in this period, against a designated strength of 43, to meet budget restraints. This reduction in staff adversely affected the Division's ability to conduct investigations in a timely fashion.

The two figures below show how the amount of time that the Investigation Division had available to conduct investigations dropped substantially in 2008–09, as the amount of time needed for brief preparation arising from the previous year's 13 public inquiries increased from 5% to 21%.

**Figure 3: Breakdown of Investigation Division work, 2008–09**



**Figure 4: Breakdown of Investigation Division work, 2007–08**



Another challenge for the Investigation Division is the lack of relevant training courses for the specialist investigator role within the Division. In the main the investigations conducted by the Commission focus on fraud-related matters within a limited range of public sector activity (for example, procurement). Currently, there are no general courses which cover this specific field. Ongoing discussions have been held with various training institutions in an effort to identify or create such a course. There are courses relating to statement-taking and evidence but these courses are too general to meet the Commission's specific needs.

The extent to which Investigation officers are taken up with investigations and other core duties restricts the time available for specialised training. This issue is continually reviewed to ensure the optimum mix of workplace activities, including training and professional development.

### How we performed in 2008–09

In 2008–09, 57 matters were referred to the Investigation Division for preliminary investigation. Eight matters were escalated to full investigations. In addition to these matters, the Investigation Division continued investigations into some matters carried over from the previous year.

The matters referred to the Investigation Division in 2008–09 came from a variety of sources, with the two main sources being local government (46%) and transport, ports and waterways (25%).

The Investigation Division assisted in the conduct of seven public inquiries this year and in the production of 13 public reports on investigations.

We also finalised 10 full investigations, taking an average of 154.5 calendar days for each. Four of these full investigations were completed within the relatively short time frame of 16 to 69 calendar days.

## How we compare to agencies with similar functions

The ICAC is unique in that it is the only organisation in Australia whose sole responsibility is the investigation of allegations of corrupt conduct within the general public sector.

Other agencies such as the Corruption and Crime Commission (Western Australia) and the Crime and Misconduct Commission (Queensland) are also required to investigate police misconduct and some major crime matters. These agencies have substantially more staff and larger budgets than the ICAC.

The Police Integrity Commission (New South Wales) and the Office of Police Integrity (Victoria) investigate only allegations involving police officers, not the general public sector.

Despite these differences, it is important to benchmark ICAC against some of these broadly similar agencies to provide an indication of its efficiency and effectiveness.

### Corruption and Crime Commission (WA)

The data for this comparison has been taken from the *Annual Report 2007–08* of the Corruption and Crime Commission (CCC), as figures for the CCC's operations in the 2008–09 period are not publicly available at this time. The CCC investigates misconduct allegations within the public sector, including police misconduct.

In 2007–08, the CCC received a total of 2,899 allegations of misconduct. Of these, 1,189 related to the police service and 1,710 matters related to the general public sector. In 2008–09, the ICAC received 2,714 matters relating to the general public sector.

In 2007–08 the CCC referred 28 investigations to its Investigations Unit for investigation. In 2008–09 the ICAC referred 57 investigations to its Investigation Division for investigation. A comparison of these and other activities is presented in Table 18.

**Table 18: Benchmarking against Corruption and Crime Commission (WA)**

Description	ICAC 2008–09	CCC 2007–08
Reports tabled in Parliament	13	6
Notices to discover	329	146
Matters referred to Investigations Unit	57	28
Search warrant applications	33	26
Surveillance warrant applications	14	12
Telephone intercept warrants	32	102
Power to enter authorities	1	0
Notices to attend hearings	114	86
Public inquiries	7	1*
Compulsory examinations (private hearings)	33	20

\* Although the CCC held only one public inquiry during the reporting period, that inquiry lasted for 45 hearing days.

### Crime and Misconduct Commission (Queensland)

The data for this comparison has been taken from the *Annual Report 2007–08* of the Crime and Misconduct Commission (CMC), as figures for the CMC's operations in 2008–09 are not publicly available at this time.

One of the CMC's functions is to "promote high standards of integrity and reduce misconduct in the public sector". The CMC investigates allegations of misconduct in the public sector, including police misconduct, and also major crime matters.

The CMC notes in its Annual Report that it concentrates its resources on more complex misconduct investigations that require coercive powers and the skills of multidisciplinary teams. The ICAC adopts a similar approach.

The CMC received 3,678 misconduct complaints in 2007–08. Fifty-six per cent of these allegations related to police, and 1,618 complaints related to the general public sector, compared to 2,714 matters relating to the general public sector received by the ICAC.

The CMC finalised 93 misconduct investigations in 2007–08. Of these, 19 investigations related to the general public sector. Seventy-six per cent of all investigations were completed within 12 months.

The ICAC finalised 52 investigations in relation to the general public sector in 2008–09. All were completed within 12 months.

As a result of the general public sector misconduct investigations finalised in 2007–08, the CMC recommended 100 criminal charges. In 2008–09, the ICAC recommended 348 charges as a result of its general public sector investigations.

Table 19 compares these and other activities by the CMC with the ICAC.

**Table 19: Benchmarking against Crime and Misconduct Commission (Queensland)**

Description	ICAC 2008–09	CMC* 2007–08
Power to enter	1	0
Notice to discover	329	139
Notice to attend hearing	114	54
Search warrant application	33	4
Surveillance warrant application	14	0
Public inquiries	7	1
Investigation reports tabled in Parliament	13	1
Number of criminal charges recommended	348	100

\*As previously stated, the CMC has a wider jurisdiction than the ICAC but to provide effective benchmarking these comparisons have been made only to CMC activity relating to misconduct.

## How we investigate

The ultimate aim of all ICAC investigations is to determine the truth about allegations that have been raised.

Not all matters referred to the Commission will involve corruption. All allegations must be examined to see whether, on the information available, they could amount to corrupt conduct under the ICAC Act.

All information received by the Commission goes to its Assessment Panel, which decides whether a matter is sufficiently serious to go to the Investigation Division for preliminary investigation.

The Strategic Investigation Group (SIG), which includes the Commissioner, the Deputy Commissioner and the Executive Directors of the Legal, Investigation and Corruption Prevention, Education and Research Divisions, provides oversight, strategic direction and advice on all investigations.

The methodology for investigations varies depending on the nature of the allegations. Some require extensive covert investigation (including electronic and physical surveillance and telephone intercepts), while others can be dealt with through more traditional means such as interviewing witnesses and executing notices to produce or search warrants.

Witnesses may also be required to attend compulsory examinations (private hearings) to find out what they know about matters under investigation.

Investigation teams include officers from various disciplines, including investigators, financial investigators, intelligence analysts, lawyers and corruption prevention officers. Teams meet regularly to discuss progress, tactics and emerging issues.

The final step in a matter that proceeds to full investigation is usually a public inquiry.

Witnesses at public inquiries and compulsory examinations must answer questions and produce documents or other evidence even if they claim that doing so will incriminate them. However, answers given or things produced after objection cannot be used against the witness in any subsequent criminal, civil or disciplinary proceedings, other than proceedings for breaching the ICAC Act.

The effectiveness of ICAC investigations can be measured in a number of ways. These include:

- the level and extent of corruption identified in the course of the investigation
- the number of findings of corrupt conduct as defined in the ICAC Act
- the number of referrals to the Director of Public Prosecutions for advice about possible criminal offences
- the number of recommendations made about disciplinary action against public officials
- the number of recommendations made to improve systems, procedures and practices to minimise opportunities for corrupt conduct to occur.

Tables 1 and 2 on pages 13 and 14 compare our performance in 2008–09 in these areas against previous years.



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## Continuous improvement of investigation practices and administration

The investigation of alleged corrupt conduct within the public sector is one of the Commission's principal functions. Our processes are regularly revised to ensure that the Investigation Division maintains best practice in its investigation processes. This year, the Investigation Division maintained its commitment to best practice by utilising state-of-the-art technology and addressing the effective management of investigations.

Strategies for improvement included:

- a commitment to an improved electronic case management system (MOCCA) to enable greater oversight and management of investigations
- ongoing review and assessment of specialist equipment for surveillance and other electronic investigation tools
- a review of the charter of the Strategic Investigation Group to ensure that it reflected the current needs of the Commission
- reviewing and updating procedures in the Operations Manual to take into account legislative and operational changes.

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## Strategic alliances to optimise investigative outcomes

To stay in touch with current investigation methodology and trends, the Commission maintains strategic alliances with other agencies and participates in seminars and interagency committees, including:

### The Interception Consultative Committee

Involvement in this committee involves consultation with relevant agencies under section 7A of the *Telecommunications Act 1997* (Cwlth).

### The Law Enforcement Advisory Committee

This is a forum for consultation between the communications industry and law enforcement and national security agencies.

### The Interagency Technical Committee

Involvement in this committee provides an opportunity for agencies with interception powers to seek common ground in delivery standards and the monitoring for telecommunications interception.

### The Special Networks Committee

This is a forum for agencies with interception powers to discuss the capability of telecommunications interception and any related contractual issues.

### The NSW Crime Commission

The Commission has ongoing liaison with the Crime Commission about matters with potential for assets restraint and forfeiture of the proceeds of crime.

All the significant committees in which the Commission participates are listed in Appendix 8.

The Commission may enter into a Memorandum of Understanding (MOU) with another agency in order to facilitate the sharing of information and resources. The Commission currently has MOUs with the Australian Transaction Reports and Analysis Centre, the NSW Director of Public Prosecutions, the Australian Taxation Office, the Police Integrity Commission and the NSW Police Force.

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## Matters we investigated in 2008–09

As in previous years, the matters investigated in 2008–09 resulted from section 11 reports (reports from principal officers of public sector agencies), protected disclosures or section 10 complaints (received from the public).

Twenty-five preliminary investigations were carried over from the previous year; 24 of these were completed in 2008–09 and one became a full investigation that is still active. Five other full investigations (operations) were carried over and completed in 2008–09.

Fifty-eight investigations were commenced by the Commission this year, and 24 of these were completed in the reporting period. This makes a total of 53 investigations that were completed in the reporting period.

Because of the large number of public inquiries conducted in 2007–08 (including the RailCorp and the Wollongong City Council investigations), the Investigation Division was required to concentrate on preparing briefs to the DPP on possible criminal offences uncovered during

investigations for much of this year. It was also required to provide investigative support for seven public inquiries and the preparation of 13 public investigation reports. As a result, 32 preliminary investigations have been carried over to the 2009–10 reporting period. This will have the potential to impact on completion times in that period.

Seven preliminary investigations were upgraded to full investigations in the course of 2008–09. Five of these matters were completed. Two investigations have been carried into 2009–10, making a total of three investigations active at the beginning of the new reporting period.

The average time taken to complete full investigations this year was 219 calendar days, well within the performance target of 548 calendar days. In view of this result, the performance target for the completion of full investigations has been reduced to 365 calendar days for the next reporting period.

Table 20 shows all investigations commenced in this period by sector. The local government sector was the most investigated sector this year, compared to last year when the transport sector was the most investigated sector.

**Table 20: Investigations commenced in 2008–09, by sector**

Sector	
Local government	26
Transport, ports and waterways	15
Education (except universities)	4
Custodial services	2
Emergency services	2
Government and financial services	2
Policing	2
Law and justice	1
Aboriginal affairs and services	1
Community and human services	1
Health	1
Natural resources and environment	1
Universities	1
Other – unspecified	1
<b>Total</b>	<b>60</b>

Note: Two matters involved multiple sectors and are counted as such in this table.



Case Study 6 (page 45) is a good example of how prompt action by a member of the public through a section 10 complaint can allow the ICAC to obtain compelling evidence about corrupt conduct, and also involves one of the most frequently complained about sectors, the transport sector. It also shows how good work by our Assessments Section in the early identification of corruption can be invaluable for a prompt and successful investigation.

ICAC officers execute a search warrant, which is one of the statutory powers available to the Commission.

## CASE STUDY 6: THE TENDER TRAP

On 3 April 2009 Anes Harambasic, the General Manager of Unisec Security Pty Ltd, received an anonymous telephone call.

The caller was aware that Unisec had placed a tender in relation to security duties with RailCorp, and implied that Unisec was virtually guaranteed to win the tender with one slight catch: it was going to cost.

Mr Harambasic contacted the Commission. The matter was quickly assessed as an allegation of serious corruption and referred for investigation.

The caller was subsequently identified as a front man for Wasim Khan, a RailCorp employee involved in the tender process concerning Unisec.

ICAC commenced a covert investigation that included electronic and physical surveillance of various parties. In the course of the investigation, it became apparent that Mr Khan was providing confidential information to Mr Harambasic, including providing the questions that the tender panel were going to ask and appropriate answers. There were also discussions about future contracts and how it could be guaranteed Unisec would “win” these contracts, provided that Mr Harambasic made corrupt payments.

The proposed corrupt schemes could have provided Unisec with a guaranteed workflow for years and the alleged corruptors with over \$200,000 for the first contract alone.

Mr Harambasic did not want to be part of the alleged corrupt scheme, and took part in a controlled operation where he agreed to make a corrupt payment to Mr Khan’s intermediary while the Commission monitored the meeting.

Eventually \$15,000 was handed over in a car park to Mr Khan’s cousin. The handover of the money was recorded by various means and the cousin was followed back to Mr Khan’s house. ICAC investigators executed a search warrant and recovered the \$15,000.

Mr Khan and his associates appeared at a public inquiry at the Commission from 15 June to 17 June 2009. The report in relation to this investigation will be published in the next reporting period.

## Use of statutory powers

The ICAC Act provides a wide range of coercive powers to assist in the investigation of alleged corruption within the public sector. The use of these powers helps the Commission to obtain evidence to determine whether or not corrupt conduct has occurred.

The importance of the use of statutory powers for the Commission is illustrated by Case Study 7 (page 46), where electronic surveillance and the public inquiry power played a major role in exposing serious corrupt conduct.



Commission public inquiries are provided with cost-effective and high-level in-house legal support.

## CASE STUDY 7: MONEY TO BURN

The NSW Fire Brigades needed help – as part of its core fire fighting functions it was required to build new fire stations and renovate existing ones. It decided to get expert help in the form of project managers, to make sure that the building projects did not exceed budget and were completed on time.

Two people, Mr Sanhueza and Mr Taylor, were employed as contract managers through an external employment agency. They quickly established themselves, in the eyes of the NSW Fire Brigades, as capable project managers. Projects were completed on time and within the set budget.

However, there was one problem – Mr Taylor and Mr Sanhueza were lining their pockets with cash. They quickly realised they could complete the projects well within budget but instead of passing that benefit on to the NSW Fire Brigades they allegedly manipulated the process to their own benefit. They created a series of companies so they could create a façade of legitimate tender processes.

However, the process was rotten under the surface. The ICAC investigation identified eight companies linked to Mr Taylor and Mr Sanhueza that were involved in the tender processes. Mr Sanhueza arranged for a third party to be paid \$8,900 to assume the role of director and shareholder in three of the companies, to distance them from himself and Mr Taylor.

Eventually, financial records and careful investigation showed that Mr Sanhueza had obtained at least \$1,399,922 and Mr Taylor \$1,010,000 through these corrupt arrangements.

A public inquiry was conducted by the Commission with subsequent findings of corrupt conduct against Mr Sanhueza, Mr Taylor and three associates. The Commission has sought advice from the Office of the Director of Public Prosecutions as to whether criminal charges should be laid against Mr Sanhueza, Mr Taylor and three other parties allegedly involved in the corrupt conduct. The NSW Crime Commission took action against Mr Sanhueza and Mr Taylor to forfeit the alleged proceeds of crime. Mr Sanhueza has forfeited \$950,000 plus two television sets. Action is still continuing against Mr Taylor in relation to his assets.

It is of interest to note that Mr Sanhueza and Mr Taylor would have never been able to engage in this corrupt conduct if someone had done a simple check on the tertiary qualifications presented by Mr Sanhueza for the position – they were false.

**Table 21: Statutory powers used by the Commission in 2008–09, compared to the two previous years**

Power	2008–09	2007–08	2006–07
Summons to appear (section 35, ICAC Act)	114	217	116
Arrest warrant (section 36)	0	2	0
Order for prisoner (section 39)	5	3	0
Search warrant (section 40)	33*	36	20
Notice to produce a statement (section 21)**	13	12	37
Notice to produce a document or thing (section 22)**	329	550	383
Notice authorising entry to public premises (section 23)	1	1	6
Surveillance device warrants	14	28	52
Telephone interception warrants	34	39	33
Controlled operations	6	6	7
Assumed identities	5	3	5

\* All search warrants were issued by authorised (Local Court) officers. None was issued by the Commissioner.

\*\* There were three combined section 21 / section 22 notices, which were counted as both section 21 and section 22 notices.

There was a general decrease in the Commission's use of statutory powers this year, due to a decrease in the number of matters investigated. This resulted from competing priorities, including the need to prepare briefs to the DPP as a result of the unusually large number of public inquiries held in 2007–08.

## Public inquiries and compulsory examinations

The Commission may take evidence through compulsory examinations (private hearings) or public inquiries.

In 2008–09, the Commission conducted seven public inquiries over 28 sitting days. In addition, 33 compulsory examinations were conducted.

The public inquiries conducted this year were:

- NSW Fire Brigades – allegations of corrupt conduct in allocation of contracts and tenders (Operation Mirna)
- Ku-ring-gai Council – allegations of corrupt conduct by a ratepayer in order to fast-track a development application (Operation Capella)
- Department of Education and Training – allegations of payment to a teacher in an attempt to ensure a student would gain entry to a selective high school (Operation Bellin)
- Warringah Council – allegations of corrupt conduct by a ratepayer in order to fast-track a development application (Operation Bauer)
- Sydney Ferries Corporation – allegations of corrupt conduct in relation to the personal use of a corporate credit card (Operation Argyle)
- RailCorp – allegations of corrupt conduct in relation to a tender process (Operation Chaucer)
- TransGrid – allegations of corrupt activities linked to procurement (Operation Tambo).

The Commission has so far made 84 corruption prevention recommendations arising from these public inquiries.

The time interval between the completion of each public inquiry conducted during the year and the furnishing of the relevant report is shown in Appendix 2.

Before deciding to hold a public inquiry, the Commission is required to consider a range of competing factors that are outlined in section 31(2) of the ICAC Act, including the public benefit in exposing corrupt conduct and any risk of undue prejudice to a person's reputation.

Criteria for determining whether to conduct a compulsory examination in preference to a public inquiry or whether any part of a public inquiry should be conducted in private may include:

- maintaining the integrity of the investigation (it may be prejudicial to the investigation to publicly divulge the fact that the Commission is conducting an investigation, for example, by identifying witnesses or making known the extent of evidence obtained)
- protecting the reputations of people implicated in untested or unverified evidence.

## Investigation outcomes

The Commission is a fact-finding and investigative body that can make findings of corrupt conduct against public officials or other persons who engage in corrupt conduct that involves or affects the NSW public sector.

The Commission is not a court or disciplinary tribunal and does not conduct prosecutions or disciplinary proceedings as a consequence of any of its investigations. However, there are three areas which highlight the outcomes arising from ICAC investigations. These are: findings of corrupt conduct, prosecution / disciplinary action taken by either the Office of the Director of Public Prosecutions or the respective public sector agency, and corruption prevention recommendations and advice.

### Findings of corrupt conduct and recommendations for prosecution/disciplinary action

In 2008–09, the Commission made findings of corrupt conduct against 52 persons.

The Commission does not have a direct role in prosecutions. However, it does refer briefs of evidence to the Director of Public Prosecutions (DPP) for consideration of prosecution action. The DPP then advises the Commission whether prosecution proceedings are warranted. In 2008–09, the Commission recommended the advice of the DPP should be obtained in relation to the prosecution of 51 people for over 300 criminal offences, compared to 23 people in 2007–08. Appendix 3 provides further details on the progress of prosecutions resulting from ICAC investigations.

Public sector employers are responsible for taking disciplinary action or terminating the employment of staff members about whom the ICAC has made findings of corrupt conduct. No such referrals were made in 2008–09.



In general, the number of referrals for disciplinary action or termination of employment by the Commission is consistently low as agencies often act to dismiss employees or take other disciplinary action before the ICAC report is released. Officers under investigation also often choose to resign prior to the investigation being finalised. In these circumstances, the Commission is not required to express an opinion about whether consideration should be given to disciplinary action.

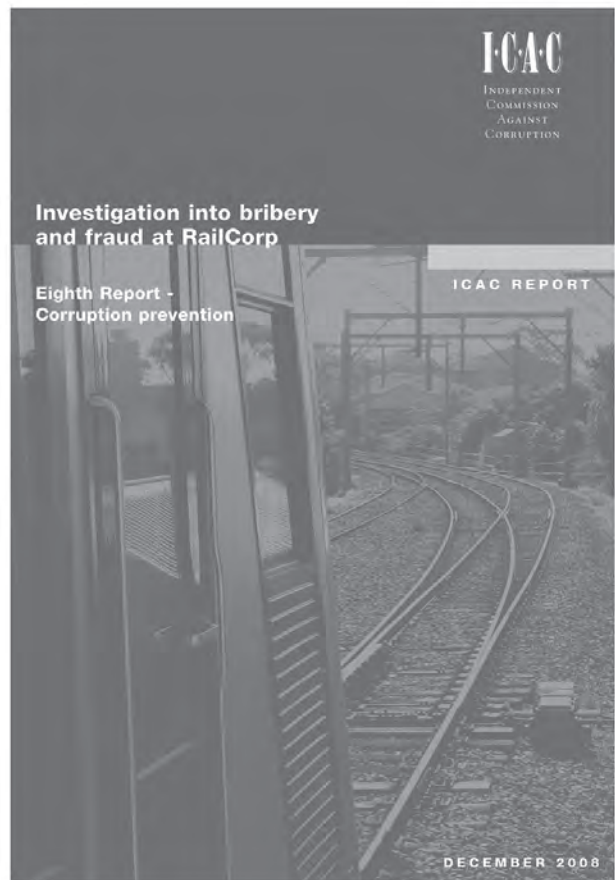
## Corruption prevention recommendations and advice

ICAC investigations often provide an insight into how or why corrupt practices occurred. This insight provides the groundwork for improving systems, policies and procedures within the public sector.

Corruption Prevention Officers are attached to all investigation teams and in the course of an investigation conduct a comprehensive review of the systems, policies, procedures and work practices relevant to matters under investigation.

If a matter proceeds to a public inquiry, Corruption Prevention Officers provide input into the areas to be canvassed at the inquiry about corruption risks identified, and provide recommendations to the agencies involved to deal with any gaps and deficiencies. These recommendations are published in the Commission's investigation report and monitored to see whether they are implemented by agencies.

Further information on corruption prevention work linked to investigations, including the monitoring of the implementation of recommendations arising from investigations is outlined in Chapter 4 (Preventing corruption).



The Commission made 40 corruption recommendations to RailCorp in December 2008 after a major investigation uncovered almost \$19 million in inappropriately awarded contracts.



# The year ahead

## In 2009–10, we will:

- ensure that investigations **comply with all relevant legislative and internal requirements**
- ensure that investigations are enhanced through ongoing review of methodology to incorporate **best practice models of investigative techniques**
- ensure **investigative techniques are flexible** enough to meet the challenges of evolving technology and adapt to new forms of corrupt conduct
- continually assess training needs and **identify specific training modules** to maintain the professionalism of staff within the Investigation Division
- continually monitor trends and issues in the public sector with a view to developing **proactive approaches to investigations**
- focus on identifying appropriate matters to refer to the NSW Crime Commission for consideration of action to **forfeit illegally obtained assets** and the proceeds of crime.



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Members of the Corruption Prevention, Education and Research Division.

## CHAPTER 4

# Preventing corruption

“Following the Wollongong City Council investigation, **Corruption Prevention Officers delivered face-to-face training to more than 1,100** councillors, planners, managers and key personnel on **corruption risks** associated with **planning and development processes**”

**Dr Robert Waldersee**  
Executive Director, Corruption Prevention,  
Education and Research



- The Planning Taskforce delivered **targeted, face-to-face corruption prevention sessions** to over 1,100 councillors, council managers, planners and other key personnel in high-risk local government areas
- The first two reports from a major research project showed a **significant increase in the adoption of corruption prevention methods** across the public sector since 2001
- We **increased corruption prevention training for managers by over 55%**
- Despite an increase in training presentations, **we reduced the total staff hours required to deliver training** by reducing the number of Commission officers required to attend these presentations
- A **significant corruption prevention report on RailCorp** was delivered recommending major changes to procurement management and corruption risk management within that agency

# Preventing corruption: Key objectives

Proactively focus our resources, through the use of Task Groups, on high-risk organisations and activities.

Provide advice, education and training on corruption prevention to the NSW public sector.

Encourage public reporting of corruption.

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## About the Corruption Prevention, Education and Research Division

The ICAC Act outlines the corruption prevention and education functions of the Commission. The Commission's Corruption Prevention, Education and Research (CPER) Division has two major roles:

- to build integrity and minimise corruption in the NSW public sector by facilitating systemic change
- to raise awareness and educate ICAC stakeholders on corruption-related issues, corruption prevention and reporting corruption.

The Executive Director of the CPER Division is Dr Robert Waldersee. In the reporting period, the Division had an average of 20 full-time staff and a total budget of \$2.4 million.

## The year in review

### Challenges we faced in 2008–09

An increasing demand for the Commission corruption prevention training, coupled with a decrease in full-time employees in the CPER Division, required us to find new ways to respond to the demand. Our responses are outlined in detail later in this chapter, and included decreasing the total number of staff hours required for training by reducing the number of staff that attended each training session.

Another ongoing challenge was to target public sector managers who would benefit from corruption prevention advice and training, but might consider such training to be outside their agency's core business. We sought to address this in 2008–09 by using the interest generated by high-profile investigations, such as the inquiry into Wollongong City Council, as a platform to deliver corruption prevention advice during face-to-face meetings with over 1,100 councillors and local government officers.

A longstanding issue for the CPER Division has been the difficulty in obtaining indicative measurements of how effective its work has been. This year, the CPER Division has entered into an arrangement with the Australian and New Zealand School of Government to participate in a Masters student group research project aimed at developing options for effectiveness assessment.

### How we performed in 2008–09

Some of the key indicators of how well we perform in the corruption prevention, education and research area are how effectively we deal with requests for advice, the number of corruption prevention recommendations made and implemented by agencies, and the amount and quality of the training we provide.

This year:

- 76% of written requests for advice were responded to within 30 days, against a target of 75% in the CPER Division's business plan
- 252 telephone / email advice requests were received, up from 211 the previous year.
- a total of 84 corruption prevention recommendations were made in ICAC reports, compared to 57 in 2007–08
- 87 corruption prevention workshops were delivered, an increase on the 42 workshops delivered in 2007–08

- reports received from agencies in 2008–09 indicate that 84% of recommendations were fully implemented, against a target implementation rate of 80%
- 100% of participants in the three core workshops delivered by us found the workshop "very useful" or "somewhat useful" and an average of 95% of participants across the workshops agreed or strongly agreed that the workshops met their training needs.

### How we compare to agencies with similar functions

It is difficult to benchmark the Commission's corruption prevention performance against similar bodies as the two major comparable bodies, the Queensland Crime and Misconduct Commission (CMC) and the WA Corruption and Crime Commission (CCC), also undertake investigations of police misconduct and major crime matters and therefore have significantly more staff and larger budgets. The NSW Police Integrity Commission (PIC) is more comparable in size, but deals only with police misconduct.

Final reports received in 2008–09 on implementation of the Commission's corruption prevention recommendations indicate that 84% of the recommendations were fully implemented by the agencies to which they were made, which is on par with the average for the CCC which indicated in its *Annual Report 2007–08* that, across 20 reports since its inception, it has made a total of 131 recommendations of which 88% have been acknowledged and accepted by agencies.

The NSW PIC reported that, in 2007–08, the NSW Police Force had accepted 54 of 64 recommendations (84%) made in respect of Operation Abelia.

The last 12 months have seen an increase in demand for the ICAC's face-to-face training services, with workshops delivered increasing from 42 (2007–08) to 87 (2008–09). The number of workshops delivered by the ICAC in 2008–09 is comparable with the 70 training sessions delivered by the CCC in 2007–08, although the number of training sessions the ICAC delivered in 2007–08 was lower.



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## Strengthening systems to prevent corruption

Investigations identify whether corrupt conduct has occurred. The ICAC Act requires the Commission to identify systemic weaknesses that may have “allowed, encouraged or caused” the corruption to occur in the first place. The CPER Division’s role in investigations is also to strengthen public sector systems to reduce the likelihood of such behaviour occurring in the future.

### Identifying improvements

Investigations that progress to a public inquiry generally include a corruption prevention component, which involves a comprehensive review of the relevant systems, policies, procedures and work practices of the agency at the centre of a Commission investigation. We examine what motivates individuals who engage in corrupt conduct and how that conduct can better be detected and deterred, as well as the context in which the agency operates.

Where appropriate, we make recommendations to the affected agency or other authorities to deal with the gaps and deficiencies identified. Even when an investigation does not progress to a public inquiry, the Commission may still provide prevention advice to the agency concerned.

The Commission has made corruption prevention recommendations in the majority of the public reports issued. However, in 2008–09, only four of the Commission’s 13 public reports contained corruption prevention recommendations. This was due to two factors:

- The RailCorp investigation, which was the subject of eight of the public reports, was a lengthy and complex matter. Instead of including corruption prevention recommendations in each of the investigation reports, the recommendations were issued as a separate report which addressed all of the issues found during the investigation.
- Two of the public reports (attempted bribery of a teacher and attempted bribery of a council officer) did not require corruption prevention recommendations, as it was determined that the public officials had acted appropriately and that the agency processes had worked appropriately in those matters.

In the public reports which did include corruption prevention recommendations, a total of 84 corruption prevention recommendations were made.

## Implementing improvements

Agencies to which corruption prevention recommendations are made are asked to submit, within three months, a plan describing how the recommendations will be implemented. The Commission encourages recommendations to be fully implemented within two years of the investigation and requests a progress report on implementation at 12 months and a final report at 24 months.

Most agencies cooperate with this approach, indicating a willingness to address the vulnerabilities exposed by an investigation. Many agencies are able to report that recommendations have been fully implemented by the due date for the 12-month progress report.

Final reports received in 2008–09 on implementation of the Commission’s corruption prevention recommendations indicate that 84% of the recommendations were fully implemented by the agencies to which they were made.

In the past, some agencies have been less cooperative and in 2008–09, the Commission has developed an internal protocol to be applied if agencies fail to respond to recommendations as required. The protocol envisages the application of the Commission’s powers under Part 5 and section 77 of the ICAC Act and articulates an accountability process for escalating the Commission’s response to an agency’s failure to cooperate that includes reporting to the relevant minister and ultimately the Parliament.

It has not yet been necessary to apply the protocol as there have been no significant delays in receiving agency reports due in 2008–09.

## Enhancing corruption resistance

The CPER Division enhances corruption resistance by providing corruption prevention training and advice to the public sector. The Division seeks to increase awareness of corruption prevention and develop resources that will be useful for the public sector.



Aboriginal Corruption Prevention Officer Justin Agale and Senior Corruption Prevention Officer Margaret Sutherland provided information to delegates at the NSW Aboriginal Land Council State-wide Conference held in March 2009.

## CASE STUDY 8: SOME POSITIVE NEWS

In 2008–09, the Commission released consecutive investigation reports into corrupt conduct concerning Westmead Public School (Operation Bellin), Ku-ring-gai Council (Operation Capella) and Warringah Council (Operation Bauer).

In all three of these cases private individuals offered corrupt commissions to public officials and in all three cases, the offers were refused and/or promptly brought to the attention of the Commission for investigation.

In Operation Bellin, the parents of a Year 5 student at Westmead Public School paid a total of \$2,500 to a teacher in an attempt to improperly improve the student's prospects of gaining admission to a selective high school. The payments were immediately reported to the proper authorities, who contacted the Commission.

In Operation Capella, the agent of a development applicant gave a Ku-ring-gai Council officer \$1,000 in cash, wrapped in a copy of the floor plan for the development. This event was immediately reported by the Council officer.

In Operation Bauer, two business owners attempted to give two Warringah Council building inspectors small cash payments on three occasions in exchange for an expedited approval so that their business could commence trading. The cash payments were refused, the Commission was alerted and the Council inspectors cooperated fully with the Commission's investigation.

Although these investigations involved three examples of serious corrupt conduct, they also suggest that some public officials have got the message that they should not accept payments in circumstances such as these and should report offers of corrupt payment to the Commission.

## Building management competence

### Face-to-face training (excluding taskforce initiatives)

The CPER Division equips managers and those involved in responding to corruption allegations with the skills needed to both minimise corruption and respond to corrupt conduct allegations.

The last 12 months have seen an increase in the demand for the Commission's face-to-face training services, with workshops delivered increasing from 42 (2007–08) to 87 (2008–09).

The introduction and marketing of the ICAC calendar workshops, together with the conduct of high-profile ICAC investigations (into Wollongong City Council and

RailCorp), had the effect of making agencies aware of the Commission's training services at a time when they would be motivated to take it up. The increased demand also suggests that agencies are taking a more proactive approach to corruption risk management.

Face-to-face training demand increased across all workshop modules offered, for example:

- *Corruption prevention for managers* (full-day or half-day workshop) – increased from 22 to 48
- *Better management of protected disclosures*, delivered in conjunction with the NSW Ombudsman (half-day workshop) – increased from seven to 13
- *Fact-finder* (full-day workshop) – increased from six to 10.

These workshops are delivered in three possible forms:

- in-house at agencies on request (fees on a per-workshop basis)
- as part of ICAC regional outreach programs (free)
- advertised public workshops (fees on a per-person basis).

Of these, in-house training requests have seen the largest increase, but workshops delivered as part of the Commission's outreach programs or on a regular (calendar) basis have also been popular, often being fully subscribed.

In 2008–09, the Commission provided four customised training workshops to three agencies (an increase from two in the previous year). These were provided to the Health Infrastructure Unit (NSW Health), the Department of Commerce and the Department of Community Services. These agencies sought customised training for officers undertaking roles with high corruption risks, in order to effectively manage and mitigate those risks.

The Commission also supports the Department of Commerce's procurement certificate training through the delivery of a *Probity in Procurement* module to level-two course participants. This year, the delivery by the Commission of these modules also increased from five to nine.

Two workshops were run to support students studying the HSC Legal Studies curriculum.

Evaluations show that the training provided met the needs of the NSW public sector participants. This is supported

by anecdotal evidence that agencies are willing to wait to receive ICAC training rather than accessing commercial alternatives. The results of workshop evaluations are summarised in Table 22 below.

To help meet the increased demand for training, forward planning has commenced on developing new training resources. We have also increased our capacity to provide training by removing the requirement for Corruption Prevention Officers to attend workshops with ICAC training officers. In addition, we have reduced the administrative workload of officers delivering training by using a training / event management database and trialling the establishment of a Training and Education Coordinator position.

### Australian National University Executive Program on Corruption and Anti-Corruption

Since 1998 the CPER Division has participated in the delivery of a Corruption and Anti-Corruption course run by the Policy and Governance Program of the Crawford School of Economics and Government at the Australian National University (ANU). The course is offered as part of a Masters degree and examines both the causes of corruption and corruption prevention strategies.

In exchange for providing teaching services during the course, the Commission is allocated 10 student places, which it uses to sponsor NSW local government and state public sector managers to attend the course. Sponsorship is awarded on a competitive basis using various criteria, including the capacity of these managers to influence the corruption resistance of their agencies. A number of places are reserved for managers from rural and regional NSW.

**Table 22: Evaluation of results for CPER training**

<b>Better Management of Protected Disclosures training</b>
100% found the workshop very or somewhat useful
99% agreed or strongly agreed that it met their learning needs
100% agreed or strongly agreed that the presenter's delivery helped them learn
<b>Corruption Prevention for Managers training</b>
100% found the workshop very or somewhat useful
93% agreed or strongly agreed that it met their learning needs
96% agreed or strongly agreed that the presenter's delivery helped them learn
<b>Fact-Finder training</b>
100% found the workshop very or somewhat useful
93% agreed or strongly agreed that it met their learning needs
94% agreed or strongly agreed that the presenter's delivery helped them learn



The 7th National Investigations Symposium, held in November 2008 and co-hosted by the Commission, attracted delegates from around Australia and overseas, including Jerry Jackson Suku, Ombudsman's Office and Christian Mamu, Emmanuel Kouhota and Anthony Mandarano, Leadership Code Commission, Solomon Islands.

Students undertake workplace projects that apply their learning from the course to their own working environment. Project reports are reviewed by ICAC Corruption Prevention Officers who provide practical guidance on implementation of the projects.

## Providing expert advice and consultancy

One of the Commission's roles is to provide expert advice and assistance on ways in which corrupt conduct can be prevented, detected or reduced in its frequency and effects. This advice is provided free of charge to public sector agencies.

The most common areas on which we give advice are:

- managing a staff member with a conflict of interest
- revising codes of conduct or whistleblowing procedures
- the integrity of public procurement, contracting and recruitment
- management of gifts, benefits and hospitality.

Less frequently, we provide advice on high-risk activities including sponsorships, public-private partnerships, dealing with lobbyists and complex urban planning issues.

Some examples of our advice matters for 2008–09 were requests related to:

- a local council that was also operating a for-profit commercial activity
- a government agency whose operations involved the provision of gifts and hospitality
- a local council that was dealing with the competing roles of attracting business investment and regulating lawful development
- a local council that was seeking advice on how to dispose of surplus equipment
- an examination of corruption risks associated with credit card use
- theft of drugs from a NSW hospital
- a government IT manager who had secondary employment as a software developer
- a request for advice on a policy relating to relationships between staff.

Advice is provided in a variety of circumstances. During investigations, Corruption Prevention Officers analyse the relevant organisations' systems for weaknesses and make recommendations for improvement. Some complaints that are not formally investigated also come to the CPER Division for the provision of advice. Finally, the Division provides corruption prevention advice upon request. This is provided either as written advice or telephone advice. Our telephone advice service is open to any public official or member of the public, is free of charge and, if necessary, can be provided confidentially or on an anonymous basis.

The Commission does not give legal advice, nor does it give rulings on probity issues. It endeavours to assist agencies to weigh relevant risks and decide on an appropriate course of action.

## Raising awareness

### Public sector initiatives

The perceived risk of detection can deter corrupt behaviour. Increasing awareness of the Commission and its work, and building knowledge about how to respond to corruption, are important corruption prevention strategies.

### National Investigations Symposium

In 2008, the ICAC again joined with the NSW Ombudsman and the NSW Division of the Institute of Public Administration Australia (IPAA) to conduct the seventh National Investigations Symposium. The



Symposium has been held biennially since 1996 to increase the investigative skills, knowledge and techniques of public officials tasked with conducting investigations.

The 2008 National Investigations Symposium program showcased developments in technology, strategy, techniques and skills to ensure more robust and effective public sector investigations. The event was again a great success, with a capacity registration of 245 delegates and 45 speakers.

An evaluation completed by 30% of delegates found:

- approximately 80% of respondents rated the Symposium as very good or excellent
- 93% of respondents learnt something at the Symposium that was useful to their work
- 83% felt that the Symposium assisted them in performing their duties.

A workshop program was also run to support the Symposium. The ICAC ran its Fact-finder Workshop and the NSW Ombudsman ran its Complaint Handlers Workshop.

## Outreach

The Commission aims to ensure that all NSW communities have access to information about corruption and the ICAC, and feel free to report conduct they believe to be corrupt. To assist this process, the Commission regularly conducts outreach visits to regional and rural NSW communities.

These visits aim to inform communities about the work of the Commission and related agencies.

### Rural and regional outreach

As part of its outreach program, the Commission hosts rural and regional visits twice a year at different locations within the state. Each outreach involves breakfast addresses to community leaders, training for officials of locally based agencies, and liaison visits with local agencies. Over 470 individuals participated in these outreach events in Western Sydney and Merimbula in 2008–09. Evaluation and feedback forms indicate that the events were highly successful.

### Culturally and linguistically diverse communities outreach

During the year, the Commission continued to resource public officials and organisations that provide services to culturally and linguistically diverse communities and made five presentations to multicultural interagency groups at Bankstown, Liverpool, Parramatta, Fairfield and Auburn.

As well, the Commission continued its annual induction session for new interpreters and translators with the NSW Community Relations Commission. The Commission also participated in the Office of Fair Trading's Community Expos at Cabramatta in November 2008 and Burwood in March 2009. These events also facilitated marketing the range of our publications which is available in 30 languages.



Officers from the ICAC, Police Integrity Commission and the NSW Ombudsman's Office arrive in Merimbula for the South Coast Outreach program held in May 2009. More than 470 individuals participated in training, workshops and other events held as part of this program and another in Western Sydney.

## Providing resources

### Corruption prevention content for the new website

During 2008–09 the CPER Division has been developing new prevention resources which have been made available on the ICAC website.

Central to these resources on the new website is a best-practice corruption prevention toolkit to help public sector agencies develop a coordinated corruption prevention strategy. The online material covers 18 topics that together set out a framework for implementing a corruption prevention strategy. They include guidance on detecting corrupt conduct, responding to corrupt conduct allegations, managing corruption risk, and 28 modules addressing specific corruption risks.

Using a combination of web-based, downloadable and hard copy resources, the toolkit will be a 'one-stop shop' linked to existing ICAC and external resources. It will be supplemented with information about specific organisational corruption risk areas and tools to address them such as checklists, model plans and template documents. All of this information will be in a format that allows agencies the choice of consulting the information online, printing individual sections or creating a hard copy of the whole toolkit. The toolkit will be available online in late 2009.

### Publications

In May 2009, the Commission released the first three reports from the Profiling the NSW Public Sector 2 research project.

The first of the three reports provided an overview of corruption risk management within the NSW public sector and can be used by public sector organisations to benchmark their corruption risk management practices.

The second report compared corruption risk management perceptions and practices to those reported six years earlier (when the first such Profiling research project was reported), enabling organisations to act upon corruption risk management trends.

Overall, the results suggest that corruption risk management in the NSW public sector has improved but that some challenges remain. As outlined in the third report, which sets out the research project methodology, these results were obtained from two surveys – one answered by over 300 NSW public sector agencies and councils, and the other answered by almost 500 NSW public sector staff.

## Targeting high-risk areas

As a method of focusing prevention work on priority areas of public sector activity the CPER Division began trialling a 'taskforce' model in September 2008. For the 2008–09 year the Prevention Management Group (PMG) approved the CPER Division's choice of two focus areas:

- procurement, outsourcing and contracting
- local government (council) planning.

The taskforces combine multidisciplinary skills of staff drawn from across the division to work proactively on public sector activities that have been identified as carrying a higher risk of corruption.

### Procurement, outsourcing and contracting taskforce

This taskforce has been examining the corruption risks associated with public sector procurement in NSW. The goal of the taskforce is to determine current and emerging corruption risks that are likely to affect public sector agencies and the support that those agencies may need to make their procurement practices more resistant to corruption.

The work of this taskforce has been divided into three segments: understanding and mapping the existing regulatory environment for procurement; gathering information about corruption risks and procurement practices; and identifying preventative action.

This taskforce is approximately halfway through its program of work, having mapped the regulatory framework, conducted interviews and focus groups with public officials responsible for procurement and distributed a survey on procurement practices to nearly 300 agencies.

A discussion paper on the risks of corruption in public procurement will be released early in the 2009–10 year and will form the final part of the taskforce's consultation with the public sector and suppliers. The main outputs of this taskforce will be produced in 2010–11, in response to the information elicited by the consultation process.



## CASE STUDY 9: CORRUPTION IN PROCUREMENT

Agencies need to clearly understand the risks inherent in procurement and put in place strategies to manage those risks.

Appropriate location of organisational boundaries is a key element in managing these risks. This refers to what an organisation has to make or buy: the goods or services an organisation makes are inside the boundary; the things an agency procures are outside the boundary.

To determine the appropriate location of its boundaries, an agency needs to ask itself the following questions:

- Can the goods or services required be clearly specified?
- Can market prices be accurately determined?
- Is the volume of orders predictable?
- Can delivery be measured accurately?
- Do suppliers have alternative clients?

If the answer is 'no' to any of these questions, it may be easy to cheat the agency through overcharging, oversupplying or not supplying the good or service at all.

This is precisely what was exposed by the Commission's *Investigation into bribery and fraud at RailCorp* (December 2008). For example, RailCorp paid over \$500,000 to hire plant and equipment that was never delivered. False orders were hidden in a large volume of orders that fluctuated between \$67 million and \$84 million during the period investigated. Because of the high volume and unpredictability of plant hire orders, non-delivery was easy to hide. RailCorp also paid \$149,000 for a shed that cost the supplier \$68,000 to buy and install. The manager who approved the purchase had no idea of market prices for sheds, and was therefore easily misled by a corrupt employee.

Recommendation 1 of the *Investigation into bribery and fraud at RailCorp – Eighth Report* recommended that RailCorp:

- identify those goods and services for which it is not possible to effectively monitor delivery and measure quality, and for which there is no functioning market with genuine competition between suppliers
- assess the risks of bringing in-house, compared to procuring externally, the provision of goods and services, such as maintenance services, that are difficult to accurately measure and monitor, and for the provision of which there is not a genuine competitive market.

### Planning taskforce

Managers face many competing demands for their attention and time. Corruption prevention is one of those demands. It can be a challenge to compete effectively for public sector managers' attention when corruption prevention issues may be considered secondary to an agency's core business. However, the exposure of major scandals can often attract the attention of such managers.

To meet this challenge, the CPER Division has adopted a tactic of using the attention attracted by major investigations to carry out prevention activities in areas similar to those involved in the investigations. Following the Commission's investigation into Wollongong City Council

(Operation Atlas), we formed an internal taskforce to capitalise on the significant public interest generated by the investigation.

The main component of the taskforce's work was delivering a number of speeches, presentations and seminars on the outcomes of Operation Atlas and, more importantly, the corruption prevention lessons to be learned. In 2008–09, 30 such events were held across NSW, reaching an estimated 1,100 public officials, mainly in the local government sector. There was significant interest in these important corruption prevention messages from a number of non-metropolitan areas and ICAC staff spent time in places such as Tweed Heads, Gloucester, Orange, Merimbula and Moss Vale.

We found that, in response to Operation Atlas, many NSW local councils and government agencies have taken the initiative of performing their own internal risk assessments against the findings and corruption prevention recommendations from that investigation.

The Commission's investigation into Ku-ring-gai Council (Operation Capella, finalised in February 2009) also dealt with planning issues and the potentially corrupting influence of gift giving. These investigation findings were incorporated into the taskforce's public speaking program.

The other activities of the taskforce included the development of a self-assessment questionnaire based on the lessons from the Wollongong City Council investigation. This is in the process of being updated and converted into a checklist that can be used by internal auditors. The taskforce is also maintaining a watching brief on the application of State Environmental Planning Policy No. 1 (SEPP 1). At Wollongong City Council, abuse of SEPP 1 was a key enabler of the corrupt conduct that the Commission uncovered.

Through the taskforce, the Commission has also strengthened its links with relevant peak bodies including Local Government Managers Australia, the Local Government Association and Shires Association, the Planning Institute of Australia and the Local Government Internal Auditors Network.

## Looking ahead

The CPER Division will continue its approach of focusing its limited resources on high-risk areas, at levels such as state policy and senior management, where it can reasonably be expected to have a significant impact.

In 2009–10, we will focus on two high-risk areas:

- Current land held by Local Aboriginal Land Councils (LALCs), if developed, is valued at \$3 billion and currently constitutes 2% of NSW land. Approximately 900 additional claims are awaiting determination, with a value of around \$2 billion. As a result, the large majority of the undeveloped land on the eastern seaboard is now owned by LALCs. The value of the land and the lack of land options for developers create risks of potential predatory and corrupt behaviour by unscrupulous developers and financial services organisations and/or corrupt behaviour by members of LALCs.
- Information available to the Commission suggests a revolving door for corrupt individuals. Public sector employees have been allowed to resign against the background of misconduct allegations only to be re-employed by another agency with adverse results. Some individuals have been employed despite proper

recording of adverse employment histories or other discoverable adverse information due to poor or non-existent employment screening during the recruitment process. Local and state government departments and agencies are often faced with decisions about whether to accept a resignation during any misconduct investigation given the financial cost attached to their completion and the risk of disciplinary action being overturned on review.

## Continuous improvement

### The challenge of prevention implementation

In addition to their value to the public sector as a whole, the Profiling reports referred to above provide guidance to the CPER Division for its advice and education activities. For example, the Profiling studies indicate that there is now a relatively high rate of agencies reporting that they have such prevention mechanisms as codes of conduct, whistleblower arrangements and conflict of interest processes.

However, the staff survey indicates that operational officers are much less aware of these prevention mechanisms. In effect, the reports suggest that there may have been the adoption of prevention mechanisms on paper, but that there is a substantial gap in the practical application of these mechanisms.

The challenge now is to promote a genuine implementation of the prevention reforms. Conveying the message that integrity is not something you can buy off the shelf but something you do in the course of your work is difficult. The 'integrity sheep-dip' or inoculation approach sometimes evident in mandatory ethics training or the launch of a code of conduct is difficult to discourage in an age when so much management support can be bought off the shelf, staff turnover is high and responsibilities change often.

Substituting 'tick box' implementation of measures to reduce corruption with their integration into the standard operations of the agency is slow work that needs vigilant monitoring to be successful.

## Contributing to Commission-wide projects

In conjunction with a Commission-wide multidisciplinary team, CPER staff have made major contributions to the new MOCCA database project this year. These contributions have involved both the database overall and CPER-specific features. Examples include:

- significant involvement in the critical task of ensuring accurate and complete data migration from the existing ICS database
- a leading role in the development and review of database reports
- oversighting a marked enhancement of MOCCA's capability to provide intelligence relevant to Corruption Prevention, Education and Research work.

## Assessing effectiveness

The CPER Division faces an ongoing challenge in measuring the effectiveness of its work. In the Second Reading Speech on the ICAC Bill, the Premier stated "it would also be crass and naïve to measure the success of the independent commission by how many convictions it gets or how much corruption it uncovers. The simple fact is that the measure of its success will be enhancement of integrity and, most importantly, of community confidence in public administration in this State".

The measurement of the effectiveness of corruption prevention activities directed at the enhancement of integrity remains problematic. However, the CPER Division has entered into an arrangement with the Australian New Zealand School of Government to participate in a Masters student group research project aimed at developing effective assessment options.

## In 2009–10, we will:

- continue our approach of **focusing our corruption prevention resources on high-risk areas**, at levels such as state policy and senior management, where it can reasonably be expected to **have a significant impact**
- **continue to educate the public sector** and the public generally about the Commission's role and functions through the outreach programs, the provision of electronic and print resources, and training and education delivery
- organise, in conjunction with the NSW Ombudsman and the Institute of Public Administration Australia (IPAA) NSW, the **eighth National Investigations Symposium**, scheduled for November 2010
- work with the Crime and Misconduct Commission (Queensland) and the Corruption and Crime Commission (WA), to **help organise the third Australian Public Sector Anti-Corruption Conference**, to be held in Perth in 2011.





Members of the ICAC Executive at a public hearing of the Parliamentary Committee on the ICAC. The Commission responded promptly and accurately to 35 questions on notice from the Committee.



## CHAPTER 5

# Compliance and accountability

“Our **comprehensive accountability framework** has ensured we have continued to exercise our statutory powers appropriately”

**Roy Waldon**  
Executive Director, Legal



- **We published 13 investigation reports** (up from seven reports in the previous year)
- We conducted **seven public inquiries** and **33 compulsory examinations**
- We continued our commitment to cost-effective hearings processes, by **using in-house lawyers** at one of our public inquiries and 31 of our compulsory examinations
- **We reviewed all requests for the exercise of statutory powers** to ensure they met relevant legislative and internal requirements
- We made submissions to the Government and our Parliamentary Committee about **changes to the law** necessary for us to investigate and prevent corruption more effectively
- **We responded promptly and accurately** to 35 questions on notice from our Parliamentary Committee and seven information requests from the ICAC Inspector, and **cooperated fully with an audit** undertaken by the Inspector

# Accountability: Key objectives

Provide timely accurate and relevant reporting to the Inspector of the ICAC and the Parliamentary Committee on the ICAC

Ensure all business activity complies with regulatory and standards requirements

Report publicly about the work of the ICAC

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## About our compliance and accountability framework

The ICAC Act confers significant powers and discretion on the ICAC Commissioner and ICAC staff. The Commission is also able to exercise powers under other legislation. In particular, the Commission can:

- apply for telecommunications interception warrants under the *Telecommunications (Interception and Access) Act 1979*
- approve the conduct of actions that would otherwise be unlawful under the *Law Enforcement (Controlled Operations) Act 1997*
- authorise the use of assumed identities under the *Law Enforcement and National Security (Assumed Identities) Act 1998*

- apply for warrants to use listening devices, tracking devices, optical surveillance devices and/or data surveillance devices under the *Surveillance Devices Act 2007*.

Given these extensive powers it is important that we have a comprehensive accountability framework in place.

Our internal accountability mechanisms include:

- review by our lawyers of all applications for exercise of statutory powers
- strict procedural requirements for the exercise of statutory powers
- an executive-level internal committee, the Strategic Investigations Group, to oversee investigations
- a Prevention Management Group to oversee ICAC corruption prevention, education and research activities

- an Executive Management Group to oversee corporate governance and budgeting and provide overall strategic direction.

The two main features of the Commission's external accountability framework are:

- the Parliamentary Committee on the ICAC
- the Inspector of the ICAC.

The Commission is also externally accountable for its work through:

- inspection by the NSW Ombudsman of records of telecommunications interceptions, the conduct of controlled operations and the use of surveillance devices
- reporting to the NSW Attorney General and the judges who issue the warrants for each surveillance device warrant
- the application of freedom of information and privacy laws, with exemption for certain functions
- accounting to the NSW Treasury and Audit Office for the proper expenditure of funds
- annual reporting requirements, including those in the ICAC Act.

The Commission's actions are also reviewable by the NSW Supreme Court to ensure proper exercise of its functions and powers.

If the Commission decides to discontinue or not commence an investigation, it must provide reasons for that decision to complainants and to officials who make reports of possible corrupt conduct under section 11 of the ICAC Act.

Other ways in which the Commission maximises its accountability to the public include:

- conducting public inquiries
- posting public inquiry transcripts on the ICAC website
- publishing and distributing ICAC investigation reports and other material.

## The year in review

### Challenges we faced in 2008–09

There were a number of changes to legislation in the reporting period which impacted on the Commission's business activity, and required staff training and changes to our processes.

In particular, in-depth training sessions and changes to policies and procedures were required as a result of the commencement of the *Surveillance Devices Act 2007*.

This Act regulates the installation, use, maintenance and retrieval of various surveillance devices (listening devices, tracking devices, optical surveillance devices, and data surveillance devices). It also makes provision for the keeping of relevant records.

In December 2008, the ICAC Act was amended by the *Independent Commission Against Corruption Amendment Act 2008*. A number of these amendments resulted from ICAC submissions about how the Act needed to be changed to help us carry out our work. The enacted amendments:

- clarified the reference to "serious and systemic corrupt conduct" in section 12A by making it clear that in exercising its functions the Commission is, as far as practicable, to direct its attention to both serious corrupt conduct and systemic corrupt conduct
- extended the legal obligation to report suspected corrupt conduct under section 11 of the ICAC Act to include Ministers of the Crown
- increased the maximum penalty for an offence under section 82 of the ICAC Act (failing to provide information required under section 21 of the ICAC Act or providing false or misleading information) from a maximum penalty of a \$2,200 fine, imprisonment for six months or both to a maximum penalty of a \$5,500 fine, imprisonment for 12 months or both
- ensured the Commission could make a non-publication order under section 112 of the ICAC Act with respect to any written submissions received by the Commission
- extended the time period within which proceedings for offences against section 82 (provision of information) and section 95 (impersonation of an ICAC officer) may be commenced from six months to three years from the commission of the alleged offence

- clarified the definition of “public official” in the *Protected Disclosures Act 1994* to remove any doubt that the Act extends to any individual in the service of the Crown or of a public authority.

On 1 July 2008 the *Police Integrity Commission Amendment (Crime Commission) Act 2008* commenced. It enables the Police Integrity Commission to investigate and oversight matters relating to the misconduct of officers of the NSW Crime Commission. There were consequential amendments to sections 11 and 13(1A) of the ICAC Act. The Commissioner of the NSW Crime Commission is no longer under a duty to report to the ICAC any matter that concerns or may concern corrupt conduct unless the matter also concerns or may concern corrupt conduct of another public official. Section 13(1A) of the ICAC Act was amended so that the ICAC’s corruption prevention and education functions under subsections 13(1)(d) and (f)–(h) do not apply to the conduct of NSW Crime Commission officers.

## How we performed in 2008–09

The Commission’s performance in the accountability and compliance area is measured by how well we respond to a number of external and internal oversight bodies.

### Parliamentary Committee on the ICAC

The Parliamentary Committee on the ICAC is the means by which the Commission is accountable to the NSW Parliament.

The Committee’s functions include monitoring and reviewing the exercise of the Commission’s functions and reviewing the Commission’s Annual Report and other reports.

The Parliamentary Committee currently consists of 11 members of Parliament, selected from both the Legislative Assembly and Legislative Council. The current members of the Parliamentary Committee are:

- Mr Frank Terenzini MLA (Chair)
- Mr David Harris MLA (Vice-Chair)
- the Hon Diane Beamer MLA
- Mr Ninos Khoshaba MLA
- Mr Gerard Martin MLA
- Mr Jonathan O’Dea MLA
- Mr Greg Smith MLA
- Mr Rob Stokes MLA
- the Hon Greg Donnelly MLC
- the Hon Trevor Khan MLC
- Reverend the Hon Fred Nile MLC.

The Committee conducted a number of inquiries in the reporting period.

In July 2008 seven ICAC officers gave evidence at a public hearing held for the purpose of the Committee’s review of the Commission’s *Annual Report 2006–2007*.

In August 2008 an ICAC officer gave evidence at a public hearing held for the purpose of the Committee’s inquiry into protection of public sector whistleblowers.

As a result of submissions made by the Commission seeking amendments to its legislation, the Committee is currently conducting an inquiry into whether certain amendments should be made to the ICAC Act.

The matters under consideration include whether the restriction in section 37 of the ICAC Act, which prohibits the use in civil and disciplinary proceedings of evidence provided under objection to the Commission, should be removed. In March 2009, the Commission made a written submission to the Committee recommending the restriction be removed.

The Commission also submitted that the assembly of evidence of criminal offences for furnishing to the Director of Public Prosecutions be made one of the Commission’s principal functions.

Three ICAC officers gave evidence at a public hearing held by the Committee about these proposed amendments in May 2009, and a further written submission was made to the Committee later that month.

The Committee is also currently conducting a review of the Commission’s *Annual Report 2007–2008*. The Committee has provided the Commission with a list of detailed questions about the report, which the Commission is in the process of answering.

### Inspector of the ICAC

The principal functions of the Inspector of the ICAC are:

- to audit the operations of the Commission for the purpose of monitoring compliance with the law of NSW
- to deal with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Commission or officers of the Commission
- to deal with (by reports and recommendations) conduct amounting to maladministration (including delay in the conduct of investigations and unreasonable invasions of privacy) by the Commission or officers of the Commission
- to assess the effectiveness and appropriateness of the procedures of the Commission relating to the legality or propriety of its activities.

The Inspector has extensive powers. These include power to:

- investigate any aspect of the Commission's operations or any conduct of officers of the Commission
- require Commission officers to supply information or produce documents or other things relating to the Commission's operations or to the conduct of Commission officers
- require Commission officers to attend before the Inspector to answer questions or produce documents or other things relating to the Commission's operations or the conduct of Commission officers
- investigate and assess complaints about the Commission or Commission officers
- recommend disciplinary action or criminal prosecution against Commission officers.

The current Inspector is Mr Harvey Cooper AM. He became Inspector on 1 October 2008. Mr Graham Kelly was the previous Inspector.

During the course of the reporting year the Inspector conducted an audit of applications for and execution of search warrants by the Commission. The Inspector concluded that the Commission had complied with the relevant law and its own procedures and that in all cases it was appropriate to apply for and execute the search warrant in the light of available information.

In September 2008 the Inspector made a special report on issues relating to the execution of a search warrant on the parliamentary offices of the Hon Peter Breen MLC in October 2003. The execution of a search warrant on parliamentary premises raised issues of parliamentary privilege. Shortly after the search warrant was executed the Commission discovered that incorrect information concerning Mr Breen's ownership of certain property had inadvertently been included in the application for the search warrant.

The Inspector found that the incorrect information included in the search warrant application did not result in an invalid search warrant being issued.

The Inspector made two recommendations in the report. The first recommendation was that key Commission personnel should be fully conversant with the issue of parliamentary privilege and with the procedures for the execution of search warrants set out in the Commission's Operations Manual, and that the Commission should ensure that these issues are fully and carefully considered before any search warrant is sought or executed on parliamentary premises. The Commission is satisfied that it complies with this recommendation.

The second recommendation was that a part of the decision-making process should include a suitably senior person who takes responsibility for ensuring that factual information contained in an application for a search warrant is accurate.

In the Commission's opinion the person swearing or affirming the application is the person responsible for ensuring that all statements he or she makes in the application are correct. That person is best placed to ensure the factual information is correct. All applications are made by trained and experienced investigators who are keenly aware that they must ensure that information contained in their applications is accurate.

All requests from the ICAC Inspector for access to records were complied with expeditiously during the reporting period.

## How we compare to agencies with similar functions

It is difficult to benchmark the Commission's work in compliance and accountability against other agencies such as the Corruption and Crime Commission (Western Australia) and the Crime and Misconduct Commission (Queensland). These agencies are also required to investigate police misconduct and some major crime matters and have substantially more staff and larger budgets than the Commission.

However, using the accountability performance indicators of reporting publicly and holding public inquiries, the comparisons in the table below have been made only on activities relating to the CMC's and the CCC's misconduct functions. The figures for the CCC and the CMC are taken from their 2007–08 Annual Reports, as these are the latest publicly available figures at this time.

**Table 23: Benchmarking against CCC and CMC**

	ICAC 2008–09	CCC 2007–08	CMC 2007–08
Public inquiries	7	1*	1
Investigation reports published	13	5	1

\* Although the CCC held only one public inquiry during the reporting period, that inquiry lasted for 45 hearing days.



## Internal governance

The Commission has an internal committee system to oversee corporate governance, investigations, prosecution brief preparation and corruption prevention projects. The key committees are the Executive Management Group, the Strategic Investigation Group and the Prevention Management Group.

The Commission also has a range of other internal committees for issues such as equal employment opportunity (EEO) and occupational health and safety (OHS). These committees are discussed in Chapter 6.

The Commission's Legal Division also plays a key role in ensuring that the Commission's statutory powers are exercised in accordance with relevant legal and procedural requirements.

### Executive Management Group

The Executive Management Group (EMG) usually meets fortnightly and is responsible for:

- advancing the Commission's corporate and strategic directions
- reviewing, developing and endorsing Commission policies and procedures
- overseeing corporate planning and budgeting
- supporting the ICAC's commitment to business improvement initiatives and key result areas
- providing strategic oversight and promoting organisation-wide ownership of corporate projects
- ensuring the efficient deployment of Commission resources.

The EMG membership comprises the Commissioner, Deputy Commissioner and all executive directors.

### Strategic Investigation Group

The Strategic Investigation Group (SIG) oversees ICAC investigations, preparation of investigation reports, preparation of briefs of evidence for submission to the Director of Public Prosecutions and the progress of criminal prosecutions arising from Commission investigations.

The SIG members are:

- the Commissioner
- the Deputy Commissioner
- the Executive Director, Legal and Solicitor to the Commission

- the Executive Director, Investigation
- the Executive Director, Corruption Prevention, Education and Research.

The SIG usually meets fortnightly and considers reports on progress and developments for each investigation.

### Prevention Management Group

The Prevention Management Group (PMG) oversees the Commission's corruption prevention, education and research activities.

The members are the same as for the SIG with the addition of the Executive Director, Corporate Services.

The PMG meets monthly and reviews ongoing progress reports for corruption prevention, education and research projects.

### Legal Division

All applications for the exercise of statutory powers are reviewed by lawyers of the Commission's Legal Division. The role of the Legal Division is to assist the Commission to perform its principal functions and to exercise its statutory powers in a lawful, effective, ethical and accountable manner through the provision of high – quality, accurate and timely legal services.

Commission lawyers also actively participate in investigations as members of multidisciplinary teams, instruct in and appear in compulsory examinations and public inquiries, assist with preparation of investigation reports, assist with preparation of briefs of evidence for submission to the Director of Public Prosecutions, provide advice and training to Commission staff on relevant statutory powers, and provide general legal advice to the Commission.



Legal Associate Nyrelle Colley and ICAC Officer John Biady delivering a brief of evidence to the DPP.

## Using statutory powers

The Commission has extensive powers which are regulated by statute. These statutes set out not only the type of powers which can be exercised but also the grounds on which the powers may be exercised and restrictions on the way in which they may be exercised.

To ensure these powers are exercised appropriately the Commission has compiled an Operations Manual which sets out procedures for the exercise of relevant powers and provides that the reason for the exercise of a power as well as its actual exercise must be soundly based and recorded. These procedures must be followed by Commission officers both in applying for the use of a particular power and in exercising that power. These procedures also ensure that any legislative requirements are identified and addressed.

Applications for surveillance devices, telecommunications interception, controlled operations and assumed identities are considered by the lawyer assigned to the investigation and checked thoroughly by the Solicitor to the Commission before the application proceeds.

The Operations Manual is regularly updated to reflect any relevant changes to legislation and is, in any event, reviewed every two years. Any changes to the Operations Manual must be approved by the EMG.

Applications for surveillance device warrants are considered by judges of the NSW Supreme Court. Applications for a surveillance device warrant authorising the use of a tracking device may be made to a magistrate. During the reporting period all applications were made to a judge and none was rejected.

Applications for telecommunications interception warrants are usually made to members of the Administrative Appeals Tribunal (Commonwealth). No applications made during the reporting period were rejected.

## Accounting for the use of statutory powers

Under the *Law Enforcement and National Security (Assumed Identities) Act 1998*, the Commission is required to report on the use of assumed identities. In 2008–09 the Commission authorised five new assumed identities and revoked three assumed identity authorities. One assumed identity authority was varied.

Assumed identities were granted and used by ICAC officers in surveillance operations on people of interest in ICAC investigations and to maintain covert arrangements.

Assumed identity records for 2008–09 were audited under section 11 of the *Law Enforcement and National Security (Assumed Identities) Act 1988*. This audit identified that the Commission had complied with all aspects of the legislation during the reporting year. No fraudulent or other criminal activity was involved.

The NSW Ombudsman inspects the Commission's records of telecommunications interceptions, controlled operations and surveillance device warrants to measure compliance with statutory obligations.

The Ombudsman inspected the Commission's telecommunications interception records in November 2008 and June 2009. In both inspections he found that all records kept by the Commission associated with warrants were kept in accordance with the relevant legislative requirements. In the November 2008 inspection he noted that the supporting application for two warrants contained interception information provided by the NSW Police but the relevant Commission record did not record particulars of this use of that intercept information. The Commission rectified its record.

The Ombudsman conducted one inspection of the Commission's controlled operations records and found they complied with the relevant legislative requirements.

The Ombudsman conducted one inspection of the Commission's surveillance device records. He noted that in four cases the law enforcement officer nominated in the pre-application notification to the Attorney General as being responsible for the execution of the warrant was different from the officer nominated in the warrant. He also noted that in two cases the description of premises where listening devices were installed differed between that in the warrants and that in the reports on the execution of the warrants. In both cases the premises were the same but had been differently described. All relevant Commission officers were notified of these discrepancies and reminded of the need to ensure consistency in nominating the responsible law enforcement officer and describing the premises where surveillance devices are used.

## Complaints against Commission officers

Complaints concerning the misconduct of Commission officers may be made directly to the ICAC Inspector or to the Commission. In September 2005 the Commission entered into a Memorandum of Understanding with the Inspector of the ICAC. It provides that the Commission will notify the Inspector of complaints against Commission officers who come within the Inspector's functions. The Inspector may decide to investigate complaints directly or ask the Commission to undertake an investigation and report its findings.

The Executive Director, Legal is responsible for advising the Commissioner with respect to complaints of misconduct dealt with by the Commission.

In 2008–09 the Commission received five complaints about Commission officers. Three were from external sources and two from internal sources.

The ICAC Inspector investigated one of the complaints from an external source and concluded that there had not been any abuse of power, impropriety or misconduct.

Three matters, including two from an external source, were investigated by the Executive Director, Legal. No misconduct or maladministration was found in two matters. In the third matter it was established that two ICAC officers had engaged in minor instances of secondary employment without appropriate authorisation. Both had been unaware of the need to seek secondary–employment consent for the type of work in which they engaged. Both subsequently sought and were granted secondary–employment approval.

One matter was investigated jointly by the Manager Human Resources and Administration, and a Principal Lawyer. The Commission officer who was the subject of the complaint resigned during the course of the investigation. The investigation concluded that the officer had engaged in misconduct. A record of that finding has been placed on the officer's personnel file.

## Privacy and personal information

The *Privacy and Personal Information Protection Act 1998* (PPIP Act) provides for the protection of "personal information" and for the protection of the privacy of individuals generally.

Public sector agencies are required to comply with the information protection principles established by the PPIP Act. These information protection principles apply to the Commission only in connection with the exercise by the Commission of its administrative and educative functions.

The PPIP Act also requires public sector agencies to prepare and implement a privacy management plan. In January 2009 the Commission produced a new privacy management plan to replace the previous plan which was produced in 2000 and updated in 2001. A copy of the new plan has been provided to the NSW Privacy Commissioner in accordance with the requirements of the PPIP Act.

The privacy management plan sets out how the Commission complies with the principles and requirements of the PPIP Act and, in so far as the Commission holds any health information, the *Health Records and Information Privacy Act 2002*. The plan can be accessed on the Commission's website: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) or by contacting the Commission directly.

The Commission operated in accordance with its privacy management plan during 2008–09.

Part 5 of the PPIP Act sets out mechanisms for a person who has been aggrieved by certain conduct of a public sector agency to seek review of that conduct. The relevant conduct is:

- (a) the contravention by a public sector agency of an information protection principle that applies to the agency,
- (b) the contravention by a public sector agency of a privacy code of practice that applies to the agency,
- (c) the disclosure by a public sector agency of personal information kept in a public register.

No reviews have been required or conducted under Part 5 of the PPIP Act during the reporting year.

## Freedom of information

The Commission's administrative, research and education functions are covered by the *Freedom of Information Act 1989*. Under that Act the Commission is required to produce an annual statement of affairs and is also required to provide certain other statistical information concerning the way in which it dealt with requests for information. This information is set out in Appendices 6 and 7.

## Training

Internal training presentations have previously been developed in relation to:

- the ICAC Act
- obtaining and executing search warrants
- the *Telecommunications (Interception and Access) Act 1979*
- the *Law Enforcement (Controlled Operations) Act 1997*
- protected disclosures
- the *Surveillance Devices Act 2008*.

Only one training presentation was made in the reporting period. This was a presentation on the Surveillance Devices Act. Ongoing commitments to other work, including operational matters and the need to devote resources to the development of the Commission's new case management system (MOCCA), meant there was insufficient time to conduct other presentations.

The Commission does not regard the inability to conduct more of these training presentations in the reporting period as creating any undue risk. The majority of ICAC officers has previously received relevant training in these areas. The Operations Manual also sets out comprehensive procedures for obtaining and executing search warrants, obtaining and executing telecommunications interception warrants, obtaining and executing surveillance device warrants and the conduct of controlled operations. These procedures ensure that all relevant legislative and internal requirements are met. All operational staff are aware of and comply with these procedures.

Efforts will be made in 2009–10 to increase the number of training presentations.

## Report publicly about the work of the Commission

Section 76 of the ICAC Act requires the Commission to report on its operations for each year ending on 30 June and to furnish that report to the Presiding Officer of each House of Parliament.

That section provides that the report shall include the following:

- a description of the matters that were referred to the Commission
- a description of the matters investigated by the Commission
- the time interval between the lodging of each complaint and the Commission deciding to investigate the complaint
- the number of complaints commenced to be investigated but not finally dealt with during the year
- the average time taken to deal with complaints and the actual time taken to investigate any matter in respect of which a report is made
- the total number of compulsory examinations and public inquiries conducted during the year
- the number of days spent during the year in conducting public inquiries
- the time interval between the completion of each public inquiry conducted during the year and the furnishing of a report on the matter
- any recommendations for changes in the laws of the State, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions
- the general nature and extent of any information furnished under the ICAC Act by the Commission during the year to a law enforcement agency
- the extent to which its investigations have resulted in prosecutions or disciplinary action in that year
- the number of search warrants issued by authorised officers and the ICAC Commissioner respectively
- a description of its activities during that year in relation to its educating and advising functions.

This report is included in the Commission's Annual Report which it is required to produce in accordance with the *Annual Reports (Departments) Act 1985*.

In addition to its Annual Report, the Commission also publishes its investigation reports and a number of corruption prevention and research publications.

## Investigation reports

The Commission is required under the ICAC Act to prepare reports on matters referred by both Houses of the NSW Parliament and on matters involving public inquiries. The Commission can also produce public reports without conducting a public inquiry. These reports are presented to the Presiding Officer of each House who arrange for the reports to be tabled in Parliament. Each Presiding Officer has the discretion to make Commission reports public immediately on presentation.

In 2008–09 the Commission presented 13 reports to Parliament relating to investigations it had conducted. All the reports were immediately made public. This represents a significant increase over the previous years. In the two previous reporting periods the number of investigation reports presented to Parliament was seven and five respectively. The increase in the number of reports was largely the result of the Commission's investigations into bribery and fraud at RailCorp. The reports were:

- *Investigation into bribery and fraud at RailCorp* – First Report (August 2008)
- *Investigation into bribery and fraud at RailCorp* – Second Report (August 2008)
- *Investigation into bribery and fraud at RailCorp* – Third Report (September 2008)
- *Investigation into bribery and fraud at RailCorp* – Fourth Report (September 2008)
- *Investigation into bribery and fraud at RailCorp* – Fifth Report (September 2008)
- *Investigation into bribery and fraud at RailCorp* – Sixth Report (September 2008)
- *Report on an investigation into corruption allegations affecting Wollongong City Council* – part three (October 2008)
- *Investigation into bribery and fraud at RailCorp* – Seventh Report (November 2008)
- *Investigation into bribery and fraud at RailCorp* – Eighth Report – Corruption prevention (December 2008)
- *Investigation into tendering and payments in relation to NSW Fire Brigades capital works projects* (December 2008)
- *Investigation into an attempt to obtain entry to a selective public school through payment of money* (February 2009)

- *Attempts to improperly influence a Ku-ring-gai Council officer* (February 2009)
- *Investigation into attempts to improperly influence Warringah Council officers* (June 2009).

## Other publications

The following publications were also produced during the reporting period:

- *Annual Report 2007–2008* (October 2008)
- *ICAC strategic plan 2008–2012* (October 2008)
- *ICAC privacy management plan* (January 2009)
- *Explaining the ICAC's decision* – fact sheet (April 2009)
- *Acknowledging your information* – fact sheet (April 2009)
- *Section 11 reporting guidelines for ministers* (May 2009)
- *Acknowledging your section 11 report* – fact sheet (May 2009)
- *Profiling the NSW public sector II – Methodology and respondent demographics* (May 2009)
- *Profiling the NSW public sector II – report 2: Comparison of 2001 and 2007 organisation responses* (May 2009)
- *Profiling the NSW public sector II – report 1: Results for the NSW public sector as a whole* (May 2009)

The Commission also met its target of producing two editions of the *Corruption Matters* newspaper. This publication is designed to raise awareness in the public sector and the wider community about corruption-related matters.

## In 2009–10, we will:

- ensure **our lawyers continue to review all applications** for the exercise of statutory powers for compliance with relevant legislative and internal requirements
- respond to our Parliamentary Committee and Inspector with **timely, accurate and relevant information**
- continue to identify areas where changes to the law could **improve our delivery of investigative and corruption prevention outcomes**
- increase the number of **training presentations** to ensure our staff are aware of existing and new legislative requirements
- continue to provide **high-level and cost-effective legal support** to all public inquiries and compulsory examinations.







Corporate Services staff from across the Division including Information Management and Technology, Human Resources and Administration, Finance and Office Services and Records.

## CHAPTER 6

# Our organisation

“Our new **custom-designed MOCCA system** will improve security, productivity, performance and quality of information across the Commission”

**Andrew Koureas**  
Executive Director, Corporate Services



- We completed the planning and development of the **new complaints handling and case management system** (MOCCA) and our **new internet website**
- We completed commissioning of **new IT infrastructure**
- We implemented a **new online helpdesk** system
- We successfully completed a triennial re-certification audit for **accreditation to the ISO 27001 information security standard**
- We commissioned an **independent organisational review** of the Information Management and Technology Unit, and implemented the resulting recommendations
- We negotiated a **new three-year ICAC Award** with the Public Service Association

# Our organisation: Key objectives

Continue to develop as a learning organisation that embraces a culture of continuous improvement, excellence and sharing of knowledge.

Provide a safe, equitable, productive and satisfying workplace.

Be a lead agency in our governance and corporate infrastructure.

Monitor our performance to ensure work quality and effective resource management.

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## About the Corporate Services Division

The Corporate Services Division is a business partner with the operational divisions of the Commission. It is responsible for providing support services to enable the Commission to undertake its statutory functions. Services provided include administration, security, financial, information management and technology, human resources including payroll, risk management and procurement. The Division also provides significant corporate services support, through a shared services agreement, to the Health Care Complaints Commission.

Corporate Services aims to:

- develop and implement appropriate infrastructure which supports the Commission's objectives
- develop and support our people to strive for continuous improvement to services and systems
- establish governance structures that manage risks and monitor performance against goals
- provide a safe and productive workplace.

During 2008–09, the Division had a budget of \$2.3 million. Lance Favelle was the Executive Director to 25 July 2008 and Andrew Koureas was the Executive Director from 27 October 2008.

## The year in review

### Challenges we faced in 2008–09

Our IT staff and staff from each of the operational areas of the Commission spent a significant amount of time in 2008–09, supporting the design and implementation of the Commission's new electronic complaints-handling and case management system (MOCCA).

This additional work had to be undertaken while still keeping up with the ongoing operational workload of the Commission, including investigations, public inquiries and the preparation of public reports.

Following a capital allocation by NSW Treasury for a new system to replace our ageing case management system (ICS), work commenced on development of detailed specifications. As part of this exercise, business process mapping was also undertaken. A tender was then issued for the supply and implementation of a new system, based on Microsoft CRM Dynamics.

The Project Implementation Plan scheduled a system 'go-live' date of 21 June 2009. During the reporting period, planning and development work has been completed. All Commission staff underwent MOCCA training in June in anticipation of the system going live.

Unfortunately, during final testing of the data migration from ICS to MOCCA, some significant technical issues arose which resulted in a postponement of the cutover to the new system. The implementation team is working hard to address all technical issues to ensure a successful system cutover. It is anticipated that the Commission will be able to start using MOCCA by early November 2009.

Testing to date has indicated that MOCCA will significantly improve Commission business processes and performance.

### How we performed in 2008–09

One of our key objectives is to continue to develop as a learning organisation. In recognition of this, we set a goal of increasing the average number of staff training sessions from 4.2 to 5.

We exceeded this goal. During 2008–09, there were 648 staff attendances at training sessions, which equated to an average for each staff member of 5.8 sessions.

As an important part of our commitment to provide a safe, equitable, productive and satisfying workplace, negotiations were finalised between ICAC senior management and

the Public Service Association (PSA) for a new consent Award. The Award provides Commission staff with a 4% salary increase across three years and specifies a number of changes to staff conditions of employment and entitlements to help fund this increase.

In addition to dedicating the time of many of our officers to supporting the design and implementation of our new complaints and case management system (MOCCA), a number of Commission officers have been required to spend considerable time in addition to their normal duties to assist with the design of our new website, the migration of a significant amount of data from the existing website and the preparation of new content for the website. The new website will go live in late 2009.

## A learning organisation

### About the Commission's staff

During 2008–09 the Commission employed an average of 111.9 full-time equivalent (FTE) staff across its six functional areas. This represented a decrease of 4.2 FTE staff from the 2007–08 reporting period. At the end of the reporting period, of the 119 staff working at the Commission, 105 were employed on a permanent basis, eight on a temporary basis and six, including the Commissioner, were employed in the equivalent of Senior Executive Service (SES) contract positions. For more detail, refer to Table 57 in Appendix 13.

The Commission is divided into an executive unit and five divisions. In July 2008 a new Communications and Media Section was established within the Executive Unit. A number of staff from the Corruption Prevention, Education and Research Division were transferred from this Division to resource the new section, with existing Executive Unit staff, resulting in an increase of staff in the Executive Unit from 4.2 to 7.8.



**Table 24: Average FTE staff numbers by Division**

Division	2008–2009	2007–2008	2006–2007	2005–2006
Executive	7.8	4.2	3.5	4
Corporate Services	20.3	19.5	20.4	18.0
Corruption Prevention, Education and Research	20.5	23.2	24.3	21.8
Legal	8.8	9.9	9.7	9.3
Investigation	41.2	45.0	42.2	40.0
Assessments	13.3	14.3	11.4	11.9

## Assistant Commissioners

The ICAC Act authorises the Governor of NSW, with the concurrence of the Commissioner, to appoint Assistant Commissioners when required. The Deputy Commissioner of the ICAC, Theresa Hamilton, has been appointed as an Assistant Commissioner and can preside at public inquiries and compulsory examinations held by the Commission when necessary. Another important function of the Deputy Commissioner is to oversee the strategic operation and direction of the Commission through the Executive Directors, in addition to directly supervising the Communications and Media Section and the Assessments Section.

For the period 2008–09, the Hon Jerrold Cripps QC, Commissioner, presided over all of the Commission's public inquiries, as well as 33 compulsory examinations. As a result, no external Assistant Commissioners were engaged during the reporting period.

## Human resources issues

### Policies and procedures

The Commission systematically reviews and updates Commission-wide policies to ensure compliance with both legislative requirements and government policies and procedures.

A total of 16 policies during 2008–09 were revised, updated and/or developed. The policies related to areas associated with human resources and conditions of employment, Assessments staff career development, risk management, finance, and information management and technology.

The Executive Management Group approves all policy changes and policies are reviewed by the Commission's Consultative Group (CCG) prior to endorsement by the Commissioner. The CCG comprises staff representatives, senior executives and PSA delegates and industrial officers.

Staff are advised of all changes to policies and they are also accessible on the intranet.

### Learning and development

The Commission actively supports and encourages staff to enhance their learning and skills development through various avenues. Staff members are given the opportunity to attend seminars and conferences and undertake in-house and external training courses.

The Commission focuses learning and development activities across six core learning streams – information technology; leadership / management; organisational development; project management; risk management and technical skills as shown in Figure 5 (page 86).

During the reporting period all staff undertook training in Vista and Microsoft 07 and most staff undertook in-house training in preparation for the introduction of the Commission's new complaint-handling and case management system.

All staff were also required to attend a fire safety and emergency procedures training session conducted by NSW Fire Brigades.

As a result, there was a substantial increase in the proportion of staff training in the information technology and risk management learning streams, as shown in the table below.

**Table 25: IT and risk management training**

Information technology	2008–09 275 attendees	2007–08 197 attendees
Risk management	2008–09 150 attendees	2007–08 45 attendees

During 2008–09, there were 648 staff attendances at training sessions, which equated to an average for each staff member of 5.8 training sessions, as shown in Table 4 (page 16).

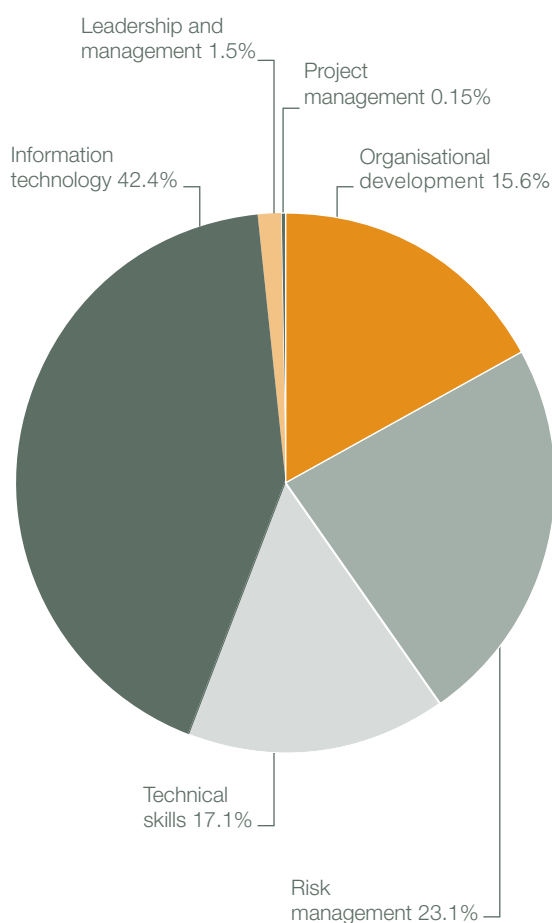
During the previous reporting period, the average number of training sessions per employee was 4.2, with 490 staff attendances at training sessions.

During 2008–09 we supported the secondment of one staff member and approved the secondment extension of another staff member to undertake career development opportunities in other public sector agencies. In addition, leave without pay for 12 months was granted to a staff member to take up a position with the United Nations to enhance their current skill level as well as for their career development.

Two nominations from staff were supported in response to the Public Sector Management program sponsored by the Department of Premier and Cabinet.

Six staff members were granted study leave and 29 staff members were given the opportunity to further develop their skills through temporary higher-duties positions.

**Figure 5: Training attendances per core learning stream, 2008–09**



## Provide a safe, equitable, productive and satisfying workplace

### Conditions of employment and movement in salaries and allowances

Conditions of employment for ICAC staff are set out in the Independent Commission Against Corruption Award. During the reporting period the Commission negotiated a new ICAC Award with the Public Service Association of NSW (PSA).

A consent agreement was reached between the Commission's senior management and the PSA on 6 April 2009 and formally agreed to by the PSA Executive on 25 May 2009. This new Award is for a three-year term and incorporates an increase of 4% with effect from the beginning of the first full pay period after 1 July 2009, and a further 4% increase in the following two years. The increases also apply to some of the Award's allowances, such as the Associate Allowance, the Community Language Allowance and the First Aid Officer's allowances.

Most of the Commission's conditions of employment are in line with the wider NSW public sector's conditions of employment. However, as part of the negotiations, and in order to aid in funding the component of the salary increase which the Commission must fund itself (1.5%), a number of employment conditions were affected by being changed or having new components added. All staff were consulted on these changes through their representatives on the Award negotiation committee.

## Industrial relations

The terms and conditions of employment of the staff of the Commission are prescribed by the ICAC Award. In May 2009, an application was made with the NSW Industrial Relations Commission (IRC) for the making of a new consent Award and the finalisation of an award review pursuant to section 19 of the *Industrial Relations Act 1996* (NSW).

Both the Commission and the PSA jointly sought to have the Award Review concluded by way of making of a new Award and, by consent, the matters proceeded to hearing and determination on 3 June 2009. The IRC issued an extempore determination providing for the finalisation of the Award review with the making of a new Award. The Commission and the PSA agreed to administer the conditions of the new Award from 6 April 2009 and the IRC determined that the new Award would operate from 1 July 2008 and remain in force until 30 June 2011.

## Risk management

During 2008–09, the Commission's physical security measures have been continually reviewed and updated to meet site-specific security requirements. Throughout this period, the security system has been periodically tested, monitored and rigorously maintained to ensure optimum efficiency. As with any security system, the maintenance and upkeep of the system is ongoing.

In addition, a proposal to install a new security system in line with the latest technology has been approved in principle by the Executive and is now being prepared.

Advanced electronic security is essential for protecting the Commission's information, assets and property and for securing its perimeter. The upgraded or replacement system will use the latest technology to meet the security needs of the Commission. It is anticipated that the new system, when installed, will integrate seamlessly with the current security measures and will allow the Commission to respond quickly to security incidents and emergencies.

As a result of the Commission's continued commitment to risk management, in-house training was held for all

Commission staff on emergency preparedness. The training included:

- evacuation procedures
- fire awareness, extinguishers and hose reels
- coping in an emergency
- bomb threat procedures.

Eight additional fire extinguishers were purchased and fire blanket location signs were installed at the appropriate locations in the Commission premises.

In addition to standard mitigation procedures, additional risk mitigation measures were put in place for public inquiries associated with three matters during the period 2008–09.

## Personnel security

The Commission applies a high-level security vetting process to all personnel who work at the Commission. The vetting process applies to staff, consultants and contractors. In 2008–09, vetting for access levels ranging from "highly protected" to "in-confidence" was conducted for 40 personnel.

In addition to security vetting, the Commission follows the fundamental rule of information security that all access to information is based on a "need to know" principle. The Commission's Security of Information policy was reviewed and updated during the reporting period.

All personnel who work at the Commission are given a detailed security and risk management briefing when they commence employment.

## Hazard reports lodged and risks controlled

During 2008–09 two hazard reports were lodged and both hazards were mitigated to a level which completely eliminated the risk factor. These hazards were related to the office environment, not operational risks, and the number of hazard reports is significantly lower than in the previous two years.

**Table 26: Hazards reported and risks controlled**

Reporting period	2008–09	2007–08	2006–07
No. of hazards reported	2	7	8
Risks controlled to an acceptable level?	Yes – all controlled	Yes – all controlled	Yes – all controlled

## Be a lead agency in our governance and corporate infrastructure

### Internal governance

We place a high priority on ensuring that we maintain and improve our internal governance infrastructure. To this end, a number of operational and corporate committees have been established.

The work of the three principal internal governance committees, the Strategic Investigations Group, the Executive Management Group, and the Prevention Management Group has been outlined in Chapter 5 (Compliance and accountability).

### Other internal committees

The Commission has in place a range of internal management and staff committees to facilitate good governance.

### Audit Committee

The Commission's Audit Committee was established to oversee its internal audit processes, which include:

- financial reporting practices and activities
- accounting practices and policies
- payroll system
- development and maintenance of internal controls.

A principal role of the Audit Committee is to review the recommendations made by the Commission's independent internal auditors. During the course of the reporting period the internal auditors, in line with our three-year audit program, conducted an audit on the Commission's Procurement and Contract Management policies and procedures and also provided a report on the status of the previous year's internal audit findings. The recommendations resulting from the previous year's audit program were delegated, and implemented within the 2008–09 reporting year.

The membership of the Audit Committee will be amended in 2009–10 to include an Independent Audit Committee Chair selected from the Department of Commerce's list of prequalified independent audit committee chairs and members.



Access and Equity Committee



## Occupational Health and Safety Committee

### Commission Consultative Group

The Commission Consultative Group (CCG) allows representatives of the ICAC Executive, staff of the Commission and the Public Service Association (PSA) to consult on policy and issues relating to conditions of employment that may arise during the year. A major focus of the CCG is not only to communicate to ICAC staff changes in policy that occur, but also to provide a means for staff to raise any issues that may relate to the ICAC Award, policy, procedure, equal employment opportunity and/or occupational health and safety issues. As outlined in its terms of reference, the CCG is required to meet on a monthly basis and following approval by CCG members, new and revised policies and procedures that affect staff conditions of employment are put forward for endorsement by the Commissioner.

For further details regarding the CCG refer to Appendix 16.

### Access and Equity Committee

The Access and Equity Committee plays a major role in the monitoring and implementation of equity and access issues within the Commission. The Committee includes representatives from each area of the Commission and participates in monitoring and implementing the

Commission's Equal Employment Opportunity (EEO) Management Plan, Disability Action Plan, Aboriginal Employment Strategies, and Ethnic Affairs Priorities Statement. The Committee was actively involved in the development of all the Commission's new three-year plans – Equal Employment Opportunity (EEO) Management Plan, Ethnic Affairs Priorities Statement (EAPS) and Management Plan, and the Disability Action Plan. The Committee also advised and assisted in the provision of EEO training during 2008–09. Details on activities undertaken by the committee during 2008–09 are identified in Appendix 13.

### Occupational Health and Safety Committee

The Commission's Occupational Health and Safety (OHS) Committee meets quarterly. It reviews OHS policies and practices, conducts regular workplace inspections and facilitates the resolution of safety issues. The primary objective of the Committee is to monitor the Commission's occupational health and safety in accordance with the *Occupational Health and Safety Act 2000* (NSW), proactively implement improvements to workplace safety and deal with any issues that may arise and need to be mitigated.



During 2008–09, we implemented the recommendations from Deloitte Touche Tohmatsu’s 2007–08 audit of the Commission’s OHS management system. This audit was undertaken in accordance with the NSW Government’s safety initiatives “Working Together” and “Taking Safety Seriously”.

For more details on the OHS Committee’s activities in 2008–09, refer to Appendix 17.

## Information Management and Technology Steering Committee

The Information Management and Technology Steering Committee has been established to provide a coordinated, whole-of-organisation approach to developing and managing information and IT-related technologies. The Committee’s membership includes the Commissioner, the Deputy Commissioner and the Executive Directors of all Divisions. The Manager of the Information Management and Technology Section is responsible for providing secretarial support.

## Code of Conduct

The ICAC Code of Conduct applies to all employees of the Commission and other persons engaged to do work for the Commission. The Code of Conduct sets out the principles the Commissioner expects staff to uphold, and prescribes specific conduct in areas considered central to the exercise of the Commission’s functions, such as our obligations regarding Commission information, our behaviour in the workplace, our accountability and any conflicts of interest that may arise.

All new staff members are provided with information about the Commission’s Code of Conduct as part of their induction process. No changes were made to the Commission’s Code of Conduct during the reporting period.

## Information management and technology systems and infrastructure

The Information Management and Technology Strategic Plan 2007–10 supports the Commission’s corporate information requirements and business direction, and provides a road map for future development. Initiatives during 2008–09 included:

- continuation of work on the MOCCA system
- development of a new internet website
- the rollout of a new helpdesk system



Consultant Atul Gadre and Senior Records and Property Officer Lyn Kennedy undertaking testing of the new MOCCA complaints-handling and case management system.

- re-certification for accreditation to the ISO 27001 information security standard for a further period of three years
- replacement of ICT infrastructure
- enhancement and maintenance of our existing complaint-handling and case management system (ICS).

## Information and communications technology (ICT) infrastructure replacement

In addition to providing funding for the development and implementation of the new MOCCA system, the NSW Treasury provided funding during 2008–09 for ICAC’s ICT replacement program. This included replacement of all desktops, notebooks, firewall, computer room air-conditioner, uninterrupted power supply (UPS) and a number of servers and routers. Microsoft Office 2003 was upgraded to Office 2007 and our desktop operating system was upgraded to Vista.



## ICAC internet website

As a result of a tender for the development and implementation of a new ICAC website, the successful tenderer commenced work in August 2008. Development work has been completed and data from the existing website has been migrated to the new website. Due to technical issues, this project required considerably more effort to complete than anticipated, resulting in postponement of the planned 'go live' date. It is envisaged that the new site will go live in late 2009, following completion of user acceptance testing and uploading and editing of site content.

## Surveillance and Technical Unit

During 2008–09, the storage capacity of the computer forensic SAN system was enlarged by 10 terabytes so that the increasing amount of computer data seized during search warrants can be adequately stored. A number of items of computer hardware were purchased to increase the speed of data acquisition in the field. The Commission also purchased a number of software licences that will increase the productivity of the Commission's surveillance operatives when processing their digital imagery.

## Monitoring performance and effective resource management

### Staff performance management

The Commission's performance management system (PMS) is aligned to its strategic plan, corporate plan and divisional business plans. The PMS incorporates key performance indicators from the relevant division's business plan for individual staff members and projects, and includes position accountabilities and core competencies.

The Commission's PMS aims to achieve effective communication and consultation between management and staff, and to measure work performance in an objective, transparent and fair manner.

A key component of the PMS is integrating performance with learning and development. The performance agreement template used by all staff incorporates a section for the officer to include their annual learning and development plan. Each officer's learning and development plan identifies the corporate, positional and individual learning and development activities required during

the period to maintain competence, and to develop an individual's capabilities.

Commission employees have a performance agreement in place within six weeks of commencing with the Commission and annual performance agreements are developed at the beginning of each financial year. The performance review in June of each year is tied to the Commission's salary increments scheme. Unless a rating of fully competent is achieved, an increment is withheld, and similarly, if a rating of outstanding is determined, then an accelerated increment may be approved by the Commissioner.

## Shared corporate services

The Commission entered into a shared corporate services arrangement with the Health Care Complaints Commission (HCCC) in 2004–05.

The Commission oversees the management of the HCCC's corporate services unit on a fee-for-service basis and provides:

- corporate planning and risk management
- financial planning and financial management
- human resources management, advice, planning, training and policy development
- information management, planning and policy development, and technology planning and advice
- payroll administration
- financial accounting, reporting and payments.

The shared services agreement was reviewed in March 2009. In view of significant workload increases, it was determined that in order to improve the operation and effectiveness of the agreement, financial accounting work for the HCCC would no longer be undertaken by ICAC staff, but would be provided by an in-house HCCC officer from the 2009–10 financial year.

## In 2009–10, we will:

- implement the Commission's **new capability framework position description templates** in readiness for the NSW Government's rollout of its new E-Recruitment system
- finalise the re-design of our new internet and intranet websites **to enhance the public's access to information** about the Commission and streamline **the Commission's online business processes and operations**
- ensure that our new MOCCA complaints-handling and case management system can "go live" by the end of 2009 to **increase efficiency and provide better support** for our operational areas
- continue to focus on **staff training and personal development** by continuing to provide an average of at least five training sessions for each staff member.





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Our Finance Section prepares detailed financial statements for internal and external review

# Financial report

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### Statement by Commissioner

In accordance with section 45F of the *Public Finance and Audit Act 1983*, I state that:

- (a) the accompanying financial report in respect of the year ended 30 June 2009 has been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the *Public Finance and Audit Act 1983*, and Regulation 2005, and the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer under section 9(2) of the Act;
- (b) the financial report exhibits a true and fair view of the financial position and transactions of the Independent Commission Against Corruption; and
- (c) there are no circumstances which would render any particulars included in the financial report to be misleading or inaccurate.

A handwritten signature in black ink, appearing to read 'Jerrold Cripps', is written over a light blue rectangular background.

The Hon Jerrold Cripps QC  
Commissioner

19 October 2009





GPO Box 12  
Sydney 2001

## INDEPENDENT AUDITOR'S REPORT

### INDEPENDENT COMMISSION AGAINST CORRUPTION

To Members of the New South Wales Parliament

I have audited the accompanying financial report of the Independent Commission Against Corruption (the Department), which comprises the balance sheet as at 30 June 2009, the operating statement, statement of recognised income and expense, cash flow statement, and a summary of compliance with financial directives for the year then ended, summary of significant accounting policies and other explanatory notes.

#### Auditor's Opinion

In my opinion, the financial report:

- presents fairly, in all material respects, the financial position of the Department as at 30 June 2009, and its financial performance for the year then ended in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations)
- is in accordance with section 45E of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2005.

My opinion should be read in conjunction with the rest of this report.

#### The Commissioner's Responsibility for the Financial Report

The Commissioner is responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the PF&A Act. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

#### Auditor's Responsibility

My responsibility is to express an opinion on the financial report based on my audit. I conducted my audit in accordance with Australian Auditing Standards. These Auditing Standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the Commission's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Commission, as well as evaluating the overall presentation of the financial report.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

My opinion does *not* provide assurance:

- about the future viability of the Commission,
- that it has carried out its activities effectively, efficiently and economically,
- about the effectiveness of its internal controls, or
- on the assumptions used in formulating the budget figures disclosed in the financial report.

### Independence

In conducting this audit, the Audit Office of New South Wales has complied with the independence requirements of the Australian Auditing Standards and other relevant ethical requirements. The PF&A Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General, and
- mandating the Auditor-General as auditor of public sector agencies but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their role by the possibility of losing clients or income.



Peter Achterstraat  
Auditor-General

20 October 2009  
SYDNEY

## Operating statement for the year ended 30 June 2009

	Notes	Actual 2009 \$'000	Budget 2009 \$'000	Actual 2008 \$'000
<b>Expenses excluding losses</b>				
Operating Expenses				
Employee related	2(a)	13,496	13,549	13,331
Other operating expenses	2(b)	3,953	4,248	4,689
Depreciation and amortisation	2(c)	603	647	602
<b>Total Expenses excluding losses</b>		<b>18,052</b>	<b>18,444</b>	<b>18,622</b>
Revenue				
Sale of goods and services	3(a)	624	440	695
Investment revenue	3(b)	80	75	115
Other revenue	3(c)	67	30	72
<b>Total Revenue</b>		<b>771</b>	<b>545</b>	<b>882</b>
<b>Gain on disposal</b>	4	11	1	–
<b>Net Cost of Services</b>	<b>19</b>	<b>17,270</b>	<b>17,898</b>	<b>17,740</b>
<b>Government Contributions</b>				
Recurrent appropriation	5	16,591	16,591	16,239
Capital appropriation	5	1,041	1,340	700
Acceptance by the Crown Entity of employee benefits and other liabilities	6	566	578	656
<b>Total Government Contributions</b>		<b>18,198</b>	<b>18,509</b>	<b>17,595</b>
<b>Surplus/(deficit) for the year</b>		<b>928</b>	<b>611</b>	<b>(145)</b>

The accompanying notes form part of these statements.

## Statement of recognised income and expense for the year ended 30 June 2009

	Notes	Actual 2009 \$'000	Budget 2009 \$'000	Actual 2008 \$'000
<b>Total income and expense recognised directly in equity</b>		–	–	–
Surplus/(Deficit) for the Year	15	928	611	(145)
<b>Total income and expense recognised for the year</b>		<b>928</b>	<b>611</b>	<b>(145)</b>
<b>Effect of changes in accounting policies and correction of errors</b>		–	–	–

The accompanying notes form part of these statements.

## Balance sheet as at 30 June 2009

	Notes	Actual 2009 \$'000	Budget 2009 \$'000	Actual 2008 \$'000
<b>Assets</b>				
Current Assets				
Cash and cash equivalents	8	1,923	1,394	1,371
Receivables	9	618	759	793
<b>Total Current Assets</b>		<b>2,541</b>	<b>2,153</b>	<b>2,164</b>
Non-Current Assets				
Property, plant and equipment	10			
– Leasehold improvements		431	109	164
– Plant and equipment		1,045	1,249	710
Total property, plant and equipment		1,476	1,358	874
Intangible assets	11	804	783	574
<b>Total Non-Current Assets</b>		<b>2,280</b>	<b>2,141</b>	<b>1,448</b>
<b>Total Assets</b>		<b>4,821</b>	<b>4,294</b>	<b>3,612</b>
<b>Liabilities</b>				
Current Liabilities				
Payables	12	259	412	391
Provisions	13	1,392	1,279	1,229
Other	14	249	0	0
<b>Total Current Liabilities</b>		<b>1,900</b>	<b>1,691</b>	<b>1,620</b>
Non-Current Liabilities				
Provisions	13	12	9	9
<b>Total Non-Current Liabilities</b>		<b>12</b>	<b>9</b>	<b>9</b>
<b>Total Liabilities</b>		<b>1,912</b>	<b>1,700</b>	<b>1,629</b>
<b>Net Assets</b>		<b>2,909</b>	<b>2,594</b>	<b>1,983</b>
<b>Equity</b>	15			
Reserves		409	428	428
Accumulated funds		2,500	2,166	1,555
<b>Total Equity</b>		<b>2,909</b>	<b>2,594</b>	<b>1,983</b>

The accompanying notes form part of these statements.

## Cash flow statement for the year ended 30 June 2009

	Notes	Actual 2009 \$'000	Budget 2009 \$'000	Actual 2008 \$'000
<b>Cash flows from operating activities</b>				
Payments				
Employee related		(12,742)	(12,900)	(12,485)
Other		(4,692)	(4,664)	(4,717)
<b>Total Payments</b>		<b>(17,434)</b>	<b>(17,564)</b>	<b>(17,202)</b>
Receipts				
Sale of goods and services		455	440	481
Interest received		95	75	115
Other – Retained taxes		405	–	420
– Sundry debtors		335	–	–
– Other		240	480	66
<b>Total Receipts</b>		<b>1,530</b>	<b>995</b>	<b>1,082</b>
<b>Cash flows from Government</b>				
Recurrent appropriation	5	16,591	16,591	16,238
Capital appropriation	5	1,041	1,340	700
Cash transfers to the Consolidated Fund		249	–	(133)
<b>Net Cash Flows from Government</b>		<b>17,881</b>	<b>17,931</b>	<b>16,805</b>
<b>Net cash flows from operating activities</b>	19	1,977	1,362	685
<b>Cash flows from investing activities</b>				
Proceeds from sale of plant and equipment		12	1	0
Purchases of property, plant and equipment		(1,437)	(960)	(370)
Other		–	(380)	(335)
<b>Net cash flows from investing activities</b>		<b>(1,425)</b>	<b>(1,339)</b>	<b>(705)</b>
Net increase/(decrease) in cash		552	23	(20)
Opening cash and cash equivalents		1,371	1,138	1,391
<b>Closing cash and cash equivalents</b>	8	1,923	1,161	1,371

The accompanying notes form part of these statements.

## Summary of compliance with financial directives

2009					2008			
	Recurrent Appropriation \$'000	Expenditure/ Net Claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net Claim on Consolidated Fund \$'000	Recurrent Appropriation \$'000	Expenditure/ Net Claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net Claim on Consolidated Fund \$'000
<b>Original Budget Appropriation/ Expenditure</b>								
Appropriation Act	16,591	16,573	1,340	1,041	16,239	16,239	1,167	700
Additional Appropriations								
S21A PF&AA – special appropriation								
S24 PF&AA – transfer of functions between departments								
S26 PF&AA – Commonwealth specific purpose payments								
	<b>16,591</b>	<b>16,573</b>	<b>1,340</b>	<b>1,041</b>	<b>16,239</b>	<b>16,239</b>	<b>1,167</b>	<b>700</b>
<b>Other Appropriations/ Expenditure</b>								
Treasurer's Advance	18	18						
Section 22 – expenditure for certain works and services								
Transfers from another agency (section 31 of the Appropriation Act)								
Carry-over to 2008–09 – authorised by Premier							(400)	
Other	(16)							
	<b>2</b>	<b>18</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>(400)</b>	<b>–</b>
<b>Total Appropriations</b>								
<b>Expenditure/Net Claim on Consolidated Fund</b>								
<b>(includes transfer payments)</b>	<b>16,593</b>	<b>16,591</b>	<b>1,340</b>	<b>1,041</b>	<b>16,239</b>	<b>16,239</b>	<b>767</b>	<b>700</b>
<b>Amount drawn down against Appropriation</b>		<b>16,591</b>		<b>1,290</b>		<b>16,239</b>		<b>700</b>
<b>Liability to Consolidated Fund*</b>		<b>–</b>		<b>249</b>		<b>–</b>		<b>–</b>

The Summary of Compliance is based on the assumption that Consolidated Fund moneys are spent first (except where otherwise identified or prescribed).

The "Liability to Consolidated Fund" represents the difference between the "Amount drawn down against Appropriation" and the "Total Expenditure / Net Claim on Consolidated Fund".

The accompanying notes form part of these statements.



## Service group statements\* for the year ended 30 June 2009

	Service Group 1**		Service Group 2**		Not Attributable		Total	
	2009 \$'000	2008*** \$'000	2009 \$'000	2008*** \$'000	2009 \$'000	2008*** \$'000	2009 \$'000	2008 \$'000
<b>Agency's expenses &amp; income</b>								
Expenses excluding losses								
Operating Expenses								
Employee related	11,067	10,798	2,429	2,533			13,496	13,331
Other operating expenses	3,241	3,798	712	891			3,953	4,689
Depreciation and Amortisation	494	488	109	114			603	602
<b>Total Expenses excluding losses</b>	<b>14,802</b>	<b>15,084</b>	<b>3,250</b>	<b>3,538</b>	<b>–</b>	<b>–</b>	<b>18,052</b>	<b>18,622</b>
<b>Revenue</b>								
Sale of goods and services	512	563	112	132			624	695
Investment revenue	66	93	14	22			80	115
Other revenue	55	58	12	14			67	72
<b>Total Revenue</b>	<b>633</b>	<b>714</b>	<b>138</b>	<b>168</b>	<b>–</b>	<b>–</b>	<b>771</b>	<b>882</b>
Gain on disposal	9	–	2				11	–
<b>Net Cost of Services</b>	<b>14,160</b>	<b>14,370</b>	<b>3,110</b>	<b>3,370</b>	<b>–</b>	<b>–</b>	<b>17,270</b>	<b>17,740</b>
<b>Government Contributions****</b>					<b>18,198</b>	<b>17,595</b>	<b>18,198</b>	<b>17,595</b>
<b>Net expenditure / (income) for the year</b>							<b>(928)</b>	<b>145</b>

## Service group statements\* for the year ended 30 June 2009 (cont.)

	Service Group 1**		Service Group 2**		Not Attributable		Total	
	2009 \$'000	2008*** \$'000	2009 \$'000	2008*** \$'000	2009 \$'000	2008*** \$'000	2009 \$'000	2008 \$'000
<b>Agency's assets &amp; liabilities</b>								
Current Assets								
Cash and cash equivalents	1,477	1,059	446	312			1,923	1,371
Receivables	475	612	143	181			618	793
<b>Total Current Assets</b>	<b>1,952</b>	<b>1,671</b>	<b>589</b>	<b>493</b>	<b>—</b>	<b>—</b>	<b>2,541</b>	<b>2,164</b>
Non-Current Assets								
Property, plant and equipment								
– Leasehold improvements	331	127	100	37			431	164
– Plant and equipment	802	548	243	162			1,045	710
Intangible assets	617	443	187	131			804	574
<b>Total Non-Current Assets</b>	<b>1,750</b>	<b>1,118</b>	<b>530</b>	<b>330</b>	<b>—</b>	<b>—</b>	<b>2,280</b>	<b>1,448</b>
<b>Total assets</b>	<b>3,702</b>	<b>2,789</b>	<b>1,119</b>	<b>823</b>	<b>—</b>	<b>—</b>	<b>4,821</b>	<b>3,612</b>
	Service Group 1**		Service Group 2**		Not Attributable		Total	
	2009 \$'000	2008*** \$'000	2009 \$'000	2008*** \$'000	2009 \$'000	2008*** \$'000	2009 \$'000	2008 \$'000
<b>Current Liabilities</b>								
Payables	200	302	59	89			259	391
Provisions	1,068	949	324	280			1,392	1,229
Other	192	—	57				249	—
<b>Total Current Liabilities</b>	<b>1,460</b>	<b>1,251</b>	<b>440</b>	<b>369</b>	<b>—</b>	<b>—</b>	<b>1,900</b>	<b>1,620</b>
<b>Non Current Liabilities</b>								
Provisions	9	7	3	2			12	9
<b>Total Non-Current Liabilities</b>	<b>9</b>	<b>7</b>	<b>3</b>	<b>2</b>	<b>—</b>	<b>—</b>	<b>12</b>	<b>9</b>
<b>Total Liabilities</b>	<b>1,470</b>	<b>1,258</b>	<b>442</b>	<b>371</b>	<b>—</b>	<b>—</b>	<b>1,912</b>	<b>1,629</b>
<b>Net assets</b>	<b>2,232</b>	<b>1,531</b>	<b>677</b>	<b>452</b>	<b>—</b>	<b>—</b>	<b>2,909</b>	<b>1,983</b>

\* NSW Budget Paper No. 3 has replaced program statements with service group statements. Service group statements focus on the key measures of service delivery performance.

The ICAC was identified by one program "Investigation, Community Education and Prevention of Corruption" under the program structure in prior years. This program has been split into two service groups "Corruption Investigation" and "Corruption Prevention, Research and Education" to better identify the two services being provided by the ICAC.

\*\* The names and purposes of each service group are summarised in Note 7.

\*\*\* Comparative amounts have been reclassified to align with the change in focus from programs to service groups.

\*\*\*\* Appropriations are made on an agency basis and not to individual service groups. Consequently, government contributions must be included in the "Not Attributable" column.

# Notes to the financial statements

## 1. Summary of significant accounting policies

### a. Reporting Entity

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

The Independent Commission Against Corruption is a NSW government department. The Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

The financial report for the year ended 30 June 2009 has been authorised for issue by the Commissioner as at October 2009.

### b. Basis of Preparation

The Commission's financial report is a general purpose financial report which has been prepared in accordance with:

- Applicable Australian Accounting Standards (which include Australian Accounting Interpretations)
- the requirements of the *Public Finance and Audit Act 1983* and Regulation and
- the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer.

The financial report is prepared in accordance with the historical cost convention, except for leasehold improvement which are recorded at valuation.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial report.

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

### c. Statement of Compliance

The financial statement and notes comply with Australian Accounting Standards, which include the Australian Accounting Interpretations.

### d. Insurance

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

### e. Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of GST, except that:

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

Cash flows are included in the cash flow statement on a gross basis. However, the GST components of cash flows arising from investing and financing activities which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

### f. Income Recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of income are discussed below.

#### i. Parliamentary appropriations and contributions

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants and donations) are generally recognised as income when the Commission obtains control over the assets comprising the appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash. Appropriations are not recognised as income in the following circumstances:

- Unspent appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount must be repaid to the Consolidated Fund.
- The liability is disclosed in Note 14 as part of "Current liabilities – Other". The amount will be repaid and the liability will be extinguished next financial year.

## Notes to the financial statements

### ii. Sale of Goods

Revenue from the sale of goods is recognised as revenue when the agency transfers the significant risks and rewards or ownership of the assets.

### iii. Rendering of Services

Revenue is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

## g. Assets

### i. Acquisition of Assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Commission. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the specific requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Fair value is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, i.e. deferred payment amount is effectively discounted at an asset-specific rate.

### ii Capitalisation Thresholds

Property, plant and equipment and intangible assets costing \$5,000 and above individually (or forming part of a network costing more than \$5,000) are capitalised.

### iii. Revaluation of Property, Plant and Equipment

Physical non-current assets are valued in accordance with the "Valuation of Physical Non-Current Assets at Fair Value" Policy and Guidelines Paper (TPP 07-1). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment* and AASB 140 *Investment Property*.

Property, plant and equipment is measured on an existing-use basis, where there are no feasible alternative uses in the existing natural, legal, financial and sociopolitical environment. However, in the limited circumstances where there are feasible alternative uses, assets are valued at their highest and best use.

Fair value of property, plant and equipment is determined based on the best available market evidence, including current market selling prices for the same or similar assets. Where there is no available market evidence, the asset's fair value is measured at its market buying price, the best indicator of which is depreciated replacement cost.

As the Commission does not own land, building or infrastructure assets, management does not believe that the revaluation of physical non-current assets every five years is warranted, unless it becomes aware of any material difference in the carrying amount of any class of assets. The last revaluation of leasehold improvement assets was completed on 30 June 2004 and was based on an independent assessment.

Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value.

Where an asset that has previously been revalued is disposed of, any balance remaining in the asset revaluation reserve in respect of that asset is transferred to accumulated funds.

### iv. Impairment of Property, Plant and Equipment

As a not-for-profit entity with no cash generating units, the Commission is effectively exempted from AASB 136 *Impairment of Assets* and impairment testing. This is because AASB 136 modifies the recoverable amount test to the higher of fair value less costs to sell and depreciated replacement cost. This means that, for an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

### v. Depreciation of Property, Plant and Equipment

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

All material separately identifiable components of assets are depreciated over their shorter useful lives.

The useful life of the various categories of non-current assets is as follows:

Asset category	Depreciation life in years
Computer hardware	4
Intangibles – computer software	4
Plant and equipment	5
Leasehold improvements	8

# Notes to the financial statements

## vi. Maintenance

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

## vii. Leased Assets

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

The Commission has no finance lease arrangements.

Operating lease payments are charged to the operating statement in the periods in which they are incurred.

## viii. Intangible Assets

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

The useful lives of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Commission's intangible assets, the assets are carried at cost less any accumulated amortisation.

The Commission's intangible assets, that is, computer software, are amortised using the straight-line method over four years.

## ix. Receivables

Receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at transaction less an allowance for any impairment of receivables. Any changes are accounted for in the operating statement when impaired.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

## x. Impairment of financial assets

All financial assets, except those measured at fair value through profit and loss, are subject to an annual review for impairment. An allowance for impairment is established when there is objective evidence that the entity will not be able to collect all amounts due.

The amount of impairment loss is recognised in the operating statement.

Any reversals of impairment losses are reversed through the operating statement, where there is objective evidence. Reversals of impairment losses of financial assets carried at amortised cost cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

## xi. De-recognition of financial assets and financial liabilities

A financial asset is de-recognised when the contractual rights to the cash flows from the financial asset expire; or if the Commission transfers the financial asset:

- where substantially all the risks and rewards have been transferred; or
- where the Commission has not transferred substantially all the risks and rewards, if the entity has not retained control.

Where the Commission has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the Commission's continuing involvement in the asset.

A financial liability is de-recognised when the obligation specified in the contract is discharged or cancelled or expires.

## h. Liabilities

### i. Payables

These amounts represent liabilities for goods and services provided to the Commission and other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

### ii. Financial Guarantees

A financial guarantee contract is a contract that requires the issuer to make specified payments to reimburse the holder for a loss it incurs because a specified debtor fails to make payment when due in accordance with the original or modified terms of a debt instrument.

Financial guarantee contracts are recognised as a liability at the time the guarantee is issued and initially measured at fair value, where material. After initial recognition, the liability is measured at the higher of the amount determined in accordance with AASB 137 *Provisions, Contingent Liabilities and Contingent Assets* and the

## Notes to the financial statements

amount initially recognised, less accumulated amortisation, where appropriate.

The Commission has reviewed its financial guarantees and determined that there is no material liability to be recognised for financial guarantee contracts at 30 June 2009 and at 30 June 2008.

### iii. Employee benefits and other provisions

- (a) Salaries and wages, annual leave, sick leave and on-costs.

Liabilities for salaries and wages (including non-monetary benefits), annual and paid sick leave that fall due wholly within 12 months of the reporting date are recognised and measured in respect of employees' services up to the reporting date at undiscounted amounts based on the amounts expected to be paid when the liabilities are settled.

Long-term annual leave that is not expected to be taken within 12 months is measured at present value in accordance with AASB 119 *Employee Benefits*. Market yields on government bonds of 4.30% are used to discount long-term annual leave.

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

The outstanding amounts of payroll tax, workers compensation insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

- (b) Long service leave and superannuation.

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

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSWTC 09/04) to employees with

five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Circular (TC 09/01). The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

### i. Budgeted amounts

The budgeted amounts are drawn from the budgets as formulated at the beginning of the financial year and with any adjustments for the effects of additional appropriations, s.21A, s.24 and/or s.26 of the *Public Finance and Audit Act 1983*.

The budgeted amounts in the operating statement and the cash flow statement are generally based on the amounts disclosed in the NSW Budget Papers (as adjusted above). However, in the Balance Sheet, the amounts vary from the Budget Papers, as the opening balances of the budgeted amounts are based on the carried forward actual amounts, i.e. per the audited financial statements (rather than carried forward estimates).

### j. Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is disclosed in respect of the previous period for all amounts reported in the financial statements.

### k. New Australian Accounting Standards / Interpretations issued but not effective

The following new Accounting Standards/Interpretations have not been applied and are not yet effective (NSW TC 09/03). However, the Commission is not able to reliably measure the impact of the initial application of these standards on the financial results of the Commission.

- AASB 101 (Sept 2007), AASB 2007-8 and AASB 2007-10 regarding presentation of financial statements
- AASB 1039 regarding concise financial reports
- AASB 2008-5 and AASB 2008-6 regarding amendments to Australian Accounting Standards arising from the Annual Improvements Project
- AASB 2008-9 regarding AASB 1049 amendments consistent with AASB 101
- AASB 2009-2 regarding financial instrument disclosures.



# Notes to the financial statements

## 2. Expenses including losses

	2009 \$'000	2008 \$'000
<b>(a) Employee related expenses</b>		
Salaries and wages (including recreation leave)	11,217	10,874
Superannuation – defined benefit plans	298	328
Superannuation – defined contribution plans	706	679
Long service leave	262	315
Workers compensation insurance	109	104
Payroll tax and fringe benefits tax	848	790
Contractor and temporary assistance	56	241
	<b>13,496</b>	<b>13,331</b>
* Employee-related expenses capitalised in Note 11 – Intangible assets		
Salaries and wages (including recreation leave)	28	24
Contractor and temporary assistance	75	61
	103	85
<b>(b) Other operating expenses</b>		
Auditor's remuneration		
– audit or review of the financial reports	32	31
Operating lease rental expense		
– minimum lease payments	1,923	2,003
Insurance	23	71
Cleaning	20	19
Electricity	55	53
Travelling, air fares and subsistence	95	115
Motor vehicles	14	18
External legal fees	187	577
Transcript fees	59	139
Fees for services	158	126
Contract security services	164	196
Training	135	167
Advertising and publicity	39	68
Books and subscriptions	105	92
Postal and telephone	123	141
Printing	101	104
Stores and specialised supplies	86	95
Minor computer equipment/licences	91	132
Courier and freight	5	8
Maintenance*	226	236
Other	312	298
	<b>3,953</b>	<b>4,689</b>

## Notes to the financial statements

	2009 \$'000	2008 \$'000
<i>* Reconciliation – Total maintenance</i>		
Maintenance expense – other (non-employee related), as above	226	236
Employee related maintenance expense included in Note 2(a)	–	–
Total maintenance expenses included in Note 2(a) + 2(b)	226	236
<b>(c) Depreciation and amortisation</b>		
Depreciation		
Computer equipment	277	317
Plant and equipment	108	97
	385	414
Amortisation		
Leasehold improvements	112	75
Intangibles – Computer software	106	113
	218	188
Total depreciation and amortisation	<b>603</b>	<b>602</b>

### 3. Revenue

	2009 \$'000	2008 \$'000
<b>(a) Sale of goods and services</b>		
Corporate Services Support – Health Care Complaints Commission	455	385
APSAC 2007	0	242
Presentation and Seminar Fees	169	68
	<b>624</b>	<b>695</b>
<b>(b) Investment revenue</b>		
Interest	80	115
	<b>80</b>	<b>115</b>
<b>(c) Other revenue</b>		
Other	67	72
	<b>67</b>	<b>72</b>

### 4. Gain on disposal

	2009 \$'000	2008 \$'000
Written-down value of assets disposed		
Plant and equipment	11	0
	<b>11</b>	<b>0</b>

## Notes to the financial statements

### 5. Appropriations

	2009 \$'000	2008 \$'000
<b>Recurrent appropriations</b>		
Total recurrent draw-downs from Treasury (per Summary of Compliance)	16,591	16,239
Less: Liability to Consolidated Fund* (per Summary of Compliance)	–	–
	<b>16,591</b>	<b>16,239</b>
Comprising:		
Recurrent appropriations (per Operating Statement)	16,591	16,239
<b>Capital appropriations</b>		
Total capital draw-downs from Treasury (per Summary of Compliance)	1,290	700
Less: Liability to Consolidated Fund* (per Summary of Compliance)	(249)	–
	<b>1,041</b>	<b>700</b>
Comprising:		
Capital appropriations (per Operating Statement)	1,041	700

\* The Liability to Consolidated Fund is recognised in the Balance Sheet as a Current Liability – Other.

### 6. Acceptance by the Crown Entity of employee benefits and other liabilities

	2009 \$'000	2008 \$'000
The following liabilities and/or expenses have been assumed by the Crown Entity:		
Superannuation – defined benefit	298	327
Long service leave	209	269
Payroll tax (on employer superannuation contributions)	59	60
	<b>566</b>	<b>656</b>

### 7. Service Groups of the Commission

#### (a) Service Group 1 – Corruption Investigation

This service group covers the processing, assessment and investigation of all corruption complaints. It also covers reporting on the resulting corruption investigations and recommending corruption prevention improvements.

This service group contributes to deterring corrupt conduct and building community confidence that reported corruption matters are being properly investigated by working towards a range of intermediate results that include the following:

- complaints are responded to in an appropriate and timely manner
- increased community confidence that all corruption matters will be rigorously investigated and
- public officials and other potential offenders are deterred from committing corrupt conduct through the exposure of corruption.

## Notes to the financial statements

### (b) Service Group 2 – Corruption Prevention, Research and Education

This service group covers research and the development of corruption training and prevention advice for public sector agencies through educational materials.

This service group contributes to an increased awareness of corrupt conduct and corruption risks, as well as developing and recommending corruption prevention strategies across the public sector by working towards a range of intermediate results that include the following:

- raising community and public sector awareness of corrupt conduct and its risks across the public sector
- developing a comprehensive range of corruption prevention strategies across the public sector
- providing corruption prevention advice which seeks to promote better corruption risk management in public sector agencies and
- educating people about the detrimental effects of corruption and promoting the development of corruption detection and minimisation strategies.

### 8. Current assets – cash and cash equivalents

	2009 \$'000	2008 \$'000
Cash at bank and on hand	1,923	1,371
	<b>1,923</b>	<b>1,371</b>

For the purposes of the Cash Flow Statement, cash and cash equivalents include cash on hand, cash at bank and short term deposits.

Cash and cash equivalent assets recognised in the Balance Sheet are reconciled at the end of the financial year to the Cash Flow Statement as follows:

	2009 \$'000	2008 \$'000
Cash and cash equivalents (per Balance Sheet)	1,923	1,371
Closing cash and cash equivalents (per Cash Flow Statement)	<b>1,923</b>	<b>1,371</b>

Refer Note 20 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.

### 9. Current assets – receivables

	2009 \$'000	2008 \$'000
Sale of goods and services	15	20
Other receivables		
– sundry debtors	–	336
– retained taxes	183	192
– interest income	29	44
– other	13	12
Prepayments	378	189
	<b>618</b>	<b>793</b>

Management expects to receive all amounts due therefore no allowance for impairment of receivables has been raised.

Details regarding credit risk, liquidity risk and market risk, including financial assets that are either past due or impaired are disclosed in Note 20.

# Notes to the financial statements

## 10. Non-Current Assets – property, plant and equipment

	Leasehold Improvements \$'000	Plant and Equipment \$'000	Computer Equipment \$'000	WIP \$'000	Total \$'000
<b>At 1 July 2008 – fair value</b>					
Gross carrying amount	574	1,287	1,458	–	3,319
Accumulated depreciation and impairment	(410)	(951)	(1,084)	–	(2,445)
<b>Net carrying amount</b>	<b>164</b>	<b>336</b>	<b>374</b>	<b>–</b>	<b>874</b>
<b>At 30 June 2009 – fair value</b>					
Gross carrying amount	937	1,277	1,630	177	4,021
Accumulated depreciation and impairment	(506)	(945)	(1,094)	–	(2,545)
<b>Net carrying amount</b>	<b>431</b>	<b>332</b>	<b>536</b>	<b>177</b>	<b>1,476</b>

### Reconciliation

A reconciliation of the carrying amount of each class of property, plant and equipment at the beginning and end of the current reporting period is set out below.

	Leasehold Improvements \$'000	Plant and Equipment \$'000	Computer Equipment \$'000	WIP \$'000	Total \$'000
<b>Year ended 30 June 2009</b>					
Net carrying amount at start of year	164	336	374	–	874
Additions	382	104	423	177	1,086
Disposals	(19)	(115)	(266)	–	(400)
Depreciation written back on disposal	16	115	281	–	412
Depreciation expense	(112)	(108)	(276)	–	(496)
<b>Net carrying amount at end of year</b>	<b>431</b>	<b>332</b>	<b>536</b>	<b>177</b>	<b>1,476</b>
<b>At 1 July 2007 – fair value</b>					
Gross carrying amount	574	1,441	1,339	–	3,354
Accumulated depreciation and impairment	(335)	(1,094)	(786)	–	(2,215)
<b>Net carrying amount</b>	<b>239</b>	<b>347</b>	<b>553</b>	<b>–</b>	<b>1,139</b>
<b>At 30 June 2008 – fair value</b>					
Gross carrying amount	574	1,287	1,458	–	3,319
Accumulated depreciation and impairment	(410)	(951)	(1,084)	–	(2,445)
<b>Net carrying amount</b>	<b>164</b>	<b>336</b>	<b>374</b>	<b>–</b>	<b>874</b>

### Reconciliation

A reconciliation of the carrying amount of each class of property, plant and equipment at the beginning and end of the current reporting period is set out below.

	Leasehold Improvements \$'000	Plant and Equipment \$'000	Computer Equipment \$'000	WIP \$'000	Total \$'000
<b>Year ended 30 June 2008</b>					
Net carrying amount at start of year	239	347	553	–	1,139
Additions	0	97	141	–	238
Disposals	0	(250)	(22)	–	(272)
Depreciation written back on disposal	0	238	19	–	257
Depreciation expense	(75)	(96)	(317)	–	(488)
<b>Net carrying amount at end of year</b>	<b>164</b>	<b>336</b>	<b>374</b>	<b>–</b>	<b>874</b>

## Notes to the financial statements

### 11. Intangible assets

	Software \$'000	WIP \$'000	Total \$'000
<b>At 1 July 2008</b>			
Cost (gross carrying amount)	995	335	1,330
Accumulated amortisation	(756)	–	(756)
<b>Net carrying amount</b>	<b>239</b>	<b>335</b>	<b>574</b>
<b>At 30 June 2009</b>			
Cost (gross carrying amount)	997	650	1,647
Accumulated amortisation	(843)	–	(843)
<b>Net carrying amount</b>	<b>154</b>	<b>650</b>	<b>804</b>
<b>Year ended 30 June 2009</b>			
Net carrying amount at start of year	238	335	573
Additions	22	315	337
Disposals	(20)	–	(20)
Amortisation written back on disposal/transfer	20	–	20
Amortisation expense	(106)	–	(106)
<b>Net carrying amount at end of year</b>	<b>154</b>	<b>650</b>	<b>804</b>
	Software \$'000	WIP \$'000	Total \$'000
<b>At 1 July 2007</b>			
Cost (gross carrying amount)	959	–	959
Accumulated amortisation	(741)	–	(741)
<b>Net carrying amount</b>	<b>218</b>	<b>–</b>	<b>218</b>
<b>At 30 June 2008</b>			
Cost (gross carrying amount)	995	335	1,330
Accumulated amortisation	(756)	–	(756)
<b>Net carrying amount</b>	<b>239</b>	<b>335</b>	<b>574</b>
<b>Year ended 30 June 2008</b>			
Net carrying amount at start of year	219	–	219
Additions	133	335	468
Disposals	(97)	–	(97)
Amortisation written back on disposal	97	–	97
Amortisation expense	(113)	–	(113)
<b>Net carrying amount at end of year</b>	<b>239</b>	<b>335</b>	<b>574</b>



## Notes to the financial statements

### 12. Current liabilities – payables

	2009	2008
	\$'000	\$'000
Accrued salaries, wages and on-costs	131	92
Accrued expenses	128	299
	<b>259</b>	<b>391</b>

Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables, are disclosed in Note 20.

### 13. Current/non current liabilities – provisions

	2009	2008
	\$'000	\$'000
<b>Current</b>		
Employee benefits and related on-costs		
Recreation leave (includes annual leave loading)	1,059	995
Payroll tax on-costs on long service leave (and fringe benefits tax payable)	112	4
LSL on-costs not assumed by Crown	221	230
	<b>1,392</b>	<b>1,229</b>
<b>Non-current</b>		
Employee benefits and related on-costs		
LSL on-costs not assumed by Crown	6	3
Provision for payroll tax on long service leave	6	6
	<b>12</b>	<b>9</b>
<b>Aggregate employee benefits and related on-costs</b>		
Provision – Current	1,392	1,229
Provision – Non-current	12	9
Accrued salaries, wages and on-costs (Note 12)	131	92
	<b>1,535</b>	<b>1,330</b>

### 14. Current liabilities – other

	2009	2008
	\$'000	\$'000
<b>Liability to Consolidated Fund</b>	249	–
	<b>249</b>	<b>–</b>

## Notes to the financial statements

### 15. Changes in equity

	Accumulated Funds 2009 \$'000	2008 \$'000	Asset Revaluation Reserve 2009 \$'000	2008 \$'000	Total Equity 2009 \$'000	2008 \$'000
Balance at the beginning of the financial year	1,555	1,700	428	428	1,983	2,128
Asset revaluation reserve balance transferred to accumulated funds on disposal of asset	17	–	(19)	–	(2)	–
Surplus/(Deficit) for the year	928	(145)	–	–	928	(145)
<b>Balance at the end of the financial year</b>	<b>2,500</b>	<b>1,555</b>	<b>409</b>	<b>428</b>	<b>2,909</b>	<b>1,983</b>

### 16. Commitments for expenditure

	2009 \$'000	2008 \$'000
<b>(a) Capital commitments</b>		
Aggregate other expenditure for the acquisition of goods/services contracted for at balance date and not provided for:		
Not later than one year	199	63
Later than one year and not later than five years	–	–
Later than five years	–	–
<b>Total (including GST)</b>	<b>199</b>	<b>63</b>
<b>(b) Other expenditure commitments</b>		
Aggregate other expenditure for the acquisition of goods/services contracted for at balance date and not provided for:		
Not later than one year	219	63
Later than one year and not later than five years	–	–
Later than five years	–	–
<b>Total (including GST)</b>	<b>219</b>	<b>63</b>
<b>(c) Operating lease commitments</b>		
Future non-cancellable operating lease rental not provided for and payable:		
Not later than one year	2,023	1,892
Later than one year and not later than five years	7,600	727
Later than five years	544	–
<b>Total (including GST)</b>	<b>10,167</b>	<b>2,619</b>

The total "operating lease commitments" above includes potential input tax credits of \$924,230 (30 June 2008 – \$238,132) that are expected to be recoverable from the ATO. The operating lease commitments represent the five-year lease option for the current accommodation at Piccadilly Centre and motor vehicle leases.

# Notes to the financial statements

## 17. Contingent Liabilities and Contingent Assets

The Commission has no contingent liabilities or contingent assets as at 30 June 2009.

## 18. Budget review

### Net cost of services

There was a positive variance of \$627,000 between budgeted and actual net cost of services. This variance can be attributed to lower than anticipated expenditure across several line items, including legal counsel (\$100,000), travel and printing (\$100,000), and fee-for-service expenditure (\$150,000).

Higher than forecast revenue earnings (\$140,000) from the provision of corruption prevention training courses also contributed to the net cost of services favourable variance.

### Assets and liabilities

Current assets were \$388,000 higher than budget as the result of increased cash balances.

Non-current assets were \$139,000 higher than budgeted due to replacement of IT assets and the implementation of a new case management system.

Liabilities were lower than budgeted by \$211,000 due to a decrease in outstanding invoices as at 30 June 2009.

There was also an increase in the provision for employee related expenses (\$115,000) as a result of the long service leave present value calculation by NSW Treasury.

### Cash Flows

The Commission's receipts are higher than budget by \$432,000 due to the unanticipated corruption prevention training fees received and expanded shared corporate services provided to the Health Care Complaints Commission.

Capital appropriation was lower than the authorised limit by \$249,000 due to the postponement of the Commission's new complaints handling and case management system (MOCCA) because of technical issues. The NSW Treasury has authorised the roll-over of the unspent 2008–09 capital authorisation limit to the 2009–10 financial year.

## 19. Reconciliation of cash flows from operating activities to net cost of services

	2009 \$'000	2008 \$'000
Net Cash Used on Operating Activities	1,977	685
Cash Flows from Government / Appropriations	(17,881)	(16,805)
Acceptance by Crown Entity of employee benefits and other liabilities	(566)	(656)
Depreciation	(603)	(602)
Increase/(decrease) in provision for employee entitlements	(170)	(120)
(Decrease) in receivables	(175)	(42)
Decrease/(increase) in payables	135	(200)
Net gain on sale of assets	13	-
<b>Net Cost of Services</b>	<b>(17,270)</b>	<b>(17,740)</b>

Reconciliation of cash flows from operating activities to the net cost of services as reported in the operating statement.

## Notes to the financial statements

### 20. Financial instruments

The Commission's principal financial instruments are outlined below. These financial instruments arise directly from the Commission's operations or are required to finance the Commission's operations. The Commission does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The Commission's main risks arising from financial instruments are outlined below, together with the Commission's objectives, policies and processes for measuring and managing risks. Further quantitative and qualitative disclosures are included throughout this financial report.

The Executive Director, Corporate Services has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Commission, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Commission's internal auditors (Deloitte, Touche and Tohmatsu) and the Audit Committee on a continuous basis.

#### (a) Financial instrument categories

Financial Assets	Note	Category	Carrying Amount	Carrying Amount
<b>Class:</b>			<b>2009</b>	<b>2008</b>
			<b>\$'000</b>	<b>\$'000</b>
Cash and cash equivalents	8	N/A	1,923	1,371
Receivables <sup>1</sup>	9	Loans and receivables (at amortised cost)	239	601

Financial Liabilities	Note	Category	Carrying Amount	Carrying Amount
<b>Class:</b>			<b>2009</b>	<b>2008</b>
			<b>\$'000</b>	<b>\$'000</b>
Payables <sup>2</sup>	12	Financial liabilities measured at amortised cost	259	354

#### Notes

1. Excludes statutory receivables and prepayments (not within scope of AASB 7).
2. Excludes unearned revenue (not within scope of AASB 7).

#### (b) Credit risk

Credit risk arises when there is the possibility of the Commission's debtors defaulting on their contractual obligations, resulting in a financial loss to the Commission. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Commission, including cash and receivables. No collateral is held by the Commission. The Commission has not granted any financial guarantees.

#### Cash

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (Tcorp) 11 am unofficial cash rate adjusted for a management fee to NSW Treasury. The average interest rate during the period was 4.68%. The average rate for the year ended 2007–08 was 5.84%.

# Notes to the financial statements

## Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts which are known to be uncollectable are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Sales are made on 30-day terms.

The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. Based on past experience, debtors that are not past due (2009: \$178; 2008: \$8,025) and not less than 12 months past due (2009: \$15,285; 2008: \$9,950 – including GST) are not considered impaired and together these represent 100% of the total trade debtors. All of the Commission's debtors are other government departments or government authorities. There are no debtors which are currently not past due or impaired whose terms have been re-negotiated.

The only financial assets that are past due or impaired are "sales of goods and services" in the "receivables" category of the balance sheet.

\$'000			
2009	Total	Past due but not impaired	Considered impaired
< 3 months overdue	15	15	
3 months – 6 months overdue			
> 6 months overdue			
2008			
< 3 months overdue	12	12	
3 months – 6 months overdue	1	1	
> 6 months overdue	–	–	

The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7 and excludes receivables that are not past due and not impaired. Therefore the "total" will not reconcile to the receivables total recognised in the balance sheet.

## (c) Liquidity risk

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continuously manages risk through monitoring future cash flows to ensure adequate holding of liquid assets.

During the current and prior years, no assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on prior periods' data and other current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in Treasurer's Direction 219.01. If trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. Treasurer's Direction 219.01 allows the Minister to award interest for late payment. The rate of interest applied during the year was 0% (2008: 0%).

## (d) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Commission has no exposure to market risk as it does not have borrowings or investments. The Commission has no exposure to foreign currency risk and does not enter into commodity contracts.

## Notes to the financial statements

### Interest rate risk

Exposure to interest rate risk arises primarily through the Department's interest-bearing liabilities. This risk is minimised by undertaking mainly fixed rate borrowings, primarily with the NSW TCorp. The Department does not account for any fixed rate financial instruments at fair value through profit or loss or as available-for-sale. Therefore, for these financial instruments, a change in interest rates would not affect profit or loss or equity. A reasonably possible change of +/- 1% is used, consistent with current trends in interest rates. The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility. The Department's exposure to interest rate risk is set out below.

\$'000					
	Carrying Amount	-1% Profit	Equity	1% Profit	Equity
<b>2009</b>					
<b>Financial assets</b>					
Cash and cash equivalents	1,923	(19)	(19)	19	19
Receivables	618	(6)	(6)	6	6
<b>Total financial assets</b>	<b>2,541</b>	<b>(25)</b>	<b>(25)</b>	<b>25</b>	<b>25</b>
<b>Financial liabilities</b>					
Payables	259	(2)	(2)	2	2
<b>Total financial liabilities</b>	<b>259</b>	<b>(2)</b>	<b>(2)</b>	<b>2</b>	<b>2</b>
<b>2008</b>					
<b>Financial assets</b>					
Cash and cash equivalents	1,371	(14)	(14)	14	14
Receivables	793	(8)	(8)	8	8
<b>Total financial assets</b>	<b>2,164</b>	<b>(22)</b>	<b>(22)</b>	<b>22</b>	<b>22</b>
<b>Financial liabilities</b>					
Payables	391	(4)	(4)	4	4
<b>Total financial liabilities</b>	<b>391</b>	<b>(4)</b>	<b>(4)</b>	<b>4</b>	<b>4</b>

### 21. After balance date events

The NSW Premier announced the creation of 13 new super Departments and the transfer of staff and functions to these entities on 11 June 2009. The Public Sector Employment and Management (Departmental amalgamations) order was issued on 27 July 2009 encompassing changes to the current taxation, financial reporting and annual reporting regime..

The Independent Commission Against Corruption is part of the Premier and Cabinet super agency pursuant to the issue of the amalgamations order.

### (END OF AUDITED FINANCIAL STATEMENTS)







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## Appendix 1 – Complaints profile

**Table 27: Allegations contained in complaints and reports (section 10, section 11 and protected disclosures) received in 2008–09**

Conduct	Section 10 complaints (s.10s)	% of alleged conduct in s.10s	Protected disclosures (PDs)	% of alleged conduct in PDs	Section 11 reports (s.11s)	% of alleged conduct in s.11s	Total	% of alleged conduct in s.10s, s.11s and PDs
Assault / sexual assault / misconduct / harassment	25	2%	10	2%	62	5%	97	3%
Breach of policy or procedure	141	9%	71	12%	151	12%	363	10%
Bribery / gift / secret commission	89	5%	20	3%	85	6%	194	5%
Collusion	185	11%	44	7%	74	6%	303	9%
Drug or alcohol traffic or use	13	1%	3	0%	40	3%	56	2%
Fabricate or falsify information / forgery / fraud / tamper with information	121	7%	45	7%	166	13%	332	9%
Failure to advertise appropriately	27	2%	13	2%	7	1%	47	1%
Failure to disclose / abuse of conflict of interest	137	8%	58	9%	102	8%	297	8%
Failure to take action / negligence	166	10%	45	7%	72	6%	283	8%
Favouritism / nepotism	201	12%	93	15%	73	6%	367	10%
Harassment / victimisation / discrimination	119	7%	53	9%	71	5%	243	7%
Improper use of information	44	3%	23	4%	49	4%	116	3%
Lack of accountability	117	7%	45	7%	64	5%	226	6%
Misuse or theft of resources by public official	114	7%	61	10%	210	16%	385	11%
Pervert course of justice / tamper with evidence / perjury	38	2%	5	1%	14	1%	57	2%
Threats / extortion / blackmail / undue influence	34	2%	16	3%	34	3%	84	2%
Type of corrupt conduct unspecified / other	52	3%	6	1%	34	3%	92	3%
<b>Total</b>	<b>1,623</b>		<b>611</b>		<b>1,308</b>		<b>3,542</b>	

Note: One matter may make allegations about more than one conduct type. For each type of matter, totals and percentages are derived from the number of conduct type allegations (not the number of matters).

**Table 28: Percentage of types of allegations received for all matters during 2008–09 compared to the previous two years**

Conduct	2008–09		2007–08		2006–07	
	Total	%	Total	%	Total	%
Assault / sexual assault / misconduct / harassment	99	2%	79	2%	84	3%
Breach of policy or procedure	409	10%	546	13%	353	12%
Bribery / gift / secret commission	215	5%	269	6%	171	6%
Collusion	345	8%	386	9%	209	7%
Drug or alcohol traffic or use	57	1%	42	1%	50	2%
Fabricate or falsify information / forgery / fraud / tamper with information	364	9%	334	8%	231	8%
Failure to advertise appropriately	57	1%	66	2%	42	1%
Failure to disclose / abuse of conflict of interest	325	8%	278	7%	160	5%
Failure to take action / negligence	352	9%	321	8%	167	6%
Favouritism / nepotism	412	10%	376	9%	222	7%
Harassment / victimisation / discrimination	287	7%	263	6%	195	6%
Improper use of information	130	3%	144	3%	79	3%
Lack of accountability	287	7%	322	8%	77	3%
Misuse or theft of resources by public official	413	10%	327	8%	220	7%
Pervert course of justice / tamper with evidence / perjury	65	2%	52	1%	44	1%
Threats / extortion / blackmail / undue influence	94	2%	111	3%	45	1%
Type of corrupt conduct unspecified / other	150	4%	235	6%	657	22%
<b>Total</b>	<b>4,061</b>		<b>4,151</b>		<b>3,006</b>	

**Table 29: Workplace activities described in complaints and reports (section 10, section 11 and protected disclosures) received in 2008–09**

Activity	Section 10 complaints (s.10s)	% of workplace activity allegations in s.10s	Protected disclosures (PDs)	% of workplace activity allegations in PDs	Section 11 reports (s.11s)	% of workplace activity allegations in s.11s	Total	% of workplace activity allegations in s.10s, s.11s and PDs
Allocation of paid hours	5	0%	22	3%	12	1%	39	1%
Allocation of public goods and services	90	5%	23	3%	41	3%	154	4%
Building and development applications / rezoning	388	22%	35	5%	112	8%	535	14%
Cash handling / credit card management	9	1%	19	3%	57	4%	85	2%
Codes of conduct	30	2%	23	3%	288	21%	341	9%
Dismissal	23	1%	1	0%	2	0%	26	1%
Disposal of public assets / tendering / contracting	109	6%	25	4%	56	4%	190	5%
E-corruption / IT security	1	0%	9	1%	13	1%	23	1%
Elections	19	1%	6	1%	9	1%	34	1%
Employment practices	198	11%	198	29%	230	17%	626	17%
Government grants	25	1%	10	1%	8	1%	43	1%
Internal reporting	41	2%	46	7%	47	3%	134	4%
Law enforcement	123	7%	9	1%	55	4%	187	5%
Law enforcement – courts and tribunals	98	6%	5	1%	6	0%	109	3%
Licensing / qualifications / certificates / regulations	87	5%	6	1%	61	4%	154	4%
Other – area of workplace activity unspecified	129	7%	17	2%	58	4%	204	5%
Post-separation employment	6	0%	1	0%	1	0%	8	0%
Purchase of goods and services / tendering / contracting	143	8%	53	8%	112	8%	308	8%
Secondary employment	17	1%	6	1%	23	2%	46	1%
Sponsorship	1	0%	0	0%	0	0%	1	0%
Staff management	55	3%	91	13%	40	3%	186	5%
Use of confidential information	40	2%	29	4%	30	2%	99	3%
Use of public resources	89	5%	49	7%	106	8%	244	6%
<b>Total</b>	<b>1,726</b>		<b>683</b>		<b>1,367</b>		<b>3,776</b>	

Note: One matter may make allegations about multiple workplace activities. For each type of matter, totals and percentages are derived from the number of workplace activity allegations (not the number of matters).



**Table 30: Comparison of workplace activities described in complaints and reports in 2008–09, compared to the previous two years**

	2008–09		2007–08		2006–07	
Activity	Total	%	Total	%	Total	%
Allocation of paid hours	39	1%	35	1%	19	1%
Allocation of public goods and services	154	4%	172	5%	71	3%
Building and development applications / rezoning	535	14%	749	20%	332	14%
Cash handling / credit card management	85	2%	87	2%	48	2%
Codes of conduct	341	9%	231	6%	290	12%
Dismissal	26	1%	16	0%	8	0%
Disposal of public assets / tendering / contracting	190	5%	174	5%	84	4%
E-corruption / IT security	23	1%	14	0%	15	1%
Elections	34	1%	20	1%	18	1%
Employment practices	626	17%	611	17%	296	13%
Government grants	43	1%	24	1%	12	1%
Internal reporting	134	4%	77	2%	46	2%
Law enforcement	187	5%	226	6%	126	5%
Law enforcement – courts and tribunals	109	3%	109	3%	82	3%
Licensing / qualifications / certificates / regulations	154	4%	159	4%	97	4%
Other – area of workplace activity unspecified	204	5%	132	4%	394	17%
Post-separation employment	8	0%	2	0%	3	0%
Purchase of goods and services / tendering / contracting	308	8%	250	7%	128	5%
Secondary employment	46	1%	42	1%	22	1%
Sponsorship	1	0%	2	0%	0	0%
Staff management	186	5%	188	5%	80	3%
Use of confidential information	99	3%	133	4%	57	2%
Use of public resources	244	6%	223	6%	127	5%
<b>Total</b>	<b>3,776</b>		<b>3,676</b>		<b>2,355</b>	

**Table 31: Section 10 complaints by government sector**

Government sector	
Local government	378
Transport, ports and waterways	94
Government and financial services	80
Law and justice	64
Community and human services	61
Custodial services	59
Health	43
Natural resources and environment	39
Education (except universities)	38
Policing	36
Consumer and trade	23
Land, property and planning	22
Universities	14
Parliament	13
Energy	11
Aboriginal affairs and services	10
Tourism, sport, recreation and gaming	8
Emergency services	7
Other – unspecified	6
Arts and heritage	3
Employment and industrial relations	2

Note: Some section 10 complaints relate to more than one sector and are counted as such above.

**Table 32: Section 10 complaints by workplace activity**

Workplace activity	
Building and development applications / rezoning	388
Employment practices	198
Purchase of goods and services / tendering / contracting	143
Other – area of workplace activity unspecified	129
Law enforcement	123
Disposal of public assets / tendering / contracting	109
Law enforcement – courts and tribunals	98
Allocation of public goods and services	90
Use of public resources	89
Licensing / qualifications / certificates / regulations	87
Staff management	55
Internal reporting	41
Use of confidential information	40
Codes of conduct	30
Government grants	25
Dismissal	23
Elections	19
Secondary employment	17
Cash handling / credit card management	9
Post-separation employment	6
Allocation of paid hours	5
E-corruption / IT security	1
Sponsorship	1

Note: Some section 10 complaints relate to more than one workplace activity type and are counted as such above.

**Table 33: Section 10 complaints by conduct alleged**

Conduct alleged	
Favouritism / nepotism	201
Collusion	185
Failure to take action / negligence	166
Breach of policy or procedure	141
Failure to disclose / abuse of conflict of interest	137
Fabricate or falsify information / forgery / fraud / tamper with information	121
Harassment / victimisation / discrimination	119
Lack of accountability	117
Misuse or theft of resources by public official	114
Bribery / gift / secret commission	89
Type of corrupt conduct unspecified / other	52
Improper use of information	44
Pervert course of justice / tamper with evidence / perjury	38
Threats / extortion / blackmail / undue influence	34
Failure to advertise appropriately	27
Assault / sexual assault / misconduct / harassment	25
Drug or alcohol traffic or use	13

Note: Some section 10 complaints relate to more than one conduct type and are counted as such above.

**Table 34: Protected disclosures by government sector**

Government sector	
Local government	83
Transport, ports and waterways	42
Health	27
Custodial services	25
Education (except universities)	23
Government and financial services	13
Natural resources and environment	13
Community and human services	12
Universities	11
Emergency services	10
Law and justice	7
Land, property and planning	4
Policing	3
Tourism, sport, recreation and gaming	3
Consumer and trade	2
Energy	2
Other – unspecified	2
Aboriginal affairs and services	1
Arts and heritage	1

Note: Some protected disclosures relate to more than one sector and are counted as such above.

**Table 35: Protected disclosures by workplace activity**

Workplace activity	
Employment practices	198
Staff management	91
Purchase of goods and services / tendering / contracting	53
Use of public resources	49
Internal reporting	46
Building and development applications / rezoning	35
Use of confidential information	29
Disposal of public assets / tendering / contracting	25
Allocation of public goods and services	23
Codes of conduct	23
Allocation of paid hours	22
Cash handling / credit card management	19
Other – area of workplace activity unspecified	17
Government grants	10
E-corruption / IT security	9
Law enforcement	9
Elections	6
Licensing / qualifications / certificates / regulations	6
Secondary employment	6
Law enforcement – courts and tribunals	5
Dismissal	1
Post-separation employment	1

Note: Some protected disclosures relate to more than one workplace activity type and are counted as such above.

**Table 36: Protected disclosures by conduct alleged**

Conduct alleged	
Favouritism / nepotism	93
Breach of policy or procedure	71
Misuse or theft of resources by public official	61
Failure to disclose or abuse of conflict of interest	58
Harassment / victimisation / discrimination	53
Fabricate or falsify information / forgery / fraud / tamper with information	45
Failure to take action / negligence	45
Lack of accountability	45
Collusion	44
Improper use of information	23
Bribery / gift / secret commission	20
Threats / extortion / blackmail / undue influence	16
Failure to advertise appropriately	13
Assault / sexual assault / misconduct / harassment	10
Type of corrupt conduct unspecified / other	6
Pervert course of justice / tamper with evidence / perjury	5
Drug or alcohol traffic or use	3

Note: Some protected disclosures relate to more than one conduct type and are counted as such above.

**Table 37: Section 11 reports by government sector**

Government sector	
Local government	195
Custodial services	92
Health	88
Universities	61
Community and human services	49
Transport, ports and waterways	42
Government and financial services	38
Natural resources and environment	31
Energy	21
Land, property and planning	19
Law and justice	19
Policing	16
Aboriginal affairs and services	11
Emergency services	10
Education (except universities)	9
Consumer and trade	5
Tourism, sport, recreation and gaming	3
Parliament	2
Arts and heritage	1

Note: Some section 11 reports relate to more than one sector and are counted as such above.

**Table 38: Section 11 reports by workplace activity**

Workplace activity	
Codes of conduct	288
Employment practices	230
Building and development applications / rezoning	112
Purchase of goods and services / tendering / contracting	112
Use of public resources	106
Licensing / qualifications / certificates / regulations	61
Other – area of workplace activity unspecified	58
Cash handling / credit card management	57
Disposal of public assets / tendering / contracting	56
Law enforcement	55
Internal reporting	47
Allocation of public goods and services	41
Staff management	40
Use of confidential information	30
Secondary employment	23
E-corruption / IT security	13
Allocation of paid hours	12
Elections	9
Government grants	8
Law enforcement – courts and tribunals	6
Dismissal	2
Post-separation employment	1

Note: Some section 11 reports relate to more than one workplace activity type and are counted as such above.

**Table 39: Section 11 reports  
by conduct alleged**

Conduct alleged	
Misuse or theft of resources by public official	210
Fabricate or falsify information / forgery / fraud / tamper with information	166
Breach of policy or procedure	151
Failure to disclose or abuse of conflict of interest	102
Bribery / gift / secret commission	85
Collusion	74
Favouritism / nepotism	73
Failure to take action / negligence	72
Harassment / victimisation / discrimination	71
Lack of accountability	64
Assault / sexual assault / misconduct / harassment	62
Improper use of information	49
Drug or alcohol traffic or use	40
Threats / extortion / blackmail / undue influence	34
Type of corrupt conduct unspecified / other	34
Pervert course of justice / tamper with evidence / perjury	14
Failure to advertise appropriately	7

Note: Some section 11 reports relate to more than one conduct type and are counted as such above.



## Appendix 2 – Statutory reporting

**Table 40: Reports under section 76(2)(ba) of the ICAC Act**

Section	Reporting requirements	Results
76(2)(ba)(i)	Time interval between the lodging of each complaint and the Commission deciding to investigate the complaint	See Table 41 for details
76(2)(ba)(ii)	Number of complaints where investigations were commenced but were not finalised in 2008–09	21
76(2)(ba)(iii)	Average time taken to deal with complaints	78 days
	Actual time taken to investigate any matter in which a report is made	See Table 42 for details
76(2)(ba)(iv)	Total number of compulsory examinations during 2008–09	33
	Total number of public inquiries conducted during 2008–09	7
76(2)(ba)(v)	Number of days spent during 2008–09 in conducting public inquiries	28
76(2)(ba)(vi)	Time interval between the completion of each public inquiry conducted during 2008–09 and the furnishing of a report on the matter	See Table 43 for details

### Report under section 72(2)(d) of the ICAC Act

During 2008–09 the Commission furnished information to the:

- NSW Crime Commission (financial and other material to enable the Crime Commission to consider taking proceedings for forfeiture of assets under the *Criminal Assets Recovery Act 1990* (NSW));
- NSW Police Force (various intelligence disseminations)
- Police Integrity Commission (various intelligence disseminations)
- Department of Corrective Services (various intelligence disseminations)
- Australian Taxation Office (address details of person of interest and related records).

**Table 41: Time interval between the lodging of each complaint and the Commission deciding to investigate the complaint – section 76(2)(ba)(i) of the ICAC Act**

Date received	Date decided to investigate	Time interval (days)
14 Dec 2007	30 Jul 2008	229
25 Feb 2008	20 Apr 2009	420
31 Mar 2008	4 Aug 2008	126
2 Jun 2008	30 Jul 2008	58
20 Aug 2008	13 Nov 2008	85
5 Nov 2008	17 Nov 2008	12
8 Dec 2008	9 Dec 2008	1
10 Dec 2008	23 Dec 2008	13
12 Dec 2008	23 Dec 2008	11
19 Jan 2009	21 Jan 2009	2
13 Feb 2009	26 Feb 2009	13
17 Feb 2009	26 May 2009	98
27 Feb 2009	31 Mar 2009	32
12 Mar 2009	20 Apr 2009	39
23 Mar 2009	27 Mar 2009	4
30 Mar 2009	28 Apr 2009	29
30 Mar 2009	7 Apr 2009	8
31 Mar 2009	7 Apr 2009	7
3 Apr 2009	7 Apr 2009	4
6 Apr 2009	26 May 2009	50
22 Apr 2009	28 Apr 2009	6
30 Apr 2009	6 May 2009	6
28 Apr 2009	4 May 2009	6
23 Apr 2009	6 May 2009	13
1 May 2009	26 May 2009	25
14 May 2009	26 May 2009	12
28 May 2009	4 Jun 2009	7
	<b>Average</b>	<b>48.74</b>
	<b>Median</b>	<b>13.00</b>

Note: The Commission may seek further information or conduct preliminary enquiries before deciding to commence an investigation.

**Table 42: Actual time taken to investigate any matter in respect of which a report is made – section 76(2)(ba)(iii) of the ICAC Act**

Investigation classification	Date received	Date completed	Time taken to investigate (days)
Investigation	26/03/2007	1/09/2008	525
Investigation	25/06/2007	13/11/2008	507
Investigation	19/10/2007	20/11/2008	398
Investigation	7/01/2008	20/11/2008	318
Investigation	6/08/2008	9/12/2008	125
Investigation	11/03/2009	26/05/2009	76
Investigation	18/03/2009	24/06/2009	98
Preliminary investigation	6/02/2007	8/07/2008	518
Preliminary investigation	5/12/2007	20/02/2009	443
Preliminary investigation	1/04/2008	19/02/2009	324
Preliminary investigation	18/04/2008	10/07/2008	83
Preliminary investigation	18/04/2008	10/07/2008	83
Preliminary investigation	16/06/2008	22/01/2009	220
Preliminary investigation	27/06/2008	27/11/2008	153
Preliminary investigation	9/07/2008	22/01/2009	197
Preliminary investigation	25/07/2008	27/11/2008	125
Preliminary investigation	2/09/2008	11/12/2008	100
Preliminary investigation	21/11/2008	24/03/2009	123
Preliminary investigation	26/11/2008	19/02/2009	85
Preliminary investigation	16/12/2008	24/03/2009	98
Preliminary investigation	19/12/2008	24/03/2009	95

Note: These figures relate only to matters reported under section 11 of the ICAC Act.

**Table 43: Time interval between completion of public inquiry and issuing of public report – section 76(2)(ba)(vi) of the ICAC Act**

Public investigation	Date public inquiry complete*	Date investigation report tabled	Days from end of public inquiry to tabling of report**
Investigation into bribery and corruption at RailCorp (Operation Monto 1st report)	11/07/2008	13/08/2008	33
Investigation into bribery and corruption at RailCorp (Operation Monto 2nd report)	11/07/2008	13/08/2008	33
Investigation into bribery and corruption at RailCorp (Operation Monto 3rd report)	11/07/2008	8/09/2008	59
Investigation into bribery and corruption at RailCorp (Operation Monto 4th report)	11/07/2008	8/09/2008	59
Investigation into bribery and corruption at RailCorp (Operation Monto 5th report)	11/07/2008	25/09/2008	76
Investigation into bribery and corruption at RailCorp (Operation Monto 6th report)	11/07/2008	25/09/2008	76
Investigation into corruption allegations affecting Wollongong City Council (Operation Atlas Part 3)	20/05/2008	8/10/2008	141
Investigation into bribery and corruption at RailCorp (Operation Monto 7th report)	11/07/2008	19/11/2008	131
Investigation into bribery and corruption at RailCorp (Operation Monto 8th report)	11/07/2008	15/12/2008	157
Investigation into the tendering and payments in relation to NSW Fire Brigades capital works projects (Operation Mirna)	10/10/2008	17/12/2008	68
Investigation into attempt to gain entry to a selective public high school (Operation Bellin)	9/12/2008	12/02/2009	65
Investigation into an attempt to improperly influence an officer of Ku-ring-gai Council (Operation Capella)	22/12/2008	26/02/2009	66
Investigation into attempts to improperly influence Warringah Council officers (Operation Bauer)	26/05/2009	30/06/2009	35

\* The Commission considers a public inquiry to be complete as at the date of receipt of final submissions from parties who are granted leave to appear at the public inquiry.

\*\* Corporate goal is three months.

## Appendix 3 – Prosecutions and disciplinary actions in 2008–09, arising from ICAC investigations

**Table 44: Progress of prosecution matters in 2008–09**

The date the investigation report was published is in parentheses.

“Crimes Act” refers to the *Crimes Act 1900* (NSW).

“ICAC Act” refers to the *Independent Commission Against Corruption Act 1988* (NSW).

### Investigation into the conduct of certain senior officers of the NSW Grains Board (Operation Agnelli) (August 2003)

Name	Graham Lawrence
Offences recommended for DPP consideration	s.176 Crimes Act (director or officer publishing fraudulent statements).
DPP advice	On 11 February 2008 DPP advised sufficient admissible evidence to proceed with two offences under s.176 Crimes Act (director or officer publishing fraudulent statement) and four offences under s.176A Crimes Act (director cheating or defrauding).
Status	Matters in court.

Name	John Fitzgerald
Offences recommended for DPP consideration	s.176 Crimes Act (director or officer publishing fraudulent statements).
DPP advice	On 11 February 2008 DPP advised sufficient admissible evidence to proceed with two offences under s.176 Crimes Act (director or officer publishing fraudulent statement) and four offences under s.176A Crimes Act (director cheating or defrauding).
Status	Matters in court.

### Investigation into certain transactions of Koombahtoo Local Aboriginal Land Council (Operation Unicorn) (April 2005)

Name	Bill Smith
Offences recommended for DPP consideration	s.249B Crimes Act (corrupt rewards) in relation to Villa World and s.178BB Crimes Act (obtain money by false or misleading statement) in relation to land transfers to KLALC members.
DPP advice	On 13 June 2008 DPP advised sufficient admissible evidence to proceed with an offence under s.178BB Crimes Act in relation to land transfers to KLALC members.
Status	s.178BB matter in court. Awaiting advice from DPP on s.249B matter.

Name	Stephen Griffen
Offences recommended for DPP consideration	s.178BB Crimes Act (obtain money by false or misleading statement) in relation to land transfers to KLALC members.
DPP advice	On 13 June 2008 DPP advised sufficient admissible evidence to proceed with an offence under s.178BB Crimes Act.
Status	Matter in court.

Name	Adam Perkins
Offences recommended for DPP consideration	s.249F Crimes Act (aiding, abetting etc corrupt rewards) in relation to Villa World.
DPP advice	Awaiting DPP advice.
Status	Awaiting DPP advice.
Name	Bob Scott
Offences recommended for DPP consideration	s.249F Crimes Act (aiding, abetting etc corrupt rewards) in relation to Villa World.
DPP advice	Awaiting DPP advice.
Status	Awaiting DPP advice.
Name	Kim Wilson
Offences recommended for DPP consideration	s.249F Crimes Act (aiding, abetting etc corrupt rewards) in relation to Villa World.
DPP advice	Awaiting DPP advice.
Status	Awaiting DPP advice.
Name	Dale Holt
Offences recommended for DPP consideration	s.249F Crimes Act (aiding, abetting etc corrupt rewards) in relation to Villa World.
DPP advice	Awaiting DPP advice.
Status	Awaiting DPP advice.

#### **Investigation into relationship between certain Strathfield councillors and developers (Operation Cordoba) (June 2005)**

Name	John Abi-Saab
Offences recommended for DPP consideration	s.100A Crimes Act (blackmail by threat to publish), s.87 ICAC Act (give false evidence), s.80(c) ICAC Act (wilfully make false statement) and s.89 ICAC Act (procure false testimony).
DPP advice	On 3 February 2006 DPP advised sufficient admissible evidence to proceed with one offence under s.89 ICAC Act.  On 21 November 2006 DPP advised sufficient admissible evidence to proceed with five offences under s.80(c) ICAC Act, six offences under s.87 ICAC Act and one offence under s.100A Crimes Act.
Status	Matters in court.



### **Investigation into safety certification and the operations of the WorkCover NSW Licensing Unit (Operation Cassowary) (December 2005)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of 18 named individuals for various criminal offences. Briefs of evidence in relation to all matters were provided to the DPP in December 2007. Currently awaiting advice from the DPP.

### **Investigation into schemes to fraudulently obtain building licences (Operation Ambrosia) (December 2005)**

Name	Yousseff Nehme
Offences recommended for DPP consideration	Aiding, abetting, counselling or procuring offences under s.178BA Crimes Act (obtaining valuable thing by deception) s.307A Crimes Act (making false statement to public authority), s.87 ICAC Act (give false evidence)
DPP advice	On 31 January 2008 DPP advised sufficient admissible evidence to proceed with 12 offences under s.249B Crimes Act (corrupt reward), 12 offences under s.307A Crimes Act (aid and abet false statement) and one offence under s.319 Crimes Act (pervert course of justice).
Status	Convicted and sentenced to three years periodic detention.

Recommendations were made with respect to another 35 persons. Three matters have been finalised. On 5 June 2009 the DPP advised there is sufficient admissible evidence to proceed with the prosecution of 10 persons for various offences. The DPP is to provide particulars to enable court attendance notices to be issued in these matters. The ICAC is awaiting the advice of the DPP with respect to the remaining 22 persons.

### **Investigation into the cover-up of an assault on an inmate at Parramatta Correctional Centre (Operation Inca) (June 2006)**

Name	Jeffrey Strange
Offences recommended for DPP consideration	s.319 Crimes Act (pervert the course of justice), s.80(c) ICAC Act (wilfully make false statement) and s.87 ICAC Act (give false evidence).
DPP advice	On 26 April 2007 DPP advised sufficient evidence to proceed with two offences under s.80(c) ICAC Act and two offences under s.87 ICAC Act.
Status	On 27 October 2008 s.87 matters dismissed but found guilty of s.80(c) offences. No conviction recorded and placed on two-year good behaviour bond.

### **Investigation into the case management and administration of community service orders (Operation Cadmus) (September 2006)**

Name	Michael Ishac
Offences recommended for DPP consideration	s. 319 Crimes Act (pervert the course of justice), s.308H Crimes Act (unauthorised access to data) and s.87 ICAC Act (give false evidence).
DPP advice	On 10 June 2008 DPP advised sufficient evidence to proceed with offences under s.319 Crimes Act (including offence of being an accessory) and five offences under s.87 ICAC Act.
Status	On 11 December 2008 pleaded guilty to offences under s.319 Crimes Act (including offence of being an accessory) and one offence under s.87 ICAC Act. Awaiting sentence.

Name	John Tourni
Offences recommended for DPP consideration	s.319 Crimes Act (pervert the course of justice) and s.87 ICAC Act (give false evidence).
DPP advice	On 10 June 2008 DPP advised sufficient evidence to proceed with offences under s.319 Crimes Act and s.87 ICAC Act.
Status	On 11 December 2008 pleaded guilty to offence under s.319 Crimes Act and one offence under s.87 ICAC Act. Awaiting sentence.
Name	Elias Khoury
Offences recommended for DPP consideration	s. 319 Crimes Act (pervert the course of justice) and s.87 ICAC Act (give false evidence).
DPP advice	On 10 June 2008 DPP advised sufficient evidence to proceed with offences under s.319 Crimes Act, s.87 ICAC Act, and s.80(c) ICAC Act (mislead ICAC officer).
Status	Matters in court.
Name	Brian Khouzame
Offences recommended for DPP consideration	s.319 Crimes Act (pervert the course of justice) and s.87 ICAC Act (give false evidence).
DPP advice	On 10 June 2008 DPP advised sufficient evidence to proceed with offences under s.319 Crimes Act and s.87 ICAC Act.
Status	On 19 February 2009 pleaded guilty to offence under s.319 Crimes Act and one offence under s.87 ICAC Act. Awaiting sentence.
Name	Mariam Tourni
Offences recommended for DPP consideration	No offences recommended.
DPP advice	On 10 June 2008 DPP advised sufficient evidence to proceed with offences under s.319 Crimes Act and s.87 ICAC Act.
Status	On 28 May 2009 pleaded guilty to one offence under s.319 Crimes Act and one offence under s.87 ICAC Act. Awaiting sentence.
Name	Faride Hilal
Offences recommended for DPP consideration	s.87 ICAC Act (give false evidence).
DPP advice	DPP recommended against prosecution.
Status	ICAC accepted DPP advice. Matter finalised.
Name	Albert Bullen
Offences recommended for DPP consideration	s.318 Crimes Act (make false records), s.319 Crimes Act (pervert the course of justice), s.249B Crimes Act (solicit corrupt reward) and s.80 ICAC Act (mislead ICAC officer).
DPP advice	Awaiting DPP advice.
Status	Awaiting DPP advice.

Name	Hammurabi Barhy
Offences recommended for DPP consideration	s.178BA Crimes Act (obtain money by deception), s.318 Crimes Act (use false instrument) and s.89 ICAC Act (procure false testimony).
DPP advice	Awaiting DPP advice.
Status	Awaiting DPP advice.

#### **Investigation into the sale of surplus public housing properties (Operation Aztec) (October 2006)**

Name	Graham Wade
Offences recommended for DPP consideration	Misconduct in public office, defrauding a public authority, s.249C Crimes Act (use documents containing false or misleading information) and s.249B Crimes Act (receiving corrupt reward).
DPP advice	On 21 November DPP advised sufficient admissible evidence to proceed with seven offences under s.249B Crimes Act (corrupt receipt of benefit).
Status	Awaiting sentence.

Name	John Ashe
Offences recommended for DPP consideration	Conspiring to defraud a public authority, s.249C Crimes Act (use documents containing false or misleading information) and s.249F Crimes Act (aid and abet fraudulent use of documents).
DPP advice	On 21 November DPP advised sufficient admissible evidence to proceed with four offences under s.178BB Crimes Act (obtain benefit by deception).
Status	Awaiting sentence.

Name	Ken Williams
Offences recommended for DPP consideration	Defrauding a public authority, s.249C Crimes Act (use documents containing false or misleading information), s.249F Crimes Act (aid and abet fraudulent use of documents) and s.249B Crimes Act (receive corrupt reward).
DPP advice	On 21 November DPP advised sufficient admissible evidence to proceed with two offences under s.249B Crimes Act (corruptly give benefit).
Status	Awaiting sentence.

#### **Investigation into defrauding the RTA and RailCorp in relation to the provision of traffic management services (Operation Quilla) (December 2006)**

Name	Terry Stepto
Offences recommended for DPP consideration	s.178BB Crimes Act (obtain benefit by deception), s.185A Crimes Act (induce persons to enter into certain arrangements by misleading etc. statements), s.249B Crimes Act (corrupt benefits) and s.87 ICAC Act (give false evidence).
DPP advice	On 19 June 2009 DPP advised sufficient admissible evidence to proceed with 41 offences under s.178BA Crimes Act, four offences under s.249B Crimes Act and one offence under s.87 ICAC Act.
Status	Court Attendance Notices to be issued.

Name	Damon Job
Offences recommended for DPP consideration	s.178BB Crimes Act (obtain benefit by deception), s.185A Crimes Act (induce persons to enter into certain arrangements by misleading etc statements) and s.249B Crimes Act (corrupt benefits).
DPP advice	On 19 June 2009 DPP advised sufficient admissible evidence to proceed with 41 offences under s.178BA Crimes Act and four offences under s.249B Crimes Act.
Status	Court Attendance Notices to be issued.

#### Investigation into corrupt conduct associated with RailCorp air-conditioning contracts (Operation Persis) (June 2007)

Name	Saïd Marcos
Offences recommended for DPP consideration	s.249B Crimes Act (corrupt rewards), s.178BB Crimes Act (obtain benefit by deception) and s.88(3) ICAC Act (fabrication of a document).
DPP advice	On 5 March 2009 DPP advised sufficient admissible evidence to proceed with seven offences of misconduct in public office, three offences under s.178BB Crimes Act, two offences under s.178BA Crimes Act, two offences under s.249B Crimes Act, two offences under s.88(3) ICAC Act and eight offences under s.87 ICAC Act (false evidence).
Status	Matters in court.

Name	Tony Mourched
Offences recommended for DPP consideration	s.249B Crimes Act (corrupt rewards) and s.178BB Crimes Act (obtain benefit by deception).
DPP advice	On 5 March 2009 DPP advised sufficient admissible evidence to proceed with two offences under s.178BB Crimes Act.
Status	Matters in court.

Name	Benjamin Marcos
Offences recommended for DPP consideration	s.88(3) ICAC Act (fabrication of a document).
DPP advice	On 5 March 2009 DPP advised sufficient admissible evidence to proceed with two offences under s.88(3) ICAC Act and two offences under s.87 ICAC Act.
Status	Matters in court.

Name	Sami Mikhail
Offences recommended for DPP consideration	s.249B Crimes Act (corrupt rewards).
DPP advice	On 5 March 2009 DPP recommended against prosecution.
Status	ICAC accepted DPP advice. Matter finalised.

### Investigation into corrupt conduct associated with the regulation of brothels in Parramatta (Operation Pelion) (August 2007)

Name	Wade Fryar
Offences recommended for DPP consideration	s.249B Crimes Act (corrupt rewards) and s.87 ICAC Act (give false evidence).
DPP advice	On 18 November 2008 DPP advised sufficient admissible evidence to proceed with 20 offences under s.249B Crimes Act and two offences under s.87 ICAC Act.
Status	Matters in court.
Name	Yixin Huang
Offences recommended for DPP consideration	s.249B Crimes Act (corrupt rewards).
DPP advice	On 18 November 2008 DPP advised sufficient admissible evidence to proceed with an offence under s.249B Crimes Act.
Status	Unable to be located. Arrest warrant issued April 2009.

Recommendations were also made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of nine other named individuals for various criminal offences. On 20 April 2009 the DPP recommended against prosecution of these individuals. The ICAC has accepted the DPP's advice.

### Investigation into corrupt issuing of driver licences (Operation Sirona) (September 2007)

Name	Paul McPherson
Offences recommended for DPP consideration	s.249B Crimes Act (corrupt reward), s.249C Crimes Act (use false document), s.300(1) Crimes Act (make and use false instrument), s.178BA Crimes Act (obtain benefit by deception), misconduct in public office and defrauding or conspiring to defraud a public authority or public official.
DPP advice	On 16 March 2009 DPP advised sufficient admissible evidence to proceed with 11 offences of misconduct in public office, two offences under s.249B Crimes Act, eight offences under s.300(1) Crimes Act, five offences under s.249C Crimes Act and one offence under s.80 ICAC Act (make false statement).
Status	Matters in court.
Name	Komate Jaturawong
Offences recommended for DPP consideration	s.249F Crimes Act (procure corrupt reward) and conspiracy to defraud a public authority.
DPP advice	On 16 March 2009 DPP advised sufficient admissible evidence to proceed with offence of accessory to misconduct in public office and conspiracy to commit misconduct in public office.
Status	Matters in court.
Name	Victor Phomsavanh
Offences recommended for DPP consideration	s.249B Crimes Act (corrupt reward) and conspiracy to defraud a public authority.
DPP advice	On 16 March 2009 DPP advised sufficient admissible evidence to proceed with offence of conspiracy to commit misconduct in public office and one offence under s.87 ICAC Act.
Status	Unable to be located.

### **Investigation into allegations of bribery relating to Wollongong City Council (Operation Berna) (December 2007)**

A recommendation was made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of one named individual for various criminal offences. A brief of evidence was provided to the DPP on 30 October 2008. The ICAC is awaiting advice from the DPP.

### **Investigation into corrupt conduct of an officer at the Department of Housing's Miller office and other persons (Operation Greenway) (January 2008)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of five named individuals for various criminal offences. One of these persons has since died. Briefs of evidence were provided to the DPP on 1 October 2008. The DPP raised requisitions with respect to two matters in February 2009, which were finalised by the ICAC in June 2009. The ICAC is awaiting advice from the DPP.

### **Investigation into bribery and fraud at RailCorp (Operation Monto) (August, September & November 2008)**

The ICAC published seven investigation reports in this matter between August and November 2008 in which recommendations were made that consideration be given to obtaining the advice of the DPP with respect to the prosecution of 33 named individuals for various criminal offences. Briefs of evidence were provided to the DPP on 14 October 2008 (five persons), 31 October 2008 (three persons), 22 April 2009 (4 persons) and 23 April 2009 (one person). Briefs for the remaining 20 persons are being finalised.

The DPP raised requisitions with respect to three persons on 12 March 2009. The ICAC is in the process of answering those requisitions.

The DPP raised requisitions with respect to three other persons on 28 May 2009. The ICAC responded to those on 16 June 2009. The ICAC is awaiting advice from the DPP on what prosecutions to commence.

### **Investigation into corruption allegations affecting Wollongong City Council (Operation Atlas) (October 2008)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of 11 named individuals for various criminal offences. Briefs of evidence were provided to the DPP on 31 March 2009 (three persons), 7 April 2009 (one person), and 29 April 2009 (one person). All remaining briefs will be provided in July 2009.

The ICAC is awaiting advice from the DPP on what prosecutions to commence.

### **Investigation into tendering and payments in relation to NSW Fire Brigades capital works projects (Operation Mirna) (December 2008)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of five named individuals for various criminal offences. Briefs of evidence for all matters were provided to the DPP on 8 January 2009. The ICAC is awaiting advice from the DPP on what prosecutions to commence.

### **Investigation into an attempt to obtain entry to a selective public high school through payment of money (Operation Bellin) (February 2009)**

Name	Qinghua Pei
Offences recommended for DPP consideration	s.249B Crimes Act (offer corrupt reward).
DPP advice	On 22 May 2009 DPP advised sufficient admissible evidence to proceed with an offence under s.249B Crimes Act.
Status	Matter in court.

Name	Xiaodong Lu
Offences recommended for DPP consideration	s.249B Crimes Act (offer corrupt reward).
DPP advice	On 22 May 2009 DPP advised sufficient admissible evidence to proceed with an offence under s.249B Crimes Act.
Status	Matter in court.

#### **Investigation into attempts to improperly influence a Ku-ring-gai Council officer (Operation Capella) (February 2009)**

A recommendation was made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of one named individual for two offences under s.249B of the Crimes Act (offer corrupt reward). A brief of evidence was provided to the DPP on 10 March 2009. The DPP sought further information on 8 May 2009 to which the ICAC will finalise its response in early July 2009.

#### **Investigation into attempts to improperly influence Warringah Council officers (Operation Bauer) (June 2009)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of two named individuals for various criminal offences. Briefs will be provided to the DPP in early July 2009.

#### **Table 45: Progress of disciplinary matters in 2008–09**

#### **Investigation into the cover-up of an assault on an inmate at Parramatta Correctional Centre (Operation Inca) (June 2006)**

Name	Jeffrey Strange
ICAC recommendation	Consideration of disciplinary action under Part 2.7 of <i>Public Sector Employment and Management Act 2002</i> for engaging in misconduct.
Status	Dismissed 23 January 2009. Appealed to Industrial Relations Commission. On 27 May 2009 consent orders made whereby Mr Strange was reinstated in employment on condition that he went on leave immediately and made an application for medical retirement as soon as possible.



## Appendix 4 – Implementation of corruption prevention recommendations

Where the Commission makes corruption prevention recommendations to an agency in an investigation report, the agency is asked to report to the Commission on the implementation of these recommendations.

The Commission requests that the agency provide a plan for implementing the recommendations within three months, a progress report on implementation within 12 months and a final report on implementation within 24 months of the date the investigation report is made public.

Tables 46 and 47 show the information received from agencies in 2008–09, including the number and percentage of recommendations that agencies report having implemented within 12 months and 24 months respectively.

Final reports received from agencies in 2008–09 indicate that agencies had fully implemented 84% of recommendations within 24 months.

**Table 46: 12-month (progress) reports received in 2008–09**

Inquiry	Agencies	Number of recommendations	Progress report received	Not implemented	Not agreed	Partially implemented	Fully implemented	% partially implemented	% fully implemented
Greenway	Housing NSW	18	Feb 2009	7	0	9	2	50%	11%
Torrens	Bankstown Council; Strathfield Council	8	Feb 2009	0	0	2	6	25%	75%
Sirona	RTA	22	Nov 2008	0	0	10	12	45%	55%
Pelion	Parramatta Council; DLG	13	Dec 2008	0	0	7	6	54%	46%
Persis	RailCorp	27	Oct 2008	1	1	4	21	15%	78%
Cadmus	DCS	24	July 2008	0	0	9	15	38%	63%
<b>Totals</b>		<b>112</b>		<b>8</b>	<b>1</b>	<b>41</b>	<b>62</b>	<b>37%</b>	<b>55%</b>

**Table 47: 24-month (final) reports received in 2008–09**

Inquiry	Agencies	Number of recommendations	Final report received	Not implemented	Not agreed	Partially implemented	Fully implemented	% Partially implemented	% Fully implemented
Bligh	DET; Minister for Education; Board of Studies	20	Mar 2009	0	0	0	20	0%	100%
Quilla	Railcorp; RTA	30	Feb 2009	0	2	2	26	7%	87%
Aztec	Housing NSW	4	Nov 2008	0	0	1	3	25%	75%
Cadmus	DCS	24	Jun 2009	0	0	1	23	4%	96%
Inca	DCS	16	Oct 2008	0	3	2	11	13%	69%
Hunter	Attorney General's Department	12	Aug 2008	0	2	4	6	33%	50%
<b>Totals</b>		<b>106</b>		<b>0</b>	<b>7</b>	<b>10</b>	<b>89</b>	<b>9%</b>	<b>84%</b>

## Appendix 5 – The ICAC and litigation

The Independent Commission Against Corruption has been involved in four matters that have been the subject of litigation during the reporting year.

### Case 1 (Supreme Court and Court of Appeal)

In June 2005 the Commission received a request made under the provisions of the *Freedom of Information Act 1989* (the FOI Act) for access to a report made to its then Operations Review Committee (the ORC report).

The FOI Act provides that the Independent Commission Against Corruption is exempt from the provisions of the FOI Act in relation to, inter alia, its complaint handling and investigative functions. The ORC report clearly related to these functions. In these circumstances the request was denied.

In August 2005 the applicant brought proceedings in the Administrative Decisions Tribunal (ADT) seeking a review of the Commission's decision not to grant access to the ORC report.

On 20 January 2006 the ADT ruled that, as the Commission is exempt from the provisions of the FOI Act in relation to, inter alia, its complaint handling and investigative functions, the ADT had no jurisdiction to hear or determine the application.

The applicant subsequently appealed this ruling to the ADT Appeal Panel.

On 16 April 2006 the ADT Appeal Panel held that the ADT had jurisdiction to review a determination by the Commission not to give access to the ORC report.

The Commission appealed to the Supreme Court.

The appeal was heard on 19 February 2007. Judgement was given on 2 March 2007 in favour of the Commission. The judgement set aside the orders made by the ADT Appeal Panel and restored the orders made on 20 January 2006.

In November 2007, after considering submissions from the defendant, the Supreme Court granted the Commission an order requiring the defendant to pay the Commission's costs of the Supreme Court proceedings.

The defendant sought leave from the Court of Appeal to appeal the Supreme Court decision. The application was heard on 3 November 2008. The Court of Appeal dismissed the application and awarded costs to the Commission.

### Case 2 (Administrative Decisions Tribunal)

In July 2006 the Commission received a request made under the provisions of the FOI Act for access to a report made to its then Operations Review Committee (the ORC report). The request was denied on the basis that the Independent Commission Against Corruption is exempt from the provisions of the FOI Act in relation to, inter alia, its complaint-handling and investigative functions. The ORC report clearly related to these functions.

In March 2008 the applicant applied to the ADT seeking a review of the Commission's decision to not grant access to the ORC report.

In November 2008 the ADT found that, as the ORC report came into existence for the purpose of the Commission's corruption prevention, complaint handling, investigative or reporting functions, the Commission was exempt from the operation of the FOI Act and that accordingly the ADT had no jurisdiction to hear and determine the application. The application was dismissed.

### Case 3 (Supreme Court)

In December 2008 proceedings were commenced against the Commission seeking judicial review of the Commission's decision not to investigate the plaintiff's complaints of alleged corrupt conduct. The plaintiff had made allegations of corruption to the Commission in 2004 and 2008. Both sets of allegations concerned the same matter.

The Commission filed a notice of motion seeking to have the proceedings struck out or dismissed.

The Court found that there is a broad discretion conferred on the Commission in deciding whether or not to investigate a matter. The Court was of the opinion that there was no basis in the present matter for any express or implied assertion that the Commission in any way breached any duty to consider whether or not to investigate the complaints. The Court dismissed the proceedings.

### Case 4 (Supreme Court)

In January 2009 proceedings were commenced in the Supreme Court against a number of parties including the Commission. The matter concerned the decision by the NSW Government to declare vacant all Wollongong City Council civic offices, the appointment of an administrator to that council and the decision to hold fresh elections in September 2012.

The plaintiff subsequently indicated an intention to discontinue the proceedings. The Commission consented to the proceedings being dismissed.

## Appendix 6 – Freedom of information statement of affairs

### Structure and functions of the ICAC

The Commission's organisational structure is shown in Appendix 11.

The Commission's functions are set out in sections 13 and 14 of the ICAC Act. Its main functions are to investigate and expose corruption affecting the NSW public sector, prevent corruption and educate the public about corruption issues. These functions are described comprehensively in the body of this Annual Report.

### Effect of functions on members of the public

The Commission does not provide services directly to members of the public.

Members of the public may be involved in ICAC investigations of allegations of corrupt conduct. As such they may be subject to the exercise of statutory powers by the Commission. These include power to:

- require production of documents or other things (section 22 ICAC Act)
- require the giving of evidence at a compulsory examination or public inquiry (sections 30 and 31 ICAC Act)
- obtain and execute a search warrant (section 40 ICAC Act)
- obtain a warrant to use a surveillance device (section 19 ICAC Act)
- obtain a warrant to intercept telecommunications
- conduct controlled operations
- make reports on investigations containing findings against individuals, including findings that named persons have engaged in corrupt conduct, and recommendations relating to consideration being given to prosecution for specified criminal offences.

### Arrangements for public participation in ICAC policy development

The Commission does not directly involve members of the public in policy formulation.

### Nature of documents held by the ICAC

The Commission's administrative, research and education roles are covered by the Freedom of Information Act 1989 (FOI Act), but its corruption prevention, complaints-handling, investigative and report functions are exempt. The categories of ICAC documents covered by the FOI Act include:

- research reports
- corporate documents such as the Commission's Strategic Plan 2008–12 and Code of Conduct
- administrative policy documents, such as personnel policies
- general administration documents, such as accounts and staff records.

In addition, the Commission publishes investigation reports, and corruption prevention, education and research material, which is available to the public. All publicly available publications are available on the Commission's website: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

### Access arrangements

The Commission is committed to public awareness and involvement in its activities. General enquiries – either by post, telephone, email or visit – are welcome.

Arrangements can be made to obtain or inspect copies of documents available under the FOI Act by contacting the Solicitor to the Commission, who is the Commission's FOI officer. Requests made under the FOI Act for access to documents held by the Commission should be accompanied by a \$30 application fee. People wishing to be considered for a reduction in fees should set out reasons in their applications. Those holding a current health care card are eligible for a 50% reduction.

Contact details for the Commission are shown at the front of this Annual Report.

## Appendix 7 – Freedom of information requests

### Section A: Numbers of new FOI requests

Information about the numbers of new FOI requests received in 2008–09, those processed, and those incomplete from the previous period.

FOI requests	Personal	Other	Total
A1 New (including transferred in)	0	5	5
A2 Brought forward	0	0	0
A3 Total to be processed	0	5	5
A4 Completed	0	5	5
A5 Transferred out	0	0	0
A6 Withdrawn	0	0	0
A7 Total processed	0	5	5
A8 Unfinished (carried forward)	0	0	0

### Section B: What happened to completed requests?

Completed requests are those on line A4 above.

Result of FOI request	Personal	Other
B1 Granted in full	0	0
B2 Granted in part	0	0
B3 Refused	0	5
B4 Deferred	0	0

### Section C: Ministerial certificates

The number of certificates issued during the period.

C1 Ministerial certificates issued	0
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### Section D: Formal consultations

The number of requests requiring consultations (issued) and total number of formal consultations for 2008–09.

	Issued	Total
D1 Number of requests requiring formal consultation(s)	0	0

### Section E: Amendment of personal records – the number of requests for amendment processed during 2008–09

Result of amendment request	Total
E1 Result of amendment – agreed	0
E2 Result of amendment – refused	0
E3 Total	0

### Section F: Notation of personal records

The number of requests for notation processed during 2008–09.

F3 Number of requests for notation	0
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### Section G: FOI requests granted in part or refused

The basis of disallowing access and the number of times each reason is cited in relation to completed requests which were granted in part or refused.

Basis of disallowing or restricting access	Personal	Other
G1 Section 19 (application incomplete, wrongly directed)	0	0
G2 Section 22 (deposit not paid)	0	0
G3 Section 25(1)(a1) (diversion of resources)	0	0
G4 Section 25(1)(a) (exempt)	0	5
G5 Section 25(1)(b), (c), (d) (otherwise available)	0	0
G6 Section 28(1)(b) (documents not held)	0	0
G7 Section 24(2) – (deemed refused, over 21 days)	0	0
G8 Section 31(4) (released to medical practitioner)	0	0
G9 Totals	0	5

## Section H: Costs and fees of requests processed during 2008–09

	Assessed costs	FOI fees received
H1 All completed requests	\$0	\$0

## Section I: Discounts allowed

The number of FOI requests processed during 2008–09 where discounts were allowed.

Type of discount allowed	Personal	Other
I1 Public interest	0	5
I2 Financial hardship – pensioner/child	0	0
I3 Financial hardship – non-profit organisation	0	0
I4 Totals	0	5
I5 Significant correction of personal records	0	0

## Section J: Days to process

The number of completed requests (A4) by calendar days (elapsed time) taken to process.

Elapsed time	Personal	Other
J1 0–21 days	0	5
J2 22–35 days	0	0
J3 Over 35 days	0	0
J4 Totals	0	5

## Section K: Processing time

The number of completed requests (A4) by hours taken to process.

Processing hours	Personal	Other
K1 0–10 hrs	0	5
K2 11–20 hrs	0	0
K3 21–40 hrs	0	0
K4 Over 40 hrs	0	0
K5 Totals	0	5

## Section L: Reviews and appeals

The number finalised during the period.

L1 Number of internal reviews finalised	0
L2 Number of Ombudsman reviews finalised	0
L3 Number of District Court appeals finalised	0

Details of internal review results – in relation to internal reviews finalised during the period.

Grounds internal review requested	Personal		Other	
	Upheld	Varied	Upheld	Varied
L4 Access refused	0	0	0	0
L5 Deferred	0	0	0	0
L6 Exempt matter	0	0	0	0
L7 Unreasonable charges	0	0	0	0
L8 Charge unreasonably incurred	0	0	0	0
L9 Amendment refused	0	0	0	0
L10 Totals	0	0	0	0

## Comparison with previous year

In 2007–08 the Commission received three FOI requests relating to other matters. All these requests were dealt with in that period.

## Impact on the ICAC

The impact on the Commission of handling these requests was minimal.

## Appendix 8 – Participation in significant committees

### AUSTRAC client liaison meetings

Participating ICAC staff member: Raymond Kwan, Special Financial Investigator

Australian Transaction Reports and Analysis Centre (AUSTRAC) clients liaise with the financial transactions tracking agency on a half-yearly basis. Meetings which are organised by AUSTRAC are attended by representatives from the ICAC and other federal and state agencies to discuss matters in relation to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cwlth).

### Australian Police Professional Standards Council – Project 11, Surveillance

Participating ICAC staff member: Surveillance Team Leader

This project group was formed to produce and formalise professional qualifications, standards and best practice across all jurisdictions in the area of surveillance.

### Communications Security and Enforcement Roundtable

Participating ICAC staff member: David Casserly, Chief Investigator, Surveillance and Technical Unit

This committee meets quarterly and includes representatives of law enforcement agencies, the communications industry, the Commonwealth Department of Broadband, Communications and the Digital Economy, and the Attorney General's Department. The Australian Communications and Media Authority seeks input from the committee to inform their administration of Parts 13–15 of the *Telecommunications Act 1997*. The committee also provides a forum for consultation between the communications industry and law enforcement and national security agencies.

### Interagency Technical Committee

Participating ICAC staff member: Paul Empson, Senior Technical Operative

This is a subcommittee of the annual Law Enforcement Telecommunications Interception Conference. The committee meets quarterly to discuss issues relating to the delivery of material from telecommunications carriers and to share solutions for overcoming technical problems. Representatives of the telecommunications carriers also attend and provide information and research results on industry initiatives and solutions.

### Interception Consultative Committee

Participating ICAC staff member: Paul Empson, Senior Technical Operative

This committee is made up of representatives from law enforcement and investigative agencies. It deals with legal, policy and technical issues relating to the administration of interceptions. The ICAC is also represented on subcommittees and provides technical advice to the committee.

### Interdepartmental Committee for Department of Corrective Services

Participating ICAC staff member: Steve Osborne, Chief Investigator

This committee meets monthly and includes representatives from state and federal law enforcement agencies, including the Police Integrity Commission and the ICAC. The committee oversees and makes decisions about the department's custodial witness-protection program.

### Joint Initiatives Group

Participating ICAC staff members: Jacqueline Fredman, Manager, Assessments; Paul Grech, Deputy Manager, Assessments.

This group meets bi-monthly and is a network of state and federal complaint-handling bodies. Members share information and resources about complaint-handling and alternative dispute resolution issues as well as arranging occasional seminars on complaint-handling matters.

### Joint Outreach Initiatives Network

Participating ICAC staff member: Yvonne Miles, Manager, Education and Training

This network comprising state and federal complaint handling agencies meets bi-monthly to share ideas and information about each other's outreach activities. Where appropriate, joint initiatives are planned.

### **Local Government Liaison Group**

Participating ICAC staff members: Jacqueline Fredman, Manager, Assessments; Paul Grech, Deputy Manager, Assessments; Lewis Rangott, Acting Principal Officer, Local Government and Planning

This group meets quarterly and brings together representatives from the Office of the NSW Ombudsman, the Department of Local Government and the ICAC to discuss common initiatives, integrity and better practice in NSW local government.

### **NSW Corruption Prevention Network**

Participating ICAC staff member: Yvonne Miles, Manager Education and Training

This is a network of public sector staff who work to promote corruption prevention strategies through corruption prevention forums, and it encourages formal and informal networks of practitioners.

### **NSW Digital Evidence Group**

Participating ICAC staff member: Clinton Towers, Special Investigator, Forensics

This group meets quarterly and brings together representatives from law enforcement agencies to discuss issues relating to computer forensics and the acquisition of digital evidence.

### **Protected Disclosures Act Implementation Steering Committee**

Participating ICAC staff members: Theresa Hamilton, Deputy Commissioner; and Robert Waldersee, Executive Director, Corruption Prevention, Education and Research

This committee did not meet in 2008–09.

### **Special Networks Committee**

Participating ICAC staff member: Paul Empson, Senior Technical Operative

This committee includes representatives of intercepting agencies and is the discussion forum for telecommunications interception capability projects and related contractual issues. It meets quarterly before the Interception Consultative Committee and sends its minutes to this committee.



## Appendix 9 – Training, presentations and delegation visits

**Table 48: Training engagements in 2008–09**

Date	Trainer	Workshop/session	Location
<b>WORKSHOP/SESSION BY AGENCY REQUEST</b>			
<b>Department of Ageing, Disability &amp; Home Care</b>			
7-Aug-08	Margaret Ludlow & Vicki Klum	Corruption Prevention for Managers	Coffs Harbour
9-Oct-08	Margaret Ludlow & Deirdre Cooper	Corruption Prevention for Managers	Sydney
23-Oct-08	Adam Shapiro & Vicki Klum	Corruption Prevention for Managers	Sydney
20-Nov-08	Adam Shapiro & Vicki Klum	Corruption Prevention for Managers	Coniston
29-May-09	Adam Shapiro	Corruption Prevention for Managers	Sydney
9-Jun-09	Adam Shapiro	Corruption Prevention for Managers	Stockton
<b>Department of Commerce</b>			
5-Nov-08	Vicki Klum & Margaret Ludlow	Corruption Prevention for Managers	Sydney
12-Nov-08	Adam Shapiro & Benjamin Marx	Corruption Prevention for Managers	Sydney
11-Dec-08	Adam Shapiro & Lewis Rangott	Corruption Prevention in Direct Negotiations	Sydney
28-Apr-09	Margaret Ludlow	Corruption Prevention for Managers	Sydney
<b>Department of Commerce – Procurement Certification Training Program</b>			
2-Jul-08	Lewis Rangott	Probity in Procurement	Sydney
3-Sep-08	Margaret Ludlow & Adam Shapiro	Probity in Procurement	Sydney
14-Oct-08	Adam Shapiro	Probity in Procurement	Sydney
5-Nov-08	Adam Shapiro	Probity in Procurement	Sydney
1-Dec-08	Adam Shapiro	Probity in Procurement	Sydney
24-Feb-09	Adam Shapiro	Probity in Procurement	Sydney
23-Mar-09	Adam Shapiro	Probity in Procurement	Sydney
28-Apr-09	Adam Shapiro	Probity in Procurement	Sydney
17-Jun-09	Margaret Ludlow	Probity in Procurement	Sydney
<b>Department of Community Services</b>			
31-Jul-08	Margaret Ludlow	Probity in the Regulatory Role – Session 1	Sydney
31-Jul-08	Margaret Ludlow	Probity in the Regulatory Role – Session 2	Sydney
<b>Department of Environment &amp; Climate Change</b>			
2-Jun-09	Margaret Ludlow	Corruption Prevention for Managers	Hurstville
<b>Department of Primary Industries</b>			
29-Apr-09	Jay Lawrence & Steve Osborne	Fact-finder	Cronulla
<b>Goulburn Mulwaree, Upper Lachlan, Wingecarribee, Tumut, Snowy River Shire and Yass Valley Councils</b>			
8-Jul-08	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	Goulburn
22-Jul-08	Margaret Ludlow & Lewis Rangott	Corruption Prevention for Managers	Goulburn
30-Jul-08	Steve Osborne & Jay Lawrence	Fact-finder	Goulburn

Date	Trainer	Workshop/session	Location
31-Jul-08	Steve Osborne & Jay Lawrence	Fact-finder	Goulburn
<b>Great Lakes Council</b>			
12-Feb-09	Adam Shapiro	Corruption Prevention for Managers	Forster
<b>Health Infrastructure, NSW Department of Health</b>			
25-Jun-09	Margaret Ludlow & Michael Nest	Corruption Prevention in Procurement	North Sydney
<b>Hornsby Shire Council</b>			
26-Mar-09	Adam Shapiro	Corruption Prevention for Managers	Hornsby
26-Mar-09	Adam Shapiro	Corruption Prevention for Managers	Hornsby
<b>Liverpool City Council</b>			
14-May-09	Margaret Ludlow	Corruption Prevention for Managers	Liverpool
<b>New South Wales Fire Brigades</b>			
7-May-09	Adam Shapiro & Deirdre Cooper	Corruption Prevention for Managers	Greenacre
8-May-09	Adam Shapiro & Deirdre Cooper	Corruption Prevention for Managers	Greenacre
<b>Parramatta City Council</b>			
5-Dec-08	Adam Shapiro	Corruption Prevention for Managers - Workshop	Parramatta
5-Dec-08	Margaret Ludlow	Corruption Prevention for Managers - Workshop	Parramatta
4-Feb-09	Margaret Ludlow	Corruption Prevention for Managers	Parramatta
11-Feb-09	Margaret Ludlow	Corruption Prevention in the Regulatory Role	Parramatta
26-Feb-09	Margaret Ludlow	Corruption Prevention in the Regulatory Role	Parramatta
26-May-09	Margaret Ludlow	Corruption Prevention in the Regulatory Role	Parramatta
<b>Parramatta Stadium Trust</b>			
19-Feb-09	Adam Shapiro	Corruption Prevention for Managers	Parramatta
<b>Rail Infrastructure Corporation</b>			
3-Mar-09	Adam Shapiro & Michael Nest	Corruption Prevention for Managers	Newcastle
<b>Randwick City Council</b>			
3-Dec-08	Margaret Ludlow & Margaret Sutherland	Corruption Prevention for Managers	Randwick
11-Mar-09	Margaret Ludlow	Corruption Prevention for Managers	Randwick
<b>Roads and Traffic Authority</b>			
15-Sep-08	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	Sydney
18-Sep-08	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	Sydney
24-Sep-08	Margaret Ludlow & Deirdre Cooper	Corruption Prevention for Managers	Newcastle
10-Dec-08	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	Sydney

Date	Trainer	Workshop/session	Location
5-Mar-09	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	North Sydney
19-Mar-09	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	North Sydney
25-Mar-09	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	North Sydney
18-Jun-09	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	Rockdale

#### Shoalhaven City Council

2-Jun-09	Adam Shapiro	Corruption Prevention for Managers	Nowra
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#### State Property Authority

23-Apr-09	Adam Shapiro	Corruption Prevention for Managers	Sydney
14-May-09	Adam Shapiro	Corruption Prevention for Managers	Sydney

#### Sydney Ferries

21-Aug-08	Margaret Ludlow & Alexandra Mills	Corruption Prevention for Managers	Sydney
28-Aug-08	Margaret Ludlow & Benjamin Marx	Corruption Prevention for Managers	Sydney

#### TAFE NSW – Illawarra Institute

23-Jun-09	Adam Shapiro	Corruption Prevention for Managers	Shellharbour
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#### TAFE NSW – Riverina Institute

10-Oct-08	Jay Lawrence & Steve Osborne	Fact-finder	Wagga Wagga
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#### TransGrid

30-Jul-08	Margaret Ludlow & Lewis Rangott	Corruption Prevention for Managers	Sydney
4-Sep-08	Margaret Ludlow & Michael Nest	Corruption Prevention for Managers	Horsley Park
14-Oct-08	Margaret Ludlow & Michael Nest	Corruption Prevention for Managers	Sydney

#### Waverley Council

11-Jun-09	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	Waverley
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#### WIN Stadium and Entertainment Centre Trust

12-Aug-08	Margaret Ludlow & Lewis Rangott	Corruption Prevention for Managers	Wollongong
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#### Wingecarribee Shire Council

11-Jun-09	Jay Lawrence & Steve Osborne	Fact-finder	Moss Vale
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#### Wollongong City Council

24-Oct-08	Lewis Rangott & Margaret Ludlow	Corruption Prevention for Managers	Wollongong
31-Oct-08	Lewis Rangott, Giselle Tocher & Adam Shapiro	Corruption Prevention for Managers	Wollongong
6-Nov-08	Lewis Rangott, Giselle Tocher & Adam Shapiro	Corruption Prevention for Managers	Wollongong

Date	Trainer	Workshop/session	Location
<b>ICAC-INITIATED WORKSHOPS</b>			

**ICAC Calendar Workshops for NSW Public Sector**

28-Oct-08	Margaret Ludlow & Alexandra Mills	Corruption Prevention for Managers	Sydney
26-Nov-08	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	Sydney
24-Mar-09	Jay Lawrence & Steve Osborne	Fact-finder	Sydney
31-Mar-09	Adam Shapiro	Corruption Prevention for Managers	Sydney
2-Apr-09	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	Sydney
7-Apr-09	Margaret Ludlow	Corruption Prevention for Managers	Hurstville

**7th National Investigations Symposium**

5-Nov-08	Steve Osborne & Jay Lawrence	Fact-finder	Manly
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**Greater Western Sydney Outreach Program**

18-Nov-08	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	Rooty Hill
19-Nov-08	Jay Lawrence & Steve Osborne	Fact-finder: Local Government	Rooty Hill
19-Nov-08	Deirdre Cooper & Benjamin Marx	Corruption prevention for Managers: State Government	Rooty Hill
20-Nov-08	Jay Lawrence & Steve Osborne	Fact-finder: State government	Rooty Hill
20-Nov-08	Giselle Tocher & Margaret Sutherland	Corruption Prevention for Managers: Local Government Workshop	Rooty Hill

**South Coast Outreach Program**

19-May-09	Margaret Ludlow & Chris Wheeler (Deputy Ombudsman)	Better Management of Protected Disclosures	Merimbula
19-May-09	Bill Kokkaris & Adam Shapiro	Bega High School Workshop: Legal Studies	Bega
19-May-09	Bill Kokkaris & Adam Shapiro	Narooma High School Workshop: Legal Studies	Narooma
20-May-09	Jay Lawrence & Steve Osborne	Fact Finder	Merimbula
20-May-09	Adam Shapiro & Michael Nest	Corruption Prevention for Managers	Merimbula

**Australian National University, Crawford School of Economics & Government – Corruption & Anti-Corruption Course**

4-Nov-08	Robert Waldersee	Organisational Design for Anti-Corruption	Canberra
5-Nov-08	Mick Symons	The Use of Coercive Powers	Canberra
7-Nov-08	Alexandra Mills	Anti-Corruption Agencies and the ICAC Model	Canberra
10-Nov-08	Jacqueline Fredman	Receiving and Assessing Allegations	Sydney
10-Nov-08	Executive Panel: Roy Waldon, Robert Waldersee & Steve Osborne	Role and Functions of the ICAC	Sydney
10-Nov-08	Steve Osborne & Jay Lawrence	Investigating Allegations of Corrupt Conduct	Sydney
11-Nov-08	Alexandra Mills & Michael Nest	Preventing Corruption	Sydney
11-Nov-08	Evalynn Mazurski	Researching Corruption	Sydney

12-Nov-08	Bill Kokkaris	Communication and Education about Corruption	Sydney
12-Nov-08	Alexandra Mills, Michael Nest & Lewis Rangott	Implementing Corruption Prevention Policy	Sydney

**Table 49: Speaking engagements in 2008–09**

Date	Organisation	Presenter	Subject	Location
4-Jul-08	University of Western Sydney	Giselle Tocher	Corruption risk and prevention in local government	Parramatta
21-Jul-08	Goulburn Mulwaree Rotary Club	Margaret Ludlow & Lewis Rangott	The ICAC and its role	Goulburn
26-Aug-08	Department of Community Services	Margaret Ludlow	Corruption and corruption risks	Blacktown
26-Aug-08	Community Relations Commission	Bill Kokkaris	Induction training for new interpreters and translators	Sydney
2-Sep-08	Marion City Council	Mick Symons	Trips and traps for councillors	Adelaide
3-Sep-08	Local Government Seminar	Mick Symons	Whistleblowers – How to handle them	Adelaide
2-Oct-08	Department of Commerce	Margaret Ludlow	When things go wrong in tendering	Sydney
21-Oct-08	Parliament NSW	Deirdre Cooper	Introduction to the ICAC and conflicts of interest	Sydney
29-Oct-08	Local Government & Shires Association Conference	Commissioner	Codes of conduct	Broken Hill
6-Nov-08	7th National Investigations Symposium	Clinton Towers	Handling electronic evidence: some dos and don'ts	Manly
6-Nov-08	7th National Investigations Symposium	Tim Fox	Recent ICAC investigations	Manly
6-Nov-08	7th National Investigations Symposium	Mick Symons	Catch me if you can: the use of coercive powers	Manly
9-Nov-08	HK University Executive Program (SAR Program)	Mick Symons	Corruption investigation	Hong Kong
10-Nov-08	HK University Executive Program (SAR Program)	Mick Symons	Corruption Prevention	Hong Kong
11-Nov-08	Hong Kong ICAC	Mick Symons	Catch me if you can: the use of coercive powers	Hong Kong
14-Nov-08	Local Government Managers Association Forum	Commissioner	Codes of conduct, Operations Atlas & Monto overviews	Sydney
18-Nov-08	Greater Western Sydney Outreach Program	Jerrold Cripps QC, Commissioner, ICAC; John Pritchard, Commissioner, Police Integrity Commission; Chris Wheeler, Deputy Ombudsman, NSW Ombudsman	Address at the Community Leaders' Breakfast	Rooty Hill
21-Nov-08	Greater Western Sydney Outreach Program	Bill Kokkaris	Overview of the ICAC	Liverpool Migrant Interagency

Date	Organisation	Presenter	Subject	Location
24-Nov-08	Greater Western Sydney Outreach Program	Bill Kokkaris	Overview of the ICAC	Fairfield Migrant Interagency
26-Nov-08	Greater Western Sydney Outreach Program	Bill Kokkaris	Overview of the ICAC	Holroyd Parramatta Multicultural Network
26-Nov-08	Local Government Procurement Conference	Robert Waldersee	ICAC case studies	Sydney
12-Dec-08	Greater Western Sydney Outreach Program	Bill Kokkaris	Overview of the ICAC	Canterbury Bankstown Migrant Interagency
5-Feb-09	Commonwealth Ombudsman	Mick Symons	What to do with “Off the record communications” requests	Sydney
6-Feb-09	Chief Executives Committee Meeting, Department of Premier & Cabinet	Commissioner	Induction briefing session to CEOs	Sydney
12-Feb-09	NSW Forensic & Investigative Accounting Disciplinary Group	Don McKenzie	The ICAC, its legislation & how accountants can assist the ICAC	Sydney
3-Mar-09	Herbert Geer, Solicitors	Don McKenzie	ANZSOG, its EMPA, me and the ICAC	Sydney
11-Mar-09	Australian Securities & Investments Commission	Tim Fox	An overview of the ICAC’s Investigation Division	Sydney
13-Mar-09	Local Government Internal Ombudsman	Lewis Rangott	Update on ICAC’s local government work	Wollongong
8-Apr-09	Local Government Seminar	Mick Symons	Whistleblowers	Adelaide
9-Apr-09	Greater Western Sydney Outreach Program	Bill Kokkaris	Overview of the ICAC	Auburn Multicultural Interagency
11-May-09	16th Annual Public Sector Fraud & Corruption Conference	Commissioner	Codes of conduct – are they meaningless?	Canberra
13-May-09	Australia & New Zealand School of Government	Alexandra Mills	The problems of sequencing: where to start	Sydney
15-May-09	Department of Commerce	Michael Nest & Lewis Rangott	Direct negotiations	Sydney
19-May-09	South Coast Outreach Program	Theresa Hamilton, Deputy Commissioner, ICAC; John Pritchard, Commissioner, Police Integrity Commission; Chris Wheeler, Deputy Ombudsman, NSW Ombudsman	Address at the Community Leaders’ Breakfast	Merimbula
22-May-09	World Wide Project Management Services Pty Ltd for AusAid	Michael Nest	Introduction to the ICAC	Sydney
22-May-09	Housing NSW	Robert Waldersee	Managing corruption risks associated with the stimulus package	Ashfield
2-Jun-09	LGSA Annual Conference	Commissioner	Codes of conduct	Sydney
29-Jun-09	Telstra	Michael Nest	Lessons from investigation into RailCorp 2008	Sydney

Date	Organisation	Presenter	Subject	Location
<b>ICAC PLANNING TASKFORCE PRESENTATIONS</b>				
1-Oct-08	Rotary Club of Strathfield	Lewis Rangott	Investigation into Wollongong City Council – briefing	Strathfield
14-Nov-08	Southern Councils Group	Lewis Rangott	Investigation into Wollongong City Council – briefing	Shellharbour
17-Nov-08	LGMA Governance Network	Lewis Rangott	Investigation into Wollongong City Council – briefing	Orange
28-Nov-08	Hunter Councils Inc	Lewis Rangott	Investigation into Wollongong City Council – briefing	Maitland
28-Nov-08	Mid North Coast Group of Councils	Giselle Tocher	Investigation into Wollongong City Council – briefing	Coffs Harbour
2-Dec-08	Local Government Internal Ombudsman Network	Andrew Browning	The ICAC's investigation into Wollongong City Council	Sutherland
2-Dec-08	Tweed Shire Council	Robert Waldersee & Lewis Rangott	The ICAC's investigation into Wollongong City Council	Tweed Heads
5-Dec-08	Baulkham Hills Shire Council	Lewis Rangott	Investigation into Wollongong City Council – briefing	Baulkham Hills
10-Dec-08	Kiama Council	Yvonne Miles & Lewis Rangott	Investigation into Wollongong City Council – briefing	Kiama
11-Feb-09	Campbelltown City Council	Lewis Rangott	Investigation into Wollongong Council – briefing	Campbelltown
18-Feb-09	Wingecarribee Shire Council	Lewis Rangott	Investigation into Wollongong City Council – briefing	Moss Vale
20-Feb-09	Port Macquarie-Hastings Council	Giselle Tocher	Investigation into Wollongong City Council – briefing	Port Macquarie
23-Feb-09	Corruption Prevention Network	Lewis Rangott	Lessons from recent ICAC reports	Sydney
2-Mar-09	Sutherland Shire Council	Lewis Rangott	Investigation into Wollongong City Council – briefing	Sutherland
4-Mar-09	Randwick City Council	Lewis Rangott	Investigation into Wollongong City Council – briefing	Randwick
9-Mar-09	Institute of Internal Auditors Conference	Giselle Tocher	Post-Capella, post-Atlas, post-Monto investigations	Sydney
10-Mar-09	The Council of the Municipality of Kiama	Lewis Rangott	Codes of conduct	Kiama
20-Mar-09	PriceWaterhouseCoopers	Robert Waldersee & Lewis Rangott	Lessons from Wollongong	Sydney
23-Mar-09	Newcastle City Council	Lewis Rangott	Lessons from Wollongong	Newcastle



Date	Organisation	Presenter	Subject	Location
24-Mar-09	Gloucester Shire Council	Giselle Tocher	Lessons from Wollongong	Gloucester
7-Apr-09	Ashfield Council	Giselle Tocher	Lessons from Wollongong	Ashfield
8-Apr-09	Hurstville City Council	Lewis Rangott	Investigation into Wollongong City Council – briefing Session 1	Hurstville
8-Apr-09	Hurstville City Council	Lewis Rangott	Investigation into Wollongong City Council – briefing Session 2	Hurstville
28-Apr-09	Cessnock City Council	Giselle Tocher	Investigation into Wollongong City Council – briefing	Cessnock
1-May-09	LGMA NSW Horizon Conference	Lewis Rangott	Investigation into Wollongong City Council – briefing	Hunter Valley
4-May-09	LGMA (NSW Branch) Governance Network	Robert Waldersee	Investigation into Wollongong City Council – briefing	Port Stephens
13-May-09	Sydney City Council	Lewis Rangott	Investigation into Wollongong City Council – briefing	Sydney
19-May-09	South Coast Councils	Lewis Rangott	Investigation into Wollongong City Council – briefing	Merimbula
10-Jun-09	NSW Crime Commission	Lewis Rangott	Investigation into Wollongong City Council – briefing	Sydney
19-Jun-09	Hills Shire Council	Lewis Rangott	Investigation into Wollongong City Council – briefing	Castle Hill

**Table 50: International and out-of-jurisdiction delegations received in 2008–09**

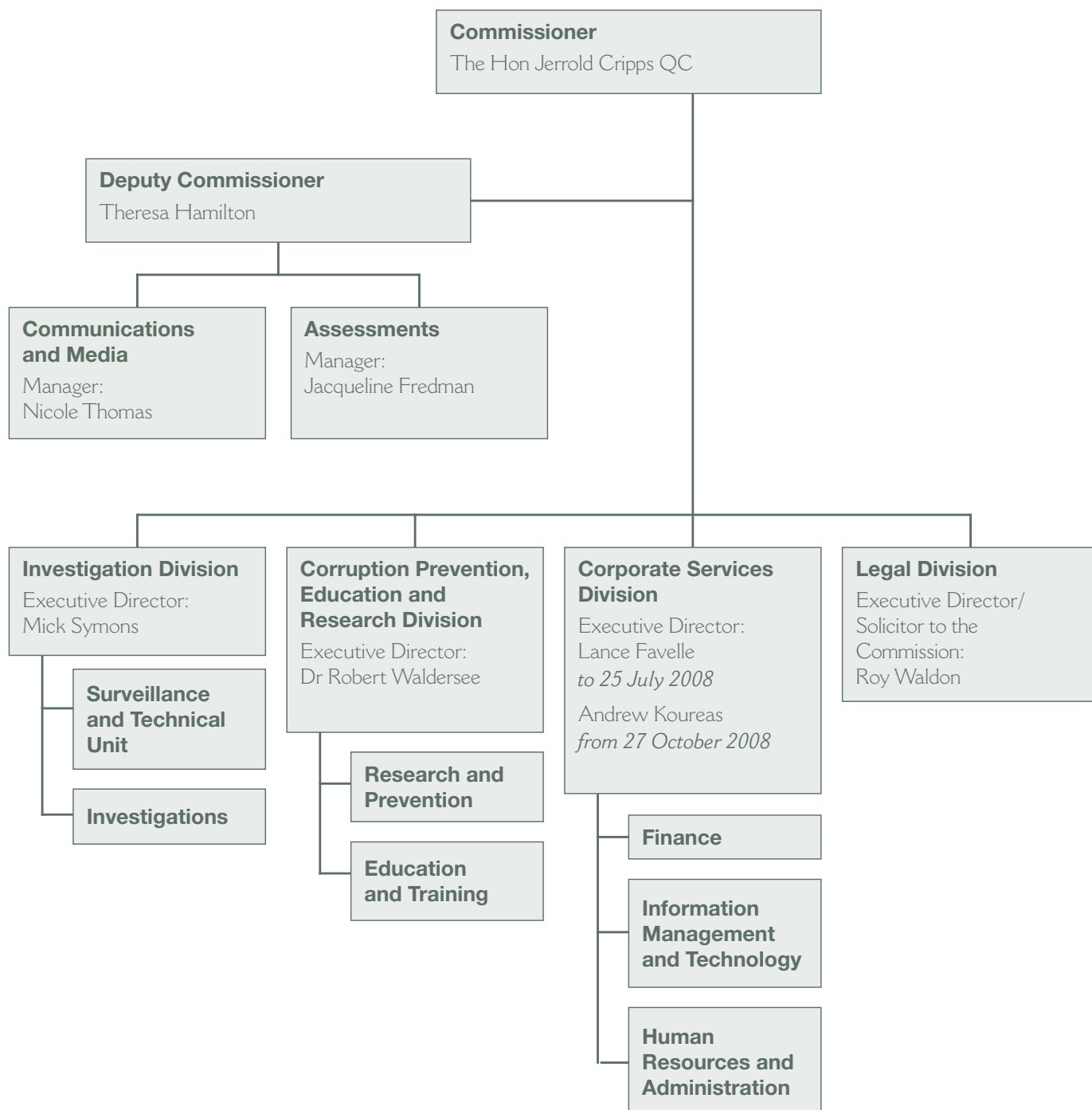
Date	Name of delegation	Purpose of visit	Officers meeting delegation
21-Oct-08	Vietnam Inspectorate Commission	Acquaint participants with the different forms and levels of corruption and implications from a number of perspectives	Mick Symons & Roy Waldon
20-Mar-09	Office of National Counter Corruption Commission, Thailand	ICAC role and functions and human resource management strategies	Bill Kokkaris, Andrew Koureas & Cathy Walsh
04-May-09	Fostering Networks Directorate, Corruption Eradication Commission (KPK), Indonesia	Discuss further cooperation between KPK and the ICAC	Jay Lawrence
16-Jun-09	Dr Hang Chuon Naron, Secretary General of the Cambodian Ministry of Economy & Finance	Role and functions of the ICAC and investigating corruption within the public sector	Mick Symons

## Appendix 10 – Overseas travel

**Table 51: Work-related overseas travel by Commissioner and Commission staff in 2008–09**

Staff member	Date	Countries visited	Purpose	Cost to the ICAC
The Hon Jerrold Cripps QC, Commissioner	11–13 August 2008	Taipei	International Anti-Corruption Conference	nil
Bernadette Dubois, Chief Investigator	3–28 November 2008	Hong Kong	Attend Chief Investigator course conducted by Hong Kong ICAC	\$7,519
Alexandra Mills, Principal Officer Public Sector	3–5 September 2008	Netherlands	Conference of European Group of Public Administration	\$1,156
Mick Symons, Executive Director Investigations	8–12 November 2008	Hong Kong	Lecture at Hong Kong University and presentation to Hong Kong ICAC	\$808

## Appendix 11 - Organisational chart



## Appendix 12 – Chief Executive Officer and Senior Executive Service

### Executive remuneration, Commissioner and Executive Officers Level 5 and above

The conditions of employment of the Commissioner, the Hon Jerrold Cripps QC, are contained in his instrument of appointment, effective on and from 14 November 2004. The ICAC Commissioner's salary is calculated at 160% of the remuneration of a NSW Supreme Court puisne judge. The total annual remuneration package for Mr Cripps is currently \$533,808. No fringe benefits were paid for the relevant reporting period. Mr Cripps' five-year term finishes on 13 November 2009.

Increases to the Commissioner's salary are in line with the determination provided by the Statutory and Other Officers Remuneration Tribunal (SOORT) for puisne judges.

In its annual determination, which was published in the *Government Gazette* of 24 October 2008, SOORT awarded a general increase of 3.9% to the remuneration packages of the Commission's Senior Executive Service equivalent officers, effective from 1 October 2008. The Tribunal considered that 2.5% should be passed on to each officer subject to satisfactory performance and that, in undertaking performance reviews, an agency head could approve up to a further 1.4% increase in circumstances where there had been, in the view of the reviewer, productivity improvements within the agency sufficient to warrant the additional increase.

In line with the NSW Government's recommendations and guidelines, the Commissioner approved the additional 1.4% component of the salary increase for the Commission's SES equivalent officers following the conduct of an additional review of their performance in June 2009.

Theresa Hamilton is the Deputy Commissioner of the ICAC. Ms Hamilton's appointment is for a five-year term and the remuneration package of the Deputy Commissioner's position is equivalent to an SES Level 5 Officer. Ms Hamilton's current total remuneration package is \$263,400.

### Performance of Deputy Commissioner

The Commission is required under annual reporting legislation to report on the performance of any SES officers at Level 5 or above. During the period 2008–09, Ms Hamilton, Deputy Commissioner, was the only ICAC senior officer in this category.

Ms Hamilton commenced her appointment as Deputy Commissioner in January 2007, and the Commissioner has assessed her overall performance as outstanding. She has

successfully met the criteria contained in her performance agreement, including the provision of high-quality and timely operational and strategic advice.

Ms Hamilton acts as the Commission's main point of liaison with its external oversight bodies, namely the ICAC Inspector's Office and the NSW Parliament's Committee on the ICAC. She also liaises at a senior level with the office of the Director of Public Prosecutions about the progress of prosecutions arising from Commission investigations, and with CEOs and other senior executive officers in various government departments and agencies.

As the Commissioner's delegate, she approves the use of the Commission's compulsory powers, and presides at ICAC compulsory examinations and public inquiries as required by the Commissioner.

Ms Hamilton directly supervises the Manager, Assessments and the Manager, Communications and Media.

Ms Hamilton also supports the Commissioner by undertaking a direct supervisory role in respect of the ICAC Executive Directors responsible for:

- investigations
- corruption prevention, education and research
- legal services
- corporate services.

### Executive management

The Commission's Executive Management Team during the period 2008–09 consisted of:

- Jerrold Cripps QC, Commissioner, BA LLB (University of Sydney), LLM (University of Sydney)
- Theresa Hamilton, Deputy Commissioner, LLB (University of Queensland)
- Dr Robert Waldersee, Executive Director, Corruption Prevention, Education and Research, BA (University of Sydney) MA (University of Sydney) MA Clinical Psychology (University of Nebraska), PhD Management (University of Nebraska)
- Lance Favelle, Executive Director, Corporate Services (to 25 July 2008), BCom (UNSW) CPA (ASCPA),
- Andrew Koureas, Executive Director, Corporate Services (from 27 October 2008), BCom, MCom (UNSW), LLB (UTS), CPA,

- Michael Symons, Executive Director, Investigation, LLB with Hons (University of Adelaide), BBus (Marketing) (University of South Australia), Grad Cert Management (Charles Sturt), Grad Dip Legal Practice (University of Adelaide), Grad Dip Fraud Investigation (Charles Sturt), Grad Dip Public Admin (Policing) (Charles Sturt), MBA (University of Adelaide)
- Roy Waldon, Executive Director Legal and Solicitor to the Commission, LLB Hons (University of Tasmania).

**Table 52: Total number of Executive staff in 2008–09 compared to previous years**

Level	2008–09	2007–08	2006–07	2005–06
Commissioner	1	1	1	1
Level 5*	1	1	1	1
Level 3*	1	1	1	1
Level 2*	2	2	2	2
Level 1*	1	1	1	1
<b>Total</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>6</b>

\* ICAC Executive staff employed at the equivalent of this Senior Executive Service level.

**Table 53: Number of female Executive staff at 30 June 2009 compared to previous years**

Year	Number
2008–09	1
2007–08	1
2006–07	2
2005–06	1

## Appendix 13 – Access and equity

The Commission strongly supports and is dedicated to the principles of equal employment opportunity (EEO). A new three-year Equal Employment Opportunity (EEO) Management Plan was developed in November 2008 to ensure the Commission has indicators in place, with appropriate associated strategies, to enable the Commission to realise the aims of its EEO program.

The Commission's Access and Equity Committee assisted in the development of the new plan and continues to play a major role in monitoring and implementing equity practices within the Commission, which includes the review of policies and training associated with EEO.

Awareness of the role and responsibilities of the Commission's Access and Equity Committee was highlighted in the Commission's internal newsletter, *ICAC Matters*, for the information of all staff.

In 2008–09 there were a number of changes to the composition of the Commission's Access and Equity Committee as a result of either a staff member leaving the Commission or due to the leave arrangements of staff. An expression of interest was sought from staff to fill vacancies on the Committee, either on a permanent or temporary basis, during the reporting period. The members of the committee during 2008–09 were:

- Andrew Koureas, Executive Director, Corporate Services (commenced October 2008 and filled the senior management vacancy)
- Virginia Tinson, Human Resources and Administration
- Cathy Walsh, Corporate Services
- Jacqueline Fredman, Assessments (resumed following maternity leave)
- Shannon Field, Assessments (left November 2008)
- Justin Agale, Corruption Prevention, Education and Research
- Bill Kokkaris, Corruption Prevention, Education and Research
- Paul Grech, Assessments (while Jacqueline Fredman was on maternity leave)
- Cindy Fong, Finance (commenced maternity leave June 2009)
- Michele Smith, Executive Unit
- Jay Lawrence, Legal
- Steve Osborne, Investigation.

Justin Agale is the Commission's Aboriginal Corruption Prevention Officer and replaced Shannon Field who was the Commission's Indigenous Assessment and Liaison Officer.

Virginia Tinson, Manager Human Resources and Administration, continued to be the Committee's designated member for planning and reporting on activities previously undertaken by the Spokeswomen's Program, which has now been discontinued by the Department of Premier and Cabinet. In view of this the Committee agreed that the reporting of future activities would be classified as "initiatives for female employees".

During 2008–09 the following outcomes were achieved:

- development of a new three-year Equal Employment Opportunity (EEO) Management Plan
- EEO/diversity training provided to all new staff and EEO/diversity refresher training conducted for identified current staff. All training was conducted by an accredited external consultant familiar with ICAC's policies and procedures relating to EEO and discrimination, harassment and bullying prevention, and grievances. In total 23 staff undertook training during 2008–09.
- attendance of nine staff at a half-day merit selection techniques refresher training course
- attendance of 24 staff at a half-day grievance handler training course for managers and supervisors
- inclusion of information on bullying and harassment, discrimination and work-related grievances in the ICAC's OHS portal to be piloted in August 2009
- inclusion of email etiquette in ICAC's Email Policy [Policy 61]
- sponsorship of six female staff to attend the UNIFEM breakfast as part of the International Women's Day activities.

## The year ahead

In 2009–10 the Commission's focus will be on targeted strategies as outlined in the Commission's 2008–2011 EEO Management Plan. In addition the Commission's Access and Equity Committee will continue to be the forum to address EEO issues as they arise from both staff and management. In particular the following will be addressed:

- refresher training in EEO/diversity for identified staff
- development of a three-year central register of interpreters and translators to provide services to clients of the Commission when required
- pilot the OHS portal to new staff for feedback on information contained on bullying and harassment; discrimination and work-related grievances
- finalisation of the Commission's "Interpreter Policy"
- finalisation of the Commission's "Ensuring access to people on the persistent complainants list" policy.

## Work arrangements

The Commission aims to provide assistance to staff in balancing their personal and work commitments and recognises that flexibility and responsiveness to staff's work, family and/or other responsibilities is fundamental to the Commission's success. The Commission is committed to ensuring that staff meet their responsibilities relating to childcare arrangements, elder care commitments and to address emergency situations where there are unforeseen circumstances.

A number of flexible work arrangements were granted to staff to assist them with balancing work and family commitments. These arrangements were in the form of either working from home on a short-term basis and/or to reduce their full-time work status to temporary part-time. Primarily flexible work arrangements were required to meet childcare and family commitments and to address health issues. In addition, 61 staff took a total of approximately 98 days of family and community service (FACS) leave and 23 staff took a total of approximately 85 days of carer's leave.

## Employee Assistance Program

The Commission is committed to providing a safe, equitable and productive working environment for all staff. The Commission engages the services of an external provider to provide counselling services to staff and their immediate families.

At the time of their induction all new staff are made aware of the Commission's Employee Assistance Program (EAP) together with the related EAP Policy and dedicated EAP intranet site.

The current contract with the Commission's external provider expires September 2009 and will be renegotiated to ensure the needs of staff continue to be accommodated. At the time arrangements will also be made for a presentation to staff by the EAPS provider on their services.

## Strategies to increase Aboriginal and Torres Strait Islander representation

In 2008–09 the Commission reviewed the position description of its Indigenous Assessment and Liaison Officer and transferred the position from the Assessments Section into its Corruption Prevention, Education and Research Division. The position description was revised to incorporate responsibilities more aligned to the corruption prevention work undertaken by the Commission rather than the complaints-handling side of the Commission's business.

Strategies to increase Aboriginal and Torres Strait Islander representation within the Commission's workforce continue to be implemented through the Commission's EEO Management Plan.

## Initiatives for female employees

The Commission continuously strives to ensure that it implements strategies to improve the employment numbers and career development opportunities of its female staff. The intention of these strategies is to identify and remove structural barriers to the employment of women at all levels within the Commission, and ensure that women are given fair access to its services.

The Commission, through its EEO Management Plan and comprehensive policy framework, ensures that it has in place an array of development opportunities and programs specifically targeted to assist its female employees. The Commission also has in place a program which actively sponsors its female staff to attend management development and leadership courses, and conferences. Some of these included:

- Sydney Breakfast hosted by UNIFEM in March 2009 as part of the International Women's Day celebrations – six female staff attended
- Public Sector Management Program coordinated by the Department of Premier and Cabinet to address management training for senior staff, frontline and middle managers. One female staff member was sponsored to attend the Program during the reporting period.
- NSW Executive Development Programs coordinated through the Department of Premier and Cabinet. One female staff member was nominated by the Commission and accepted for enrolment during the reporting period.



The Commission has a skilled and diverse workforce, and promotes the position of its female employees. The Commission maintains a benchmark of 50% of its staff being women; 98% of ICAC female employees earn in excess of \$53,855 per annum while 42% earn in excess of \$88,128 per annum. Please refer to Table 54 below.

### Equal employment opportunity and diversity program

The Commission's Equal Employment Opportunity (EEO) Management Plan, Disability Action Plan and Ethnic Affairs Priority Statement outlines the strategies and actions to be applied by the Commission to assist it in meeting the NSW Government's benchmarks for employment of people from identified EEO groups. The figures in Table 55 and Table 56 (trends in the representation and distribution of EEO groups) reflect the Commission's achievements in meeting

the NSW Government benchmarks and the accompanying distribution index.

Tables 55 and 56 illustrate the percentage and trends of ICAC staff in relation to the various EEO employment groups against the established NSW Government benchmarks. Table 54 (Staff numbers by salary level, 2008–09) and Table 57 (Staff numbers by employment basis, 2008–09) show the gender and EEO target groups of staff by salary level and employment basis, that is, permanent, temporary, full-time or part-time.

**Table 54: Staff numbers by salary level, 2008–09**

Level	Total staff	Respondents	Men	Women	Aboriginal people and Torres Strait Islanders	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring work-related adjustment
< \$36,677		0	0	0	0	0	0	0	0
\$36,677–\$48,172	1	1	1	0	0	0	0	1	1
\$48,173–\$53,854	1	1	0	1	0	0	0	0	0
\$53,855–\$68,147	24	24	6	18	1	8	7	4	0
\$68,148–\$88,127	27	27	12	15	0	10	8	6	1
\$88,128–\$110,160	45	45	26	19	0	12	9	8	2
> \$110,160 (non SES)	15	21	10	5	0	3	1	2	3
> \$110,160 (SES)	6	0	5	1	0	0	1	2	0
<b>Total</b>	<b>119</b>	<b>119</b>	<b>60</b>	<b>59</b>	<b>1</b>	<b>33</b>	<b>26</b>	<b>23</b>	<b>7</b>

**Table 55: Trends in the representation of EEO groups**

EEO group	% of total staff					
	Benchmark or target	2008–09	2007–08	2006–07	2005–06	2004–05
Women	50%	50%	49%	55%	54%	53%
Aboriginal people and Torres Strait Islanders	2%	0.8%	1.6%	0.8%	0%	0%
People whose language first spoken as a child was not English	20%	22%	18%	17%	21%	19%
People with a disability	12%	19%	13%	12%	11%	12%
People with a disability requiring work-related adjustment	7%	5.9%	4.8%	0.8%	1.8%	3.5%

**Table 56: Trends in the distribution of EEO groups**

EEO group	Distribution index					
	Benchmark or target	2008–09	2007–08	2006–07	2005–06	2004–05
Women	100	90	91	91	89	86
Aboriginal people and Torres Strait Islanders	100	n/a	n/a	n/a	n/a	n/a
People whose language first spoken as a child was not English	100	94	95	95	98	97
People with a disability	100	98	n/a	n/a	n/a	n/a
People with a disability requiring work-related adjustment	100	n/a	n/a	n/a	n/a	n/a

**Notes:**

1. Staff numbers are as at 30 June 2009.
2. Excludes casual staff.
3. A Distribution Index of 100 indicates that the centre of the distribution of the EEO group across salary levels is equivalent to that of other staff. Values less than 100 mean that the EEO group tends to be more concentrated at lower salary levels than is the case for other staff. The more pronounced this tendency is, the lower the index will be. In some cases the index may be more than 100, indicating that the EEO group is less concentrated at lower salary levels. The Distribution Index is automatically calculated by the software provided by ODEOPE.
4. The Distribution Index is not calculated where EEO group or non-EEO group numbers are less than 20.

**Table 57: Staff numbers by employment basis, 2008–09**

	Total staff	Respondents	Men	Women	Aboriginal people and Torres Strait Islanders	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring work-related adjustment
Permanent full-time	91	91	51	40	1	27	21	15	5
Permanent part-time	14	14	2	12	0	3	2	3	0
Temporary full-time	7	7	1	6	0	2	2	3	0
Temporary part-time	1	1	1	0	0	0	0	0	0
Contract – SES	6	6	5	1	0	1	1	2	2
Contract – non-SES		0	0	0	0	0	0	0	0
Training positions		0	0	0	0	0	0	0	0
Retained staff		0	0	0	0	0	0	0	0
Casual		0	0	0	0	0	0	0	0
<b>Total</b>	<b>119</b>	<b>119</b>	<b>60</b>	<b>59</b>	<b>1</b>	<b>33</b>	<b>26</b>	<b>23</b>	<b>7</b>
<b>Subtotals</b>									
Permanent	105	105	53	52	1	30	23	18	5
Temporary	8	8	2	6	0	2	2	3	0
Contract	6	6	5	1	0	1	1	2	2
Full-time	98	98	52	46	1	29	23	18	5
Part-time	15	15	3	12		3	2	3	0

**Table 58: Employment basis for 2008–09, compared to previous four years**

Employment basis		2008–09	2007–08	2006–07	2005–06	2004–05
Permanent	Full-time	91	97	99	91	88
	Part-time	14	8	3	4	8
Temporary	Full-time	7	11	10	8	9
	Part-time	1	3	3	1	2
Contract	SES	6	6	6	6	6
	Non-SES	0	0	0	0	0
	Trainee	0	0	0	0	0
Total		119	125	121	110	113

**Table 59: Average full-time equivalent (FTE) staffing in 2008–09, compared to three previous years**

	2008–09	2007–08	2006–07	2005–06
Average FTE staffing	111.9	116.1	111.5	105.2

## Appendix 14 – Disability Action Plan

The Commission has a strong commitment to corporate social responsibility and to equity and diversity in both the workplace and in dealings with our clients. The Commission is also committed to the inclusion of people with disabilities in all aspects of our operations and service delivery.

The Commission has developed a new three-year Disability Action Plan in accordance with the Department of Ageing, Disability and Home Care's (DADHC) guidelines for disability action planning by NSW Government agencies.

The Disability Action Plan demonstrates the Commission's commitment to minimising and, where possible, eliminating discriminatory practices and increasing access to services and premises for people with disabilities.

The Disability Action Plan builds on the strategies and key activities identified in previous plans. During 2008–09 the following was achieved:

- the Commission's proposed new website design conforms to Government Website Style Directive and conforms to W3C's Web Content Accessibility Guidelines 1.0 (WCAG)
- capacity in the Commission's new complaints-handling and case management tool (MOCCA) to capture disability data on complainants and other identities
- TTY service for hearing-impaired callers promoted in all ICAC publications and related materials
- referral of complainants with a disability to a number of (free) disability advocacy services in circumstances where use of TTY facilities or submitting complaints in writing was not feasible
- procedures for "Assistance For People With Writing Difficulties" incorporated in the Assessments Section's Procedures Manual
- ICAC publications available on request in suitable formats for people with visual disabilities
- review of established work practices and purchase of recommended ergonomic equipment to assist staff in the performance of their duties.

## Appendix 15 – Ethnic Affairs Priorities Statement

The Commission works consistently to raise its profile amongst culturally and linguistically diverse communities and participate in a growing number of community events to promote its services. The Commission remains sensitive to the cultural, racial, religious and linguistic traditions of communities in NSW and continues to develop and implement initiatives to cater to people from culturally and linguistically diverse (CALD) backgrounds.

A new three-year Ethnic Affairs Priorities Statement (EAPS) and Management Plan has been developed. The plan builds on and enhances established initiatives that have been designed to increase the profile and understanding of cultural diversity issues with our staff and clients, and is building positive relations with CALD communities.

Achievements during 2008–09, are as follows:

- engagement of accredited interpreters and translators to assist clients where required
- updating the intranet with the 2009 days of religious significance for multicultural NSW
- promotion of the Community Language Allowance Scheme (CLAS) examination to staff
- inclusion of new staff on the bilingual skills register who have identified as having the ability to speak Cantonese, Mandarin and Greek
- inclusion of reference to “NSW public sector values” in letters of offer
- high-level coverage in Chinese community newspapers and radio and an interview on the SBS Cantonese program resulting from public inquiries and reports on three ICAC investigations (Capella, Bellin and Bauer)
- a series of short presentations to five Western Sydney Multicultural Interagency meetings undertaken as part of the Commission’s Greater Western Sydney Outreach Program (Auburn, Parramatta, Liverpool, Bankstown, Fairfield)
- DVD resources and case studies with relevant scenarios used in ICAC training delivery to CALD communities
- presentation delivered to new interpreters and translators at the NSW Community Relations Commission.

### The year ahead

The key EAPS strategies the Commission has identified for 2009–10 include:

- establishment of a three-year central ICAC register of external accredited interpreters and translators for the provision of services to the Commission’s clients
- finalisation of an Interpreter Policy and Procedure in conjunction with the establishment of the central register of interpreters and translators
- identification of relevant training for staff to assist them to liaise with clients from CALD backgrounds
- following implementation of the Commission’s new complaints-handling and case management tool (MOCCA), a review and evaluation of demographic statistics collected from telephone callers to determine any service enhancements required for non-English speaking people
- ongoing review of the Commission’s Community Language Allowance Scheme (CLAS) and the update of the bilingual skills directory
- awareness of the availability of the Commission’s multilingual resources on both the website and in hard copy form together with the ongoing dissemination of ICAC media releases
- presentations and training to CALD communities and other relevant agencies.

## Appendix 16 – Commission Consultative Group

The Commission Consultative Group (CCG) provides a forum for staff, management and the Public Service Association (PSA) of NSW to discuss and agree on policies and procedures that relate to conditions of employment for staff, and matters concerning access and equity, and occupational health and safety.

The CCG meets on a monthly basis and provides a mechanism for staff to raise any issues that may relate to the ICAC Award. The CCG also ensures that the Access and Equity Committee and the Occupational Health and Safety Committee operate in accordance with the ICAC Award and other relevant legislation.

The CCG's membership at the end of June 2009 consisted of:

**Staff representatives:** Bill Kokkaris, CPER Division; Julian O'Connell, Legal Division (on secondment and replaced by Nicole Thomas, Executive Unit); Andrew

Browning, Investigation Division; John Alston, Corporate Services Division (PSA delegate); Jacqueline Fredman, Assessments Section.

**Executive representatives:** Theresa Hamilton, Deputy Commissioner; Andrew Koureas, Executive Director, Corporate Services; Robert Waldersee, Executive Director, CPER; Mick Symons, Executive Director, Investigation; Roy Waldon, Executive Director, Legal and Solicitor to the Commission.

**Human Resources representative:** Virginia Tinson, Manager, Human Resources and Administration.

**PSA representatives:** Garry Harris, Industrial Officer and Shane Howes, Organiser.

**Executive Officer:** Michele Smith, Personal Assistant to the Commissioner and Deputy Commissioner.

## Appendix 17 – Occupational Health and Safety

The Commission is committed to the continuous improvement of safety in its workplace to ensure the health, safety and welfare of all staff, clients and others who visit the Commission.

In the previous reporting period the Commission engaged Deloitte Touche Tohmatsu (Deloitte) to undertake an independent assessment of the ICAC's occupational health and safety (OHS) management system. In performing this audit Deloitte applied APS8, the Professional Statement on Management Consulting Services issued by the Australian Accounting Bodies. In undertaking this review the 12 OHS performance criteria outlined in the Department of Premier and Cabinet's OHS Improvement Standard 2007 were addressed. The criteria were:

- OHS policy
- Management responsibility
- Planning process
- Consultation
- Risk management
- Information, instruction and training
- Injury treatment and management
- Claims management
- Incident recording, investigation and analysis
- Measuring and evaluating OHS performance

- Reviewing the OHS management system
- CEO reporting and leadership.

The Commission received a very favourable report with only two minor areas identified, namely, a slight amendment to the Commission's Workplace Injury Management and Workers Compensation Policy and enhancement of the Commission's accident / incident report form to capture additional reporting information. Both of these recommendations have been actioned.

The Commission continues to work towards achieving Target 1 of the NSW Government's Working Together: Public Sector OHS and Injury Management Strategy 2005–2008, namely, a 40% reduction in workplace injuries by June 2012. At the end of June 2009, the Commission had reduced its injury rate and cost of claims by 100%.

During 2008–09, the following outcomes were also achieved:

- appointment of first aid officers to fill vacant positions
- establishment and equipping of a 'quiet room' for staff feeling ill
- ergonomic workplace assessments for all staff undertaken by an accredited occupational therapist
- VDU eye examinations for all new staff undertaken by HealthQuest

- provision of the flu vaccine in-house to staff as well as availability to staff of reimbursement of the costs of receiving the flu vaccine from their own medical practitioner
- electrical testing and tagging of relevant equipment.

**Table 60: Occupational health and safety incidents, injuries and claims, 2008–09**

Body stress	3 <sup>*,**</sup>
Mental stress	1
Journey to/from work	1 <sup>†</sup>
Fall, trip, slip	0
Hitting objects	0
Other non-specified	0
Heat, radiation, electricity	0
Total injuries 2008–09	5
Number of workers compensation claims (provisional liability accepted)	3 <sup>††</sup>

\* One workers compensation claim resulted from an assault by an unknown person.

\*\* One workers compensation claim was work-related.

† One workers compensation claim was as a result of a fall on the way to work.

†† There has been an increase in the number of workers compensation claims from nil in 2007–08 to three in 2008–09 as outlined above.

### Occupational Health and Safety Committee

The committee meets every quarter. The Committee reviews OHS practices and procedures and is responsible for matters concerning safety issues within the Commission. In addition, it conducts workplace inspections. Two workplace inspections were conducted during 2008–09.

The OHS Committee for 2008–09 comprised:

- Mark Nolan, Assessments Section
- Margaret Sutherland, Corruption Prevention, Education and Research Division
- Steve Osborne, Investigation Division
- Mary Murabito, Legal Division
- Cathy Walsh, Corporate Services Division.

The Senior Management representative is Andrew Koureas, Executive Director, Corporate Services. Virginia Tinson, Manager, Human Resources and Administration, also sits on the Committee and Aruni Wijetunga, Security and Risk Management Officer, is the Chairperson.



## Appendix 18 – Training statistics

**Table 61: Training attendance by Division / Section and core learning stream, 2008–09**

Core learning and development stream	Assessments	Corruption Prevention, Education and Research	Corporate Services	Executive	Legal	Investigation	Total
Information technology	48	70	39	15	16	87	275
Leadership / management	–	–	2	–	–	8	10
Organisational development	21	28	14	6	6	26	101
Project management	–	1	–	–	–	–	1
Risk management	10	37	24	5	11	63	150
Technical skills	34	8	5	4	19	41	111
<b>Total</b>	<b>113</b>	<b>144</b>	<b>84</b>	<b>30</b>	<b>52</b>	<b>225</b>	<b>648</b>

## Appendix 19 – Consultancies

The Commission engaged Tranzform Group Pty Limited to perform an independent review of the Commission's Information Management and Technology function. The purpose of the review was to establish the suitability of IMT's current structure, roles, resourcing, productivity and service delivery to assist the Commission ensure it has the

most appropriate information technology framework to meet its requirements.

The cost of this consultancy was \$26,730 (inclusive of GST).

## Appendix 20 – Payment performance indicators

All performance indicators relating to payment of accounts were met and there were no instances where interest was payable on overdue accounts.

**Table 62: Accounts payable in 2008–09**

Quarter	Current (i.e.) within due date	Less than 30 days overdue	Between 30 and 60 days overdue	Between 60 and 90 days overdue	More than 90 days overdue
	\$	\$	\$	\$	\$
September 2008	2,085,544	5,650	–	–	–
December 2008	2,177,708	37,319	–	–	–
March 2009	1,645,887	31,569	256	–	–
June 2009	1,711,553	232,093	25,045	1,864	–

**Table 63: Accounts paid on time in 2008–09**

Quarter	Total accounts paid on time			Total amount paid \$
	Target %	Actual %	\$	
September 2008	95	99	1,196,949	1,390,712
December 2008	95	98	1,406,025	1,448,643
March 2009	95	98	1,007,998	1,183,560
June 2009	95	90	1,706,209	1,970,556

## Appendix 21 – Electronic service delivery

The Commission's website provides a secure, online reporting function for users to report suspected corrupt conduct to the Commission. This functionality will be further improved as part of the new Commission website, scheduled to go live in late 2009. The Commission's TRIM Context Electronic Documents and Records Management System (EDRMS) provides electronic self-service capability for staff in creating and managing documents and files.

The Commission's Aurion Human Resources System also provides electronic self-service functionality, which allows staff to make online enquiries and to lodge and approve leave applications and overtime requests.

As part of the shared corporate services arrangement between the Commission and the Health Care Complaints Commission (HCCC) the Commission provides electronic self-service functionality for payroll and leave administration purposes to HCCC employees.

The Commission's wired and wireless internet-based remote access facility provides a real-time, secure remote access to Commission staff in the field. Also, the BlackBerry email solution allows senior staff and field staff to keep in touch with Commission activities in real time.

## Appendix 22 – Insurance activities

The Commission's insurance for workers compensation, motor vehicles, public liability, property and miscellaneous items is provided by the NSW Treasury Managed Fund. The Commission's claims management for the 2008–09 fund year is reflected in the deposit premiums for 2009–10.

The deposit premium for 2009–10 of \$140,360 represents a decrease of 3.6% in comparison with the deposit premium for 2008–09 of \$145,629. The decrease can be primarily attributed to the workers compensation policy premium decrease of 3.5%.

## Appendix 23 – Energy management

The Commission is committed to the NSW Government policies on energy management and initiatives such as the use of electricity generated from renewable resources.

Wherever possible the Commission purchases energy-efficient equipment to assist in reducing its energy consumption.

The Commission increased its electricity consumption by 12.9% on the previous reporting period due to an increase in after-hours usage attributable to unplanned refurbishment works and general Commission operations.

The consumption of electricity generated from renewable resources increased by 48% and electricity generated from coal increased by 4.5%.

There was an increase in fuel consumption on 2007–08 of 51% due to the location of matters under investigation. There was an increase in the consumption of E10 fuel (550%) bringing the usage of E10 fuel to 17% of the total fuel consumption in 2008–09.

## Appendix 24 – Review of credit card use

During the reporting period, there were no irregularities in the use of corporate credit cards. I certify credit card use at the Commission has been in accordance with the Premier's Memoranda and Treasurer's Directions.



The Hon Jerrold Cripps QC  
Commissioner

## Appendix 25 – Major works in progress

During 2008–09 planning and development work on the Commission's complaints-handling and case management system (MOCCA) was completed. User acceptance testing commenced and all Commission staff were trained on how to use the new system. The Commission's data records have been migrated from the old system (ICS) into the new system which is being tested. This project has been costed at \$927,000, which qualifies the project as major capital works. During 2008–09, \$466,549 was spent on this project.

Most of the Commission's information and communications technology infrastructure was replaced during the reporting period. This included the replacement of all desktops and notebooks, a firewall, computer room air-conditioner, an uninterrupted power supply (UPS) and a number of servers and routers. Microsoft Office software was upgraded

to Office 2007 and the Commission's desktop operating system was upgraded to MS Vista. During 2008–09, the total expenditure on this project was \$468,171.

Following funding approval by Treasury, a tender was issued for development and implementation of a new website. The contractor was selected for this project in the previous reporting period and commenced work on the project in August 2008. Development work has been completed and data from the existing website migrated to the new website. Initial testing is currently being undertaken. It is envisaged that the new site will go live in late 2009 following completion of user acceptance testing and uploading and editing of site content. During 2008–09, the total expenditure on this project was \$65,194.

## Appendix 26 – Guarantee of service

As stated in its service commitment on the Commission's website, the Commission will:

- maintain as its primary concern the protection of the public interest and the prevention of breaches of the public trust
- be tenacious in fighting corruption and maintaining its independence
- deliver services which are useful, practical, strategically targeted and appropriate
- respond to customer needs in a way which maximises the impact of Commission activities and makes the best use of resources
- carry out its duties impartially and with integrity
- meet the standards of ethical behaviour and accountability that the Commission promotes in its dealings with other government organisations
- have regard for the impact of its work on organisations and individuals.

The Commission welcomes your input. Comments about your experience of Commission activities help us improve the quality of our service. Comments may be made by phone or in writing. Phone: (02) 8281 5999 or write to:

Independent Commission Against Corruption  
GPO Box 500  
Sydney NSW 2001

Complaints about the conduct of Commission staff should be referred to the Inspector of the ICAC:

Office of the Inspector of the ICAC  
GPO Box 5341  
Sydney NSW 2001

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