

Review of the ICAC 2013-14 Annual Report

Responses to further Questions

Assessing matters (pages 14-25 of report)

1. The Committee notes that compared to the previous year, in 2013-14, there was reduced section 11 reporting from most government sectors with the exception of 'education (excluding universities)' which increased by 72% (page 21).
 - a) Do you have any comment on the reasons for reduced reporting in most sectors and for the 72% rise in the education sector?
 - b) Can you please provide a table which includes section 11 reporting figures for each sector, and percentage differences from the previous reporting year (2012-13)?

The Commission could only speculate about the reason/s for the reduction in the number of section 11 reports as there are often fluctuations in the reporting from year to year. However, the sharp rise in the number of section 11 reports from Education (except universities) may be attributed to the NSW Government restructuring that occurred around 2012-13 whereby some agencies became larger. It may also be the case that some agencies were over/under reporting and hence the fluctuations in subsequent reporting periods.

The table below provides a comparison between 2012-13 and 2013-14 of the reporting for the various government sectors:

Sector	2012-13	2013-14	% change
Custodial services	98	22	-78%
Tourism, sport, recreation and gaming	3	1	-67%
Law and justice	14	8	-43%
Energy	38	26	-32%
Local government	166	136	-18%
Arts and heritage	6	5	-17%
Policing	7	6	-14%
Health	62	57	-8%
Transport, ports and waterways	160	148	-8%
Universities	28	26	-7%
Natural resources and environment	30	29	-3%
Consumer and trade	4	4	0%
Other- unspecified	3	3	0%

Community and human services	41	43	5%
Education (except universities)	60	103	72%
Government and financial services	13	29	123%
Aboriginal affairs and services	4	10	150%
Emergency services	8	22	175%
Land, property and planning	0	3	N/A
Employment and industrial relations	0	0	N/A
Parliament	0	1	N/A

- 2. The Committee notes the Assessment Panel, which meets electronically twice a week, is governed by a Charter (page 23). What does meeting electronically mean? Can you provide the Committee with a copy of the Charter?**

Members of the Commission's Assessment Panel are each provided with copies of the assessment reports for consideration on a twice weekly basis. The Panel members then consider the reports and the various recommendations and make comment via electronic means (email) to the Manager Assessments, who then records the comments in the case management system. The majority of matters that are reported to the Commission are assessed by the Assessment Panel in this way, however, a face-to-face meeting is convened for any matter requiring further discussion by Panel members.

The Assessment Panel Charter is attached for your information (Appendix 1) and is currently being updated.

- 3. The Committee notes that many matters the ICAC receives do not meet the definition of corrupt conduct in the ICAC Act, and therefore do not warrant further action (page 23). The Committee further notes that the majority of matters (84%) that the ICAC receives fall into this category. Could you please provide the Committee with some typical examples of such matters?**

The percentage of decisions closed without referral (84%) in the Table 17 on page 25 of the 2013-2014 Annual Report does not refer to matters received by the Commission that did not meet the definition of corrupt conduct. The percentage refers only to matters that were considered by the Assessment Panel and were closed without further action being recommended or taken.

The majority of matters the Commission receives do meet the definition of corrupt conduct in the ICAC Act, however the Commission may decide not to take or recommend further action for a number of reasons. Some allegations are too vague, are trivial or baseless. An allegation may involve no more than a complaint about service delivery or disagreement with a decision made by a public

official. The conduct alleged may have occurred so long ago that no productive action can now be taken in relation to the matter.

The Commission does receive some allegations that are outside its jurisdiction, for example, matters relating to corruption within the NSW Police Force. The Commission may decide to close those matters but refer them to either the NSW Ombudsman or the Police Integrity Commission under section 128 of the *Police Integrity Commission Act 1996*. Also, other matters reported to the Commission may involve no more than a complaint of maladministration or waste of public funds. This type of allegation may be referred to the NSW Ombudsman or the Audit Office for information.

Investigating corruption (pages 26-33 of report)

- 4. In 2013-14, 71% of full investigations were completed within 12 months (p.9). The target is >90% and the 2013-14 figure compares with completion rates of 86% in 2012-13 and 90% in 2011-12. The Committee notes that page 27 of the report states that this is 'symptomatic of ICAC undertaking more complex and protracted investigations'. Could you please elaborate and provide examples?**

There are a number of factors that support the assessment that lower timeliness for completion of investigations in 2013-14 is symptomatic of the ICAC undertaking more complex and protracted investigations. For example, for the year ending 30 June 2013, on average the percentage of preliminary investigations on hand compared to full investigations was 55% to 45%. In 2010 that proportion was 90% to 10% but in 2015 the proportion was 40% to 60%. Also, over the same period, from 2010 to 2015, the number of full investigations the Commission had on hand at any particular time has doubled. Put another way, the Commission's investigation capacity is now more invested in full investigations than it was five years ago. There is also an increase in the number of days, on average, to complete a public inquiry for any particular investigation. In 2010 the average public inquiry took five days. In 2015 the average is ten days.

- 5. The Committee notes that the review of the Operations Manual has been extended to June 2015 (page 26). Could you update the Committee on the status of this review?**

Following on from the update provided to the Committee in April 2014 the Commission's new property management procedures (IP12) were implemented on 1 July 2014. The purpose and impact of those procedures is dealt with in more detail in the answer to question 6 below.

In July 2014, minor amendments were made to the work instructions under the Commission's Telecommunications Interception and Access procedures (IP15) to accommodate technical requirements. Also in July, following the acquisition of video badge technology, primarily for use in the execution of search warrants, a new work instruction was approved setting out the requirements for the use of that equipment.

There was disruption to the progress of the review project in August and September 2014 due to resourcing and the relocation of the Commission. At the end of September 2014 work commenced on the substantial review of the Commission's policies and procedures for the conduct of compulsory examinations and public inquiries (IP03).

Also in September 2014 the Executive Management Group (EMG) decided to incorporate the Commission's Assessment's manual into the Operation review project, thus significantly increasing the content to be covered by the project. The structure of the Operations Manual was revised so that the Assessments policies and procedures are now Part 1 of the manual with the former Part 1 (Investigation Management) and Part 2 (Investigation Management), now Parts 2 and 3 respectively.

On 24 September 2014 the first of several work instructions for the new Assessments section (Part 1) was approved. This work instruction relates to the use of voice recording equipment by assessment officers.

In December 2014 a work instruction relating to security and risk management for the conduct of Commission hearings was approved. This subject area was given some priority due to the Commission's relocation and consequent changes in the security environment. Also, in December 2014 the EMG approved two policies and procedures resulting from the revision of assessment records and information management (AP02) and procedures for the implementation of assessment panel decisions (AP04).

In recognising the additional work involved in incorporating the Assessment Manual procedures into the Operations Manual and disruptions due to resourcing and the relocation of the Commission, in February 2015, the EMG recognised that the project would extend until at least 30 June 2016. Also in February 2015 the EMG approved amendments to the Manual's overarching policy framework document (General Investigation Standards and Procedures), to reflect the incorporation of Assessments procedures into the Manual and also ongoing work underpinning improvements to the Commission's investigation planning framework.

On 30 April 2015 the EMG approved a new policy and procedure for the conduct of compulsory examinations and public inquiries (IP03). This policy and procedure replaced and incorporated a number of existing procedures. There are four work instructions under the policy. One work instruction relating to the preparation of hearing briefs was approved on 29 July 2015. A further three work instructions are in draft form nearing completion or approval:

- A work instruction on the use of the Commission's public and restricted web-site for hearing material has been delayed pending the implementation of a new software platform for the Commission's restricted web-site but is expected to be finalised shortly
- A work instruction on the management of hearing transcripts, exhibits and recordings is delayed pending the digital upgrade of the Commission's hearing recording system this month. The upgrade will not only improve internal efficiencies but the new recording platform will give the Inspector more timely access to copies of the recordings should they be required.
- A work instruction replacing the current Associates Manual will be completed once the above work instructions are finalised.

On 11 June 2015 the EMG approved a policy and procedure (IP13) for the engagement of the Commission's physical surveillance capacity.

In July 2015 the Commission commenced a substantial review of the policy and procedure dealing with telecommunications interception and access (IP15) to ensure readiness and compliance with the new Commonwealth data retention legislation which effectively commences on 13 October 2015. The Commission, with other law enforcement agencies, is undertaking this review in consultation with staff from the Commonwealth Attorney-General's Department and Commonwealth Ombudsman's Office. The extent of this review and implementation requirements is expected to delay progress on finalising other subject areas of the Manual.

6. Your annual report notes that there are now substantially revised evidence management procedures in place (p26). Could you tell us how revised evidence management procedures have impacted on the investigative work of the ICAC?

The review of evidence management procedures referred to on page 26 of the annual report was a substantive review of the Commission's existing procedures to ensure evidence is recorded, preserved and dealt with by the Commission:

- consistently with any relevant legal requirement or responsibility that applies
- as evidence until it is no longer required for an investigation, prosecution or other proceeding
- so as to negate any actual or perceived impropriety in the manner of its handling or integrity
- so as to avoid any detriment to the health and safety of a Commission officer or the public
- so that, subject to any order of a court or appropriate authority, it may be returned to the owner or person who produced it or is entitled to it, in the condition in which it was obtained by the Commission and as soon as practicable after it is no longer required for a lawful purpose.

The revised procedures have resulted in improved efficiencies in the management, capture and analysis of evidence, particularly digital evidence and digital capture of physical evidence and improved the consistency and the usefulness of the Commission's evidence collection standards.

7. The Committee understands that the ICAC applied for 3 stored communications warrants in 2012-13 (page 29). This type of warrant hadn't been applied for in previous years.

a) What sort of material does a stored communication warrant allow you to access?

b) Is the ICAC likely to apply for more stored access warrants in the future?

A stored communications warrant authorises the Commission to access a "stored communication" as that term is defined in s 5 of the *Telecommunications (Interception and Access) Act 1979* ("TIA Act") namely, a communication that:

- is not passing over a telecommunications system
- is held on equipment that is operated by, and is in the possession of, a carrier,
- cannot be accessed on that equipment, by a person who is not a party to the communication, without the assistance of an employee of a carrier.

A stored communication may also be accessed by the Commission under an interception warrant.

The most common example of a stored communication is a text message or image but only if the communication is still accessible on the carrier's systems and access to the communication is obtained covertly, that is, without the knowledge of a party to the communication. For a party to have knowledge of the access, it is not necessary that they consent to it, just that they know the access will occur.

In future, if access to a stored communication under a TIA Act warrant is considered necessary for the purpose of a Commission investigation and the Commission is able to satisfy the criteria for obtaining an interception warrant or a stored communications warrant, it is likely the Commission would apply to an issuing authority for such a warrant to access the stored communication.

- 8. The Committee notes that in 2013-14 all warrants were issued by an external authority and none were issued by the Commissioner (page 29). How does this compare with the previous two reporting years, 2012-13 and 2011-12? What considerations are taken into account in deciding whether to apply to an external authority on the one hand, or for the Commissioner to issue the warrant on the other? Could the ICAC please supply the Committee with the ICAC's protocols in this regard?**

In the two years prior to 2013-2014, all search warrants obtained by the Commission were issued by an external authority and none was issued by the Commissioner.

The ICAC's protocols in this regard are set out in s 1.1 of the Commission procedure for obtaining and executing search warrants:

1.1 Search warrants issued in New South Wales

Division 4, Part 5 of the ICAC Act and Division 4, Part 5 of the Law Enforcement (Powers and Responsibilities) Act 2002 (Except ss.69-73) apply to Commission search warrants.

Section 40 (4) of the ICAC Act provides for an officer of the Commission to make application to an authorised officer (as defined in the Law Enforcement (Powers and Responsibilities) Act 2002) or the Commissioner for a search warrant.

It is Commission policy that warrants be sought from authorised officers, and not the Commissioner.

Preventing corruption (pages 34-41 of report)

- 9. The Committee notes that there has been a long-term decline in the demand for corruption advice provided by the Corruption Prevention Division (page 34). Has the restructure discussed on page 34 adjusted for this decline, or are further adjustments necessary? Has thought been given to deploying resources across divisions? Is this possible given different staff skill sets? For example, the Legal Division identifies challenges involving a substantial workload on page 43 of the report.**

While there has been a long term decline in advice requests, there remain significant fluctuations and this year has seen the numbers rise again. It should be noted that the unsolicited advice requests have always been a relatively small part of the work of the Division in terms of hours. Furthermore, the decline in advice sought in this way has been more than offset by the growth in the training and speaking advice that is provided by the Division.

The skill sets within CP allow staff to work flexibly across all aspects of the Division's activities. The high levels of training and speaking along with major projects and investigations are produced by the same staff of the Division – there are no staff dedicated to advice only. The workload of the Division is high and the staff's skill-sets are not particularly relevant to work in other Divisions.

- 10. The Committee notes that the 'percentage of corruption prevention recommendations in investigation reports addressed as at 30 June 2014' was 94% (p 9). Since then, have further recommendations been addressed? If so, can you provide further elaboration?**

It is not the Commission's usual practice to follow-up an agency's implementation of corruption prevention recommendations beyond the final progress report provided by the agency. Consequently, the Commission is not aware of what further progress has been made in relation to the implementation of the recommendations reported in its 2013–14 Annual Report.

The Commission can, however, advise that in 2014–15 it received final progress reports from 16 agencies concerning the implementation of recommendations. Ninety-seven per cent of these recommendations had been addressed.

- 11. The Committee notes that sector-wide corruption prevention projects undertaken by ICAC's Corruption Prevention Division are selected on the basis of the degree of public concern and the extent of the corruption risks (page 34). How is public concern measured? Is it by using Community Attitude Surveys as mentioned on page 36, or some other means?**

The Staff of the Division, including the ED, have extensive and continuous contact with the public, suppliers to government and public officials through training, speaking, outreach, investigations, advice, and through the assessment of matters reported to the Commission. These many points of contact that occur annually allow the Division to develop an understanding of issues of importance in a way that would not be possible through a survey or similar instrument.

- 12. Do you have any concerns with the results of your community attitudes survey (p36) which shows that the proportion of individuals who see corruption as a major problem has fallen over the past twenty years? As there appears to be no shortage of investigation work for the ICAC to conduct, do you consider that there that there is value in public awareness measures that could aid the community in recognising corrupt behaviour?**

The decline in individuals who see corruption as a major problem need not be indicative of a lack of public awareness of corrupt conduct. Individuals may still be aware of what constitutes corrupt conduct, but perceive that action is being undertaken to successfully expose corrupt conduct and prevent it from reoccurring.

The activity level of the Commission may be perceived as evidence that corruption is being uncovered and addressed. Thus, individuals may acknowledge the existence of corrupt conduct, but not perceive it as a major problem because they perceive it as being appropriately acted upon.

Notwithstanding the above, there may be scope to conduct further activities to raise public awareness. However, public awareness measures that have broad reach are costly. The current public awareness measures employed by the Commission are those based on “bang for the buck”. Further measures are likely to produce a reduced impact for the amount invested.

- 13. The annual report notes that the Corruption Prevention Division undertook a number of major projects examining corruption of sector wide significance in 2013/14 in: IT Contractors; coal allocation and approval system; invoice payment; and facilities maintenance (pages 34-37). Has the ICAC found any evidence of reforms being implemented or corrupt activity curtailed by agencies as a result of this work?**

With the exception of the Coal report, these projects do not contain specific recommendations and do not require agencies to report back on implementation of changes. The absence of specific recommendations is a deliberate choice that recognises that the situations within different agencies are often quite varied and that a single “one size fits all” recommendation may not be effective in preventing corruption and could damage the core business of the agency. Rather, the reports rely on encouraging managers to diagnose their own environment by providing insights and options for managers that are seen as useful for agency core business and for preventing corruption.

Following the release of these reports there is generally a period of interaction with senior management of the relevant areas across the sector, peak committees and public presentations. The reports also become integrated into training as appropriate. Many managers indicate the reports are used to map their issues and to benchmark their operations. The exception is the Coal report that contained specific recommendations, which have been implemented.

It is not possible to know what changes are made as a result of the report, what corruption is currently occurring, and what corruption would have occurred had the changes not been made. Therefore it is not possible to assess the effectiveness of the reports in this way. However the

reports are based on analysis of weaknesses that have repeatedly been associated with corruption, and the solutions are typically derived from public and private sector best practice for dealing with these weaknesses. In other words, the effectiveness in preventing corruption is based on the best practice experience of well run organisations rather than on an attempt to measure the difference between corruption levels and estimated corruption levels that would have occurred without such practices in place.

14. The Committee notes that the ‘percentage of corruption prevention recommendations in investigation reports addressed as at 30 June 2014’ was 94% (page 10, table 2). However, page 39 and appendix 5 of the report state that ‘Final reports received by the Commission in 2013-14 indicated that 72% of corruption prevention recommendations made to agencies were fully implemented’.

a) Could you please explain how these measures differ from each other, thereby accounting for the different percentage amounts?

A recommendation is considered fully implemented if either the recommendation has been implemented as described in the report or alternate actions have been undertaken that fully implement the intention of the recommendation.

A recommendation is considered addressed if it is fully implemented (as described above), or if some but not all elements of the recommendation have been implemented as described in the report or alternate actions have been undertaken that partially implement the intention of the recommendation.

As per Table 38 in Appendix 5, final reports were received with respect to 47 recommendations. Thirty-four recommendations were fully implemented (either as described or in an alternate way), resulting in the reported figure of 72%. An additional 10 recommendations were partially implemented (either as described or in an alternate way), resulting in a total of 44 recommendations that were addressed and the reported figure of 94%.

15. The Committee notes that if an agency supplies a plan of action around corruption prevention recommendations to ICAC, the agency must provide a written report to the ICAC of its progress in implementing the plan 12 months after informing the ICAC of the plan. If the plan has not been fully implemented by then, a further written report must be provided 12 months after the progress report (page 39).

a) What happens after these two steps?

b) Noting that final reports received by ICAC in 2013-14 indicated that only 72% of corruption prevention recommendations made to agencies were fully implemented (page 39 and appendix 5) are ICAC’s powers sufficient around these issues?

In almost all matters, actions plans are either fully implemented at the 12- month or 24- month stage. In the rare circumstance where an action plan is not fully implemented at the 24- month

stage, a further report is requested, in the same way as the 12- month and 24- month report is requested. There may be occasions where a public authority wishes to furnish additional supporting information after submission of the final report. In these instances the ICAC officer monitoring the matter will liaise with the agency regarding its receipt.

There are many unforeseen reasons why action plans in response to recommendations may not be implemented or may be considerably delayed. Not all failure to implement is the result of agency intransigence. The ICAC has significant soft power around the implementation of recommendations. The failure to implement is transparently displayed on the ICAC website and in the annual report, leaving non-complying agencies facing public pressure to explain.

Should there be intransigence, an escalation protocol is in place in which ultimately the Minister is advised, again creating pressure on the agency to act. The escalation protocol has not been invoked within recent times. This soft power is generally considered appropriate and adequate, the 2013-14 figures aside, and preferable to the use of legislated powers.

16. The Committee notes the target for ‘percentage of corruption prevention recommendations in investigation reports addressed as at 30 June 2014’ is 80% (page 10, table 2). How was this target set, and what is the rationale for the 20% tolerance?

The target of 80% is set by the executive, as a group, based on analysis of historical factors. The incentive created by the target is for the Division to produce recommendations that are likely to be taken up by the agency – effective and workable recommendations. As noted, however, in the response to question 15, a number of unforeseeable circumstances can arise that make implementation inappropriate or impossible. This is the 20% tolerance. In 2013-2014 the number of unforeseen circumstances were unusually high but this does not detract from the incentive value of the target.

17. The Committee notes that demand for corruption prevention workshops decreased over the 2013-14 financial year, and that there was a decrease in 2012-13 from the previous financial year also (page 40). Does ICAC expect this increase to continue? Are there any comparable figures for 2014-15?

Since 2012-13, ICAC workshop evaluations have consistently had over 90% of participants rating them as “useful” or “very useful” and participants “agreeing” or “strongly agreeing” that these workshops met their training needs. The participant satisfaction with the Commission’s workshops has been consistently high.

However, despite this high level of satisfaction, the decline continued in 2014-15. The decline may be due to those agencies which had identified a training need increasingly having had that need met, the misconception that the workshops have not been changed since 2011 or a mistaken belief that the Commission charges a fee for delivering workshops.

The ICAC is developing new workshops (Corruption prevention for council operational staff, and Corruption prevention for planning professionals) that will be offered in 2015-16 and will be

refreshing the website presentation of workshop materials so that their benefits are better explained. It is hoped that this will improve demand.

18. The Committee notes that in 2013-14, the percentage of public inquiries that resulted in the making of corruption prevention recommendations was 33% and that the target is 90% (page 10). The Committee notes that brief reasons for these figures are provided at page 39 of the report. Could you please provide more information about each of the eight investigation reports for which there were no corruption prevention recommendations and the reasons for this in each case?

There were Corruption Prevention recommendations in the following investigations:

1. Operation Nickel (Heavy vehicles)
2. Operation Tilga (Security systems)
3. Operation Jasper (MP Obeid and mining issues)
4. Operation Acacia (Maitland and mining).

There were no corruption prevention recommendations in the following investigations:

5. Operation Cavill (Ryde Council)
6. Operation Cyrus (Circular Quay leases)
7. Operation Cabot (Water licenses)
8. Operation Meeka (Direct Health Solutions)
9. Operation Dewar (SES Commissioner)
10. Operation Torino (Corrective Services)
11. Operation Indus (MP Roozendaal's car)
12. Operation Jarilo (Minister McDonald)

As a result, 33% (4 out of 12) of investigations contained corruption prevention recommendations.

In operation Cavill, the Commission noted that "The Commission usually makes recommendations for corruption prevention when systemic or operational failure contributes to or enables corrupt conduct to occur. In this matter, no systemic or operational failure is evident. What the investigation exposed was the willingness of individuals to intentionally ignore any systemic and operational controls that stood in the way of the pursuit of personal interest or political advantage.

When senior public officials intentionally flout controls, a dysfunctional environment is created.

Recent significant changes to the LG Act have now increased the options available to both the minister for local government and the Office of Local Government to deal with individual councillor conduct and dysfunction of a council as a whole.”

In operation Cyrus the system that had allowed the corrupt behaviour to occur around the Quay leases was defunct, and therefore there was no point making recommendations. The new strategy was not fully developed at the time of the investigation and therefore was not amenable to analysis by the Commission.

The Commission did note that previous recommendation made to amend the Code of Conduct for Members to deal comprehensively with improper influence by MPs in the 2013 report, Reducing the opportunities and incentives for corruption in the state's management of coal resources, is a subject of a joint Legislative Council Privileges Committee and Legislative Assembly Privileges and Ethics Committee enquiry into this and other recommendations made in that report.

In operations Cabot and Meeka the Commission notes on its website that it has not made any corruption prevention recommendations. For Operation Meeka, recommendations to prevent MPs misusing their positions have already been made in Operations Jasper and Acacia (see report titled “Reducing the opportunities and incentives for corruption in the state's management of coal resources”). These recommendations have been accepted by Parliament. The systemic problems in the granting of water licences raised in Operation Cabot were already being addressed by the NSW Office of Water at the time the Commission’s report was published.

In operation Torino the behaviour was the same as exposed in prior investigations. However, the recommendations arising from those investigations had not been fully implemented. Therefore, the recommendations were not repeated.

In operation Dewar, one of the major issues identified during the investigation was Commissioner Kear's failure to properly identify and manage the conflict of interest arising out of his friendship with Mr Pearce. The identification and management of conflicts of interest are key anti-corruption issues and have been discussed in a number of previous ICAC reports. Similarly the issue of management of PIDs is widely communicated by the Ombudsman and the Commission.

In operation Indus, the Commission investigated the circumstances in which Moses Obeid provided the Hon member Eric Roozendaal (MLC) with a motor vehicle in 2007. The Commission made findings of corrupt conduct against Obeid, but not Roozendaal. Although no corruption prevention recommendations were made in this report, it did raise the issue of inappropriate use of influence by a minister. This issue was dealt with in Chapter 6 of the 2013 report “Reducing the opportunities and incentives for corruption in the state's management of coal resources”.

In operation Jarilo, the Commission investigated the offerings of rewards or inducements to former NSW Energy Minister Ian Macdonald. No issues of a systemic nature were concerned, however, corruption prevention issues in relation to the inappropriate use of influence by a Minister were dealt with in Chapter 6 of the 2013 report “Reducing the opportunities and incentives for corruption in the state's management of coal resources”.

- 19. The Committee notes that 90% is the target for the percentage of public inquiries that resulted in the making of corruption prevention recommendations (page 9). Given only 33% of public inquiries resulted in the making of corruption prevention recommendations in 2013-14, and given only 67% of public inquiries resulted in the making of corruption prevention recommendations in 2011-12, is this target realistic**

Over the longer term a target of 90% appears reasonable. It provides an internal incentive to the Commission to thoroughly analyse the systems within which the corrupt conduct occurred. When taken together with the target of 80% implementation which creates an incentive to produce realistic and practicable recommendations (question 16), the targets encourage thorough analysis but balance in the recommendations made.

As described in the response to question 18, from time to time investigations arise for which recommendations are not appropriate. The year 2013-2014 was unusual in the number of such investigations, and from year to year there are significant fluctuations. Nevertheless, the value of the target in terms of the incentive to thoroughly analyse the systems remains, even if at the end of that analysis no issues are identified that are best addressed through recommendations.

Compliance and accountability (pages 42-51 of report)

- 20. In 2013-14, the ICAC completed 42% of its investigation reports within target (p.9). The Committee notes that, since 2009-10, the target has been 60 days when the public inquiry ran for five days or less, and 90 days otherwise, and that the ICAC aims to meet these timeframes 80% of the time.**

The Committee further notes that in 2012-13, 50% of ICAC's investigation reports were completed within the target, and in 2011-12 only 17% were completed within the target (p.9). Limited explanation for the 2013-14 figures is provided on pages 49 and 50 of the report. Does the ICAC have any further comment on the repeated failure to meet the targets in this area, and on whether the current target is realistic or useful?

The Commission considers that the present targets of completing 80% of its investigation reports within 60 days where the public inquiry ran for five days or less and within 90 days otherwise, remains relevant and is achievable in normal circumstances. The ability to meet these targets depends on a number of matters, including the extent to which other operational matters impact on the drafting and review of reports and the complexity of the matters being reported.

In 2014-15 the Commission furnished four investigation reports. Only one of these was not furnished within the target time.

In 2013-14, there were significant departures from the target times for reports in operations Tilga, Indus, Jarilo, the report on addressing outstanding questions in operations Jasper and Acacia and the combined report for operations Cabot and Meeka. In the case of Tilga, the delay was caused by the complexity of the matters being reported and other operational matters which affected the time available to draft the report. Completion of the Indus and Jarilo reports was postponed so that they could be furnished at the same time as the Operation Jasper report. Completion of the report on addressing outstanding questions in operations Jasper and Acacia was dependent on receiving counsels' advice. Although senior counsel was briefed in September 2013, final advice was not

received until early December 2013. Completion of the combined report for operations Cabot and Meeka was delayed by the Christmas/New Year break and the decision to furnish it at the same time as the report for Operation Cyrus.

21. The Committee notes the ICAC's statement that 'Applications for telecommunication interception warrants are usually made to members of the Administrative Appeals Tribunal (Commonwealth)' (page 43). Where these applications are not made to members of the Tribunal, how are they dealt with?

Applications for telecommunication interception warrants are governed by the *Telecommunications (Interception and Access) Act 1979* (the TIA Act).

Section 39 of the TIA Act provides that an application for a warrant may be made to an "eligible Judge" or "nominated AAT member". An "eligible Judge" is a person who is a Judge of a court created by the Commonwealth Parliament who the Minister has declared to be an eligible judge for the purpose of the TIA Act. A "nominated AAT member" is a person so nominated by the Minister.

As a matter of administrative convenience it is Commission practice to make applications to nominated AAT members. This is because the AAT has put in place arrangements for dealing with urgent and non-urgent applications and has developed a roster system to ensure that a nominated member is available to consider applications. In the past difficulty was experienced in finding an available eligible judge.

22. With regard to the unresolved litigation matters that the ICAC was involved in during the 2013-14 reporting period, concerning Martin Waterhouse [matter 2] (page 46); NuCoal Resources Ltd [matter 3] (pages 46 and 47); Cascade Coal Pty Ltd, Mt Penny Coal Pty Ltd and Glendon Brook Coal Pty Ltd [matter 4] (page 47); and Travers Duncan, John Kinghorn, John McGuigan, John Atkinson and Richard Poole [matter 5] (page 47); could you please supply details as to the final results, if available?

In the Waterhouse matter, on 2 April 2014, Garling J dismissed the proceedings and ordered the plaintiff to pay the Commission's costs. On 30 June 2015 Mr Waterhouse filed a summons seeking leave to appeal this decision. The application for leave to appeal is set down for hearing on 10 September 2015.

The NuCoal Resources Ltd case was heard in the Supreme Court on 27 October 2014. Judgment is reserved.

In the Cascade Coal Pty Ltd, Mt Penny Coal Pty Ltd and Glendon Brook Coal Pty Ltd matters, judgment was delivered on 29 July 2014. The plaintiffs' summons was dismissed and the plaintiffs were ordered to pay the Commission's costs. The plaintiffs filed a summons seeking leave to appeal. A hearing date is to be set.

On 29 July 2014 McDougall J dismissed the summonses filed by Messrs Duncan, McGuigan, Atkinson and Poole and ordered them to pay the Commission's costs. A declaration was made that the finding that Mr Kinghorn had engaged in corrupt conduct was not made according to law and was a nullity. This was because, for the purposes of s 9 of the ICAC Act, the corrupt conduct finding against Mr

Kinghorn was made on the basis that his conduct could constitute or involve a criminal offence under s 184(1) of the *Corporations Act 2001*. That section provides that a director of a corporation commits an offence if they are reckless or are intentionally dishonest and fail to exercise their powers and discharge their duties in good faith in the best interests of the corporation or for a proper purpose. The Court held that a director's duty under s 184(1) did not require a proactive disclosure of information on their part. The Commission was ordered to pay Mr Kinghorn's costs.

The Commission filed a summons seeking leave to appeal the decision concerning Mr Kinghorn. Each of Messrs Duncan McGuigan, Atkinson and Poole also filed a summons seeking leave to appeal.

These matters were set down for a three day hearing commencing on 31 March 2015.

As a result of the 5 December 2014 Court of Appeal decision in *Cunneen v ICAC* [2014] NSWCA 421, Messrs Duncan McGuigan, Atkinson and Poole amended their grounds of appeal to take that decision into account on the basis that the corrupt conduct findings made against them did not involve any finding that their conduct led or could have led any public official or public authority into dishonest, partial or otherwise corrupt conduct.

The March hearing dates were vacated and the matters were set down for a three day joint hearing commencing on 15 June 2015.

On 15 April 2015 the High Court delivered its judgment in *ICAC v Cunneen* [2015] HCA 14. This judgment affected the findings in relation to Messrs Duncan, McGuigan, Atkinson, Poole and Kinghorn because those findings were made on the basis that their conduct could affect the "efficacy" rather than the "probity" of the exercise of official functions.

As the Commission then had no arguable basis to sustain its appeal in the Kinghorn proceedings or to resist the making of orders allowing the appeals by Messrs Duncan, McGuigan, Atkinson and Poole, the Commission, on the basis of its legal advice, consented to the dismissal of its summons seeking leave to appeal the decision in Kinghorn and consented to the appeals in the matters of Messrs Duncan, McGuigan, Atkinson and Poole. On 4 May 2015 the proceedings involving Messrs Duncan, McGuigan, Atkinson and Poole were adjourned for the purpose of constituting a bench of three judges of the Court of Appeal to make orders to finalise the matters.

On 6 May the *Independent Commission Against Corruption Amendment (Validation) Act 2015* (the Validation Act) came into effect. As a result the orders made on 4 May concerning the proceedings involving Messrs Duncan McGuigan, Atkinson and Poole were vacated and a new three day hearing was set to commence on 15 June 2015. The Commission filed a notice of motion on 7 May 2015 seeking to have set aside the consent order dismissing its appeal in the Kinghorn matter.

Mr Duncan then amended his notice of appeal to include a challenge to the validity of the Validation Act and made application to have that challenge removed to the High Court. The challenge was heard by the High Court on 5 August 2015. Judgment was reserved.

The matters involving Messrs McGuigan, Atkinson, Poole and Kinghorn are effectively in abeyance until the High Court hands down judgment on Mr Duncan's challenge to the validity of the Validation Act. The June 2015 Court of Appeal hearing dates have been vacated.

Our organisation (pages 52-57 of report)

23. The Committee notes that the ICAC moved premises in 2014. Do you have any observations in relation to the new premises and their suitability for ICAC's purposes?

The new premises at 255 Elizabeth St were specifically fitted out for ICAC. Staff occupy one and a half floors of the building.

The two hearing rooms are both on the same floor which is far more convenient than the old building where they were spread over different floors.

The new building is more practical in terms of security which now operates from Level 7 of the building. Staff, media and training facilities are greatly improved.

ICAC moved into its former premises in 2001 and over the years outgrew the fit-out they inherited from the previous tenant. This led to some wasted space and mismatched office design. By contrast the new building has modern office design including a dedicated staff meals and break room. In the new building the media have a dedicated space with audio visual links to the hearing room.

24. The Committee notes that a number of the ICAC's policies were reviewed in 2013-14 (page 53). Could you please supply details of how each of these policies was updated?

ICAC policies are reviewed in accordance with the Commission's Compliance Monitoring Register which has a minimum review period of four years for each policy, or they are reviewed more frequently in response to legislative changes or to meet Commission needs. The Audit and Risk Committee periodically monitors this register.

The Commission has a systematic and comprehensive review process. Research is initially undertaken to ensure compliance with legislative requirements, NSW Public Sector guidelines, the ICAC Award and best benchmarking practice.

All reviewed policies are submitted to the Commission's Executive Management Group for endorsement. The Commission's Consultative Group then reviews the policies and may make suggested changes. This Committee is prescribed by the ICAC Award and consists of Management and Staff Representatives. Once the group has endorsed the reviewed policy formal approval is then given by the Commissioner.

25. The Committee notes that ICAC has a screening process in place for those who work on its premises (page 55). What sorts of checks are done and do these checks differ according to the position or risk level?

The security vetting process is undertaken for all persons either directly employed or engaged to provide services such as contractors. All staff undergo an extensive screening process that includes: confirmation of identity, statement of financial interests, assessment for conflicts of interests, screening of close associates for criminality or previous investigation by ICAC, personal referees,

verification of qualifications, police check, previous employment check, RBT check, tax check and electoral role check among others.

A number of consents and releases are sought in order to obtain the above information for vetting purposes as well as undertakings as to secrecy of information gained while in the employment of the Commission.

There is also a level of security screening that applies to contractors. This includes standard checks such as criminal records checks, but is not as comprehensive as the staff screening process. Some facilities and trades personnel who provide services are also required to provide basic undertakings.

26. The Committee notes that during the reporting period the Audit and Risk Committee made a minor finding 'to ensure user access to SUN was periodically reviewed by management' (page 56). What does this mean? Please provide further details in relation to this finding.

SUN is the Commission's financial application where financial reports are generated and, amongst others, invoices are paid. The auditors checked user access to SUN and noted that some user identities related to former employees. Although these users could not have accessed the system, the auditors recommended that user access to SUN be reviewed every year to ensure user access was up to date and that no unauthorized access was permitted. A system generated report is run to verify user access and is checked by the Audit Office as part of its annual audit of the Commission's financial statements and annual report.

Financials (pages 58-83 of report)

27. The Committee notes that for 2013, printing costs were \$62,000 and for 2014 they were \$79,000 (page 72). What sort of documents are covered by these figures and is there any opportunity to reduce printing costs with greater use of electronic publishing?

These figures refer to all externally-printed documents including investigation reports, corruption prevention reports, brochures, and all types of stationery (including overprinted envelopes and folders, letterhead and business cards).

During the 2013-2014 financial year, the Commission produced double the number of investigation reports that it produced in 2012-2013, from six to 12. Some of these reports were substantial in size, for example, Operations Jasper and Acacia which numbered 172 and 169 pages respectively.

The Commission is reducing printing costs where it can, and has been doing so steadily over the past 10 years. It is noted that printing costs in 2005-2006 were \$166,000. While the Commission must furnish hard copy reports to Parliament, a new policy was recently applied, with the agreement of the Legislative Council, for the Members to now receive notification once a report has been made public that it can be accessed electronically from the ICAC website rather than being provided with individual hard copies. This is in line with the practice that has been in place for many years with the Legislative Assembly, and has meant that we can now substantially reduce our print runs.

Last year, the Commission relaunched its biannual stakeholder newsletter, *Corruption Matters*, as an HTML electronic newsletter, which has meant that there are no print costs for that publication now.

Appendix 3 – Outcome of Matters (page 90 of report)

- 28. Appendix 3, Table 34 (page 90) outlines certain outcomes for matters closed during 2013-14. One outcome is ‘Disciplinary action – resignation’. What sort of scenarios does this cover e.g. where an organisation asks for a person’s resignation, or where a person the agency intended to dismiss resigns before this happens?**

The outcome “Disciplinary action taken by the agency – Resignation” covers the situation where the agency has commenced disciplinary proceedings but the subject of those proceedings resigns before the proceedings are completed.

Appendix 4 – Prosecution and Disciplinary Action in 2013-14 Arising from ICAC Investigations (pages 91-102 of report)

- 29. The Committee notes that briefs of evidence in ‘Operation Segomo’ were forwarded by the Director of Public Prosecutions (DPP) to the Crown Solicitor’s Office for consideration.**
- a) Why was this done in this case?**
 - b) If a decision is made to refer a matter to the Crown Solicitor, does the DPP always make this decision or does the ICAC sometimes refer matters direct to the Crown Solicitor?**
 - c) Could the Committee please have a copy of any ICAC protocols that exist in relation to this matter?**

One of the allegations examined in Operation Segomo was that John Hart, a barrister, had made representations to a client that he could pay a DPP officer to ensure no prosecution would be commenced against his client and others in relation to an allegation of sexual assault. There was evidence that Mr Hart had discussed the sexual assault matter with a DPP lawyer. Although the Commission was satisfied that no officer of the DPP was involved in any impropriety, the DPP decided that it was appropriate in this case to refer the briefs of evidence against Mr Hart and others involved in the scheme to the Crown Solicitor in order to avoid any perceived conflict of interest.

The Commission does not refer matters to the Crown Solicitor for consideration of prosecution. Section 14(1) of the ICAC Act requires the Commission to furnish to the DPP evidence for the prosecution of NSW criminal offences.

The Commission does not have any protocols in relation to the DPP’s decision to refer the Segomo matters to the Crown Solicitor.

30. Could you please provide updates to the reports for matters on pages 101-102 of the Report relating to: Operation Petrie, Operation Jarilo, Operation Indus, Operation Jasper, Operation Acacia, Operation Tilga, Operation Nickel, and Operation Cavill?

There has been no change in operations **Petrie, Jarilo** or **Indus**

In Operation **Jasper** the Commission has received advice from the DPP with respect to three persons and is awaiting advice from the DPP with respect to six persons. Action taken by the Commission with respect to the three persons for whom advice has been received is subject to a suppression order made under the *Court Suppression and Non-publication Orders Act 2010*.

In Operation **Acacia**, following advice received from the DPP, court attendance notices were served on:

1. Mr Macdonald in November 2014 for two offences of misconduct in public office;
2. Mr Maitland in September 2014 for an offence under s 87 of the ICAC Act (false or misleading evidence);
3. Mr Maitland in November 2014 for two offences of accessory before the fact to misconduct in public office; and
4. Mr Maitland in July 2015 for five offences under s 178BB of the *Crimes Act 1900* (obtaining valuable thing by false or misleading statements).

Matter 1 is for hearing on 7 December 2015. Matters 2 and 3 are set down for hearing in the Supreme Court on 14 March 2016. A hearing date is yet to be set for matter 4.

The DPP has also advised that there is sufficient evidence to prosecute Mr Ransley for two offences under s 178BB of the *Crimes Act 1900* and insufficient admissible evidence to prosecute Mr Poole.

In Operation **Tilga**, following advice received from the DPP, court attendance notices were served in May 2015 on Mr Diekman for five offences under s 249B of the *Crimes Act 1900* (corrupt commissions or rewards) and on Mr Huskic for five offences under s 249B of the *Crimes Act 1900* and two offences under s 254b(iii) of the *Crimes Act 1900* (using a false document). Hearing dates for these matters are yet to be set.

The DPP has also advised that there is insufficient admissible evidence to prosecute Mr Paul.

In Operation **Nickel**, following advice received from the DPP, court attendance notices were served on Mr Binos for four offences under s 249B of the *Crimes Act 1900*. He is due to be sentenced in October 2015.

In Operation **Cavill**, following advice received from the DPP, court attendance notices were served on:

1. Mr Petch for two offences under s 249K of the *Crimes Act 1900* (blackmail), an offence of misconduct in public office and two offences under s 87 of the ICAC Act;
2. Mr Goubran for one offence under s 249K of the *Crimes Act 1900*;
3. Mr Stavrinou for an offence under s 87 of the ICAC Act;

4. Mr Booth for an offence under s 87 of the ICAC Act; and
5. Mr Henricus for an offence under s 249B of the *Crimes Act 1900*.

Hearing dates have not yet been set for these matters.

The DPP also advised there was sufficient evidence to prosecute Messrs Petch, Li, Salvestro-Martin, Perram and Tagg for offences under the *Election Funding, Expenditure and Disclosures Act 1981*. The NSW Electoral Commission will deal with these matters.

Inspector of the ICAC

- 31. The Committee understands that liaison between the ICAC and the Inspector of the ICAC is conducted in accordance with an MOU. Do you have any comment on the effectiveness of the liaison and working relationship between the ICAC and the Inspectorate? In your view, are there any areas for improvement?**

The MOU provides an efficient basis for communications between the Commission and the Office of the Inspector. Information requested by the Inspector is always provided in as timely a manner as possible. On occasions, the Inspector requests hard copy transcripts of inquiries and exhibits that may be voluminous. Those requests often require staff of the Commission to spend a considerable time collating that material. Electronic access to material held by the Commission is available to the Inspector and represents a more efficient way of meeting the Inspector's needs. In recent times, the Inspector has usually requested material be provided in electronic form, which is more efficient and convenient for all parties concerned.

- 32. In his 2013-14 Annual Report (pages 9 and 10), and at the public hearing, the Inspector of the ICAC raised the issue of the ICAC's interpretation of the Commonwealth *Telecommunications (Interception and Access) Act 1979* (the 'TIA Act') which prevents information relating to applications for telephone intercepts and the product of any such intercepts being available to the Inspectorate. The Inspector has argued for amendments to the TIA Act to allow the Inspector to receive lawfully obtained information to conduct an audit of the ICAC's application for and use of information from warrants and intercepts made under the provisions of the TIA Act. Do you have any comments on this issue?**

The TIA Act prohibits the communication of interception warrant information (which includes the existence or non-existence of an interception warrant) and intercepted information, except in limited circumstances for a "permitted purpose". The Commission can only communicate such information for the purposes of an investigation it is conducting or for the purposes of a report on an investigation, or for the purposes of an inspection of the Commission's records of telecommunications interceptions or a report on such an inspection. The NSW Ombudsman inspects the Commission's records to ensure compliance with its statutory obligations. The Commission abides by the constraints imposed by the TIA Act, which are clear on the face of the Act – it is not a question of interpretation. The amendment of the TIA Act to allow the Inspector to have access to intercepted information and interception warrant information is a matter of policy for the Commonwealth's determination.

Director of Public Prosecutions

33. The Committee understands that a memorandum of understanding exists between the ICAC and the Director of Public Prosecutions.

- **Have there been any recent changes to the memorandum of understanding?**
 - **Could you comment on the current working relationship between the ICAC and the DPP?**
 - **Are you satisfied with the current timeframes for the preparation of and provision of briefs of evidence to the DPP?**
 - **Are you satisfied with the timeliness of the DPP in providing decisions on briefs of evidence referred by the ICAC?**
-
- **Have there been any recent changes to the memorandum of understanding?**

No, the memorandum of understanding was last revised in 2011 and signed on 17 May 2011.

- **Could you comment on the current working relationship between the ICAC and the DPP?**

The ICAC has a positive working relationship with the DPP's office. The Deputy Commissioner continues to meet regularly with the head of the DPP's Group 6, which generally deals with ICAC briefs of evidence, and this interaction had led to a substantial reduction in the average time taken for advice to be provided by the DPP on ICAC matters.

- **Are you satisfied with the current timeframes for the preparation of and provision of briefs of evidence to the DPP?**

The ICAC currently aims to have 90% of its briefs of evidence provided to the legal division by investigators within 90 days from the confirmation of the charges to be brought. The performance against this target has improved substantially over the past five years, e.g. 72% was achieved in year ending 30 June 2014 and 81% in the year ending 30 June 2015. Given the complexity of the ICAC's briefs the time frames we aim to achieve are ambitious, and we are generally meeting them.

- **Are you satisfied with the timeliness of the DPP in providing decisions on briefs of evidence referred by the ICAC?**

The ICAC is satisfied with the timeliness of DPP advice on matters that are referred generally to Group 6. Certain large and complex matters, e.g. matters arising from Operations Jasper, Acacia, Cyrus and Cabot, were referred to another area of the DPP and private counsel, and the timelines for those matters have been more protracted, which is not unusual in view of the bulk of the material provided and the complexity of the legal and factual issues involved. There are also two matters that are on hold as they cannot be considered until after a murder trial involving one of the witnesses has been completed.

Leaving aside these matters, as at 30 June 2014, the three matters with the DPP for advice had only been outstanding since February 2014 (2 matters) and May 2014 (1 matter).

APPENDIX 1

INDEPENDENT COMMISSION AGAINST CORRUPTION

ASSESSMENT PANEL CHARTER

1. Role

The **ASSESSMENT PANEL (AP)** is a small group of senior officers whose role is to provide initial direction and advice to the Assessments Section on the handling of all complaints, reports from NSW public authorities pursuant to section 11 and other information, including advising if the matter should be referred to another division of the Commission. The Assessments Section is responsible for the registration and initial assessment of **all** such matters received by the Commission.

The AP also provides ongoing advice in relation to matters retained by the Assessments Section.

2. Objectives

The primary objectives of the AP are to:

- advance the strategic directions of the Commission
- effectively prioritise and select complaints that should be the subject of further enquiry, including investigation and corruption prevention advice, according to the goals and statutory functions of the Commission
- ensure an appropriate course of action is followed in relation to individual matters
- ensure ICAC resources are deployed efficiently
- promote an organisation-wide approach to the management of complaints, section 11 reports and other information received by the Commission which could involve corrupt conduct.

3. Membership

The AP consists of the following positions:

- Commissioner
- Deputy Commissioner
- Executive Director, Corruption Prevention, Education and Research Division
- Executive Director, Legal / Solicitor to the Commission
- Executive Director, Investigation Division
- Manager Assessments (member & convenor – or his/her nominee as convenor)

In circumstances where a member is unable to attend due to their absence or unavoidable work commitments, the officer acting in the position, or an officer at the next most appropriate level as nominated by the member, may attend as their delegate. The officer responsible for the matter reported is expected to be available to provide additional information, where the Assessment Panel requests it.

Note: neither the Commissioner nor the Deputy Commissioner has a delegate in the event s/he is unable to consider the panel papers due to absence on leave or work commitments.

4. Functions

All AP members are to consider each matter reported, and to advise on issues including (but not limited to):

- the classification of each matter, including whether it falls within the ICAC's jurisdiction (see ICAC Classification of Matters - Appendix A)
- the adequacy of the report, including the summary and analysis of the matter
- the adequacy/need for enquiries in relation to each matter, including section 53/54 referral, assessment enquiries, preliminary investigation
- the appropriateness of the recommendation(s) made
- whether the matter should be the subject of corruption prevention analysis and advice
- whether the matter should be referred to another organisation for information
- technical advice that may assist in the assessment of the matter (such as legal advice, or strategies on managing certain enquiries)
- information/advice that should be provided to the complainant/agency
- whether the matter should be noted for consideration as a case study in the Annual Report
- the appropriate level of resourcing that should be provided for dealing with the matter
- other relevant background information (such as information about previous dealings with a particular organisation)

In the case of mere enquiries or matters outside the Commission's jurisdiction¹, the Manager Assessments will bring these to the AP's attention only if they are relevant to an investigation being undertaken by the Commission, or in other circumstances where this is considered appropriate.

In discharging its functions, the AP will have regard to such factors as, but not limited to:

- the ICAC's jurisdiction under the ICAC Act 1988
- the potential seriousness of the matter
- competing and/or operational priorities
- ICAC resource allocation and skills required in pursuing the matter (eg – in conducting preliminary enquiries)
- the apparent veracity and age of the claims made
- the likely existence of evidence or lines of enquiry to pursue the claims
- the potential for the ICAC to provide prevention advice on systemic issues
- whether the matter can be more appropriately dealt with by another organisation
- whether the matter has been considered and/or dealt with by a suitable organisation and, if so, the conclusions made by that organisation

5. Ethical practices

Members of the AP shall be subject to the Commission's Code of Conduct and Conflicts of Interest policy. Members are to act independently in making assessments or drawing conclusions. In particular, equal consideration shall be given to all functions and responsibilities of the Commission subject to the demands and priorities of the organisation at a particular point in time.

¹, which are not reported to the AP (as opposed to all other matters)

6. Conduct of meetings

The Assessments Section's Support Officer distributes all AP meeting papers on Monday and Tuesday afternoons. Each AP member is to advise the convenor by email whether s/he wishes to meet to discuss any of the reported matters. Meetings will take place on Tuesday and Thursday mornings, subject to operational requirements. If no matters are nominated as requiring discussion, the meeting will not take place. If consensus cannot be achieved at a meeting with respect to a particular matter, it is sufficient if three or more AP members agree on a particular course of action for that decision to prevail.

After the AP have considered the papers and provided advice on the papers, the convenor will inform the Assessment Section of the Assessment Panel's advice. The Support Officer will record the AP's decisions and comments in the ICAC's complaints database (see Decision Codes at *Appendix B*). The Support Officer will print off and distribute code sheets for each file. Any clarification required from the issues raised in the meeting, or notification of any data entry errors, should be notified as soon as possible. The Officer responsible for each matter is required to check the AP decision after the meeting.

7. Frequency of reporting

All complaint-related matters received by the ICAC must be reported to the AP at least once. A matter shall be reported to the AP on further occasions where:

- the AP requests a further report on the matter
- significant enquiries are required prior to the AP being able to make a decision on a matter
- significant enquiries have been made by the Assessments Section and the matter requires a final endorsement of the proposed action following those enquiries (including where a section 53/54 referral has been issued)
- there is uncertainty as to the appropriateness of a particular assessment or course of action
- the matter is serious, sensitive or likely to create public interest.

8. Relationship with other groups

The AP shall liaise with other groups and/or areas of the ICAC as required, ensuring that the functions of the AP are met. Groups/areas shall include but not be limited to:

- Strategic Investigation Group
- Prevention Management Group
- Executive Management Group

9. Evaluation of Performance

The Manager Assessments will arrange for the performance of the AP to be evaluated annually. The AP will meet annually once the evaluation process is finalised.