

# EXAMINATION OF THE ICAC ANNUAL REPORT 2005-06

## QUESTIONS ON NOTICE

### Complaint handling and case management

#### Question

1. The Annual Report at p.67 indicates that key information technology initiatives during 2005-06 included improvements in the complaint handling and case management system, and planning for a replacement system.

(a) What improvements will be achieved with the new system?

#### Answer

The ICAC's current complaint handling and case management system (ICS) was developed in-house and has been used since 1992-93. ICS has been through three major upgrades with the most recent implemented in 2004. The system is written in Powerbuilder 6.5.1, which is now an outdated technology and, as a result, the system has become increasingly complex to modify to meet operational demands of the ICAC.

The Commission undertook a feasibility analysis of replacing ICS with a new and more efficient complaint handling and case management system. A business case was developed that proposes the following improvements:

- enhanced and configurable security features to remediate security and audit trail concerns
- consolidated and centralised data repository to minimise data inaccuracies and multiple entries in different sources and assist in streamlining processes, such as the preparation of briefs of evidence for submission of case files to the Director of Public Prosecutions
- robust and integrated case management processes, including the integration of risk management tools into the system
- increased intelligence and investigative analytics capabilities, e.g. linking common or related data/information to improve investigation capacity and reporting of more complex cases
- increased flexibility to configure user-driven, legislation-driven or process changes.

(b) What level of funding is anticipated as being necessary to support the new system?

The Commission's budget submission to NSW Treasury, supported by a detailed business case, sought total capital funding of \$927,000 for the new system. The Government allocated this additional funding to the Commission for the 2007-08 financial year. Once implemented, the annual system software maintenance costs are estimated at \$120,000 per year.

**(c) What consultation, if any, occurred with the Office of the Inspector about these changes and the proposed new system?**

The Commission did not consult with the Inspector of the ICAC on the development of its budget submission to Government. The Inspector will be briefed on the new system features and requirements as the system implementation project progresses through 2007-08.

## **Investigations and outcomes**

### **Question**

- 2. The Annual Report highlights ICAC's investigations into corrupt activity within regulatory and licensing systems, and its corruption prevention work in developing guidelines for managing risk in occupation licensing and accreditation processes. To what extent will this area remain a focus for the ICAC in the coming year?**

### **Answer**

In December 2005 the ICAC published two investigation reports into regulatory and licensing systems: *Report on investigation into schemes to fraudulently obtain building licences (Operation Ambrosia)* and the *Report on investigation into safety certification and the operation of the WorkCover NSW Licensing Unit (Operation Cassowary)*. In both reports the Commission recommended significant reforms to the licensing system.

The Guidelines for managing risk in occupational licensing and accreditation processes, referred to in the ICAC Annual Report 2005-2006 on p. 53, were developed partly as a response to these investigations and to make the corruption prevention messages contained in the reports available to a wider audience. The Guidelines were published in December 2006.

The ICAC recognises that regulatory and licensing systems are highly vulnerable to corruption and the Commission will continue to utilise opportunities arising in its investigative work to help agencies address these risks. In 2006/2007 the Commission investigated two matters (Operation Pelion and Operation Sirona) involving corruption in licensing or regulatory functions. The report on Operation Pelion has since been released and contains 13 corruption prevention recommendations. A report on Operation Sirona is now being finalised.

### **Question**

- 3. The ICAC has 3 levels of investigations - preliminary, category 2 and category 1. Could you provide details as to the internal guidelines or criteria used by the ICAC to assist in the categorisation of investigations?**

**The Committee understands that the categorisation is based upon the level of seriousness and the systemic nature of the corrupt conduct under investigation, and the extent of ICAC's**

**powers and resources involved.**

**Answer**

The ICAC committee that provides strategic direction on investigations, the Strategic Investigation Group (SIG) has established criteria for categorisation and escalation of matters.

During 2006-07, the Investigation Management Group, as SIG was then known, reviewed the three categories of investigations – Category 1, Category 2 and Preliminary Investigations. As a result of that review, the Group agreed to revise the categorisation of matters from three categories to two. Since then, investigations have been classified as either preliminary investigations or investigations.

The ICAC Assessment Panel may categorise a matter as a “preliminary investigation” where the ICAC’s formal powers will be used or other investigative inquiries will be undertaken that justify classification of the matter as a preliminary investigation.

To escalate a matter to the status of “investigation”, the matter must disclose sufficient evidence or reliable information to suggest the occurrence of corrupt conduct justifying further investigation.

Additionally, one or more of the following factors must be present:

- the alleged corrupt conduct is serious
- evidence of bribery or some other serious criminal offence
- the systemic nature of the established conduct and/or evidence which suggests the possibility of a corrupt network
- the matter involves/will involve significant cross-divisional use of ICAC resources
- compulsory examinations or a public inquiry are likely to be held
- the complexity of the matter, including complex financial and interconnected transactions
- the need to use covert methodologies, requiring exercise of the ICAC’s formal powers.

The change of name for the oversight group for ICAC investigations (referred to above) was a result of consideration of the group’s role at the ICAC’s recent Executive Planning Days. The new name, Strategic Investigation Group, reflects a more strategic approach to the oversight of corruption investigation, prevention and education.

**Question**

**4. The Committee notes from the 2001-02 Annual Report, that there are a number of implications for the management of investigations depending on their categorisation. For example, staff of both the Legal Division and the Corruption Prevention, Education and Research Division are formally involved in all Category 1 investigations. Also, investigation plans are required at the commencement of all Category 1 and Category 2 investigations to establish clear objectives and timeframes, identify risks and risk treatments.**

**Are the investigation management practices currently employed by the ICAC the same as those noted in 2001-02?**

**Answer:**

As noted above, investigations are no longer divided into category 1 and 2 investigations, the categories now being investigations and preliminary investigations. However, the practice of close cooperation between divisions that commenced in 2001-02 is still an important part of the Commission's work. The investigation management practices remain basically as they were in 2001-02, although there has been some modification of the lines of command and administrative structure within the Investigation Division.

A lawyer from the Legal Division is assigned to each investigation and preliminary investigation. Officers from the Corruption Prevention, Education and Research Division are also assigned to each investigation and are assigned where appropriate to a preliminary investigation. These officers work in a multi-disciplinary team environment with ID officers, including investigators, financial and intelligence analysts, surveillance and technical officers and support staff.

All investigations are conducted in accordance with an investigation plan submitted to the Strategic Investigation Group for approval. This plan provides:

- a description of the investigation, including principal persons/organisations of interest
- the allegation(s) of corrupt conduct
- details of the affected persons/organisation
- related intelligence/information
- the scope and purpose of the investigation
- the strategies/planned activities
- a risk assessment.

**Question**

**5. Does the Commissioner anticipate that the reviews undertaken in relation to ICAC's surveillance and intelligence capacity will lead to significant changes in the use of covert investigative techniques by the ICAC?**

**Answer**

The Commission did not significantly change the use of covert investigative techniques as a result of two reviews into its surveillance and intelligence capacity.

The reviews were undertaken to ensure that the best surveillance industry and law enforcement standards were in place and that the Commission was:

- resourced sufficiently in terms of both staffing and equipment
- providing adequate training in physical and technical surveillance.

As a result of the reviews, recommendations were made about:

- staffing numbers
- storage and continuity of surveillance product (evidence)
- standard operating procedures
- liaison with Commission investigators
- equipment acquisitions
- workplace location
- training.

The reviews highlighted the desirability of increased self-sufficiency in technical surveillance and limited reliance on other agencies for equipment and/or staffing. This is being addressed through the purchase of equipment and better use of resources.

#### Question

**6. Table 22 provides a progress report on the implementation of recommendations for reform arising from ICAC investigations (p.103). The table indicates that the Department of Housing had addressed 11 of the 16 recommendations (i.e. 69%) arising from the Commission's report on its investigation into the handling of applications for public housing (May-03). Are there any particular recommendations that have yet to be implemented by the Department and, if so, why is this the case?**

#### Answer

Since the 2005-06 Annual Report, the Department of Housing has provided the ICAC with a further progress report on the implementation of recommendations from this investigation. In October 2006, the Department reported that all the recommendations had been fully or partially implemented. In some cases full implementation depended on broader, long-term initiatives across the Department about the assessment and allocation of housing, such as the Reshaping Public Housing Initiative. The progress report can be found in Attachment A.

#### *Attachment A:*

Progress report submitted by Department of Housing in October 2006 on implementation of recommendations from *Investigation into the handling of applications for public housing by an officer of the Department of Housing* in May 2003. Source: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

## Question

### **7. What is the recommendation that has yet to be addressed by the Rail Infrastructure Corporation in respect of the investigation into matters relating to Menangle Bridge (p.103)?**

#### **Answer**

The recommendation relating to the Rail Infrastructure Corporation (RIC) was “that the RIC review its policies and procedures on briefing the Minister to ensure that there is a clear understanding of what matters the Minister should be informed [about] and to ensure the accuracy of any information so provided”. In May 2006, the RIC advised that “they maintain an issues register to manage communication with the Minister's Office and that they intend to review their policy and procedure for informing the Minister's Office following an accreditation process in 2006-07”. See progress report in Attachment B. The Commission has not subsequently received any further updates on implementation. It should be noted that the RIC has now been amalgamated with State Rail to form Railcorp.

#### *Attachment B:*

Progress report submitted by the Rail Infrastructure Corporation in May 2006 on implementation of recommendations from *Investigation into the conduct of the Rail Infrastructure Corporation and others in relation to Menangle Bridge* in September 2003. Source: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

## Funding and resources

### Question

### **8. In the Commissioner's Foreword to the 2005-06 Annual Report the comment is made that ICAC must have the resources needed to conduct its functions efficiently.**

#### **(a) Was Government funding adequate for the year under review?**

Funding resources for the Commission were considered adequate for 2005-06. While the Commission was required to meet savings targets similar to those imposed on other Government agencies, it has been able to introduce efficiency measures to support its funding requirements. It has entered into shared corporate services arrangements with the Health Care Complaints Commission and all public inquiries and compulsory examinations in 2005-06 were presided over by the Commissioner or Deputy Commissioner, rather than engaging external Assistant Commissioners. In-house lawyers are also now being appointed to act as counsel assisting in some compulsory examinations or public inquiries, saving the cost of engaging private counsel.

**(b) Were there any significant programs or initiatives that did not commence due to inadequate resources?**

No significant programs or initiatives were deferred due to limited funding resources. However, priority is given to investigation work over other activities to ensure the Commission is delivering a rigorous program of investigating and exposing corruption.

## **Prosecutions arising from ICAC investigations (pp.97-103)**

### **Question**

**9. What is the status of the matters before the courts in respect of individuals prosecuted as a result of information obtained from ICAC's Operation Cassandra (Jun-04)?**

### **Answer**

All these matters have now been completed. The outcomes are:

- Alan Fizelle – convicted in October 2006 of offences under section 178BB *Crimes Act 1900* (obtain money by false or misleading statement) and placed on good behaviour bond
- John Webb – convicted in September 2006 of offences under section 178BB *Crimes Act 1900* (obtain money by false or misleading statement) and placed on good behaviour bond
- Alexander Dougall – convicted in October 2006 of offences under section 178BB *Crimes Act 1900* (obtain money by false or misleading statement) and section 87 *ICAC Act 1988* (false evidence) and sentenced to six months imprisonment, suspended
- Andrew Williams – convicted in November 2006 for offence under section 178BB *Crimes Act 1900* (obtain money by false or misleading statement) and fined \$1,000
- Raymond Anthony – convicted in April 2007 for offence under section 87 *ICAC Act 1988* (false evidence) and sentenced to seven months imprisonment, suspended
- Terry Whyte – acquitted in February 2007 of offence under section 87 *ICAC Act 1988* (false evidence)
- Armando Fassone – prosecuted for offences under section 178BB *Crimes Act 1900* (obtain money by false or misleading statement), in October 2006. Mr Fassone made a successful application for a stay of proceedings on the basis that WorkCover had proceeded against him in the Industrial Relations Commission for similar offences under the Occupational Health and Safety Regulation.

## Question

### 10. Status of briefs:

**(a) Has the ICAC finalised briefs of evidence in respect of 18 individuals on matters arising from Operation Cassowary (Dec-05) and, if so, what is the status of these matters?**

#### Answer

Briefs of evidence on all of the Cassowary matters are currently being finalised and will be forwarded to the Director of Public Prosecutions (DPP) as soon as possible. Due to the complexity of this matter, completion of the briefs involves a substantial work commitment.

**(b) What is the status of the briefs of evidence provided by ICAC to the DPP in respect of recommendations arising from Operation Unicorn (Apr-05)?**

#### Answer

Briefs of evidence for all of these matters were forwarded to the DPP on 3 November 2005. On 29 August 2006 the DPP requested additional material including a number of statements. This has required the potential witnesses nominated by the DPP to be contacted to ascertain whether they were prepared to cooperate and, if so, to interview them, prepare draft statements, arrange for them to approve the drafts or make amendments and to get the statements signed. Some statements have been obtained. Work is proceeding on obtaining the remaining statements.

**(c) The Annual Report indicates that briefs of evidence in relation to 35 persons arising out of Operation Ambrosia are being prepared. What is the status of those briefs and any prosecutions relating to the investigation, in addition to that of Mr Khalifeh?**

#### Answer

This investigation involved a relatively large number of people and complex issues requiring the compilation of substantial briefs of evidence. While a number of Commission officers have been involved in compiling and reviewing the briefs, other work commitments have meant that there have been delays in completing all the briefs.

A brief of evidence for Faraj Harb was sent to the DPP in April 2005. Briefs of evidence for Raymond Khalifeh were sent to the DPP on 22 November 2005. Briefs of evidence for three other people were sent to the DPP in May 2006. Briefs on 18 persons were forwarded to the DPP on 16 March 2007. A brief of evidence on one other individual was sent to the DPP in July 2007. The 13 remaining briefs are currently being completed and will be sent to the DPP shortly.

So far, Mr Khalifeh is the only person against whom prosecution proceedings have commenced. Mr Khalifeh pleaded guilty to three offences under section 178BA of the *Crimes Act 1900* (obtain benefit by deception) and five offences under section 87 of the *ICAC Act 1988* (false evidence). On 27 July



2006, Mr Khalifeh was sentenced to 12 months imprisonment with a non-parole period of nine months (all suspended) for each of the section 87 offences and 300 hours of community service orders for the section 178BA offences.

On 11 December 2006 the ICAC received written advice from the DPP that due to the recent death of a witness, Pierre Boutayeh, there was insufficient evidence to proceed with the prosecution of Mr Harb.

#### Question

**11. Has the ICAC received further advice from the DPP in relation to:**

**(a) Recommendations for considering prosecution of two individuals arising from briefs of evidence prepared following Operation Hunter (Feb-06) (p.102)**

#### Answer

Advice was received from the DPP on 29 March 2006 that there was sufficient evidence to prosecute Joseph Ghanem for an offence under section 112 of the *ICAC Act 1988* (restriction on publication of evidence) and section 90 of the *ICAC Act 1988* (bribery of a witness) and section 178BA of the *Crimes Act 1900* (obtain benefit by deception).

Court Attendance Notices for these offences were served on 30 March 2006.

Mr Ghanem pleaded guilty to all offences and was sentenced on 14 September 2006 to six months' imprisonment for the offence under section 112 of the *ICAC Act*, 12 months imprisonment for the offence under section 90 of the *ICAC Act*, and six months imprisonment for the offence under section 178BA of the *Crimes Act*.

Mr Ghanem appealed the sentences and on 17 January 2007 his convictions were confirmed but sentences varied so that they were suspended upon him entering into a good behaviour bond. On 11 December 2006 the ICAC received advice from the DPP that there was sufficient admissible evidence to prosecute Mr Harb with two offences under section 178BA of the *Crimes Act 1900* and one offence under section 178BB of the *Crimes Act 1900* (obtain money by false or misleading statement).

Court Attendance Notices for these offences were served on 12 December 2006.

On 12 July 2007, Mr Harb pleaded guilty to the two offences under section 178BA of the *Crimes Act*. The DPP withdrew the offence under section 178BB of the *Crimes Act*.

On 30 July 2007 Mr Harb was sentenced to 104 hours of community service for each offence, to be served concurrently.

**(b) Recommendations arising from Operation Agnelli (Aug-03), in which case the ICAC appears to have answered the DPP's requisitions in February 2006**

**Answer**

On 25 August 2006 the DPP advised that, given the refusal of Brett Carsburg to provide a statement, there was insufficient available admissible evidence upon which to prosecute Darren Bizzell.

Further requisitions were received from the DPP in August 2006 and February 2007 in relation to Graham Lawrence and John Fitzgerald. These matters are being attended to by the Commission.

**Question**

**12. Is the Commissioner satisfied with the operation of the Memorandum of Understanding (MOU) between the ICAC and the DPP, particularly in relation to the provision of advice by the DPP on criminal charges?**

**Answer**

The ICAC is not satisfied with the terms of the current MOU between the ICAC and the DPP, and the Commissioner recently met with the Director of Public Prosecutions to discuss ways in which the MOU might be improved. Issues discussed included:

- Whether a full brief of evidence needs to be prepared by the Commission in cases where an indication has been given that the subject person wants to plead guilty;
- Whether it would expedite consideration of ICAC briefs for early consultation to take place between ICAC officers and DPP officers about what charges might result from an investigation and the material needed to base a prosecution;
- Whether it would be more appropriate for charges to be commenced at first instance in the name of the DPP, rather than in ICAC's name.

The DPP agreed that it was timely to review the MOU, and has appointed a senior DPP officer to meet with the ICAC's Deputy Commissioner to discuss how the MOU can best be amended.

## Question

**13. The Annual Report for 2005-06 indicates that in relation to prosecutions arising out of the Aug-2000 report on Operation Muffat (re aspects of the greyhound racing industry), it was found that there was insufficient admissible evidence to proceed against Mr Raymond King.**

**(a) Does the ICAC know why it took this period of time for a decision to be made on the recommendations made to the DPP re Mr King?**

### Answer

A brief of evidence was sent to the DPP in August 2001. The ICAC received initial requisitions from the DPP on 21 February 2002 which were answered by the ICAC. Subsequent requisitions were received on 16 October 2002, 16 January 2003, 10 February 2003, 8 April 2003, 21 August 2003, 17 June 2004 and 10 May 2005. These requisitions were also answered by the ICAC. The requisitions required the obtaining of additional statements and enquiries with various potential witnesses. Final advice was received from the DPP in September 2005.

**(b) Does the ICAC consider that this is a reasonable period of time for the parties to have waited for a decision on this matter?**

### Answer

While the Commission accepts that what is considered a reasonable time to obtain a decision from the DPP will vary from case to case depending on a number of factors, the delay in this matter is regrettable. The ICAC has made ongoing attempts to reduce the period of time between submissions of a brief to the DPP and a decision being obtained. It hopes that the recent discussions between the Commissioner and the DPP referred to in the answer to question 12 will help address this issue.

## Question

**14. Is the ICAC in a position to provide information to the Committee, in similar form to Table 18c on p.96, as to the period of time between the referral of matters by ICAC to the DPP and the DPP's decision on each matter?**

### Answer

Attachment C contains information on matters current in the 2006-07 period.

## Question

**15. (a) What is the average period of time taken by the DPP to determine whether or not there is sufficient admissible evidence to proceed with the prosecution of matters arising from ICAC investigations?**

### Answer

The time taken by the DPP to consider each matter varies, depending on the complexity of the matter. The ICAC has not calculated the average time taken by the DPP to provide final advice, although the table in attachment C shows that the time taken in the matters listed ranged from 48 days to 1508 days, depending on the size and complexity of the matters involved.

**(b) Is the ICAC aware of how this timeframe compares with decisions by the DPP generally?**

### Answer

The ICAC is not aware of how the time taken by the DPP to provide final advice on ICAC matters compares with time taken for decisions by the DPP generally.

**(c) How does this average period compare with the performance statistic in which ICAC completes 82% of its investigations within 12 months?**

### Answer

See answer to 15(a) above. The ICAC does not consider that it is useful to compare the time taken to complete ICAC investigations and the time taken by the DPP to provide final advice on prosecution matters. The ICAC does not consider that the two statistics can be usefully compared.

## Role of the ICAC Inspector

### Question

**16. (a) What has been the overall impact on the Commission's operations and procedures of the legislative amendments made to the *ICAC Act* in 2005, arising from the review conducted by Mr McClintock?**

### Answer

The review resulted in a number of amendments to the *ICAC Act*. These included renaming public hearings 'public inquiries' and private hearings 'compulsory examinations', providing additional information about investigations and the time taken to complete them in the annual report, specifying the objectives of the *ICAC Act*, and confirming the ICAC's independence and accountability.

There has been no major impact on the Commission's operations and procedures as a result of these amendments.

The ICAC reviewed its Operations Manual to ensure that any necessary changes to the Commission's procedures arising from the amendments were identified and incorporated into the ICAC's procedures for the exercise of its statutory powers.

**(b) In particular, to what extent has the Commission's practices and procedures changed as a result of the recommendations of the Inspector of the ICAC?**

**Answer**

The Inspector has made recommendations on specific investigation matters, which seem to come within the scope of s.64(2) of the Act as matters the Committee is not authorised to investigate or reconsider. Apart from these, the recommendations by the Inspector have largely arisen from the audits he has conducted in relation to ICAC's compliance with section 12A of the Act and with sections 21, 22, 23, 35 and 54 of the Act. The results of these audits are dealt with in items 17 and 18.

**Question**

**17. The Inspector has advised the Parliamentary Committee that he has concluded it would be more profitable and effective for the Inspectorate to focus on the systemic issues affecting the Commission rather than dealing reactively with complaints.**

**What response has the ICAC made to the Inspector's report on the audit of ICAC's compliance with s.12A of the ICAC Act 1988?**

**Answer**

Since September 2006, the ICAC has progressively reviewed and revised its mechanisms for approving recommendations by ICAC officers to investigate or discontinue an investigation of a complaint, in order to ensure that complaints that involve serious or systemic corrupt conduct are assessed appropriately. This process has taken into account issues raised by the Inspector in his report on an audit of ICAC's compliance with section 12A of the Act.

A summary of the current review mechanisms (which were in the main drafted or revised by a senior Assessments Section officer working off-line between July-September 2006) is provided below:

**Complaint Assessment Checklist**

This document was created in October 2006 to assist assessment officers to focus on relevant issues and to ensure a systematic, consistent approach when assessing complaints. A checklist is completed on each new complaint and kept on file.

## **Assessment Panel Report Template**

This document was introduced in October 2006. The purpose of this template is to ensure that assessment officers provide adequate reasons for their recommended course of action in relation to complaints or information received, as well as an analysis of whether a matter is potentially serious or systemic.

## **Assessment Panel Charter**

A revised charter for the Assessment Panel came into effect in June 2006. It sets out the panel's objectives and functions. The panel, which consists of the Deputy Commissioner, three Executive Directors and the Manager, Assessments, convenes twice weekly (through electronic exchange of information). It assesses all recommendations made by assessment officers about how complaints or information received should be handled, except for enquiry matters.

The panel members can endorse the recommendation made by the assessment officer, or recommend an alternative course of action. To achieve a quorum, any recommendation made by an assessment officer must be endorsed by at least two panel members. Any disagreement will be resolved by convening a meeting of the assessment panel. If consensus cannot be reached through such a meeting, the matter is referred to the Commissioner for his consideration and decision.

The decisions of the assessment panel and any comments are recorded in the ICAC's complaints database using decision codes. The Manager, Assessments, conveys the assessment panel's decisions and any comments to assessment officers, who are required to retain a copy on each file.

## **Assessment Panel Codes**

These codes were introduced in September 2006. Use of the codes ensures that the ICAC's database contains a decision and reason code for each complaint, once it has been dealt with by the assessment panel.

## **Procedure for Handling Sections 53/54 Referrals**

A detailed procedure for handling referrals pursuant to sections 53 and 54 of the Act was drafted in July 2006. It sets out relevant criteria for assessing whether a matter should be referred to another agency for investigation and report, as well as providing guidance about reviewing reports received and taking follow-up action after that review.

## **ICAC Classification of Matters**

ICAC's policy for the classification of matters by the Assessments Section was revised in July 2006. It is available to all assessment staff on the intranet, and provides detailed guidance about how complaints should be classified, dealing with protected disclosures, what constitutes an "enquiry", intelligence reports and dissemination matters. It assists assessment officers to properly classify information received by ICAC and to prepare appropriate assessment panel reports.

All of the above mechanisms have been in place for some time now, and are well understood by the staff of the Assessments Section. They will be consolidated in due course into the revised policies and procedures manual for the Assessments Section.

## **Strategic Investigations Group (SIG)**

Another important mechanism for reviewing decision by ICAC officers about investigations is the Strategic Investigations Group (SIG). This group convenes twice monthly and consists of the Commissioner, the Deputy Commissioner, the Executive Directors (except the Executive Director, Corporate Services) and the Manager, Assessments. As well as overseeing investigations being conducted by the Investigation Division, the group monitors assessment matters where a referral under sections 53 and 54 of the Act has been made to an agency. In respect of these matters, an assessment officer updates a schedule prior to the meeting and any recommendations are either endorsed or varied by the SIG.

Any decision to discontinue an investigation that has been referred to ID or to an agency to investigate under sections 53/54 must be made by the SIG.

The ICAC considers that these new processes will address concerns raised by the Inspector that some matters were not being assessed appropriately as serious or systemic corrupt conduct.

## **Question**

**18. Has the ICAC responded to the Inspector's recent report on the audit of ICAC's compliance with sections 21, 22, 23, 35 and 54 of the ICAC Act 1988?**

### **Answer**

The audit found that some minutes in support of the notices and summonses issued by the ICAC could not be located on relevant files.

In December 2006, prior to finalisation of the Inspector's report, the Executive Director, Legal issued a practice note to all ICAC lawyers requiring filing with the ICAC's Property Section of minutes and

other documentation submitted to the issuing Commissioner/Assistant Commissioner in support of notices or summonses. The aim is to retain these documents with a hard copy of the relevant notice or summons.

This procedure has now been included in the Commission's Operations Manual. This will ensure a hard copy of all these records is readily accessible.

## Litigation

### Question

**19. In February 2006, the Medical Tribunal determined that a record of interview taken by an ICAC officer should be produced (ICAC had received a summons to produce the record in 2005 and had sought to be excused from doing so on the grounds of public interest immunity) (p.104).**

**What are the implications of this decision for the future operation of the Commission?**

### Answer

The ICAC does not consider this decision will have any adverse consequence for the future operations of the ICAC.

As a general rule, the ICAC is not required to produce documents in response to a subpoena. Section 111(3) of the *ICAC Act* provides that Commission officers are not required to provide in any court any document or other thing that has come into that officer's possession by reason of or in the course of the exercise of that officer's functions under the *ICAC Act*. An exception is when the document or other thing is required for a prosecution or disciplinary proceeding instituted as a result of an investigation conducted by the Commission.

This matter came within the exception. The record of interview was sought by the defendant in disciplinary proceedings in the Medical Tribunal brought by the Health Care Complaints Commission (HCCC), arising from the ICAC's investigation into various allegations relating to the former South Western Sydney Area Health Service (report published September 2005). The allegation was that a locum doctor at Camden Hospital had falsified patient notes by falsely recording he had examined patients.

The doctor sought access to the record of interview in defending the HCCC proceedings.

The ICAC provided the doctor with a number of pages from the record of interview which the ICAC believed were relevant to the matter. The ICAC was concerned that providing the full record of interview would identify the complainant as an informer, and also took into account the complainant's concerns that if their identity became known they might be victimised. The ICAC was concerned that release of the full record of interview and the potential for such



reprisals might deter individuals from informing on the corrupt conduct of others in the future. In these circumstances, the ICAC sought to resist production on the basis of public interest.

The matter came before his Honour Judge Blanch in the NSW Medical Tribunal on 9 February 2006. His Honour recognised that there were competing public interests, namely the public interest in the administration of justice, protection of the complainant's identity as an informant, and the extent to which she provided information to the ICAC. However, his Honour believed that the credibility of the complainant was likely to be a central issue during the hearing of the substantive matter and the material in the record of interview was of such relevance to the complainant's credibility that to deny the doctor access to the record of interview would deny him a fair hearing.

In terms of the competing public interest in maintaining the confidentiality of informers, his Honour accepted the ICAC's submission that there was a relevant public interest in this case, despite the fact that the complainant was known to the respondent to be an informer in respect of particular matters. However, his Honour was of the view that the public interest in the administration of justice outweighed the public interest in protecting the confidentiality of information provided by an informer. His Honour thus dismissed the public interest immunity claim. At the same time, his Honour indicated that the confidentiality of the complainant and the allegations could be protected to a significant extent by making orders to protect the complainant's identity and preventing publication of any of the complainant's evidence.

The ICAC considered the decision and decided not to appeal. The decision was based on the facts of the particular case and the balancing of competing public interest factors by the presiding officer. The ICAC does not believe any amendments are required to the *ICAC Act* as a result of this decision.

## Risk management

### Question

**20. During 2005-06 approximately 39 risk assessments were conducted in relation to proceedings conducted by the ICAC, i.e. public inquiries and compulsory examinations.**

**What was the nature of the risks identified in seven of the Commission's proceedings (p.66)?**

### Answer

The risks identified in the seven proceedings were as follows:

#### Proceedings 1 and 2 – Operation Hunter

This public Inquiry involved a NSW Local Court staff member on 29 August 2005 and 31 August 2005.

The risk assessment identified that:

- the witnesses had a criminal history and the potential to be violent
- due to the above, a witness who was summonsed could have been a target of violence.

Controls implemented were:

- assigning additional staff with special powers of enforcement to the public inquiry at all times,
- assigned staff included a uniformed Special Constable and the case officer, who was a NSW Police Officer secondee.

#### Proceedings 3 – Operation Inca

This public inquiry involved officers of the Department of Corrective Services on 25 January 2006.

The risk assessment identified that:

- a witness was under supervision of the Drug Court (not in custody)

Controls implemented were:

- The Commission arranging for the transport of the witness from home to the public inquiry
- Commission officers closely monitoring the witness during the public inquiry.

#### Proceedings 4 – Operation Cadmus

This compulsory examination involved the management of community service orders on 21 March 2006.

The risk assessment identified that:

- the witnesses had criminal histories, with one witness having the propensity for violence, a lack of respect for authority and, according to intelligence reports, possessed weapons
- the other witness, in addition to having a criminal history and a tendency to become aggressive, had received warnings for intimidation of police and lying to police. The witness was from a family well known to the police and, according to intelligence reports, possessed a firearm, although none was registered under his name.

Controls implemented were:

- fully briefing the Special Constables responsible for security on the associated risks
- keeping photographs of relevant persons at the Security Control Room for means of identification

- using overall coordination of security by Special Constables, together with the case officer and Chief Investigator
- thoroughly screening witnesses on arrival
- equipping a uniformed Special Constable with a duress alarm to summon assistance from the security desk outside the Hearing Room
- security monitoring the witnesses' movements
- monitoring proceedings in the Hearing Room via technical equipment by the Security Officer outside the Hearing Room
- fully securing the hearing room when not in use.

#### Proceedings 5, 6 and 7 – Operation Cadmus

This public inquiry proceeding was in relation to Operation Cadmus on 10, 11 and 12 April 2006.

The risk assessment identified that:

- the custodial witness appeared before the Hearing with Department of Corrective Services officers
- previously, the witness had created a minor disturbance when the person unexpectedly attended the Commission
- a relative of the witness has a significant history of violent behaviour, although it was considered unlikely that the person in question would attend the inquiry.

Controls implemented were:

- the Commission ensuring the appropriate transfer of the prisoner between the Department of Corrective Services and the Commission
- the Commission security (Special Constables) facilitating and assisting with prisoner escort on arrival at ICAC premises
- providing a secure holding area for the prisoner
- deploying two uniformed Special Constables on duty in the Hearing Room at all times
- ensuring a Commission officer who was a seconded NSW Police Officer was in the vicinity of the prisoner during the Inquiry
- that in preparation of a contingency, all officers were briefed on their role and action required should an incident occur
- a Chief Investigator was present during all proceedings.

## Question

**21. Table 13 (p.66) in the Annual Report states that during 2005-06 seven hazard reports were lodged. In the case of six of the hazards the risks were controlled and for one hazard the risk was being mitigated to an acceptable level.**

**(a) What is the nature of each hazard and the associated risks requiring control?**

**(b) What measures were taken to control the risks?**

**(c) What is the likelihood of each risk occurring and what is the potential impact each would they have on the operations of the ICAC?**

### **Answer:**

The hazards identified were occupational health and safety risks relating to the Commission's office environment.

#### 1. Sliding gate in the basement

Nature of the hazard:

- sliding gate in the basement is a potential safety hazard if its path is obstructed when the gate is in operation. Its mechanism and rail protrude slightly from the floor and are a potential trip hazard.

Control(s) implemented:

- erecting safety signs alerting personnel to the existence of the sliding gate and the need not to obstruct its path and be aware of its mechanism in the area. Basement is a secure area that is used only as a storage facility and a Commission car park.

Likelihood and impact on the Commission's operations:

- rare and insignificant.

#### 2 and 3. Unevenness of carpet

Nature of the hazard:

- carpet was uneven, causing protrusions and creating a potential trip hazard.

Control(s) implemented:

- area affected was taped down as a short-term measure, followed by replacing the

carpet in 2006-07 to eliminate long-term risk.

Likelihood and impact on the Commission's operations:

- rare and insignificant.

#### 4. Wall tiles

Nature of the hazard:

- wall tile in ladies' toilet cubicle fell, striking a staff member.

Control(s) implemented:

- all tiles in the toilet inspected and faulty tiles replaced.

Likelihood and impact on the Commission's operations:

- unlikely and insignificant, subject to personal injury occurring.

#### 5. Computer room

Nature of the hazard:

- a pipe in the computer room was leaking.

Control(s) implemented:

- pipe was replaced.

Likelihood and impact on the Commission's operations:

- unlikely and minor.

#### 6. Handles of cupboards

Nature of the hazard:

- handles in a passageway had sharp edges with the potential to cause injury.

Control(s) implemented:

- handles replaced.

Likelihood and impact on the Commission's operations:

- rare and insignificant.

#### 7. Men's toilet

Nature of the hazard:

- leak in the men's toilet causing a trip hazard.

Control(s) implemented:

- safety sign placed as a short-term measure, followed by fixing the leak.

Likelihood and impact on the Commission's operations:

- unlikely and insignificant, subject to personal injury occurring.

### Question

**22. The annual report indicates that risk identification, assessment and control is integrated into all work activity.**

**(a) How does the Commission monitor the effectiveness of its risk management strategy?**

As set out in the 2005-06 Annual Report, the Commission introduced a range of new risk related policies, procedures and guidelines to enhance its ability to effectively manage risks associated with operational and corporate activities. Risk management is an integral part of how the Commission manages its operations. Commencing with its business planning processes at a corporate and divisional level, an annual assessment is carried out of the key risks and control treatments that may impact on achieving corporate goals and objectives, efficiently and effectively delivering services, and successfully undertaking projects. These risks are monitored through the course of the year by the relevant managers and Executive Directors.

All major projects and operational plans include a section on the key risks associated with the successful achievement of project objectives and their mitigating control strategies. Project managers and internal committees monitor the risks through the life of the project or operation.

Also, there are risk management processes for controlled operations and significant events, such as public inquiries and compulsory examinations, where the risks surrounding the conduct of the proceeding are assessed and controls implemented to mitigate these. Debriefing occurs after these events to assess results.

The Commission also monitors the effectiveness of its risk management strategies through its internal governance committee structure that oversees major operations, programs and projects to ensure that the Commission's objectives and goals are being effectively and efficiently achieved, risks and opportunities are managed, and services and activities are delivered in accordance with business and project plans. The internal committees with risk management responsibilities include:

- Executive Management Group
- Strategic Investigations Group
- Prevention Management Group
- Audit Committee - the internal audit program is based on an assessment of business risks and audit projects consider the effectiveness of the Commission's risk management and control practices
- Information Management and Technology Steering Committee - monitors implementation of IM&T projects
- Occupational Health and Safety Committee.

Information on the activities of these committees is contained in the Annual Report.

**(b) At what level is responsibility assumed for risk management?**

**Answer**

Risk management for projects and activities is the responsibility of the Project Manager, Chief Investigator, Business Unit Manager or Executive Director, depending on the nature of the area or activity being managed.

**Question**

**23. The Annual Report notes that one of the audit projects reviewed by the Audit Committee in 2005-06 focused on the management of risks associated with investigations, resulting in the development of a framework and documentation tools to guide investigation risk assessments (p.66).**

**Could you provide further information to the Committee on the framework that was developed?**

**Answer**

During 2005-06, the ICAC's independent internal auditors, Deloitte Touche Tohmatsu, undertook an audit of the management of risks associated with ICAC investigations.

The audit report recommended changes to the ICAC's risk assessment procedures and training, and the consistency of the application of document naming conventions. The recommendations were accepted and steps to implement those recommendations were taken in 2006-07.

These improvements included revisions to the Operations Manual and training for staff in risk assessment and management.

ICAC staff also worked closely with the Auditor to develop a risk program to standardise the documentation of risks associated with undertaking controlled operations, the execution of search warrants, and the conduct of physical surveillance.

A risk assessment is an integral part of the investigation process.

**Code of conduct**

**Question**

**24. Appendix 30 gives some details on the progress being made in relation to the review of the code of conduct applicable to ICAC officers.**

**(a) Has that review been completed?**

**Answer**

The review was completed in 2006 by a working party comprised of staff from across the Commission and a new code of conduct was developed. All staff employed by the Commission received a copy of the new code and training sessions were conducted. The Commission's corporate induction program was also updated to include information on the new code to ensure new staff are aware of the principles of the code and what is expected of them as an ICAC employee. A copy of the revised code is attached (Attachment D)

**(b) If so, were any major changes made to the code and were the views of the ICAC Inspector sought?**

**Answer**

The new code has a different format and design, in booklet style and includes message boxes to highlight significant points each section addresses. The intention of the new format is to make it a more easy-to-read and memorable document.



Topic areas have also been condensed to five, plus an introduction from the Commissioner, as well as a section that refers to Commission policies and relevant legislation. The Commissioner's introduction refers to the principles that constitute the new code, rather than a separate section on this. The Commission's corporate values have also been included in the new code of conduct.

The new code's five major sections are:

- our conduct as Commission officers
- our workplace
- our obligations regarding Commission information
- unacceptable conduct
- accountability and reporting.

The section titled 'Our workplace' is new and includes sub-sections that refer to 'a workplace free of discrimination, harassment and bullying' and 'a workplace that is safe and secure'. The latter is broken up into occupational health and safety information and a separate security requirements section.

The views of the ICAC Inspector were not sought on the revisions to the code of conduct.

**Attachment A**  
**Investigation into the handling of applications for public housing**  
**Corruption Prevention Recommendations**  
**Final progress report**

**NOTE:** The Department of Housing is implementing a number of major initiatives which will have a significant impact on the way in which applications and assessments for public housing, including priority housing, are handled (the Reshaping Public Housing initiative). At the same time the Department is in the process of upgrading its IT systems, which are likely to provide enhanced capacities for automating decision-making processes, and for recording and storing information. There are interdependencies between many of these changes, which inter alia mean that the timeframe for full implementation is likely to be several years. Hence, while a number of the recommendations below have been implemented within the context of past or existing structures, policies and procedures, the achievement of the major initiatives mentioned above is likely to provide new opportunities for corruption prevention strategies and controls.

| <b>RECOMMENDATION</b>   | <b>STATUS<br/>(implemented, not implemented)</b> | <b>VARIATION/COMMENT<br/>(include reference documents if appropriate)</b>   |
|---|--|---|
| 1. The Department should develop a standard format for priority housing approval submissions from CSOs to team leaders.             | Implemented                                      | The Department has developed a Priority Housing Assessment Checklist (PHAC) which serves as a standard form for staff assessing applications for priority housing.  |
| 2. The Department should provide guidelines for team leaders in reviewing and assessing submissions for priority housing approvals. | Implemented                                      | The Department's intranet site contains clear statements of policies, procedures and business rules for all of the Department's services. These provide guidelines for decision-making at all stages of the assessment and allocation process, for both wait turn and priority housing.                                 |
| 3. The Department should provide a structure for interviews with applicants about priority housing.                                 | Implemented                                      | The Priority Housing Assessment form, which must be completed by staff for all Priority Housing applications, does provide a structure for interviews. Note however that the interview format and process needs to have the flexibility to take into account the widely varying circumstances of individual applicants. |
| 4. The Department should require that notes from interviews   | Implemented                                      | Department procedures require that interview notes are maintained on  |

| <b>RECOMMENDATION</b>  | <b>STATUS<br/>(implemented, not implemented)</b> | <b>VARIATION/COMMENT<br/>(include reference documents if appropriate)</b>  |
|--|--|--|
| with applicants for priority housing are included on the applicant's file.   |  | files. The Reshaping Public Housing initiative and proposed IT changes are likely to lead to a higher degree of automation of processes, and it is envisaged that notes and other records will be recorded and stored electronically.  |
| 5. The Department should introduce a requirement for CSOs assessing applications for priority housing to certify that their assessment is true and accurate to the best of their knowledge and belief, and that they have not participated in any fraud in preparing it. | Partially implemented                            | Client Service Officers (CSOs) are required to certify their assessments as true and accurate. However the Department has not mandated the requirement for a formal declaration in relation to fraud. The Department uses a variety of means to raise and maintain staff awareness of fraud and the consequences for staff found to have engaged in fraudulent activity (see also point 15 below).   |
| 6. The Department should ensure that on client service teams one person is not solely responsible for processing all priority housing applications on an ongoing basis.  | Partially implemented                            | <p>In most of the Department's Housing Services Areas, the allocation and assessment functions are now separated, with dedicated staff processing priority housing applications, and in most cases, several officers would share that responsibility. The Department recognizes however that this provides only limited protection against an officer engaging in fraudulent behaviour, hence the improved processes implemented in response to the above recommendations, and the requirement for review and approval by the Team Leader as an extra level of control. In some of the Department's smaller offices, there are insufficient staffing resources to implement this recommendation.</p> <p>The implementation of the Reshaping Public Housing reforms is likely to provide further opportunities for refining this function and strengthening controls.</p> |
| 7. The Department should consider the feasibility of rotating client service staff within regions, or across regions where feasible.   | Implemented                                      | With the functional split into assessment and allocation roles, there has been and continues to be opportunities for staff to rotate between functions as well as Areas. The Department does as far as possible offer opportunities for staff secondment to or acting in other roles and regions. However the number of locations from which the Department operates across NSW imposes some limits on the feasibility of a structured scheme of rotation.   |

| <b>RECOMMENDATION</b>   | <b>STATUS<br/>(implemented, not implemented)</b> | <b>VARIATION/COMMENT<br/>(include reference documents if appropriate)</b>   |
|---|--|---|
| 8. Client service teams should conduct a regular audit of their allocation decisions about priority housing which includes an independent review.   | Partially implemented                            | <p>The Housing Services Divisions currently conduct random reviews of Priority Application Assessments. The Divisions Business Performance Units (which are independent of the assessments and allocations teams) randomly select application assessments to review.</p> <p>The aims of these reviews are to confirm proper application of Departmental policy, and correct assessment of the application in light of supporting documentation.</p> |
| 9. The Department should provide appropriate resources to support teams to conduct such audits.   | Partially implemented                            | See point 8 above. These reviews are not high volume or performed consistently across the Divisions. They are dependent on the resources available within the Business Performance Units and other workload, and the primacy of priority assessment in the Division's radar.  |
| 10. Business Assurance should include a regular review of allocation decisions for priority housing in its audit program.   | Implemented                                      | The Department's internal audit program, managed by Business Assurance, has included compliance audits on client assessment procedures in 2004 and again in 2005. Compliance audits on the range of client service activities are regularly included in the internal audit program.   |
| 11. The Department of Housing should consider a legislative amendment to give it the means to verify information about assets and income provided by applicants prior to their applications being approved. | Implemented                                      | The Department is considering expanded options to address tenant fraud, which would cover this recommendation. However legislative change would require Government approval. It is important to note that the Department currently has the use of the Income Confirmation Scheme (ICS) with Centrelink which allows income verification for the vast majority of our clients who are in receipt of Centrelink payments.                             |
| 12. The Department should develop a process to audit successful applications for public housing to ensure that the information provided about income and assets is correct.                                 | Partially implemented                            | See 11 above. In addition, the Department requires verification of non-statutory income (eg wage statements, bank account details). Currently the Department has limited statutory powers to verify the information that applicants supply.   |

| <b>RECOMMENDATION</b>  | <b>STATUS<br/>(implemented, not implemented)</b> | <b>VARIATION/COMMENT<br/>(include reference documents if appropriate)</b>  |
|--|--|--|
| 13. Team leaders should be required to regularly review and sign off on audit reports that are relevant to decisions about allocating priority housing and other housing products. | Partially implemented                            | Management sign off of audit reports is required for all internal audits and includes the provision of management responses to recommendations made as a result of the audits, although this does not generally extend down to Team Leader level. The Department's Risk Management and Audit Committee and/or the Executive Board monitors the implementation of management commitments made in these responses.   |
| 14. The Department's gifts and benefits policy should include examples of expected behaviour in situations where gifts are offered.  | Implemented                                      | The policy is posted on the Department's Intranet suit and accessible through several "gateways". It includes examples to assist staff in dealing with offers of gifts.  |
| 15. Training and regular reminders about the gifts and benefits policy and the gifts register should be provided to staff.   | Implemented                                      | Training in the Code of Conduct and Ethics, which includes considerable discussion of gifts and benefits, is mandatory for all staff. As of mid 2006, the Department conducts monthly induction training programs for all new staff, which includes the Code of Conduct module. In the last two years, the Director-General has issued reminders about the Department's Gifts and Benefits policy through the staff newsletter.                                  |
| 16. The Department should further promote its values and the responsibilities of its staff to clients and applicants.  | Implemented                                      | All application forms and client Fact Sheets carry appropriate statements of the Department's commitment to ethical values, and the policy in relation to corrupt behaviour and the soliciting or accepting of bribes. The Department's Commitment to Service and Code of Conduct is posted on the Department's website. The Department takes all opportunities possible through meetings and forums with clients to reiterate its commitment to ethical values. |

**Attachment B**  
**Investigation into the conduct of the Rail Infrastructure Corporation and others in relation to**  
**Menangle Bridge**  
**Corruption Prevention Recommendations**  
**12-month progress report**

*Please update this schedule with information about the status of each item as at 25 May, 2006. Include details of the latest action/update in respect of each initiative, dates where relevant and attach copies of any documents referred to, where possible, in support of implementation of particular initiatives. Should committees/positions/processes no longer exist because of restructuring or other event, please indicate how these functions are currently being performed. Give us the name of a contact person in your agency from whom we can seek more detail if needed.*

| RECOMMENDATION  | STATUS<br>(implemented, not implemented) | VARIATION/COMMENT [reference documents]   |
|---|--|---|
| <p><b>Recommendation 1</b><br/>           That the RIC review its policies and procedures on briefing the Minister to ensure that there is a clear understanding on what matters the Minister should be informed and to ensure the accuracy of any information so provided.</p>   | Not Implemented                          | RIC currently maintains an issues register to manage communications with the Minister's Office. RIC intends to review its policy and procedure for informing the Minister following finalisation of its accreditation status with ITSRR during 06/07.   |
| <p><b>Recommendation 2</b><br/>           That the RIC, in consultation with the Ministry of Transport's Transport Safety Bureau, review its infrastructure management system and where necessary develop new procedures and policies to ensure its system appropriately addresses the requirements for:<br/>           (a) regular detailed inspection undertaken by appropriately qualified persons</p> | Implemented                              | Following the Menangle inquiry (Old) RIC developed several new procedures for inspection of bridges, these new procedures / standards addressed the recommendations in the Menangle inquiry. Following the break up of RIC into RailCorp, RIC and ARTC the management of rail bridge inspections and maintenance on the Country Regional Network (CRN) has been carried out by ARTC on behalf of RIC through the Country Regional Network Management Agreement (CRNMA).<br>ARTC inspect and maintain rail bridges in accordance with the new RIC Engineering Standards mentioned above. |
| <p>(b) timely, accurate and comprehensive communication of inspection outcomes</p>  | Implemented                              | This recommendation has been addressed through ARTC utilising the updated RIC Engineering Standards.  |
| <p>(c) timely evaluation of information</p>   | Working towards implementation           | ARTC believe the evaluation of bridge defect information will continue to improve with the further development of its Bridge Management System.   |

| RECOMMENDATION   | STATUS<br>(implemented, not implemented) | VARIATION/COMMENT [reference documents]   |
|--|--|---|
|  |  | ARTC's Bridge Management System will take approximately four years to be completely implemented. Once the Bridge Management System is implemented, the inquiry recommendation regarding timely evaluation of information will be completely implemented.  |
| (d) timely undertaking of necessary maintenance and repairs; and   | Implemented                              | ARTC manage the inspection and repair of rail bridges on the CRN in accordance with the updated RIC Engineering Standards, these standards were specifically updated to incorporate recommendations coming out of the Menangle inquiry.   |
| (e) maintaining comprehensive and accessible records   | Implemented                              | ARTC maintain bridge inspection and repair records in hard copy and electronically.   |
| <p><b>Recommendation 3</b></p> <p>That as part of this process the RIC should, in consultation with the Ministry of Transport's Transport Safety Bureau, continue its implementation of a comprehensive, integrated, computerised bridge management system to capture and maintain and make accessible relevant information about bridge inspections, defects, maintenance, repairs etc. The system should also ensure that required actions are undertaken in a timely manner by electronically notifying those responsible and requiring electronic sign-off by the responsible manager.</p> | Working towards implementation.          | RIC does not have a Bridge Management System (BMS) of its own, but rather manages bridges through its contractor ARTC, under the CRNMA. ARTC utilise an integrated electronic defect management system (Ellipse) to track and sign off all infrastructure defects on the Country Regional Network including bridges. ARTC is continuing to enhance the existing systems to produce a robust comprehensive BMS. This improvement process is anticipated to take up to four years to complete.  |
| <p><b>Recommendation 4</b></p> <p>That the Ministry of Transport and the RIC work together to determine:</p> <p>(a) what matters additional to those covered by the current definition of notifiable occurrence should be reported to the Director-General, and</p>  | Implemented                              | <p>No additional notifiable occurrences are suggested, however matters which may lead to a major service disruption are now reported to MOT not only infrastructure failures. For example notifying MOT of expected line closures on the CRN should the required funding to meet minimum infrastructure standards not be available.</p> <p>Although RIC is reporting a wider range of issues to the Ministry of Transport, the formal protocol regarding which issues should be reported is still the list of notifiable occurrences.</p> <p>Issues are reported to the Ministry of Transport via ministerial briefing notes, copies of all briefing notes are logged and filed by RIC.</p> |
| (b) how reporting of such matters should best be made mandatory.   | Implemented                              | Reporting of these matters is part of RIC's general business practices.   |

**ATTACHMENT C – DPP ADVICE TIMESCALES FOR CURRENT MATTERS AND  
MATTERS COMPLETED 1 JULY 2006 TO 30 JUNE 2007**

| REPORT   | DATE OF REPORT  | DATE BRIEF TO DPP  | DATE OF FINAL DPP ADVICE   | DAYS BETWEEN SUBMISSION OF BRIEF AND FINAL DPP ADVICE |
|--|---|--|--|---|
| MUFFAT<br>Howe<br>Gill<br>Sarcasmo   | 1/8/00<br>1/8/00<br>1/8/00  | 9/8/01<br>9/8/01<br>9/8/01   | 26/9/05<br>26/9/05<br>26/9/05  | 1508<br>1508<br>1508                                  |
| TROPHY<br>McCormick  | 9/7/02  | 16/12/03   | 7/04 & 3/11/04   | 229, 324  |
| AGNELLI<br>Lawrence<br>Fitzgerald<br>Bizzell   | 28/8/03<br>28/8/03<br>28/8/03   | 1/3/04<br>1/3/04<br>1/3/04   | 25/8/06  | 907   |
| SQUIRREL<br>Sassine<br>Khalifeh  | 6/11/03<br>6/11/03  | 24/11/03<br>24/11/03   | 11/3/05<br>11/3/05   | 472<br>472  |
| CASSANDRA<br>Fassone<br>Fizelle<br>Webb<br>Dougall<br>Williams<br>Hill<br>Anthony<br>Whyte | 30/6/04<br>30/6/04<br>30/6/04<br>30/6/04<br>30/6/04<br>30/6/04<br>30/6/04<br>30/6/04<br>30/6/04 | 11/1/05<br>11/1/05<br>11/1/05<br>11/1/05<br>11/1/05<br>11/1/05<br>29/6/05<br>29/6/05 | 5/1/06<br>5/1/06<br>5/1/06<br>5/1/06<br>5/1/06<br>5/1/06<br>5/1/06<br>5/1/06 | 358<br>358<br>358<br>358<br>358<br>358<br>190<br>190  |
| HUNTER<br>Ghanem<br>Harb   | 29/7/04<br>29/7/04  | 9/2/06<br>11/4/06  | 29/3/06<br>11/12/06  | 48<br>244   |
| UNICORN<br>Smith<br>Perkins<br>Scott   | 1/4/05<br>1/4/05<br>1/4/05  | 3/11/05<br>3/11/05<br>3/11/05  | Awaiting advice<br>-<br>-  |   |





| REPORT  | DATE OF REPORT   | DATE BRIEF TO DPP   | DATE OF FINAL DPP ADVICE | DAYS BETWEEN SUBMISSION OF BRIEF AND FINAL DPP ADVICE |
|---|--|---|--------------------------|---|
| AMBROSIA (cont'd)<br>Constantin<br>Nehme, J<br>Massoud<br>Boutayeh<br>Zaiter<br>Barrakat<br>Harb, F<br>Sabra<br>Nguyen<br>Boumelhem<br>Nehme, N<br>Nakhoul<br>Daoud<br>Haidar<br>Mouwad | 21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05<br>21/12/05 | -<br>24/5/06<br>-<br>24/5/06<br>24/5/06<br>-<br>20/4/05<br>-<br>-<br>-<br>-<br>-<br>-<br>-<br>- | 11/12/06                 | 610   |
| ARGUS *<br>El Zahab, A<br>El Zahab, J<br>Daher  | 26/3/06<br>26/3/06<br>26/3/06  | 26/3/06<br>26/3/06<br>26/3/06   | Awaiting advice          |   |
| CADMUS<br>Ishac<br>Tourni<br>Khoury<br>Khouzame<br>Hilal<br>Bullen<br>Barhy   | 20/9/06<br>20/9/06<br>20/9/06<br>20/9/06<br>20/9/06<br>20/9/06<br>20/9/06  | 22/8/06<br>18/7/07<br>18/7/07<br>18/7/07<br>18/7/07<br>18/7/07<br>18/7/07                       | 13/6/06                  | (Full brief submitted after advice)                   |
| AZTEC<br>Wade<br>Williams<br>Ashe   | 24/10/06<br>24/10/06<br>24/10/06   | 10/8/07<br>10/8/07<br>10/8/07   |                          |   |

\* No report. Date taken from date brief sent to DPP.

**I·C·A·C**

INDEPENDENT  
COMMISSION  
AGAINST  
CORRUPTION

# **ICAC Code of Conduct**

**FEBRUARY  
2007**

This publication is available in other formats for the vision-impaired upon request. Please advise of format needed, for example large print or as an ASCII file.

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# 1. Introduction from the Commissioner



The Commission was established to tackle corruption in the New South Wales public sector. It has three principal functions: investigation, corruption prevention and public education. These functions can only be properly and effectively carried out if every Commission officer acts in accordance with their public duty, and the trust placed in them by the community.

This Code of Conduct sets out the principles we are expected to uphold, and prescribes specific conduct in areas considered central to the exercise of the Commission's functions. The Code will be reviewed regularly, and updated and expanded to reflect changes both within and outside the Commission.

This Code applies to all employees of the Commission and other persons engaged to do work for the Commission. (Where the Code says "Commission officers", this includes other persons engaged to do work for the Commission).

Any one of us may be faced with ethical dilemmas in both our working life and personal life. This Code of Conduct has been developed to guide us in making decisions and in determining an appropriate course of action that is supported by our corporate values (see box).

As individuals, we are responsible for our own actions. In the event that any of us becomes aware of, or witnesses, unsatisfactory actions by other Commission employees or persons engaged by the Commission, each of us is obliged to report that to a senior staff member or to the Solicitor to the Commission.

Breaches of the Code or any of the principles and guidelines that it describes may lead to the Commission taking disciplinary action.

If you are unsure of any aspect of this Code consult your line manager, a director, or the Manager, Human Resources and Administration.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Cripps', written in a cursive style.

The Hon Jerrold Cripps QC  
Commissioner

## Our corporate values are to...

1. Advance the public interest
2. Act ethically and with integrity
3. Be fair, impartial and accountable
4. Strive for excellence
5. Be tenacious and professional in pursuing our aims
6. Respect each other and support each other with an emphasis on teamwork
7. Preserve the ICAC's independence.



## 2. Our conduct as Commission officers

**The name and powers of the Commission must be used with restraint, and with an awareness of their potential effect on individuals. These powers must never be used to gain personal advantage or pursue personal issues.**

### 2.1 Our employment

By accepting employment or engagement with the Commissioner of the ICAC we are obliged to be aware of and comply with this Code of Conduct, and have undertaken to:

- engage in personal or professional conduct that will uphold the reputation of the Commission;
- abide by the secrecy and confidentiality provisions of the *Independent Commission Against Corruption Act 1988* (the ICAC Act);
- in accordance with Commission policies and regulations, fully and openly disclose to the Commission personal particulars and financial or other interests. Any significant changes to those interests should be disclosed.

We must be continually alert to our individual employment obligations to ensure we are acting ethically, responsibly and productively.

We are committed to certain fundamental values in all our interactions with public sector agencies, other organisations, individuals and our staff.

### 2.2 Ethical behaviour and decision making

We are obliged to meet the same standards of ethical behaviour and accountability that the Commission promotes in its dealings with other government organisations.

We should:

- treat members of the public, officers of the Commission and other public officials with respect, courtesy, honesty and fairness, and have proper regard for their interests, rights, safety, health and welfare;
- ensure that our work habits, behaviour and personal and professional relationships at the workplace contribute to a harmonious and productive work environment;



- perform our work honestly, diligently and with commitment;
- make decisions in a fair and timely manner, giving due attention to relevant information, legislation and Commission policies and procedures;
- respect diversity of thought, experience and skills;
- observe common courtesies and etiquette in terms of day-to-day relationships;
- comply with lawful or reasonable instructions given by an authorised colleague.

## 2.3 Conflicts of interest

**The work of the Commission must not be compromised or affected by any personal interest.**

A conflict of interest arises when our public duty conflicts with a private interest that we may have. The public interest must come first on all such occasions.

Conflicts of interest, or the perception that they have arisen, can do great damage to the reputation of the Commission and its staff.

We can all have real, potential or perceived conflicts of interest. These can be financial or non-financial. It is our responsibility to ensure that the situation is properly managed, including by reporting the situation to our line manager and advising our manager of any changes to that situation.

We must check our Declaration of Interests at regular intervals, and make amendments to reflect any changes in our interests as they occur.

If in doubt seek advice from your line manager, the Security and Risk Management Officer, the Manager of Human Resources and Administration, or an Executive Director. For more information refer to our Conflicts of Interest Policy.

## 2.4 Gifts, benefits, bribes or favours

We should never create the impression that the Commission or any of its officers is being influenced by any person or organisation.

As Commission officers we may be offered gifts, benefits, travel, hospitality or other inducements during the course of our work. The acceptance of gifts and other benefits has the potential to compromise our position by creating a sense of obligation in the receiver and so undermine our impartiality. It may also affect the public perception of the integrity and independence of the Commission and its officers.

We should never solicit any money, gift or benefit and should never accept any offer of money. To do so may constitute bribery. Bribery is soliciting, receiving or offering any undue reward. A reward can encompass anything of value and is not limited to money or tangible goods. The provision of services may amount to a reward.

There are some circumstances when to refuse a gift would be perceived as rude or offensive.

We must exercise sound judgement when deciding whether or not to accept a gift or other benefit. Officers should ensure that the Gifts and Benefits Declaration is completed and submitted. If unsure, seek advice from your line manager and consult our Gifts and Benefits Policy.

## 2.5 Use of public resources

**Public resources must be used efficiently and appropriately.**

The resources we use at work are publicly funded resources, including our time. These resources include—but are not limited to—facilities, computers, printers, motor vehicles, the internet, mobile phones, credit and fuel cards, and people. Because these resources are publicly funded, our use of them needs to be efficient and appropriate.

It is our obligation and responsibility to use publicly funded resources in accordance with government legislation and policy. Limited private use of the Commission's resources may be permitted in some cases. However, our private use of the Commission's resources, including our time, should be short, infrequent, and should not interfere with Commission work.

Further guidance about these issues can be found in our Phone Policy, Private Use of Commission Property Policy, Use of Commission Vehicle Policy, Electronic Mail Policy and Procedures, External Systems Access Policy, Internet Access Policy, and Cab Charge Procedures Policy.

## 2.6 Political, community and personal activities

As individuals we have the right to participate in political and community activities and to pursue personal interests, provided we do so in a private capacity and do not allow a conflict of interest to arise.

We must ensure that any participation in political activities does not conflict with our primary duty to advance the public interest in a politically neutral manner.

We must also be aware that involvement in or association with a political party may limit or prevent our involvement in particular Commission investigations and projects. This is because the Commission can be required to deal with matters that are politically controversial and sensitive.

In participating in any political, community and personal activity we must ensure that:

- any comment we make or discussion we have does not cast doubt on our ability or willingness to implement Commission policies and guidelines objectively;
- we do not participate in private political activities in the work environment;
- we do not use Commission resources to assist us in our political, community or personal activities;
- we do not use information obtained through our work at the Commission to assist our political, community or personal activities, or make such information known to any other person;
- we do not misrepresent the position of the Commission on any issue.

It is our obligation to ensure that any involvement in political, community or personal activities is understood to represent our personal views as a private citizen. It is also our responsibility to ensure that our manager is made aware of any political association that may affect, or be perceived to affect, a matter that we encounter in our day-to-day work.

## 2.7 Secondary employment or other activities

Engaging in outside, or secondary, employment, professional activities or even volunteer work may have the potential to compromise or be seen to

compromise our duties as a Commission officer. For example we might not know that a potential employer was of interest to the ICAC.

Prior to engaging in any secondary employment or other professional activity we should seek advice from our line manager. We should only commence secondary employment once we have received formal authorisation from the Commissioner for that employment.

For further details regarding secondary employment and how to apply for authorisation, refer to our Secondary Employment Policy.

## 2.8 If we leave the Commission

**We have an obligation to carry out our work professionally, impartially, with integrity and in the best interests of the Commission.**

If any one of us intends to accept a position with another organisation we should advise our Executive Director as soon as possible so that any conflict or potential conflict of interest can be managed.

When we leave the Commission, in accordance with the ICAC Act 1988 we should respect the confidentiality of information that we have come across in our work, and the Commission's intellectual property rights over material produced by the Commission, including material produced by us while at the Commission.

When we cease duty with the Commission we cannot take any Commission resources such as manuals, documents, materials or other information or equipment, unless authorised. These items are the property of the Commission.

Being a former employee of the Commission does not entitle a person to favourable treatment or access to confidential information.

## 3. Our workplace

**We should treat everyone with respect.**

### 3.1 A workplace free of discrimination, harassment and bullying

We are required to deal with individuals and organisations fairly, properly and with integrity, as well as recognise that each individual has rights as a citizen.

Discrimination and partiality, either within the Commission or in dealings with people and organisations outside the Commission, are unacceptable.

We are all obliged not to harass, bully or discriminate against our colleagues or members of the public on the grounds of gender, marital status, pregnancy, age, race, ethnic or national origin, disability, carer responsibilities, transgender status, religious beliefs, sexual orientation, medical conditions, political and trade union affiliations.

We should take all necessary steps to prevent and deal with harassment, bullying and discrimination in our work environment and to report it if it occurs.

For more information refer to our Bullying and Harassment Prevention Policy, the Equal Employment Opportunity (EEO) Policy and the *Anti-Discrimination Act 1977* (NSW).

### 3.2 A workplace that is safe and secure

#### Safety

We are expected to understand our responsibilities and obligations under Occupational Health and Safety (OHS) legislation. We should be proactive in ensuring that our workplace is safe and secure for everyone, including identifying, assessing and reporting safety risks and hazards.

We have an obligation to ensure that personal use of alcohol or other drugs does not affect our performance or safety, or the performance or safety of others. Inappropriate consumption of alcohol or other drugs may adversely affect the image of the Commission.

## Security

We have obligations to keep our workplace secure by being aware of and reporting suspicious visitors and/or unusual events. It is important that we are familiar with our security policies and procedures.

For more information refer to our Managing Alcohol and Other Drugs Policy, Occupational Health and Safety Policy, Workplace Injury and Management and Workers Compensation Policy, Anti Tail-Gating Procedure, and Security Passes and Cards Policy.



## 4. Our obligations regarding Commission information

**The security of information and protection of persons working with or dealing with the Commission must be assured.**

### 4.1 Using and protecting confidential information

Commission work involves access to confidential information. We must not disclose any information that we acquire during the course of our work except in the exercise of the Commission's functions. To do so may be an offence under section 111 of the ICAC Act.

We are obliged to ensure that we deal with information appropriately and use it only for the purposes of the Commission. Information may be disclosed in accordance with the Commission's Security of Sensitive Material Policy, or if the Commissioner certifies that it is necessary in the public interest to do so.

We should also exercise caution and sound judgment in discussing such information with other Commission officers. Normally information should be limited to those who need it to conduct their duties, or who can assist us to carry out our work because of their expertise.

We should remember that former Commission employees will not be given favourable treatment or access to confidential information.

Improper use of information could result in harm to another person, interfere with the integrity of an investigation or otherwise reduce the effectiveness of the Commission. We must not use information to gain a personal or commercial advantage for ourselves or another person.

Commission files and other confidential documents and information are not to be removed from the premises except in accordance with the Commission's security policies and procedures. If in doubt as to how to manage or secure sensitive material, consult our Security of Sensitive Material Policy or your line manager.

### 4.2 Making public comment on the Commission's work

**Only officers authorised by the Commissioner can make official public comment about the Commission.**

The unauthorised or improper release of information to the media may compromise an investigation, adversely affect the reputation or safety of individuals, or undermine public confidence in the Commission.

In general, Commission officers are not authorised to make official public comment about the Commission. Any media enquiries should be immediately referred to the Media Manager.

We are able to discuss Commission work that is already in the public domain, such as published reports and discussion papers, annual reports, public relations material, transcripts of public hearings, media releases, and public addresses.

We should ensure that others are aware that we are only discussing material that is in the public domain, to avoid the perception that we may be telling people something that is confidential. This is a good rule to observe, for example, when talking to family, friends or acquaintances, when on public transport, in social settings, or at a café, party or pub.

If uncertain as to whether information is in the public domain, consult the Media Manager or your line manager.

For more information refer to our Policy and Practice in relation to the Media.

### **4.3 Intellectual Property**

We should respect the Commission's intellectual property rights over material produced by the Commission.

Anything we develop, invent or create, either alone or in collaboration with others in the course of our employment or engagement with the Commission, remains the intellectual property of the Commission.

On occasion, it may be in the public interest for the Commission to share its intellectual property with other agencies, but this must be authorised by the Commissioner.

If we leave the Commission we should respect the Commission's intellectual property rights over material produced by the Commission.

For more information refer to our Intellectual Property Management Policy.



## 5. Unacceptable conduct

**Unacceptable conduct is conduct that is unethical, unfair, unlawful or corrupt, or involves maladministration or serious and substantial waste.**

It is critical that we as Commission officers practice the conduct we expect of others. The integrity and public image of the Commission could be seriously compromised if any of us engage in conduct that is corrupt, unlawful, unethical or unfair.

The Commission will not tolerate any officer engaging in misconduct, corrupt conduct, maladministration or serious and substantial waste of public resources.

‘Misconduct’ may involve deliberate acts or acts that contravene the ICAC Act, this Code of Conduct, or other Commission policies. Misconduct refers to many different factual situations that are considered under legislation or by the Commission to be unethical, unfair or unlawful.

Misconduct includes, but is not limited to, acts of carelessness, neglect, deceit, bullying, discrimination, harassment, or the misuse of position or information arising from a conflict of interest, as well as taking reprisal action against someone for making a protected disclosure (see Section 7). Misconduct includes conduct that happened while an officer was not on duty, or before an officer was appointed to his or her position.

‘Corrupt conduct’: As public officials we have specific powers, functions and knowledge because of the positions we hold. Corrupt conduct occurs when a public official uses or attempts to use that position for personal advantage. Corrupt conduct can also occur when a member of the public influences or attempts to influence a public official to use his or her position for a purpose other than the benefit of the public.

‘Serious and substantial waste’ refers to uneconomical, inefficient or ineffective use of resources that results in loss/wastage of public funds/resources. Serious and substantial waste might be systemic (e.g. where there is a pattern of waste that might be low-level or involve large quantities) or it might be absolute (e.g. where \$200,000 is spent on supplies never used).

‘Maladministration’ includes action—or lack of action—of a serious nature by a public employee that is:

- against the law;
- unreasonable, unjust, oppressive or discriminatory; or
- based wholly or partly on improper motives.

For more information on these definitions refer to the *Ombudsman Act 1974*, the *Public Finance and Audit Act 1983*, the *ICAC Act*, and the *Protected Disclosures Act 1994*.



## 6. Accountability and reporting

**We are required to comply with the principles and guidance in this Code of Conduct.**

If we suspect or become aware of conduct inside the Commission that is unethical, unfair, unlawful or corrupt, or which involves maladministration or serious and substantial waste, we should promptly report it to our line manager, the Solicitor to the Commission or the Commissioner.

### 6.1 Misconduct

If we become aware of conduct that is unethical, unfair or unlawful, such as bullying, harassment, or involving a breach of this Code, we should report it to our line manager or to the Solicitor to the Commission. If the matter concerns the Solicitor to the Commission it should be made known to the Commissioner directly.

For further information refer to our policy on Procedures Relating to the Handling of Complaints of Misconduct Against Staff.

### 6.2 Corrupt conduct, maladministration or waste within the Commission

If we become aware of conduct that may involve corrupt conduct, maladministration or serious and substantial waste we should promptly report it. The *Protected Disclosures Act 1994* will generally be applicable to complaints made by officers about such conduct to a line manager, the Solicitor to the Commission or to the Inspector of the ICAC.

We should report such conduct that we suspect or encounter in the course of our duties. We should also make a report if we suspect that another Commission officer is engaged in corrupt conduct, even if that corrupt conduct is unrelated to the officer's duties for the Commission.

#### Protected disclosures

Under the *Protected Disclosures Act 1994*, a 'protected disclosure' is a voluntary report by a public official about corrupt conduct, maladministration or serious and substantial waste within the NSW public sector. The *Protected Disclosures Act 1994* acknowledges the difficulty we may face when making a report about another public official.

The Act provides certain protections against reprisals for employees who report such matters and makes it an offence for detrimental action to be taken against a person for making a protected disclosure (but not for vexatious or malicious complaints). The Act applies to complaints made about the actions of public officials from other agencies as well as those involving the agency by which the public official is employed.

Internal reports by staff that fall within the Protected Disclosures Act will be treated as a 'protected disclosure' and handled in accordance with the Commission's Reporting of Protected Disclosures by Commission Officers Policy.

We can make a protected disclosure in the knowledge that it is an offence to take detrimental action against a person in reprisal for making a protected disclosure. If we believe that we have been detrimentally treated for having made a protected disclosure, we should report this directly to the Commissioner.

The internal investigation of complaints against staff is the responsibility of the Solicitor to the Commission, reporting to the Commissioner. Internal investigations are ordinarily conducted by a member of the Executive and a report submitted to the Commissioner for consideration of appropriate action. In the case of more serious or difficult investigations, outside assistance may be engaged.

Some staff may prefer to make a complaint to someone outside the Commission. Complaints involving corrupt conduct, maladministration or serious and substantial waste on the part of Commission officers may be made to the Inspector of the ICAC. The Inspector is an investigating authority for the purposes of the Protected Disclosures Act and has jurisdiction to investigate such complaints.

The Ombudsman and Auditor-General are no longer able to investigate complaints about ICAC officers made directly to them, although the Inspector of the ICAC may refer matters to them.

### **6.3 Reporting unacceptable behaviour outside the Commission**

The nature of our work means that from time to time we may become aware of suspected corrupt conduct which has not been otherwise reported. As Commission officers it is our responsibility to lead by example in reporting suspected corrupt conduct.

For example we may personally observe a public official engage in a suspect act, a friend may tell us something because we are a Commission employee, or someone may seek to enlist us into an improper arrangement during the course of conducting government business.

Although we are not obliged to report corrupt conduct that we may suspect or encounter by the general public outside the course of our duties, we are encouraged to do so. We should make such reports in writing to our line manager or to the Solicitor to the Commission.

## 6.4 Breaches of the Code of Conduct

By accepting a position or engagement with the Commission we have agreed to abide by this Code of Conduct.

Breaches of the Code or any of the principles and guidelines that it describes may lead to the Commission taking disciplinary action. Disciplinary action may include counselling, official notification of unsatisfactory performance, dismissal, prosecution, and a number of other measures described in our Misconduct, Unsatisfactory Performance and Serious Offences Policy.



## 7. Applicable legislation

- *Anti-Discrimination Act 1977* (NSW) and Commonwealth legislation relating to discrimination on the grounds of race, sex and disability
- *Crimes Act 1900* (NSW)
- *Freedom of Information Act 1989* (NSW)
- *Independent Commission Against Corruption Act 1988* (NSW)
- *Industrial Relations Act 1996* (NSW)
- *Occupational Health and Safety Act 2000* (NSW) & OH & S Regulation 2001
- *Ombudsman Act 1974* (NSW)
- *Privacy and Personal Information Protection Act 1998* (NSW)
- *Protected Disclosures Act 1994* (NSW)
- *Public Finance and Audit Act 1983* (NSW) and Public Finance and Audit Regulation 2005

Refer to the ICAC intranet for the relevant Commission policies.

When we are faced with an ethical dilemma, each of us should ask ourselves the following questions:

- Is it legal?
- Is it consistent with Commission values, principles and policies?
- Do I think it's the right thing to do?
- What will the consequences be for my colleagues, the Commission and me?
- What will the consequences be for other parties?
- Can I justify my actions?
- What would be the reaction of my family and friends if they were to find out?
- What would happen if my conduct became front page news?

If you are unsure of the answer or what to do, speak to your Manager or a more senior Commission officer.

### **Remember...**

**Managers are a resource to help us resolve problems and make ethical decisions, as well as help us manage unintentional acts that may breach the Code.**



INDEPENDENT  
COMMISSION  
AGAINST  
CORRUPTION

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