

ICAC exposes corruption risks in HSC take-home assessments

What is meant by the term “a student’s own work”? That was the question at the heart of a recent ICAC investigation into allegations of corrupt conduct relating to Higher School Certificate assessment tasks.

In its investigation report, tabled in Parliament on 1 March, the ICAC has made a total of 20 corruption prevention recommendations to the Board of Studies NSW, the NSW Department of Education and Training and the Minister for Education and Training.

The report was the result of a lengthy investigation and corruption prevention review that began after the Board of Studies reported to the ICAC allegations that some HSC students may have received improper assistance from tutors in the preparation of their HSC take-home assessment tasks.

In particular, the allegations were that Major Works submitted by a number of students enrolled in HSC English Extension 2 had been written by tutors at Acclaim Education, a private

tutoring business, rather than by the students themselves.

The ICAC’s investigation focused on the provision of tutoring services by Acclaim Education and, because the allegations implied that systems weaknesses might exist, the ICAC reviewed and analysed the relevant policies, procedures and practices of organisations involved in the administration and management of the HSC.

The ICAC also conducted a confidential survey of 42 school principals to examine how schools manage authentication issues associated with take-home assessment tasks.

The ICAC found that some students had been provided with varying degrees of assistance from various private tutors employed at Acclaim Education. This assistance involved changing words, rewriting paragraphs, providing drafts for consideration and adjusting story lines.

Ultimately, there was insufficient evidence on which to base any finding of corrupt conduct. In particular, the



The ICAC investigation identified a range of corruption risks related to HSC assessment processes. Photo: Stock XCHNG

relevant Board of Studies policy and guidelines documents were inconsistent in their definition of behaviour that could be termed malpractice or cheating, and in defining what constitutes a student’s “own work” in assessment tasks. This in turn made it difficult to establish whether any conduct came within the definition of corrupt conduct in the ICAC Act.

However, the ICAC’s investigation and systems review made it apparent

that there are several corruption risk areas which require attention by the Board of Studies NSW and the NSW Department of Education.

Identifying and dealing with cheating and malpractice is one such risk area. The investigation revealed a lack of consistency, clarity and applicable standards in key directive documents (those which students and teachers must comply with) relating

Continued page 7

Register now for first national anti-corruption conference



Early bird registrations available now!

The inaugural Australian Public Sector Anti-Corruption (APSAC) Conference 2007 offers delegates the opportunity to learn from leading experts and practitioners on the assessment and identification of corruption risks and best practice in anti-corruption practices and systems.

The conference will be held at the Hilton Hotel Sydney from Tuesday 23 October to Friday 26 October 2007. An early bird registration rate is open until 31 July 2007 and there are a limited number of delegate accommodation/registration packages available until sold.

**Conference sessions:
Wed 24 to Thurs 25 October**

Delegates will be able to attend plenary sessions of keynote addresses and panel discussions.

**Conference workshops:
Tues 23 and Fri 26 October**

The conference sessions are supported by a two-day program of interactive workshops on a range of topics including:

- identifying and managing conflicts of interest
- conducting in-house fact finding exercises
- developing and implementing effective corruption prevention strategies

- managing people and information in whistleblower reports and investigations.

Australia’s leading anti-corruption agencies, the Independent Commission Against Corruption (NSW), the Crime and Misconduct Commission (Queensland) and the Corruption and Crime Commission (WA) are joint organisers of the APSAC Conference.

For further information please see pages 4 and 5 and the APSAC Conference website: www.icac.nsw.gov.au/conference2007

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Commissioner's editorial

The Independent Commission Against Corruption strives to keep abreast of developments in the public sector environment and to provide timely and well-informed advice to help agencies identify and manage corruption risks.

One notable current example is the work that the ICAC is doing in relation to corruption risks in NSW development approvals processes.

The ICAC will shortly release a position paper that sets out corruption prevention options for the NSW planning process.

The paper is the culmination of a project that was commenced after the ICAC concluded that NSW development approvals processes face a number of specific corruption prevention challenges.

That conclusion was based on a number of recent ICAC investigations relating to the NSW planning system, numerous complaints and reports of suspected corrupt conduct relating to planning and development issues, requests for corruption prevention advice and feedback from planners and council officers, as well as ICAC research.

The ICAC produced a discussion paper that sets out the risk areas as the ICAC saw them, and distributed it to all councils and planning and regulatory bodies for comment. There was a strong response – 187 submissions were received – and the ICAC considered all responses carefully in developing the forthcoming policy paper.

The corruption risks in planning project was informed in part by research the ICAC undertook in 2001 into functions, risks and corruption resistance strategies in the NSW public sector. The results of that major research project have contributed to much of the ICAC's recent corruption prevention work, but with public sector functions constantly evolving there is a need to ensure our understanding of these matters remains up-to-date.

The ICAC has invited NSW public sector agencies to assist us by completing a detailed survey that seeks information on agency functions, what they perceive their corruption risk areas to be and what corruption resistance strategies they have in place. The results of the survey, which will be aggregated by sector and will not identify individual agencies, will help the Commission to provide appropriate corruption prevention advice and resources. I thank the agencies that have already responded and encourage all agencies to support this important research project.

Finally, this issue of *Corruption Matters* devotes considerable attention to the forthcoming Australian Public Sector Anti-Corruption Conference, to be held in Sydney in October 2007. The ICAC has initiated this event and is presenting the conference in partnership with our counterpart agencies, Queensland's Crime and Misconduct Commission and Western Australia's Corruption and Crime Commission. The conference – the first of its kind in Australia – promises to be a landmark event and I encourage you to consider attending the entire conference and/or the practical workshops which are being held as part of the event.

The Hon Jerrold Cripps QC
Commissioner

Don't ignore it – report it

One of the features of corruption is that it typically involves one or more complicit individuals engaging in secretive activity for personal gain.

Unlike crimes involving violence, for example, where there is a victim who obviously has an immediate, personal motivation to report the crime, there may be no readily identifiable single "victim" of corrupt conduct – the effects of corruption tend to be spread across large groups (clients of an entire organisation, for example) or the entire community.

That means it is crucially important that individuals who become aware of corrupt conduct, or other similar problems such as maladministration and serious and substantial waste of public resources, are encouraged to report their concerns.

These individuals also need to be confident that their report will be handled by trained staff, that confidentiality will be maintained wherever possible and that their report will be given proper consideration, including referral to agencies such as the ICAC where appropriate.

All NSW state agencies are required to maintain an internal reporting system for this purpose, and local government councils are encouraged to have one. Each organisation needs to ensure that it has one or more trained disclosures officers, and the procedures necessary to ensure that internal reports are handled appropriately. Staff need to be aware of how to make an internal report and to whom, and when such disclosures are protected under the provisions of the *Protected Disclosures Act 1994*.

Agencies should also ensure that they have procedures in place to deal appropriately with complaints relating to such matters from members of public, and everyone should be aware that complaints regarding suspected corrupt conduct may also be made directly to the ICAC.

Staff should also be aware that principal officers – the heads of public sector agencies and general managers of councils – are obliged under section 11 of the ICAC Act to report to the ICAC any matter which they suspect on reasonable grounds may involve corrupt conduct, including matters which they become aware of through an internal reporting system.

The ICAC, in consultation with the NSW Ombudsman and the Audit Office of NSW, has produced new postcards and posters to encourage internal reporting of corrupt conduct, maladministration and serious and substantial waste. The resources alert employees that such matters should be reported via the internal reporting system, explains that the agency has obligations to manage internal reports appropriately and that reports may be treated as protected disclosures if made in accordance with the *Protected Disclosures Act 1994*, which makes it

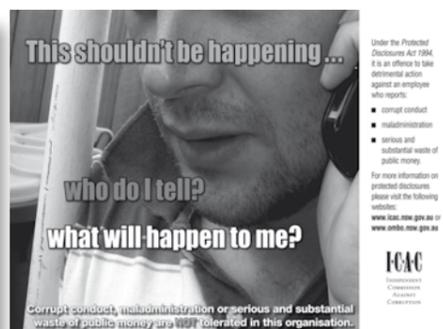
an offence to take detrimental action against an employee for making a protected disclosure.

The postcards are designed for distribution to all staff within agencies and the posters are designed for display in common areas used by staff. Kits containing the new resources will be sent to all heads of public sector agencies in June.

ICAC investigations and corruption prevention work have demonstrated time and again the importance of early reporting of corruption concerns.

Failure to report corruption concerns can mean that actual corrupt conduct – and any associated misuse of powers or waste of resources – continues unchecked or may escalate. Failure to report such concerns can also mean that suspicions remain uninvestigated and unproved – it should be remembered that while investigations may establish that corrupt conduct has occurred, they may also "clear the air" by establishing that suspicions of corrupt conduct are unfounded.

For more information on the new reporting resources, contact Bill Kokkaris, Education and Public Affairs, ICAC, email bkokkaris@icac.nsw.gov.au, tel 02 8281 5877.



Occupational licensing – managing the risks

Recent ICAC investigations have uncovered a number of corrupt schemes related to occupational licensing, and the ICAC has recently released a publication to help agencies manage the associated corruption risks.

“Occupational licensing” refers to all forms of regulation that limit entry to an occupation and the use of a particular professional title to those who have met set requirements.

Whether we visit a doctor, book a holiday through a travel agent, engage a builder or electrician or have a car repaired, we rely on various government-controlled licensing regimes which are designed to ensure that the individuals involved are appropriately qualified and competent.

Licensing regimes also apply to individuals working in a range of other jobs – many of them potentially hazardous – such as transporting dangerous goods, harvesting timber and using heavy construction equipment.

These occupational licences are often of great value to the holder, entitling them to practice a particular profession or undertake certain tasks.

Because these licences are so valuable, there is a risk that individuals will seek to obtain such licences even if they are not entitled to them, and others may seek to supply this demand through corrupt methods.

In the past four years the ICAC has investigated applications for building and trade licences using forged qualifications and documents; the

issuing of competency certificates for the use of heavy construction equipment to individuals who had not been properly tested; and a number of schemes to obtain building licences including through the creation of false educational qualifications.

The ICAC has made a large number of corruption prevention recommendations to the regulatory agencies involved in these investigations. However, occupational licensing is so prevalent and important that the ICAC felt that further work was needed to advise public sector agencies on managing the associated corruption risks.

The ICAC has produced *Corruption risks in occupational licensing and strategies for managing them* to assist agencies

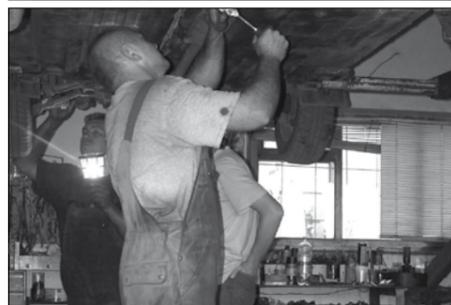
involved in all forms of occupational licensing. The publication illustrates the kind of corruption risks to be expected in undertaking such regulatory work and provides methodologies for their management.

The publication takes into account a number of changes in the public sector environment that may, if unmanaged, increase the risk of corruption in occupational licensing.

One is the increasing reliance on electronic systems and databases to record, store and share information and to produce licences and other associated documents. Several of the schemes investigated by the ICAC exploited weaknesses in the management of information technology systems to change computer records and produce false documents.

Another is the increase in outsourcing and the decentralisation of previously centralised government functions. This is a general trend that is also evident in occupational licensing, with some agencies outsourcing such functions as the competency testing of candidates and licence card production. Again, the corrupt schemes investigated by the ICAC exploited weaknesses in such arrangements.

Corruption risks in occupational licensing and strategies for managing them is downloadable from the ICAC website, www.icac.nsw.gov.au. Hard copies have been distributed to all NSW public sector agencies and local government councils and additional copies are available on request from the ICAC, tel 02 8281 5999.



Occupational licensing systems regulate a wide range of professions and work.

Protecting identity

We're all familiar with the 100 points system used by many public and private sector agencies to establish the identity of their clients.

Documents such as birth certificates, council rates notices, public utility records, educational records and licences are given a specified points value and individuals must produce documents with a combined value of 100 points or more to prove their identity and gain access to services.

The 100 points system was introduced in 1988 to counter major crime such as money laundering and has been adopted as Australia's unofficial but commonly-accepted identification standard.

The 100 points system and similar proof-of-identity procedures now play an important role in our access to essential and desirable services – which means that identity documents have become very valuable commodities.

NSW government agencies, including councils and public utilities, issue or deal

with many of these documents, and hold a wide range of identity information about staff, clients and the public in files and databases.

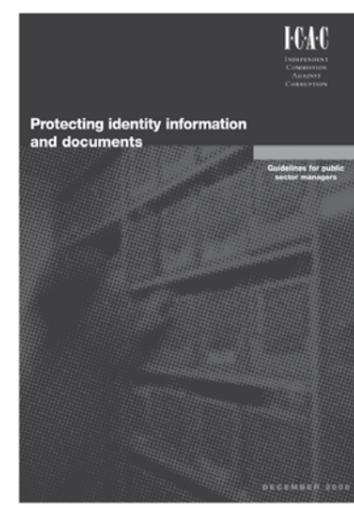
These agencies are all exposed, in some degree, to the risk that people will seek to misuse such information and documents. Public sector agencies need to make it a priority to ensure the systems, policies and procedures to protect identity information and documents are effective and stringent.

Agencies also need to ensure that they fulfil relevant legal obligations. In New South Wales, for example, improper access to and misuse of personal information may be a breach of the *Privacy and Personal Information Protection Act 1998*.

The ICAC has recently produced guidelines, published as *Protecting identity information and documents*, to help public sector agencies identify the corruption risks they face in managing identity information and documents and to devise appropriate management strategies and procedures.

Among the risk areas dealt with in the publication are the physical security of materials and equipment used in the production of identity documents; secure storage and handling of identity information; the use of security features in identity documents; and authentication of identity information. The publication also discusses risks associated with staff access to identity information; the outsourcing of identity document production or information storage; and corruption risk management planning.

Protecting identity information and documents has been sent to all public sector agencies in NSW and has been well received. State Records NSW, for example, described the ICAC publication as “very timely” and went on to say that “It is clear that a number of the risk treatment options outlined in the document can be supported or implemented by agencies improving their records management programs, including improving security for records storage areas and digital



recordkeeping systems, monitoring recordkeeping systems and regularly auditing records management programs”.

Protecting identity information and documents is available on the ICAC website at www.icac.nsw.gov.au or in hard copy on request from the ICAC, tel 8281 5999 (or toll free 1800 463 909 for callers outside Sydney) or email icac@icac.nsw.gov.au.



Conference program

Public officials who want to enhance their ability to develop policies, procedures and practices to minimise corruption risks in the work environment should come to the APSAC Conference. The program offers two days of conference sessions and two days of interactive workshops.

Conference program in summary

The Conference program includes plenary sessions for all delegates and concurrent sessions on topical corruption issues. Conference speakers include senior public officials and police officers, elected officials, academics and public sector specialists from Australia and overseas.

Conference Day 1 – Wednesday 24 October 2007

Opening plenary session	Official Opening by The Hon Morris Iemma MP, Premier of New South Wales and Minister for Citizenship Keynote: The Hon Jerrold Cripps QC, Commissioner, Independent Commission Against Corruption Keynote: The Hon James Spigelman AC, Chief Justice of New South Wales			
Morning Tea				
Session 1	Concurrent Stream A: Organisational integrity – building integrity into an organisation	Concurrent Stream B: Conflicts of interests – challenges and management strategies	Concurrent Stream C: Government tendering, contracting and off-shore operations – the corruption risks	Concurrent Stream D: The aftermath of investigations – corruption prevention outcomes
Lunch				
Session 2	Concurrent Stream A: Government regulators – the environment and the corruption risks it presents	Concurrent Stream B: Managing confidential information – corruption risks and the matter of privacy	Concurrent Stream C: Building integrity into government procurement – theory and practice	Concurrent Stream D: “Blowing the Whistle” – outcomes of a national research project
Afternoon Tea				
Session 3	Concurrent Stream A: Government regulators – the environment and the corruption risks it presents	Concurrent Stream B: Managing confidential information – corruption risks and the matter of privacy	Concurrent Stream C: Building integrity into government procurement – theory and practice	Concurrent Stream D: “Blowing the Whistle” – outcomes of a national research project
	6:30pm Cocktails 7:30pm Gala Dinner			

Conference Day 2 – Thursday 25 October 2007

Opening plenary session	Keynote: Fanny Law GBS, Commissioner, Independent Commission Against Corruption, Hong Kong Keynote: Frank Anechiarico, Maynard-Knox Professor of Government and Law, Hamilton College, New York			
Morning Tea				
Session 1	Concurrent Stream A: Local Government Accountability and integrity	Concurrent Stream B: Public Sector The big picture on corruption risks and managing them	Concurrent Stream C: Police Managing misconduct and corruption risks	Concurrent Stream D: Higher Education The importance of leadership, governance and risk management
Lunch				
Session 2	Concurrent Stream A: Local Government Balancing statutory functions, the public interest and representing constituents	Concurrent Stream B: Public Sector Issues and case studies in implementing integrated fraud and corruption strategies	Concurrent Stream C: Police Ethical issues and building integrity at the local level	Concurrent Stream D: Higher Education An examination of topical and current corruption issues
Afternoon Tea				
Closing plenary session	Panel and delegate discussion: The role of oversight bodies – help or hindrance?			

To register call +61 2 8218 2936 or visit www.icac.nsw.gov.au/conference2007

Keynote speakers



The Hon James Jacob Spigelman AC holds Arts and Law degrees from the University of Sydney. He has a long and varied legal and public sector career.

He was appointed as Chief Justice of New South Wales and Lieutenant Governor in 1998. Prior to his appointment as Chief Justice, he was on the boards of a range of public institutions devoted to the arts and education. He is the author of *Secrecy* (1972), *Becket and Henry* (2004) and co-author of *The Nuclear Barons* (1981).



Mrs Fanny Law GBS was appointed the Commissioner of the Independent Commission Against Corruption (ICAC) Hong Kong in October 2006. She joined the Administrative Service of the Hong Kong Government in 1977. Throughout her 29 years of service, Mrs Law has served in various positions including Director of the Chief Executive's Office of the Hong Kong Special Administrative Region and Permanent Secretary for Education and Manpower.



The Hon Jerrold Cripps QC is the current Commissioner of the Independent Commission Against Corruption (ICAC). He is the fourth ICAC Commissioner and was appointed for a statutory five-year term in November 2004.

Mr Cripps was a member of the judiciary for 15 years, serving as Judge of the New South Wales Supreme Court and Court of Appeal, Chief Judge of the New South Wales Land and Environment Court, and Judge of the District Court of New South Wales.



Frank Anechiarico is Maynard-Knox Professor of Government and Law at Hamilton College in New York State. He is the author (with James B. Jacobs) of *The Pursuit of Absolute Integrity* and has written numerous articles on corruption and corruption control, published in a range of professional journals. Professor Anechiarico will speak at the APSAC Conference 2007 about “Building organisational effectiveness and integrity together.”



Anti-Corruption Conference 2007

Who should attend the Conference and workshops:

Public officials wanting to enhance their skills, knowledge and techniques, including:

- Public sector executives and managers
- Corruption prevention practitioners
- Policy advisors
- Local government and planning specialists
- Senior police officers
- Academics and university executive members
- Internal auditors
- Human resource specialists

Register early and save

Early-bird registration on offer until 31 July 2007 – \$1,210 (inc GST)

- Pre-Conference Reception
- Conference Day 1
- Conference Day 2
- Conference Gala Dinner

\$1,650 after 1 August 2007.

Conference and accommodation package

Limited number and available until sold – \$1,628 (inc GST)

- Two nights standard room at the Hilton Hotel Sydney (23 and 24 October 2007)
- Pre-Conference Reception
- Conference Day 1
- Conference Day 2
- Conference Gala Dinner

Go to www.icac.nsw.gov.au/conference2007 to register.

Conference partners and sponsors

The Australian Public Sector Anti-Corruption Conference 2007 is supported by our Conference Partners: the Departments of Premier and Cabinet of New South Wales, Queensland and Western Australia and the Police Integrity Commission of New South Wales.

The Conference host agencies are also grateful for the support given by Silver Sponsors; Transparency International Australia, the Australian New Zealand School of Government and Ashdale Integrity Solutions.

Workshop sessions

You do not have to be a delegate to the APSAC Conference to register to go to one or more of the workshops offered on Tuesday 23 and Friday 26 October. All workshops are interactive and are presented by experienced facilitators.

TUESDAY 23 OCTOBER 2007

Corruption Prevention for Managers Workshop
Full Day: 9am – 5pm
\$880

Managers will benefit by being able to recognise the factors that allow, encourage or cause staff misconduct and corruption conduct, and identify effective management responses and organisational strategies for preventing future corrupt conduct.

Corruption Prevention for Managers in Higher Education Workshop
Half Day: 1:30pm – 5pm
\$550

The workshop for senior staff in academic institutions is designed to provide participants with useful skills and the ability to identify corruption risks, as well as to apply a range of strategies to manage these risks.

Fact Finding and Inquiry Workshop
Full Day: 9am – 5pm
\$880

Participants will increase their knowledge and skills for conducting an inquiry within their organisation and gain a better understanding of the inquiry process, complex legal issues, maintaining confidentiality and applying fairness during the inquiry process.

Managing Public Interest Disclosures Workshop
Half Day: 9am – 12:30pm
\$550

This workshop is recommended for public officials who wish to effectively manage people, information and systems when public interest disclosures are made. The workshop will include information on legal protections as well as internal reporting systems and answers the practical questions about to whom disclosures should be made and how they should be investigated.

Good Decision Making Workshop (includes conflict of interest issues)
Full Day: 9am – 5pm
\$880

The program will cover the principles of making lawful and competent decisions, how to manage conflicts of interest issues, avoid common pitfalls in decision making and how to reduce unnecessary complaints.

FRIDAY 26 OCTOBER 2007

Fact Finding and Inquiry Workshop
Full Day: 9am – 5pm
\$880

Participants will increase their knowledge and skills for conducting an inquiry within their organisation and gain a better understanding of the inquiry process, complex legal issues, maintaining confidentiality and applying fairness during the inquiry process.

Good Decision Making Workshop (includes conflict of interest issues)
Full Day: 9am – 5pm
\$880

The program will cover the principles of making lawful and competent decisions, how to manage conflicts of interest issues, avoid common pitfalls in decision making and how to reduce unnecessary complaints.

Corruption Prevention for Managers Workshop
Full Day: 9am – 5pm
\$880

Managers will benefit by being able to recognise the factors that allow, encourage or cause staff misconduct and corruption conduct, and identify effective management responses and organisational strategies for preventing future corrupt conduct.

International Delegates Workshop
Half Day: 9am – 12:30pm
\$770

The Commissioners of the Independent Commission Against Corruption and the Corruption and Crime Commission, and the Chairperson, Crime and Misconduct Commission will conduct a special session for international delegates on the functions, challenges and successes of the Australian experience in combating public sector corruption.

Who are the trainers?

The trainers and facilitators are experienced senior corruption prevention and senior legal officers of the Independent Commission Against Corruption (ICAC), the Crime and Misconduct Commission (CMC), the New South Wales Ombudsman and the Queensland Ombudsman. The Project Leader of the National Whistling While They Work Project, Griffith University will also participate, as will senior officers of the Corruption and Crime Commission (CCC).

Conference partners



Silver sponsors





Focus on local government

Accounting for expenses and facilities



Councils need to ensure that the reimbursement of expenses and provision of facilities to councillors are reasonable, appropriate and in line with community expectations.

At the same time, it is important that members of the community are not discouraged from standing for council because they would be significantly disadvantaged in undertaking the civic duties of a councillor.

The Department of Local Government has released new *Guidelines for the Payment of Expenses and Provision of Facilities for Mayors and Councillors* to provide guidance to councils in balancing these priorities.

Complaints, significant negative publicity in the media and the findings of a number of council reviews undertaken through the Local Government Reform Program – Promoting Better Practice prompted the department to review a number of councils' policies relating to councillors' expenses and facilities

Areas of concern included:

- councillors being provided with unlimited mobile phone calls,
- councils paying for spouse/partner travel and/or grooming expenses,
- councillors retaining frequent flyer points for personal use,
- the provision of general expenses allowances, and
- councillors undertaking overseas travel with insufficient demonstration of benefits for the council and the local community.

The Director General's guidelines were developed in consultation with the Local Government and Shires Associations, and released in September 2006. Councils must comply with these guidelines when drafting their councillor expenses and facilities policies.

In addition, under changes to the Local Government (General) Regulation 2005 which came into effect in December 2006, councils are now required to report on payment or reimbursement for:

- telephone calls, including mobiles, landlines, facsimile and internet services
- conferences and seminars

- training and skills development
- interstate travel costs
- overseas travel costs (only where a clear, tangible benefit and demonstrable benefit is provided to the council and the community)
- carer and other related expenses (only in relation to strictly limited, specified circumstances)
- spouse/partner/accompanying person expenses (only in relation to strictly limited, specified circumstances)

and on the provision of facilities such as the rental and provision of dedicated office equipment allocated to councillors including laptop computers, mobile telephones as well as telephones and facsimiles and internet services installed in councillors' homes.

About the new guidelines

The Director General's guidelines outline key principles that councils need to take into account in the development of their expenses and facilities policies. These include ensuring that the benefits provided and reporting about them meet local community expectations; that policy provisions are non-discriminatory and

equitably applied; that policies cover all specific expenses for which councillors are entitled to receive reimbursement; that appropriate monetary limits and standards are set; that councillors are prohibited from seeking to obtain any private benefit (such as frequent flyer points) and that sound approval arrangements are in place.

The new guidelines aim to assist councils review and prepare their policies by:

- clarifying issues in regard to the scope and extent of expenses and facilities provided to mayors and councillors;
- ensuring a level of consistency in the content of council policies; and
- providing direction for new annual reporting requirements.

The department is currently reviewing councils' 2006–2007 councillor expenses and facilities policies to determine compliance with the new guidelines, to identify examples of better practice and to see if modifications to the guidelines are required.

Garry Payne
Director General

Travel and local government

One of the problematic issues for councils is official overseas and interstate travel by councillors and council staff.

As outlined in the Department of Local Government column above, the Director General's new *Guidelines for the payment of expenses and the provision of facilities to Mayors and Councillors* state that councils should pay for or reimburse costs for overseas travel only where a clear, tangible and demonstrable benefit is provided to the council and the community.

That sound advice highlights the need to establish and clearly demonstrate that such travel is in the public interest. Similar considerations apply to interstate travel and to travel by council staff.

What are the corruption risks?

In its December 1998 publication on Parliamentary travel, the ICAC observed that a significant volume of "official" travel undertaken by MPs was to popular holiday destinations. The obvious risk is that official travel

will take on, or appear to take on, the characteristics of a private holiday.

Other investigations by the ICAC have exposed public officials misusing or over-claiming their travel entitlements.

Councils should be aware that travel and related hospitality that is paid for or sponsored by a third party may constitute a gift. Under the Department of Local Government Model Code of Conduct, it is a general rule that gifts of more than token value not be accepted.

Councils should be especially cautious about allowing a third party to fund travel if that party is connected with the business of council in some other way.

Legislation and guidelines applying to overseas travel

Each council is required to adopt an expenses and facilities policy for councillors which complies with the Director General's Guidelines.

The ICAC recommends that this be complemented by an overall travel policy which applies to both councillors and staff.



Things to consider in your travel policy

Following are some useful tips that can be included in a local council's travel policy or expenses and facilities policy¹:

- The strictest economy is to be observed on overseas visits. The

length of absence and costs must be kept to the minimum practicable.

- Consider who is the most appropriate person to travel. If the proposed travel does not require any representative or ceremonial duties to be performed, it may be

Continued page 7

Travel and local government

Continued from page 6

- more appropriate for a member of staff than a councillor to go.
- The person undertaking the travel may have a conflict of interest if s/he is also responsible for its approval, for example by participating in council deliberations on the travel. In such cases alternative approval arrangements should be outlined. Overseas travel should always be approved by a meeting of the full council prior to the trip being undertaken.
- Allowing staff to take leave in conjunction with official overseas travel should not be encouraged. However, where a member of staff does propose extending the length of a visit for private purposes, this should be considered and approved by an appropriate authority, consistent with the fundamental principles that no private benefit should be gained from an official's public duties.
- Presentation of a paper should normally be regarded as the minimum requirement when considering applications to attend international conferences.
- Each council should keep a central record of all its overseas travel and individual councillors and staff should keep records of their travel. A detailed, written report to council reconciling finances and outlining benefits to the council and community of the trip should be the minimum requirement upon return from an overseas trip.

- It is preferable that persons undertaking travel should not arrange their own transport and accommodation. If practical, make travel arrangements using contractors approved and appointed by the Department of Commerce.
- Under section 252(3) of the Local Government Act, councils must not pay any expenses or provide any facilities to any councillor other than in accordance with its adopted policy. Consequently, if a council's expenses and facilities policy is silent on the topic of overseas travel, it will not be able to fund any official travel for councillors.
- Councils located on or close to the State border may consider including less stringent approval arrangements in policies for interstate travel to neighbouring councils across the border.

Further information on appropriate management of public sector travel can be found in the NSW Premier's Department's *Personnel Handbook* (as updated) and the Department of Local Government's *Guidelines for the payment of expenses and the provision of facilities to Mayors and Councillors* (DLG circular no. 06-57, September 2006). Relevant ICAC publications include *Investigation into Parliamentary and electorate travel: second report – analysis of administrative systems and recommendations for reform* (December 1998) and *Trips and Traps: Travel in the NSW public sector* (February 1994).

1. Some of these are taken from the NSW Premier's Department *Personnel Handbook*, Chapter 7 (www.premiers.nsw.gov.au).

ICAC exposes corruption risks in HSC take-home assessments

Continued from page 1

to HSC assessment procedures. The investigation also found that teachers and markers were unable to easily identify the type and level of third party assistance provided to HSC students in their take-home assessment tasks.

The ICAC has recommended that the Board of Studies conduct a comprehensive review to determine the types of third-party assistance that are unacceptable for HSC students, that policies and advice to students provide clear and consistent advice in this regard, and that the Board of Studies develop an expert advice and support service to assist schools and teachers in the management of cases of malpractice in take-home assessment tasks.

The investigation also identified corruption risks associated with teachers' private employment in the private tutoring industry. The Department of Education and Training (DET) has advised the ICAC that it is taking active steps to ensure the effective implementation of its Private and Secondary Employment Policy, and the ICAC has made a number of specific recommendations to assist DET in this.

The ICAC has also recommended that the Minister for Education and Training use a risk management approach to determine whether regulation of the tutoring industry may be effective in minimising opportunities for malpractice and/or corrupt conduct within the NSW education and training sector.

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NSW Ombudsman Apologies – A Practical Guide

An appropriate apology can be remarkably effective in addressing key needs of people who have experienced harm, and in NSW there is now broad statutory protection for those making a full apology.

In December 2002, through amendments to the *Civil Liability Act 2002*, New South Wales became the first jurisdiction in the world to legislate to give legal protection for a full apology, i.e. one that includes an admission or acceptance of fault or responsibility (subject to several exclusions). The relevant part of the NSW Act provides that if you apologise, in most circumstances it can't be used against you in civil proceedings. The *Defamation Act 2005* now contains similar protection for apologies.

Nobody is perfect, and neither is any organisation – we all make mistakes. Things can and will go wrong. In such circumstances there are many different ways to go about making an apology. The most appropriate form and method of communicating an apology will depend on the circumstances of the particular case, the harm suffered, and what is hoped to be achieved by giving the apology. This might include restoration of reputation, acknowledgement of the wrong done, reconciliation, or an assurance that a problem has been addressed or will not recur.

Where it is established that a mistake or error led to harm, an appropriate apology is often seen by complainants as an essential pre-requisite for, or component of, the proper resolution of their complaint (in our experience an appropriate apology is often the main

thing a complainant really wants). The greater the harm, the greater the likely value of an appropriate apology to the person harmed.

While the concept of an apology is one we all readily understand, the crafting and delivery of an appropriate and effective apology can be affected by a range of variables – the more complex the situation or the more reprehensible the action or inaction that led to the harm, the more care that is likely to be required in the crafting and delivery of an apology. For example, a 'partial' apology (one that does not include an acceptance or admission of responsibility), a 'conditional' apology (for example, "I am sorry if..."), or an otherwise inappropriate apology, can do more harm than good.

The NSW Ombudsman has recently published *Apologies – A Practical Guide* to assist people and organisations to respond appropriately and effectively to situations where they have caused harm.

Copies can be accessed or downloaded at www.ombo.nsw.gov.au.

Chris Wheeler
Deputy Ombudsman

In the interests of the NSW community, the NSW Ombudsman works to promote good conduct and fair decision making by all agencies and persons within its jurisdiction.

CANBERRA/SYDNEY 29 OCTOBER - 9 NOVEMBER 2007

Scholarships for the Corruption and Anti-Corruption Executive Program

The ICAC is offering scholarships for senior public sector managers to attend a Corruption and Anti-Corruption Executive Program at the Australian National University (ANU) and ICAC from 29 October – 9 November 2007.

The Corruption and Anti-Corruption Executive Program

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

The ICAC scholarships

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

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

For an information kit please contact Sandra Walker on 02 8281 5772. For further enquiries about the program contact Alexandra Mills on 02 8281 5976. Brochures for the course are available on the ICAC web site at www.icac.nsw.gov.au.



In other news

ICAC visits the North Coast

The ICAC is visiting the North Coast in June as part of its Rural and Regional Outreach Program.

The North Coast outreach program, which runs from 4 – 7 and 18 – 21 June, includes training workshops for public officials and Local Aboriginal Land Council members, presentations to senior high school students, liaison visits to state agencies and councils and a breakfast event with community leaders. The ICAC Commissioner and Deputy Commissioner will attend a Regional Coordination Management Group meeting with senior staff of state agencies and will conduct an information session for local government councillors.

Workshop topics covered during the program include improving investigation skills and techniques; managing and reducing corruption risks, and protected disclosures and internal reporting.

For further information, contact Sue Bolton, telephone 02 8281 5828 or sbolton@icac.nsw.gov.au.

The next outreach visit will be to the Hunter region in late 2007.

Training for Local Aboriginal Land Councils

The North Coast Rural and Regional Outreach Program will include training sessions for Local Aboriginal Land Council (LALC) members, using the new corruption prevention training resource developed by the ICAC specifically for LALCs.

The new resource consists of eight training modules that deal with the issues that face LALC staff and office bearers in small communities; for example, how to manage the corruption risks associated with conflicts of interest, when family and cultural obligations and relationships can potentially put LALC staff and office bearers under pressure. The modules also deal with emerging issues such as the risks associated with joint ventures, highlighted by the recent ICAC investigation into transactions involving Koombahtoo LALC.

The training package is designed to be flexible. Each topic can be presented in the way that best fits the particular audience, presentation is not reliant on technology and the program can be delivered in brief or as a full-day course. ICAC presenters generally undertake the training at LALC premises.

Under recent amendments to the *Aboriginal Land Rights Act 1983*, all newly elected officials to Aboriginal Land Council Boards will be required to undergo training relevant to their responsibilities. Good governance in LALCs is a goal of this training, which is currently being developed by the NSW Aboriginal Land Council (NSWALC). While the ICAC training package has a targeted corruption prevention message it is anticipated that it will serve as a useful reinforcement to the governance theme of the training being developed by NSWALC.

2007 Corruption Prevention Awards

Nominations for the Corruption Prevention Network's 2007 Awards for Excellence in Corruption Prevention are now being accepted, with a deadline of 13 July.

This year's Awards focus on the use of tools and techniques in unearthing corruption within organisations.

Organisations throughout Australia may nominate themselves for the Awards, which are made in five categories: Commonwealth public sector; state public sector; local government sector; not-for-profit sector and private sector. A

maximum of three Awards are made in each category.

For more information and a copy of the 2007 Nomination Guide, visit the CPN website: www.corruptionprevention.net.

A question of identity

In March the ICAC held a public inquiry as part of an investigation into conduct at the RTA motor registry at Botany between approximately 2002 and 2006.

The ICAC is investigating allegations that the registry manager provided various forms of assistance to a number of people to unlawfully obtain vehicle licences in return for money and other benefits. It was alleged that fraudulent documents were used in some of these transactions, providing the applicants with licences in false names. This assisted them to establish false identities which in some cases were then allegedly used to fraudulently obtain loans.

The public inquiry also examined the extent to which others associated with Mr McPherson engaged in corrupt conduct.

The ICAC is currently preparing its investigation report which will be furnished to Parliament with a recommendation that it be made public.

Corruption prevention advice

The ICAC's corruption prevention officers work with public sector organisations to strengthen administrative systems and to raise awareness of potential corruption problems.

One of the key functions of the ICAC is to provide advice to the public sector about strategies to minimise corruption and maintain the integrity of public administration. In some situations the ICAC can also provide advice to private citizens about corruption prevention practices that should be followed by public sector organisations. The main benefits of contacting the ICAC for advice by telephone are that informal advice can be given promptly and the caller can be advised about relevant information and resources. Sometimes, more research and consultation than a phone call will allow is required and in such cases ICAC officers would discuss the most appropriate way to assist. This may involve writing to the ICAC.

In some circumstances, the ICAC may decline a request for advice. Advice requests are declined when the ICAC considers that the advice function would potentially conflict with its investigative function. The ICAC is unable to give advice that could be seen as authorising a particular course of action or to provide advice that extends beyond probity and corruption prevention issues. The ICAC may only be able to provide generalised advice in cases where the request is complex or detailed and the ICAC cannot resource the request.

For corruption prevention advice:

Telephone the ICAC between 9am and 5pm on 8281 5999 (or toll free on 1800 463 909 for callers outside Sydney).

About Corruption Matters

Corruption Matters is produced twice a year to raise awareness in the NSW public sector and the wider community about corruption-related issues. If you have any comments about the publication or would like to be put on the mailing list, please contact the Corruption Prevention, Education and Research Division, Independent Commission Against Corruption.

EDITOR	Peter Richardson
CONTRIBUTORS	Lynn Atkinson, Sue Bolton, Deirdre Cooper, Vicki Klum, Bill Kokkaris, Garry Payne (Department of Local Government), Margaret Sutherland, Chris Wheeler (NSW Ombudsman's Office)
DESIGN	Kylee Mexsom
PRINTING	Asap Press

Independent Commission Against Corruption

POST	GPO Box 500, Sydney NSW 2001
TEL	02 8281 5999 (callers outside Sydney may call toll-free on 1800 463 909)
TTY	02 8281 5773 (for hearing-impaired callers only)
FAX	02 9264 5364
EMAIL	icac@icac.nsw.gov.au
WEBSITE	www.icac.nsw.gov.au