

ICAC

INDEPENDENT
COMMISSION
AGAINST
CORRUPTION

**Report on an investigation and
systems review of corruption
risks associated with HSC
take-home assessment tasks**

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- Representatives of the Board of Studies NSW
- Representatives of the NSW Department of Education and Training
- Mr Tony Moore, retired Head English teacher and BOS Inspector, English
- Dr William McKeith, Principal of Presbyterian Ladies College, Sydney
- Mr Mohann Dhall, Australian Tutoring Industry
- Principals and senior staff from a number of metropolitan high schools.

As part of this report, the Commission surveyed 42 NSW high schools to obtain information about issues relating to the authentication of school HSC assessment tasks and submitted work. The Commission thanks those NSW high schools who participated in the survey. The results were of great assistance in preparing this report.



INDEPENDENT COMMISSION AGAINST CORRUPTION

The Hon Dr Meredith Burgmann MLC
President
Legislative Council
Parliament House
Sydney NSW 2000

The Hon John Aquilina MP
Speaker
Legislative Assembly
Parliament House
Sydney NSW 2000

Madam President
Mr Speaker

In accordance with section 74 of the *Independent Commission Against Corruption Act 1988* I am pleased to present the Commission's report on its investigation and systems review of corruption risks associated with HSC take-home assessment tasks.

This report arises from allegations made in 2005 that some students attending a private tutoring business had received improper assistance for work ultimately submitted as part of their Higher School Certificate assessment.

No findings of corrupt conduct have been made.

A significant difficulty with the investigation was caused by inconsistencies and lack of precision in various official documents as to what constitutes cheating or malpractice. In examining current practices and policies it became apparent that there are several corruption prevention issues which need to be addressed by the Board of Studies NSW and the Department of Education and Training. The report contains a number of corruption prevention recommendations.

I draw your attention to the recommendation that the report be made public forthwith pursuant to section 78(2) of the *Independent Commission Against Corruption Act 1988*.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jerrold Cripps', written over a light grey circular stamp.

The Hon Jerrold Cripps QC
Commissioner

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Glossary and abbreviations

Term	Meaning
Band Six	<p>Throughout this report reference is made to “band six level” in relation to reviewing Major Work to be submitted for HSC English Extension 2. This refers to the Performance Band Descriptions for rating student performance in the HSC. For English Extension 2 the bands range from E1 to E4 (as discussed in Chapter 2 of this report). The use of the term “band six” by the individuals of interest in this report is presumably in respect of the Draft Performance Bands for other HSC English courses, namely HSC English Standard and Advanced. For English Standard and Advanced there are six bands with Band Six being the highest that can be awarded. The description of work which meets Band Six performance is as follows:</p> <ul style="list-style-type: none"> ■ <i>demonstrates extensive, detailed knowledge, insightful understanding and sophisticated evaluation of the ways meanings are shaped and changed by context, medium of production and the influences that produce different responses to texts.</i> ■ <i>displays a highly developed ability to describe and analyse a broad range of language forms, features and structures of texts and explain the ways these shape meaning and influence responses in a variety of texts and contexts.</i> ■ <i>presents a critical, refined personal response showing highly developed skills in interpretation, analysis, synthesis and evaluation of texts and textual detail.</i> ■ <i>exhibits an ability to compose imaginatively, interpretively and critically with sustained precision, flair, originality and sophistication for a variety of audiences, purposes and contexts in order to explore and communicate ideas, information and values.¹</i>
BOS	Board of Studies NSW (also referred to as “the Board” in this report) (the role and function of the BOS is outlined on pages 14–15).
DET	The NSW Department of Education and Training (the role and function of the DET is outlined on page 15).
HSC	<p>Higher School Certificate</p> <p>The Higher School Certificate is the highest educational award issued by the Board of Studies NSW.</p> <p>HSC course types</p> <p>There are two main types of HSC course – those that are set and externally examined by the Board of Studies NSW, which are termed “Board Developed Courses” and those which are developed by schools, TAFE or universities, which are termed “Board Endorsed Courses”.</p> <p>HSC mark</p> <p>The Higher School Certificate mark in Board Developed Courses is the average of a student’s external examination mark and the moderated school assessment mark achieved by that student for that course.</p> <p>HSC external examination mark</p> <p>The external examination mark in an HSC course is based on performance in an external HSC examination. The external examination may involve more than one component, such as a written examination, a practical examination or submitted work. Where this is the case, the final HSC external examination mark is the sum of the marks for each component.</p>

1. Performance Band Descriptions from the BOS website, http://boardofstudies.nsw.edu.au/syllabus_hsc/pdf_doc/english_dpbs.pdf, website accessed October 2006.

HSC external written examinations

Most external examinations for the HSC include a three-hour written examination. Examinations are held in October or November each year.

HSC practical examinations

Practical examinations are held separately from written examinations and may include speaking examinations or performance examinations.

HSC submitted works

Submitted works are written projects or practical work submitted by students, via the school, to the Board of Studies for marking by HSC markers as part of the HSC external examination. Submitted works are completed during the HSC study year under the supervision of the school, but the work is largely done outside the classroom and away from the direct supervision of the teacher.

HSC school-based assessment mark

Schools are required to submit to the BOS a school-based assessment mark for each student for each course undertaken by that student. This occurs at the completion of the school's HSC assessment program. The mark is based on a student's overall performance in the assessment tasks set by the school for that course.

HSC school-based assessment tasks

The syllabus identifies the components of the course to be assessed by the school and their weightings. The type, timing and weighting of individual assessment tasks is determined by the school. School-based assessment tasks are designed to measure performance in a wider range of outcomes than may be tested in an external examination. Assessment tasks may include assignments, fieldwork studies and reports, model making, oral reports, research projects, practical tests and open-ended investigations, viva voce (oral progress reports), improvisations, arrangements, original compositions, portfolios and presentations of performance. Some of these tasks are completed within the school and some are completed outside the classroom.

HSC school assessment program

The BOS requires schools to develop their own HSC assessment program and associated policies and procedures. For each course, schools prepare and administer an assessment program in accordance with specifications in the syllabus.

Malpractice

The BOS defines malpractice as any activity that allows a student to gain unfair advantage over other students. Throughout this report the Commission uses the term in this broad sense, and to include inappropriate and unacknowledged third party assistance provided to HSC students in take-home assessment tasks.

Plagiarism

To plagiarise means to take the work or idea of someone else and pass it off as one's own (*The Oxford Compact English Dictionary, 2003*). The term is commonly used to describe a range of behaviour, including the use of downloaded material from the internet without proper acknowledgement and the use of inappropriate and unacknowledged third party assistance. The BOS includes plagiarism as a form of malpractice. The Commission has limited its use of the term plagiarism in this report, as the terms "inappropriate and unacknowledged third party assistance" and "cheating" more clearly reflect both the nature and seriousness of the malpractice we discuss in the report.

UAI

Universities Admission Index

The Universities Admission Index (UAI) is a rank which provides a measure of a student's overall academic achievement in the HSC in relation to other students. The universities use the UAI, either on its own or in conjunction with other selection criteria, to rank and select school leavers for admission to university and particular courses. UAIs are calculated on behalf of the universities in NSW by the Technical Committee on Scaling, a committee established by the NSW Vice-Chancellors' Committee. The requirements for the UAI are determined by the universities. To be eligible for a UAI a student must satisfactorily complete at least 10 units of BOS Developed Courses (see "HSC course types" entry above).

Executive summary

This is the report of the Independent Commission Against Corruption's investigation and systems review of corruption risks associated with Higher School Certificate take-home assessment tasks.

The context

The Board of Studies NSW (BOS) is a statutory body which serves government and non-government schools in the development of school education for Years K–12 and the awarding of secondary school credentials – the School Certificate and the Higher School Certificate (HSC).

The HSC is the highest educational award issued by BOS. Since the introduction of the HSC in 1967 assessment of students' performance in the HSC has moved from assessment based entirely on performance in external examinations to the current form of the HSC, whereby most HSC courses involve both school-based assessment tasks, assessed by the school in accordance with its own HSC School Assessment Program, and external examinations, assessed by BOS-appointed HSC markers.

The external examination component of HSC courses may include or be comprised of practical examinations and/or the submission of reports or projects.

The allegations which were reported to the Commission related to improper tutoring services being provided to NSW HSC students. In particular the allegations related to students undertaking one of the HSC English Extension courses, English Extension 2. These allegations were the focus of the Commission's investigation.

Unlike the majority of NSW HSC courses, for English Extension 2 the entire assessment is based solely on a Major Work, undertaken by individual students under the supervision of their school but largely completed outside the classroom and away from the direct supervision of the classroom teacher.

The investigation

This investigation arises from a report to the Commission from the BOS, received on 27 June 2005, which informed the Commission of allegations that some students attending a private tutoring business, Acclaim Education, had received improper assistance

for work ultimately submitted as part of their Higher School Certificate assessment.

The Commission's investigation focused on the provision of tutoring services by Acclaim Education and – because the allegations implied that systemic weaknesses might exist so as to allow, encourage or cause the occurrence of corrupt conduct – on the review and analysis of the applicable regulatory and legislative frameworks and the relevant organisational policies, procedures and practices.

The Commission conducted interviews with individuals who had managed, provided or received tutoring in HSC subjects through Acclaim Education; undertook forensic analysis of computer hard-drives held by Acclaim Education (obtained through the execution of search warrants); and took evidence from seven individuals in compulsory examinations.

The Commission's findings

The Commission found that some students had been provided with varying degrees of assistance from various private tutors employed at Acclaim Education. This assistance involved changing words, rewriting paragraphs, providing drafts for consideration and adjusting story lines. In one case a student had copied material from a source provided by a tutor without acknowledging that source.

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

One of the significant difficulties encountered in the course of the investigation was determining whether the type of assistance provided by certain Acclaim Education tutors complied with policies and guidelines published in BOS documents. Failure to meet BOS policies and guidelines on acceptable levels of assistance might be an indicator of corrupt conduct. However, these documents were inconsistent in their definition of behaviour that could be termed malpractice (the term used by the BOS) or cheating, and in defining what constitutes a student's "own work" in assessment tasks.

The lack of clear standards imposed insurmountable difficulties in determining whether individual conduct identified by the investigation contravened those standards. This in turn made it difficult to establish

whether any conduct came within the definition of corrupt conduct in the ICAC Act.

Although no findings of corrupt conduct have been made, the evidence gathered by the Commission during its investigation identified areas of practice and procedure affecting the HSC that were conducive to corrupt conduct.

Corruption risks and corruption prevention recommendations

The Commission reviewed and analysed applicable regulatory and legislative frameworks and the relevant policies, procedures and practices of organisations involved in the administration and management of the HSC.

As part of its examination of issues relating to the authentication of HSC take-home assessment tasks, the Commission also undertook a confidential schools survey, involving principals and some subject teachers in 42 government and non-government high schools in NSW.

The Commission's investigation made it apparent that there are several corruption risk areas which need to be addressed by the relevant public authorities, namely:

- risks associated with identifying and dealing with cheating and malpractice;
- risks specific to the English Extension 2 course, and
- risks associated with secondary employment and the tutoring industry.

The Commission has analysed these risk areas in detail in Chapters 5, 6 and 7 of this report and has made a total of 20 corruption prevention recommendations – 14 to the BOS, five to the NSW Department of Education and Training and one to the Minister for Education and Training.

As part of the performance of its statutory functions, the Commission will monitor the implementation of the recommendations made as a result of this investigation.

The recommendations will be communicated to the BOS and the DET, with a request that implementation plans for the recommendations be provided to the Commission within three months of the publication of this report. The Commission will also request progress reports on the implementation of recommendations at intervals of 12 and 24 months after the publication

of this report. These reports will be posted on the Commission's website, www.icac.nsw.gov.au, for public viewing.

The corruption prevention recommendations made in this report are as follows:

RECOMMENDATION 1

That the Board of Studies NSW adopts one agreed standard and a minimal number of well-defined terms, consistent with that standard, to describe what is expected of students, and in particular the extent to which a student's work must be his or her own.

The standard and associated terms should be used consistently throughout BOS publications, including guidelines, policies and procedures and where relevant should be supported by examples and case studies showing what is both acceptable and unacceptable practice.

RECOMMENDATION 2

That the Board of Studies NSW conducts a comprehensive review to determine the types of third party assistance that are unacceptable for HSC students. To guide students, parents, teachers and tutors, BOS publications should set out examples and case studies of what is both acceptable and unacceptable third party assistance.

RECOMMENDATION 3

That all Board of Studies NSW guidelines should clearly state that plagiarism if detected will jeopardise the student's HSC exam results.

RECOMMENDATION 4

That the Board of Studies NSW requires students who undertake English Extension 2 to explicitly acknowledge all assistance they receive with the preparation of their Major Work, including any assistance they may receive from paid tutors. It is also recommended that the nature of the assistance given be specified.

RECOMMENDATION 5

That the Board of Studies NSW considers whether this requirement should be extended to other HSC courses that include significant take-home assessment tasks or submitted works.

RECOMMENDATION 6

That the Board of Studies NSW considers requiring the Major Work Journal for English Extension 2 to be submitted to the school and signed off by the school at certain nominated points in the development of the work to reinforce the message that the Major Work Journal should document the evolution of the Major Work across a course of time and to prevent the Journal from simply being “made up” at the end of the process.

RECOMMENDATION 7

That the Board of Studies NSW includes in advice to students, parents and teachers a statement that serious and deliberate acts of cheating in the Higher School Certificate would amount to corrupt conduct. The Board of Studies NSW should provide advice as to how it handles such allegations, the consequences to those involved if the allegations are sustained and that, where appropriate, the Board of Studies NSW will report matters to the Independent Commission Against Corruption.

RECOMMENDATION 8

That, with input from the secondary school sector, the Board of Studies NSW develops an appropriately resourced and independent expert advice and support service to assist schools and teachers in the management of individual cases of malpractice in assessment tasks and submitted works.

RECOMMENDATION 9

That, with input from the secondary education sector, the Board of Studies NSW develops a system for centrally recording, assessing and analysing the number and type of misconduct incidents that occur in the Higher School Certificate assessment program and submitted works.

RECOMMENDATION 10

That, after the reporting system has been established, the Board of Studies NSW publicly reports numbers and types of malpractice incidents and investigation outcomes for all incidents of malpractice in take-home assessment tasks, including how cases were dealt with.

RECOMMENDATION 11

That, to raise awareness about the application of sanctions, the Board of Studies NSW considers developing and publishing a series of case studies in its information to students that provide examples of

where malpractice has been identified, the sanctions applied and the effect of those sanctions on the student’s Higher School Certificate results.

RECOMMENDATION 12

That the Board of Studies NSW considers introducing a standard requirement that, should a reasonable suspicion of malpractice or dispute concerning malpractice arise, students will be required to demonstrate that the work is entirely their own.

RECOMMENDATION 13

That the Board of Studies NSW adopts a risk management approach in relation to the corruption risks associated with its HSC Assessment Program and that regular reviews are undertaken to ensure that existing and emerging risks are recognised and managed in a timely fashion. The Commission recommends that there is coordination between the Board of Studies NSW, the NSW Department of Education and Training and the non-government school sector in this regard.

RECOMMENDATION 14

That the NSW Department of Education and Training ensures that the new level of oversight provided by additional school education directors is used effectively to ensure compliance with the Board of Studies’ Higher School Certificate policies and procedures.

RECOMMENDATION 15

That the Board of Studies NSW reviews the format, requirements, assessment procedures and associated corruption risks in the English Extension 2 course of study to determine if this course of study, as it currently stands, can be conducted in such a way as to better manage the corruption and malpractice risks. The Board of Studies NSW should then take the appropriate steps to deal with the identified risks.

RECOMMENDATION 16

That the NSW Department of Education and Training undertakes a corruption risk assessment of the increasing involvement of its staff in the private tutoring industry.

RECOMMENDATION 17

That the NSW Department of Education and Training provide additional guidance to teachers who seek to undertake private employment in the tutoring industry,

including managing properly identified conflict of interest issues and corruption risks.

RECOMMENDATION 18

That the NSW Department of Education and Training ensures the effective implementation of its 2004 Private and Secondary Employment Policy and associated procedures through on going awareness raising, and audit and compliance activities, and that the policy is reviewed in light of these activities early in 2008.

RECOMMENDATION 19

That the NSW Department of Education and Training Code of Conduct makes clear that a conflict of interest exists when a reasonably minded and informed person would form that view.

RECOMMENDATION 20

That the NSW Minister for Education and Training, using a risk management approach, determines whether a form of tutoring industry regulation may be effective in minimising opportunities for malpractice and/or corrupt conduct within the NSW education and training sector.

Chapter 1: About this investigation

This is the report of the Commission's investigation and systems review of corruption risks associated with Higher School Certificate (HSC) take-home assessments tasks.

This report arises from allegations made in 2005 that some students attending a private tutoring business had received improper assistance for work ultimately submitted as part of their HSC assessment.

Why the Commission investigated

On 27 June 2005 the Commission received a section 11 report from the Board of Studies NSW (BOS) regarding improper tutoring practices in respect of some New South Wales Year 12 students – it was implied that the students who received the improper tutoring had ultimately submitted, as part of their HSC assessment, written tasks and works that were not their own.

The allegations concerned alleged improper practice / malpractice relating to the HSC, which is undertaken by tens of thousands of NSW students annually and which plays a crucial role in measuring students' academic achievement and determining their future tertiary study and work prospects.

If proven, the allegations could amount to corrupt conduct as defined in the ICAC Act. Such conduct by tutors and students could adversely affect the exercise of official functions by a NSW public official, in this case a BOS assessor responsible for assessing and grading the works submitted, or a school teacher conducting internal assessment to facilitate the HSC process on behalf of the BOS and could, for the purposes of sections 8(2) and 9 of the ICAC Act, involve fraud.

The Commission therefore determined to conduct an investigation to ascertain if any persons had engaged in corrupt conduct and, if so, the extent of that conduct. The Commission also decided to investigate because the allegations implied that systemic weaknesses might exist so as to allow, encourage or cause the occurrence of corrupt conduct.

What the Commission investigated

The allegations reported to the Commission concerned tutoring services provided at a tutoring agency in metropolitan Sydney called Acclaim Education. Essentially the allegations were that tutors rather than the students had been writing the Major Works submitted by students enrolled in HSC English Extension 2.

The Commission's investigation focused on the provision of tutoring services by Acclaim Education and involved interviewing individuals who had managed, provided or received tutoring in HSC subjects through Acclaim Education.

As the allegations implied that systemic weaknesses might exist so as to allow, encourage or cause the occurrence of corrupt conduct, the Commission also reviewed and analysed the applicable regulatory and legislative frameworks, and organisational policies, procedures and practices.

How the Commission investigated these matters

During the course of the investigation the Commission conducted interviews, undertook forensic analysis of computer hard-drives held by Acclaim Education (obtained through the execution of a series of search warrants) and conducted a number of compulsory examinations.

The ICAC Act provides that for the purposes of an investigation the Commission may hold hearings in public ("public inquiries") or in private ("compulsory examinations"). In reaching a decision as to whether to hold public inquiries or compulsory examinations, the Commission is obliged to have regard to any matters it considers to be related to the public interest.

The Commission determined that it was in the public interest to hold a number of compulsory examinations to obtain a more detailed understanding of what happened and why. Seven individuals gave evidence to the Commission and their evidence is the subject of suppression orders made under section 112 of the ICAC Act.

As part of the investigative process the Commission also reviewed and analysed the applicable regulatory and legislative frameworks, and organisational policies, procedures and practices.

Investigation outcomes

Section 13(2) of the ICAC Act states:

The Commission is to conduct its investigations with a view to determining:

- (a) whether any corrupt conduct, or any conduct referred to in subsection (1)(a), has occurred, is occurring or is about to occur, and*
- (b) whether any laws governing any public authority or public official need to be changed for the purpose of reducing the likelihood of the occurrence of corrupt conduct, and*
- (c) whether any methods of work, practices or procedures of any public authority or public official did or could allow, encourage or cause the occurrence of corrupt conduct.*

(2A) Subsection (2)(a) does not require the Commission to make a finding on the basis of any investigation, that corrupt conduct, or other conduct, has occurred, is occurring or is about to occur.

For the reasons outlined in Chapter 3 of this report, no findings of corrupt conduct are made.

As part of this investigation, and in line with the Commission's corruption prevention role set out in section 13(1) of the ICAC Act, the Commission examined the relevant regulatory and legislative frameworks, and organisational policies, procedures and practices.

Section 13(1) of the ICAC Act states that the Commission is:

...

- (d) to examine the laws governing, and the practices and procedures of, public authorities and public officials, in order to facilitate the discovery of corrupt conduct and to secure the revision of methods of work or procedures which, in the opinion of the Commission, may be conducive to corrupt conduct,*
- (e) to instruct, advise and assist any public authority public official or other person (on the request of the authority, official or person) on ways in which corrupt conduct may be eliminated,*

(f) to advise public authorities or public officials of changes in practices or procedures compatible with the effective exercise of their functions which the Commission thinks necessary to reduce the likelihood of the occurrence of corrupt conduct,

(f) to advise public authorities or public officials of changes in practices or procedures compatible with the effective exercise of their functions which the ICAC thinks necessary to reduce the likelihood of the occurrence of corrupt conduct ...

During the investigation into this matter the Commission closely examined the activities of Acclaim Education and its interaction with a number of HSC students. The focus of the Commission's investigation was an examination of the types of tutoring services Acclaim Education provided to students undertaking the advanced courses in HSC English. In particular, the Commission examined the types of private tutoring services provided to students in the preparation of their Major Work for English Extension 2.

What the Commission found was that Acclaim Education provided varying degrees of assistance to HSC English students. This assistance included tutors:

- working closely with HSC English students over extended periods of time;
- influencing the preparation of students' Major Works, including the original proposal and final product;
- editing the work throughout the process and immediately before the work was to be submitted for marking, including to satisfy length requirements.

The investigation did reveal areas of practice and procedure affecting the HSC that were conducive to corrupt conduct and it became apparent that there are several corruption risks which require attention by the BOS and the DET.

In its investigation, the Commission identified:

- risks associated with identifying and dealing with cheating and malpractice;
- risks particular to English Extension 2; and
- risks associated with secondary employment and the tutoring industry.

These risks are discussed in detail in Chapters 5 to 7 of this report. A total of 20 corruption prevention recommendations are made to the relevant agencies – 14 to the Board of Studies NSW, five to the NSW

Department of Education and Training and one to the NSW Minister for Education and Training.

As part of its examination of issues relating to the authentication of HSC take-home assessment tasks, the Commission also undertook a confidential survey of teachers and principals of 42 government and non-government high schools in NSW. This survey informs the discussion and recommendations in Chapters 5 to 7 and full details of the survey are included at Appendix 3.

Implementation of corruption prevention recommendations

Corruption prevention recommendations in this report are directed to the BOS, the DET, and the Minister for Education and Training.

As part of the performance of its statutory functions, the Commission will monitor the implementation of the recommendations made as a result of this investigation.

The recommendations will be communicated to the BOS, the DET, and the Minister for Education and Training, with a request that implementation plans for the recommendations be provided to the Commission within three months of the publication of this report. The Commission will also request progress reports on the implementation of recommendations at intervals of 12 and 24 months after the publication of this report. These reports will be posted on the Commission's website, www.icac.nsw.gov.au, for public viewing.

Unless implementation has not been adequately addressed or the Commission determines to take a more detailed examination of the implementation of recommendations, the Commission will not request progress reports after the 24-month follow-up. It will be the responsibility of those who are the subject of the recommendations to advise the Commission of any subsequent changes to the status of implementation. These changes will then be posted on the Commission's website.

Structure of this report

Chapter 2 provides an overview of the HSC and how it operates. It provides the background information necessary to understand the issues canvassed in subsequent chapters.

Chapter 3 outlines the allegations made to the Commission and the Commission's investigation. No findings of corrupt conduct are made.

Chapter 4 provides an overview of the competitiveness of the high school environment and a summary of the research relating to issues such as cheating and malpractice in the high school environment. This context is useful in understanding the matters that are discussed in Chapters 5 to 7.

Chapter 5 provides a brief overview of the corruption risks identified through the Commission's investigation, and focuses on the corruption risks around the identification and management of allegations of cheating and malpractice. Thirteen corruption prevention recommendations are made to the BOS and one to the DET.

Chapter 6 discusses the corruption risks particular to English Extension 2. One corruption prevention recommendation is made to the BOS.

Chapter 7 is concerned with risks around secondary employment of NSW high school teachers within the private tutoring industry and discusses general themes relevant to the topic of industry regulation. Four corruption prevention recommendations are made to the DET and one to the NSW Minister for Education and Training.

Appendix 1 outlines the Commission's statutory role.

Appendix 2 defines corrupt conduct as it is defined in the *Independent Commission Against Corruption Act 1988* (the ICAC Act).

Appendix 3 provides details of the survey of teachers and principals at 42 NSW government and non-government high schools conducted by the Commission as part of its examination of issues relating to the authentication of school-based HSC assessment tasks and of submitted work.

Recommendation that this report be made public

Pursuant to section 78(2) of the ICAC Act the Commission recommends that this report be made public immediately. This recommendation allows either presiding officer of the Houses of Parliament to make the report public, whether or not Parliament is in session.

Chapter 2: The NSW Higher School Certificate

It is necessary, as a context for and prior to a detailed discussion of the matters investigated by the Commission, to provide a description of the NSW Higher School Certificate (HSC) and how it operated between 2002 and 2005 – the period of the conduct which was the subject of this investigation. This and subsequent chapters also acknowledge more recent versions or editions of documents or policies and actions taken by the Board of Studies NSW (BOS) and the NSW Department of Education and Training (DET) relevant to the corruption risk areas and issues canvassed in this report.

This chapter begins with a brief history and overview of the HSC, including the role of each agency involved in the administration and management of the HSC. The following sections outline how an HSC mark is determined and the rules, policies and procedures surrounding the varied HSC assessment methods that applied in the period 2002–2005. The final section outlines specifically how the HSC English Extension Courses operate as it was work submitted in these courses that is of particular interest in this report.

Brief history and overview of the NSW HSC

The HSC is the highest educational award issued by the BOS. For the majority of NSW secondary students the HSC represents the culmination of 13 years of schooling and provides them with a record of personal achievement against set standards.

For many students the HSC also acts as a springboard for future study and career choices. It is closely linked with university admission, TAFE entry, and work options. For this reason, it is seen as an important credential and a highly valuable commodity within the community.

In its advice to the Commission in October 2006 the BOS advised that the first HSC was conducted in 1967. At that time student results were calculated entirely upon their public examination performance. Since then the HSC has undergone numerous changes, including the type and number of courses offered and the way students are assessed, with a steady progression towards a greater variety of assessment and testing methods. In addition, the proportion of school-aged students completing Year 12 has increased from 21 per cent in 1967 to about 70 per cent today. The BOS has stated that the reasons for this are varied and include “changed community expectations, increased skills required for employment and many young people [responding] positively to new curriculum and improved teaching”.²

Over 65,000 students were enrolled in the 2005 HSC study program. These students were able to choose among 157 courses spread across 82 different subject areas.

Student performance in each of these courses was assessed using one or more of the following: formal written examinations, practical examinations, school assessment tasks and works completed over extended periods of time.

Agencies linked to the NSW HSC

The main public sector agencies involved in the operation of the HSC are the BOS, the DET and the Universities Admissions Centre. The role of each of these agencies in respect of the HSC is outlined below.

Approximately 40 per cent of the HSC candidates attend non-government schools.³ Non-government agencies linked to the HSC include – among a range of others – the Catholic Education Commission, Association of Independent Schools and Christian Schools Australia.

The Board of Studies NSW

The BOS is a statutory body established under the *Education Act 1990* (NSW). The BOS serves government and non-government schools in the development of school education for Years K–12 and the awarding of secondary school credentials – the School Certificate and the HSC. The Act provides for 23 members of the BOS. At the time of writing, the current President of the BOS was Professor Gordon Stanley. Ex-officio members include the Managing Director of TAFE NSW, the Director-General of the DET or their nominees. Members appointed by the Minister are nominees from the:

- NSW Vice-Chancellors' Committee;
- Council of the Federation of Parents and Citizens' Associations of NSW;
- Catholic Education Commission NSW;
- Association of Independent Schools / Headmasters Conference / Association of Heads of Independent Girls' Schools;
- NSW Independent Education Union;
- Council of Catholic School Parents;
- NSW Parents Council;

2. Board of Studies NSW, advice to the Commission dated 19 October 2005, p. 3.

3. Board of Studies NSW, advice to the Commission dated 31 January 2007.

- NSW Council of Primary School Principals;
- NSW Council of Secondary School Principals;
- NSW Teachers Federation.

The BOS also includes “one person with knowledge and expertise in early childhood education, an Aboriginal person with knowledge and expertise in education of Aboriginal people [and] six other persons having, in the Minister’s opinion, qualifications or experience that enables them to make a valuable contribution to primary or secondary education in New South Wales”.⁴

The NSW Government’s Office of the Board of Studies provides professional and administrative support to the BOS in performing its functions under the Act.

In relation to the HSC, the BOS is responsible for:

- developing and endorsing courses of study;
- making arrangements for conducting examinations and student assessments;
- regulating the conduct of examinations and assessments, and recording students’ achievements in them;
- awarding the HSC;
- providing Preliminary and HSC Records of Achievements and/or Result Notices;
- providing advice and assistance to students, employers and the public regarding the nature and content of secondary courses, assessment and examination procedures, and the reporting of students’ achievements in them.⁵

The BOS is also responsible for the registration and accreditation of non-government schools. NSW non-government schools that provide secondary education to Year 11 and Year 12 students must be both registered and accredited. They must comply with the BOS curriculum requirements and associated policies and procedures surrounding the administration of the HSC.⁶

The NSW Department of Education and Training

The DET is responsible for the delivery of education and training services from early childhood education through to post-compulsory education and training in government schools and colleges. It operates principally under the *Education Act 1990*, the *Teaching Services*

Act 1980 and the *Technical and Further Education Commission Act 1990*. The stated purpose of the DET is to assist students to become citizens who contribute positively to the wellbeing, sustainability and economic success of NSW and the wider community.

In 2005 the DET provided education and training services to almost 1.3 million students through the extensive network of government schools, TAFE NSW Institutes and associated colleges.⁷

In relation to public schools the key priority of the DET is to “provide children and young people with the foundation for lifelong learning so that they become literate, numerate, well educated citizens with the capabilities and confidence to make a positive contribution to our society”.⁸

The DET has advised the Commission that, in relation to the HSC, it has responsibility for the conduct and welfare of all government school students and the employment and training of government school teachers. The DET also has responsibility to ensure that students, parents/caregivers and teachers in government schools understand and follow the relevant requirements of the BOS for the award of the HSC.

The Universities Admissions Centre

The Universities Admissions Centre (UAC)⁹ was established by the NSW Vice-Chancellors’ Committee to process applications from HSC candidates for admission to undergraduate courses offered by participating institutions in NSW and the ACT. The mission of the UAC is to provide professional services to the community and universities to facilitate access and application to higher education in NSW and the ACT. Instead of applying separately to each institution, prospective students simply submit one application through the UAC.

The Universities Admission Index

The Universities Admission Index (UAI) is a rank which provides a measure of a student’s overall academic achievement in the HSC in relation to other students. The universities use the UAI, either on its own or in conjunction with other selection criteria, to rank and select school leavers for admission to university and particular courses.

4. *Education Act 1990*, section 100(i), (j), (k).

5. Section 102 of the *Education Act 1990* sets out the broad functions of the Board of Studies NSW. The above is a summary of the Board’s functions as they relate to the operation of the Higher School Certificate.

6. Parts 7 and 8 of the *Education Act 1990* detail registration and accreditation requirements for non-government schools.

7. *Annual Report for Year ended 30 June 2005*, Department of Education and Training, p. 3.

8. www.det.nsw.edu.au/aboutus/public.htm.

9. www.uac.edu.au.

UAIs are calculated on behalf of the universities in NSW by the Technical Committee on Scaling, a committee established by the NSW Vice Chancellors' Committee. The requirements for the UAI are determined by the universities. To be eligible for a UAI a student must satisfactorily complete at least 10 units of BOS Developed Courses. These are referred to as UAI courses. UAI courses are Board Developed Courses for which there are formal examinations conducted by the BOS that yield a graded assessment. The UAI is based on an aggregate of scaled marks in 10 units of UAI courses, comprising the best two units of English and the best eight units from remaining units.

The UAC advises that the HSC and the UAI have quite separate functions even though they are both based on HSC course results. The HSC is a set of results that provides a profile of achievement across a range of HSC courses and the UAI is a rank which provides a measure of overall academic achievement in the HSC and is associated with admission to university.

Operation of the NSW HSC

The HSC is governed by the *Education Act 1990* (NSW) which sets out the general requirements students need to meet in order to be awarded the HSC. The Act provides for the HSC to be awarded by the BOS to students who have:

- gained a School Certificate (or other qualification considered satisfactory by the BOS);
- attended a government school (or registered and accredited non-government school);
- participated, to the BOS's satisfaction, in courses of study which have been determined to be appropriate;
- completed those courses to the BOS's satisfaction;
- undertaken the requisite examinations or other forms of assessment;
- complied with any requirements prescribed by the regulations or any requirements imposed by the Minister or the BOS.¹⁰

The BOS may refuse to grant an HSC to a student whose attendance or application at school has been unsatisfactory.¹¹

In its 1997 White Paper examining reforms for the HSC the NSW Government stated that:

The Higher School Certificate is more than an

examination. The New South Wales Higher School Certificate is a nationally and internationally recognised program of study by which the achievements of students are measured and reported through both school-based assessments and formal external examinations.¹²

The White Paper also notes that students can undertake the NSW HSC in a number of ways. It is offered by government and non-government schools, through TAFE NSW and can also be undertaken by students studying at home and privately.

In its advice to the Commission the BOS outlined the purpose of the HSC program, which is intended to:

- *Provide a curriculum structure which encourages students to complete secondary education;*
- *Foster the intellectual, social and moral development of students, in particular developing their:*
 - *knowledge, skills, understanding and attitudes in the fields of study they choose,*
 - *capacity to manage their own learning,*
 - *desire to continue learning in formal or informal settings after school,*
 - *capacity to work together with others,*
 - *respect for the cultural diversity of Australian society;*
- *Provide a flexible structure within which students can prepare for further education and training, employment, full and active participation as citizens;*
- *Provide a formal assessment and certification of students' achievements;*
- *Provide a context within which schools also have the opportunity to foster students' physical and moral development.¹³*

The BOS has also advised the Commission the HSC is constantly evolving to meet the changing needs of students and the community:

... [over the years] the HSC has changed in a number of ways; in the number and type of courses on offer, in the way students are assessed and in the way results are reported.¹⁴

The current form of the HSC was introduced six years ago and has a broad curriculum, varied assessment methods, increased flexibility and is linked to tertiary admission and training pathways.

10. *Education Act 1990*, section 95(1).

11. *Education Act 1990*, section 95(3).

12. *Securing Their Future*, NSW Government White Paper, August 1997, p. 6.

13. Board of Studies NSW, advice to the Commission dated 19 October 2005, p. 5.

14. *ibid*, p. 3.

In the early days of the HSC, when assessment was based entirely on the students' public examination performance, school estimates of student performance were required but, except for comparison purposes, only used in cases where student examination results were affected by illness or misadventure, or as a basis for re-marking where examination results were considerably lower than school estimates. From 1977 school estimates were combined on an equal footing with examination marks to provide the HSC mark. To achieve state-wide comparability school estimates were scaled to give them the same distribution as that of students' external examination marks.

In 1986, for the first time, schools were required to give their own formal assessment of individual students' performances in each HSC course, rather than merely an estimate of each student's HSC marks. The BOS has advised the Commission that "the adoption of school-based assessment was an explicit recognition that some syllabus outcomes cannot be effectively

and validly measured through traditional forms of examination only".¹⁵ The Commission notes that in its 1997 White Paper, *Securing Their Future*, the NSW Government confirmed its support for varied assessment methods.¹⁶ The BOS has advised the Commission that "as a consequence, school-based assessment tasks and projects, and submitted works remain fundamental to the measurement of student achievement in the current HSC".¹⁷

How is an HSC mark determined?

As mentioned earlier the HSC mark received by each student for most courses is a combination of the external HSC examination mark and a school-based assessment mark where each has equal value. The HSC mark is thus the average of a student's external examination mark and the school assessment mark achieved for that course. The HSC mark, the assessment mark and the examination mark are all reported on the student's record of achievement.

Table 1: Examination and assessment methods for most HSC courses

HSC school-based assessment (50%)	HSC external examination (50%)
Schools develop their own HSC School Assessment Program according to BOS requirements. Marking is done by the school.	HSC external examinations are developed by the BOS and marked by BOS-appointed HSC markers.
For most HSC courses, schools determine the number and type of school-based assessment tasks needed and the appropriate weighting for each task. These tasks are developed within requirements set by the Board and the syllabus.	The external examination in most courses usually includes a formal three-hour written examination.
BOS requires that schools institute a variety of assessment tasks that are appropriate to the outcomes and components being assessed. School-based assessment tasks can include assignments, fieldwork, reports, oral reports, research projects etc. Many of these tasks are undertaken over an extended period of time during the HSC course.	In addition to the external written examination, some HSC external examinations include practical examinations and/or the submission of reports or projects. These are called practical projects or submitted works and are completed by students over an extended period of time during the HSC course.
For each HSC course the school assessment tasks are marked by the school and a final aggregate mark is provided by the school to the BOS.	In relation to each HSC course, the external examination, including the written component and any practical examination or submitted work, is marked by the Board of Studies HSC markers. The final examination mark is a combination of results achieved in the written examination and any practical examination and/or submitted work.

Sources: The above table is based on information contained in the BOS publications *Assessment, Certification and Examination Manual*, 2002 edition and *HSC Assessment in a Standards-referenced Framework – A Guide to Best Practice*, 2003 edition, as well as written advice provided by the BOS to the Commission on 19 October 2005.

15. *ibid*, p. 4.

16. *Securing Their Future*, NSW Government White Paper, August 1997. In this paper the Government supported the need for "broad ranging assessment practice aimed at measuring outcomes from the content defined by a syllabus in terms of knowledge, skills and understanding", p. 21.

17. Board of Studies NSW, advice to the Commission dated 19 October 2005, p. 4.

School-based assessment marks

As detailed in Table 1 above, school assessment marks are required for most courses developed or endorsed by the BOS. The BOS requires schools to have in place policies and procedures for conducting internal assessments for all HSC courses. Schools must develop their own HSC assessment programs and associated policies and procedures for school-based assessment tasks.

Using the assessment requirements in the syllabus, each school determines the practical and written tasks – such as formal trial HSC examinations, class tests, assignments or projects – on which their assessments are to be based, and the weightings to be allocated to each task. Some of these assessments are significant and can be undertaken over an extended period during the HSC year. The completion of assessment work will generally include some in-class component and supervision by the classroom teacher. However, in some cases, the majority of the work will be done away from the classroom (e.g. at home), and consequently away from the direct supervision of the classroom teacher.

As an example of the range of possible assessment tasks, the following table shows the basis of the school assessment program for HSC 2 Unit Chemistry of one NSW high school for 2005.¹⁸

Towards the end of the HSC course, schools submit to the BOS a mark based on each student's performance in school-based assessment tasks for each course. The school-based assessment mark summarises the student's performance in assessment tasks set and marked by the school at various times during the course of the HSC year. Assessment marks from each school are 'moderated' by the BOS, or placed on a common scale, allowing them to be compared with assessments from other schools.¹⁹

The HSC external examination mark

The HSC examination mark for an individual course is determined by the results achieved in the external HSC examination that is set and marked by the BOS. The external HSC examination can include a formal written examination, a practical examination and/or submitted work (which includes practical projects). Submitted works are completed during the HSC study year under the supervision of the school, but the work is largely done outside the classroom and away from the direct supervision of the teacher. These works are submitted by students, via the school, to the BOS for marking by HSC examination markers as part of the HSC examination. This means that in many HSC courses, the final HSC examination mark is a composite mark based on the results of a written examination, any practical examination and any submitted work.

Table 2: The school assessment program for HSC 2 Unit Chemistry of one NSW high school for 2005

Components	Weighting %	Task 1	Task 2	Task 3	Task 4	Task 5	Task 6
		Term 4 2004 Week 7	Term 1 2005 Week 7	Term 1 2005 Weeks 9/10	Term 2 2005 Week 5	Term 3 2005 Week 1	Term 3 2005 Weeks 4/5
		Report and Oral Presentation	Practical Test	½ Year Exam	Written Report	Investigation	Trial HSC
Knowledge and understanding	40	8		8	8	8	8
Practical skills	30		20	5			5
Scientific thinking, problem solving and communication	30	5	5	5	5	5	5
Marks	100	13	25	18	13	13	18

18. This unit of study was chosen as it is illustrative of a range of assessment tasks.

19. Board of Studies NSW, advice to the Commission dated 19 October 2005, p. 7.

The BOS has provided the Commission with the information contained in the following table.²⁰

Table 3: HSC courses that include practical examinations and submitted works

Course	Nature of Submitted Work/ Examination	Scope of Submitted Work/Examination	Submitted work as % of final mark
Agriculture	Research Project (optional)	Report and Process Journal	30%
Dance	Performance, Choreography, and Major Study	Solo dance Solo Composition Practical examination with viva voce or written examination or choreography using computer animation, film or video	20% 20% 40%
Design and Technology	Major Design Project	Product, system or environment, and Design Folio	60%
Drama	Group performance Individual project	Director's folio, portfolio of criticism, applied research project or promotion and program	30% 30%
English Extension 2	Major Work	Sustained composition with Reflection Statement	100% (i.e. no written exam)
Industrial Technology	Major Project	Product and Folio	60%
Languages	Examination with speaking component (except in Background Speakers courses)		Up to 30% depending on course
Music: Music 1	Performance Musicology elective	Solo Viva voce	From 10%–70%
Music 2	Performance Sight-sing and Composition Additional composition etc	Solo	From 20%–50% 15% 30%
Music Extension	Performance or Submitted work or composition		100%
Society and Culture	Personal Interest Project	Project including introduction, log, central material, conclusion, resource list and certification	30%
Textiles and Design	Major textiles project	Supporting documentation and evaluation Textile item(s)	50%
Visual Arts	Body of work	Variety	50%

20. *ibid.*, pp. 9–11.

For each HSC course the BOS also provides draft performance bands, which are available on the BOS website. These documents represent student performance in bands of achievements and illustrate

typical performance within the band. For example the current draft performance bands for HSC English Extension 1 are as follows:

Table 4: Draft performance bands for HSC English Extension 1

Band E4	<ul style="list-style-type: none"> ■ Demonstrates insightful understanding and sophisticated evaluation of the concepts and values in texts and the ways in which these are expressed ■ Displays highly developed ability to analyse and evaluate the nature of texts and the relationships between them, and the different ways in which texts are valued ■ Integrates independent investigation with the student's own reflection on both process and product to develop insightful conclusions ■ Composes complex extended texts, imaginatively, interpretively and critically with a high level of expertise ■ Demonstrates outstanding control of language to express complex ideas with precision in a form and style appropriate to purpose, audience and context
Band E3	<ul style="list-style-type: none"> ■ Demonstrates clear understanding and thoughtful evaluation of the concepts and values in texts and the ways in which these are expressed ■ Displays well developed ability to analyse and evaluate texts and the relationships between them, and the different ways in which texts are valued ■ Integrates independent investigation with the student's own reflection on both process and product to develop perceptive conclusions ■ Composes extended texts, imaginatively, interpretively and critically with substantial expertise ■ Demonstrates skilful control of language to express complex ideas with clarity in a form and style appropriate to purpose, audience and context
Band E2	<ul style="list-style-type: none"> ■ Demonstrates sound understanding and some evaluation of the concepts and values in texts and the ways in which these are expressed ■ Displays developed ability to analyse and evaluate texts and the relationships between them, and the different ways in which texts are valued ■ Integrates independent investigation with the student's own reflection on both process and product to develop informed conclusions ■ Composes extended texts, imaginatively, interpretively and critically with competence ■ Demonstrates confident control of language to express complex ideas in a form and style appropriate to purpose, audience and context
Band E1	[Note: The draft performance band does not include criteria for Band E1]

Source: www.boardofstudies.nsw.edu.au/syllabus_hsc/pdf_doc/english_ext1_dpbs.pdf, website accessed October 2006.

Rules, policies and procedures applying to varied HSC assessment methods

This report is mainly concerned with HSC assessment and examination methods that involve take-home assessment tasks. This type of work is produced as:

- school-based assessment tasks, which form part of that student's final school assessment mark and rank order,

or:

- submitted works or practical projects that are submitted by the student, via their school, to the

BOS as part of the student's final external HSC examination.

The majority of documents examined by the Commission in its investigation were related to submitted works for the HSC English Extension 2 course.

The BOS has established policies, rules and procedures that are intended to ensure the validity and authenticity of student assessment work and submitted works, projects and practical examinations. These policies and procedures need to be followed by the relevant parties including students, teachers, school principals and HSC markers.

General framework

The Commission's investigation concerned conduct that occurred between 2002 and 2005. The general framework discussed in the following sections is as it was during that period.

The BOS's requirements in relation to the HSC are determined by sections 94 and 95 of the *Education Act 1990* and are articulated in the BOS's *Assessment Certification and Examination (ACE) Manual*.²¹ This document is produced by the BOS to inform school principals, teachers, parents and students of the rules and procedures governing the School Certificate and HSC. It provides information about procedures relating to internal school assessment and submitted works. School principals are responsible for ensuring that school policy documents are consistent with the ACE Manual.

The ACE Manual (2002 edition) deals with malpractice and breaches of examination rules as follows:

12.4.1 Malpractice and breaches of examination rules

Students who do not comply with the Board's examination rules for a course may have their paper cancelled for that course. This may render the student ineligible for the award of a Record of Achievement and/or a Higher School Certificate.

Principals should note the detailed requirements concerning students' conduct contained in the Rules and Procedures for Higher School Certificate Candidates.

The 1999 ACE Manual contains the same provision.

The *Rules and Procedures for Higher School Certificate Candidates* document, which is produced annually, sets out the main rules and procedures for HSC candidates. The document is intended for distribution to all HSC students and includes an explanation of assessment tasks and processes and the requirement that an assessment task must be the student's own work. The 2002, 2003, 2004 and 2005 versions of the *Rules and Procedures for Higher School Certificate Candidates* all include the following introduction:

The Education Act 1990 (NSW) governs the award of the Higher School Certificate. The Board of Studies, under this Act, grants certificates to students who comply with the Act and the Board's requirements.

The main rules and requirements are set out in this booklet. Students can obtain more detailed explanations of the rules and requirements by referring to the Assessment, Certification and Examination (ACE) Manual. (p. 4)

The 2002 and 2003 editions of the *Rules and Procedures for Higher School Certificate Candidates* both state that:

You are required to certify that any submitted work is your own. (p. 10)

The 2004 edition of the *Rules and Procedures for Higher School Certificate Candidates* states that:

All work presented in an assessment task must be your own work. Malpractice (cheating) or plagiarism (claiming someone else's ideas or work as your own) could lead to you receiving zero marks. (p. 7)

and:

You are required to certify that any submitted work is your own. (p. 9)

The 2005 edition of the *Rules and Procedures for Higher School Certificate Candidates* incorporates the following definition of malpractice:²²

12. Procedures relating to malpractice

All work presented in assessment tasks and external examinations (including submitted works and practical examinations) must be your own. Malpractice, including plagiarism, could lead to your receiving zero marks and may jeopardise your HSC results.

Malpractice is any activity that allows a student to gain unfair advantage over other students. It includes, but is not limited to:

- *copying someone else's work in part or in whole, and presenting it as your own;*
- *using material directly from books, journals, CDs or the internet without reference to the source;*
- *building on the ideas of another person without reference to the source;*
- *buying, stealing or borrowing another person's work and presenting it as your own;*
- *submitting work to which another person such as a parent, coach or subject expert has contributed substantially;*
- *using words, ideas designs or the workmanship of others in practical and performance tasks without appropriate acknowledgement;*
- *paying someone to write or prepare material;*
- *breaching school examination rules;*

21. The 2002 edition of this Manual is the most relevant document for the matters examined in this investigation. The Commission did examine the work of a student who undertook the 2002 HSC and was therefore subject to the requirements of the 1999 edition of the ACE Manual. It should be noted that in December 2005 a new edition of the ACE Manual was published.

22. The 2005 edition of the ACE Manual includes the same definition of malpractice at 9.4.1.

- using non-approved aides during an assessment task;
- contriving false explanations to explain work not handed in by the due date;
- assisting another student to engage in malpractice. (p. 8)

and:

You are required to certify that any submitted work is your own. (See procedures relating to malpractice, Page 8) (p. 9).

Non-compliance with the rules set down by the BOS may, in serious instances, result in the student being ineligible for the award of a Record of Achievement and/or HSC. In addition to being required to comply with the above rules, HSC students must also comply with all the requirements set out in the syllabus for each HSC subject or course. The notion of meeting syllabus requirements is addressed in section 11.4 of the ACE Manual (2002 edition), titled “Satisfactory Completion of a Course”. As stated in section 11.4.1:

A student will be considered to have satisfactorily completed a course if, in the principal’s view, there is sufficient evidence that the student has:

- (a) **followed** the course developed or endorsed by the Board; and
- (b) **applied** themselves with diligence and sustained effort to the set tasks and experiences provided in the course by the school; and
- (c) **achieved** some or all of the course outcomes.

[original emphasis]

Section 11.4.3 of the ACE Manual (2002 edition) also advises that:

Students studying an HSC course must make a genuine attempt to complete course requirements. It is a matter for the teacher’s professional judgement to determine whether a student has made a genuine attempt to complete these requirements.

For courses where internal assessment marks are submitted, students must make a genuine attempt at assessment tasks which contribute in excess of 50 percent of the available marks. Furthermore, the student must fulfil the course completion criteria detailed in Section 11.4.1. It is only when both of these conditions are met that the course is listed on the Record of Achievement.

During the applicable time period (2002–2005) the BOS also produced two other relevant publications to provide information and guidance regarding the HSC:

- *HSC Assessment in a Standards-referenced Framework – A Guide to Best Practice*. This publication was published in November 2003 and is a guide for use by school principals and teachers to assist them in designing and implementing good policies and procedures for their HSC School Assessment Program. Schools can use this guide and checklists to ensure that their policies and procedures comply with the BOS’s requirements for HSC assessment. It advises schools that they must develop and implement policies and procedures to address issues relating to HSC students’ illness, misadventure and malpractice in assessment tasks.
- *Studying for the NSW Higher School Certificate – An information booklet for Year 10 students*. Each year the BOS produces an information booklet for Year 10 students considering undertaking the HSC. Since 2003 the booklet has advised Year 10 students that in the HSC program “all work presented in an assessment task must be your own, whether it is an examination or an assignment. Malpractice (cheating) or plagiarism (claiming someone else’s idea or work as your own) could lead to you receiving zero marks for the task.”

Regarding reviews of assessment marks, there can be no appeal to the BOS against a school’s judgement of a student’s performance on a particular task. Any disputes over an individual task must be resolved within the school at the time the task is returned. Students can only appeal a school’s decision on the basis of the school’s assessment program and the procedures used in arriving at the final assessment mark.²³

Specific authentication and malpractice controls

The following sections outline the authentication and malpractice controls that were in place for the period 2002–2005 for school-based assessment tasks and certification of submitted works.

School-based assessment tasks

The ACE Manual (section 11.13.3, 2002 edition) stipulates that schools must provide students with written advice about the school’s requirements for assessment in each course including details of each school’s policy on malpractice in assessment tasks.

23. HSC Assessment in a Standards-referenced Framework – A Guide to Best Practice, Board of Studies NSW, November 2003, p. 23.

In its 2003 publication *HSC Assessment in a Standards-referenced Framework – A Guide to Best Practice* (section 3.1.4) the BOS advises schools that their student guidelines and assessment policies should contain a section on what constitutes malpractice, including plagiarism, and how the school will act should it become aware of any form of malpractice. The Guide sets out the same definition of malpractice as that found in the 2005 version of *Rules and Procedures for HSC Candidates* and the 2005 edition of the ACE Manual. The BOS requires that the information prepared by schools for HSC candidates is provided to each student before the commencement of their HSC courses.

In *HSC Assessment in a Standards-referenced Framework – A Guide to Best Practice* the BOS also provides schools with a range of suggested strategies to use to ensure the authenticity of student responses to assessment tasks completed partially or wholly outside class time. These include:

- providing advice to students on what constitutes malpractice and how to avoid it
- thoroughly briefing all students in relation to the requirements of each task
- allocating class time to the planning of a response to a task
- requiring that students maintain a process diary or journal to show how their response or project work was developed
- asking students to submit a task at critical points in its development
- having students submit their original drafts in addition to their final work
- incorporating student oral presentations on the progress of their work
- communicating clearly to students the extent of teacher, or other expert or outside, involvement permitted in the development of the work. (p. 16)

The Guide states it is the responsibility of a school to identify, manage and determine malpractice incidents within internal school assessment tasks.

The BOS suggests in the Guide (section 3.1.4) that a school committee be formed to review suspected cases of malpractice and determine the appropriate action should malpractice be proven. If malpractice is proven in respect of an internal school assessment task the BOS suggests that a zero mark should be considered for that task. In some circumstances the BOS suggests that the school may decide to administer a substitute task with significantly different supervision. Whatever approach the school takes, the BOS suggests that the

penalty should be appropriate to the seriousness of the offence. In the case of internal school assessment tasks, the school makes the final decision as to the penalty.

Certification of submitted works

For the time period relevant to the Commission's investigation (i.e. 2002–2005) the BOS required the following forms of certification of HSC submitted works by the relevant parties:²⁴

- The ACE Manual (2002 edition, section 12.1.2) requires schools to submit Confirmation of Entry forms for all students. On those forms the BOS requires students to sign a Student Declaration that includes the following declarations:
 - *I understand the requirements of the award of the Higher School Certificate*
 - *I have read and retained a copy of the [year] Higher School Certificate Rules and Procedures*
 - *I will comply with the examination rules set out in the [year] Higher School Certificate Rules and Procedures*
 - *I am aware that any major works or projects that form part of the examination in any course must be undertaken under the supervision of my class teacher and that, when submitting works, I will be required to have the work certified as my own.*
- For HSC submitted works and practical performances the ACE Manual (2002 edition, section 12.3.4) requires students to certify that the submitted item or performance is their own work. The Manual also requires the class teacher and principal to certify that the work or performance was developed under the teacher's supervision, was the student's own work and was completed by the due date.

The BOS requires schools to complete a *Practical Projects Certification/Declaration Form* to be signed by the supervising teacher, the principal and each of the students in the course. For English Extension 2, the Teacher Declaration states:

I hereby certify that those students listed above against whose name I have signed have completed their projects under my supervision by the completion date and that the projects are their own work in accordance with the Board's rules. Those for whom no signature appears cannot be certified and a full school report and student report of the circumstances of these students has been completed on the Non-Certification forms provided and appended to this form.

24. These forms of certification were current at the time of the Commission's investigation. The Board of Studies NSW has recently strengthened the wording of these forms of certification. See Chapter 5 for further details.

The Student Declaration states:

You must read and understand the following declaration before signing in the designated column. Your signature shows your agreement with the declaration.

I declare that:

- the planning, development, content and presentation of this project is essentially my own work, except for the limited material, if any, drawn from acknowledged sources;*
- it has not been copied from another person's work, and that I have not submitted this work, in any part, for any other HSC exam or assessment task in any other course;*
- I have undertaken no work on it after [completion date];*
- and I understand that a false declaration may jeopardise my HSC exam results.*

Should a teacher or principal be unable to certify that a student's work is their own, or that it was completed by the published completion date, they are required to complete a non-certification form for submission to the BOS. The student is also required to make comments on the non-certification form.

All non-certified submitted works are still marked by the HSC examination markers. The marker is informed of the non-certification and asked to mark the work twice; one mark based on the merit of the face value of the work and one based on the merit of the work minus the non-certified part of the work. The marker prepares a written report on the task and makes comments about the quality of the work. This information is referred to the BOS's Non-Certification Panel. The Panel considers all the evidence available and makes recommendations to the BOS.

There are some instances when a submitted work has been certified by the school but it is identified by an HSC marker as being of concern – that is, the marker suspects that all or part of the work is not the student's own. Such cases are referred to the BOS Examination Branch and determined by the BOS Examination Rules Committee.

The BOS makes the final determination on all cases of non-certification and malpractice identified by HSC markers. The BOS advises both the school and the student of its determination at the time of the release of HSC results.

The key points in relation to internal school assessment tasks (internally assessed) and submitted works (externally assessed) are outlined in Table 5.

Table 5: Varied assessment methods – summary of rules, policies and procedures regarding malpractice and authenticity

Internal school assessment tasks	Submitted works
Principals, teachers and students are required to follow relevant BOS policies and procedures, including malpractice provisions and strategies to ensure authenticity.	Principals, teachers and students are required to follow the relevant BOS policies and procedures, including malpractice provisions and strategies to ensure authenticity.
Schools develop their own policies and procedures to deal with plagiarism and malpractice in internal assessment tasks. These are based on BOS requirements. No BOS requirement to certify the work as the student's own.	Requirement by the BOS for certification of student's work by: <ul style="list-style-type: none"> ■ student ■ class teacher ■ school principal.
All malpractice incidents are identified, managed and determined by the school. The school is not required to notify the BOS.	Where relevant, Non-Certification form submitted to the BOS by the school. Malpractice issues may be identified by the HSC marker.
Schools determine the penalties. These vary in application and severity. The BOS provides guidelines as to penalty types. There is no appeal to the BOS against the mark awarded by the school for school-based assessment tasks. Students can only appeal on the basis of the school's assessment program and the procedures used in arriving at the final assessment mark.	A determination in all allegations/incidents of malpractice is made by the Board of Studies' Non Certification Panel or the Board's Examination Rules Committee. Penalties vary in application and severity.

Sources: The above table is based on information contained in the BOS publications *Assessment, Certification and Examination Manual*, 2002 edition, and *HSC Assessment in a Standards-referenced Framework – A Guide to Best Practice* [2003], as well as written advice provided by the BOS to the Commission on 19 October 2005.

HSC English Extension courses

As most matters examined in the Commission's investigation involved works submitted as part of the English Extension courses, it is necessary to provide details of how these particular courses operate.

The English Stage 6 Syllabus (1999) ("the English Syllabus") was first examined in 2001. It describes six sets of Preliminary (Year 11) and HSC (Year 12) courses in English:

- Standard;
- Advanced;
- ESL (English as a Second Language);
- The Preliminary English (Extension) course (a prerequisite for HSC English Extension 1);
- The HSC English Extension 1 course;
- The English Extension 2 course (can only be done in addition to English Extension 1).

To fulfil the requirement for the HSC, all NSW students need to complete one Preliminary Course (Year 11) and one HSC (Year 12) course from either English Standard, English Advanced or English as a Second Language.

Students undertaking HSC English (Advanced) may choose, in addition, to study:

- HSC English Extension Course 1 which consists of 60 indicative hours of study.
- HSC English Extension Course 2 which consists of a Major Work undertaken over 60 indicative hours of study. This course may only be undertaken as an addition to the HSC English Extension 1 course.

The extension courses in the English Syllabus allow students to study at a more intense and independent level. In English Extension 1 texts and modules are prescribed. In English Extension 2 students are required to work independently and to plan and complete a "Major Work" in the form of an extended composition. Texts are not prescribed and, in negotiation with their teachers, students can determine the development of their Major Work that can be presented in print, sound, film or multimedia (a list of the types of Major Works is set out below).

The English Syllabus describes the English Extension 2 Major Work module as a sustained composition, independently planned and completed in which the student undertakes an on-going systematic and rigorous investigation into their chosen area. Students are meant to develop a Major Work by:

- undertaking independent but guided investigation in a chosen area;
- documenting the process of investigation and composition; and
- reflecting on the process of composing and the composition itself.

The English Syllabus states that "The submitted work must be conceived and executed by the student under the supervision of the English teacher" (p. 129) and that "Each Major Work must be entirely original and must be completed without undue assistance from another person" (p. 131). Students are expected to adhere to the requirements stated in the English Syllabus as well as to comply with the rules set out in the ACE Manual and in the *Rules and Procedures for Higher School Certificate Candidates* (as outlined earlier in this chapter).

As an example of the numbers of students who undertake HSC English Extension 2, the BOS reported that the total number of candidates in this course for 2004 was 2,441. Candidates undertook the following types of Major Works:²⁵

Option	Number of candidates
Critical Response	337
Film	0
Multimedia	37
Poems	168
Performance Poetry	19
Radio Drama	15
Speeches	79
Scripts – Radio, Film, TV, Drama	170
Short Story/ies	1,441
Video	175

In addition to the Major Work submitted or delivered, the student must also submit a Major Work Journal and a Reflection Statement, as explained below.

The Major Work Journal

During the development of the Major Work, the English Syllabus (1999) requires that students keep a process journal known as the Major Work Journal.

The Major Work Journal is a documentation of the investigative process and the process of composition. The recording of research, analysis,

25. 2004 HSC Notes from the Marking Centre English Extension 2, Board of Studies NSW, November 2003, p. 4 (available at www.boardofstudies.nsw.edu.au) and supplementary advice, including amended figures, from the Board of Studies NSW dated 31 January 2007.

critical, imaginative and speculative reflections and development of process will assist students in achieving course objectives and outcomes and in preparing for internal and external assessment tasks. (p. 130)

The English Syllabus (1999) also states that “The journal also has a role in establishing the authenticity of the Major Work” (p. 130).

The Major Work Journal must be submitted to the BOS with the Major Work but has no weighting in the HSC mark awarded.

The Reflection Statement

The English Syllabus requires that students also prepare a Reflection Statement of between 1,000 and 1,500 words at the end of the composition process. It is meant to be a reflection upon the process and the completed product. The Syllabus states that the Reflection Statement:

- *summarises the intent of the work and relationship it has with the extensive independent investigation.*
- *must include an outline of the intended audience for the Major Work and the purpose for which it was composed.*
- *supports the Major Work explaining the relationships of concept, structure, technical and language features and conventions.*

- *should explain the development of concepts during the process of composition, making the links clear between independent investigation and the development of the finished product.*
- *should indicate how the student realised the concepts in the final product.* (p. 131).

The Reflection Statement must be submitted to the BOS with the Major Work and is marked by BOS examiners.

Assessment of English Extension 1 and 2

As in other HSC courses, results in English Extension 1 and 2 are based on a school assessment mark and an examination mark. The English Syllabus recommends that schools use a variety of assessment tasks to determine the final school assessment mark and states that examination-type assessment tasks such as class tests, term tests and trial HSC examinations must not exceed 30% of the assessment program. Other assessment tasks could include creative responses over time, oral presentations or viewing and listening tasks.

In English Extension 1 the internal assessment tasks represent 50% of the total mark and a two-hour external examination represents 50% of the mark. In English Extension 2, the Major Work is assessed internally as a process and externally as a product.

Table 6: HSC English Extension 2 – assessment

Internal Assessment	Weighting	External Examination	Weighting
Proposal Presentation of Proposal for Major Work	10%	Submission of Major Work Including a 1,000–1,500 word statement of reflection.	50%
Viva Voce Interview and discussion/exploration of the work in progress	20%		
Report The impact of the independent investigation on the development of the Major Work	20%		

The draft performance bands for HSC English Extension 2 are as follows and provide an indication

of the level of performance typical of a student in the higher and lower bands:

Table 7: Draft performance bands for HSC English Extension 2

Band E4	<ul style="list-style-type: none"> ■ Demonstrates highly developed insights and outstanding ability to formulate and communicate complex concepts supported by thorough and extensive independent investigation ■ Composes a substantial and sustained original major work that effectively engages audience and is appropriate to purpose, concept and medium ■ Exhibits sophisticated and highly developed ability to articulate, monitor and reflect on processes of investigation, interpretation, analysis and composition.
Band E3	<ul style="list-style-type: none"> ■ Demonstrates well developed insights and accomplished ability to formulate and communicate complex concepts supported by competent independent investigation ■ Composes a substantial and sustained original major work that engages audience and is appropriate to purpose, concept and medium ■ Exhibits well developed ability to articulate, monitor and reflect on processes of investigation, interpretation, analysis and composition.
Band E2	<ul style="list-style-type: none"> ■ Demonstrates developing insights and sound ability to formulate and communicate concepts of some complexity supported by independent investigation ■ Composes a substantial and sustained original major work that is appropriate to audience, purpose, concept and medium ■ Exhibits sound ability to articulate, monitor and reflect on processes of investigation, interpretation, analysis and composition.
Band E1	[Note: Draft performance band E1 does not contain any criteria]

Source: www.boardofstudies.nsw.edu.au/syllabus_hsc/pdf_doc/english_ext2_dpbs.pdf, website accessed October 2006.

The BOS has also produced Marking Guidelines for HSC English Extension 2 (2003). It states the assessment criteria as:

- *Textual integrity*
- *Quality of insights and concepts, developed through independent investigation, and the communication of developed ideas*

- *Manipulation of features that shape meaning and response, and quality of engagement*
- *The quality of the Reflection Statement* (p. 3)

The following are the marking guidelines.

Table 8: Marking guidelines for HSC English Extension 2 (2003)

Criteria	Marks
<ul style="list-style-type: none"> ■ Composes a highly original and sustained Major Work that demonstrates coherence to achieve a fluent integration of meaning(s), value(s) and form ■ Formulates insights and concepts through investigation, and communicates developed ideas with flair. This communication may be elaborated, complex, subtle and refined and may offer a new perspective or synthesis of ideas and concepts in new, original or inventive ways. The focus of the work is clearly articulated and sustained ■ Demonstrates highly effective manipulation of language, technical skills, conventions and medium for the intended audience and purpose. This manipulation is sophisticated and may be inventive and experimental. There is a conscious and successful shaping of meaning to engage an audience. This is evident throughout the work ■ Composes a sophisticated and critical Reflection Statement that explains the intention, development and realisation of the Major Work 	41–50

<ul style="list-style-type: none"> ■ Composes an original and sustained Major Work that demonstrates coherence to achieve a skilled integration of meaning(s), value(s) and form ■ Formulates insights and concepts through investigation, and communicates developed ideas with clarity. This communication may be elaborated and show some complexity, subtlety and refinement. This may be more evident in some aspects of the Major Work than in others. The Work may offer a new perspective or synthesis of ideas and concepts and be thoroughly developed and consistent in focus ■ Demonstrates effective manipulation of language, technical skills, conventions and medium for the intended audience and purpose. This manipulation is skilful and may be inventive and experimental. There is a conscious shaping of meaning to engage an audience. This is generally evident throughout the work ■ Composes a critical Reflection Statement that explains the intention development and realisation of the Major Work 	31–40
<ul style="list-style-type: none"> ■ Composes a substantial Major Work that demonstrates coherence. There may be lapses in tone, register, voice that affect the integration of meaning(s), value(s) and form ■ Formulates insights and concepts through investigation, and communicates ideas. This communication may be well-organised but not well-developed. May be more apt and coherent in some aspects of the work than in others. May attempt a new perspective or synthesis of ideas and concepts. There may be inconsistencies in the thoroughness of the development or the focus ■ Demonstrates some effective manipulation of language, technical skills, conventions and medium for the intended audience and purpose. This manipulation shows a control of language but there may be lapses in some parts. There is a shaping of meaning to engage an audience. This is more evident in some aspects of the work than others ■ Composes a Reflection Statement that explains most aspects of the intention, development and realisation of the Major Work 	21–30
<ul style="list-style-type: none"> ■ Composes a Major Work that makes some connections between meaning(s), value(s) and form ■ Formulates concepts through investigation, and communicates ideas. This communication may be predictable, literal and immediate. Makes simple connections between different aspects of the work. The focus of the work is unclear or unsustainable ■ Demonstrates some effective use of language, technical skills, conventions and medium for the intended audience and purpose. Lapses in fluency interfere with audience engagement and appreciation of the Major Work ■ Composes a Reflection Statement that explains some aspects of the intention, development and realisation of the Major Work. There may be some inconsistencies between elements of the Reflection Statement and the Major Work 	11–20
<ul style="list-style-type: none"> ■ Attempts to compose a Major Work. It may be superficial or incomplete ■ Formulates simple concepts through limited investigation, and attempts to communicate ideas. This communication may attempt to make simple or incongruous connections between some aspects of the work. The work lacks focus ■ Attempts to control language, technical skills, conventions and medium. These, however, may not be appropriate for the intended audience and purpose ■ Composes a Reflection Statement that identifies some aspects of the intention, development and realisation of the Major Work. There are substantial inconsistencies between the Reflection Statement and the Major Work 	1–10

Source: www.boardofstudies.nsw.edu.au/syllabus_hsc/pdf_doc/english_ext2_mark_guide.pdf, website accessed October 2006.

Certification of English Extension 2 submitted Major Work

The BOS English Stage 6 Syllabus (1999) states that “Each Major Work must be entirely original and must be completed without undue assistance from another person” (p. 131) and outlines why certification on the Major Work is required and what the essential requirements are for this particular course:

Certification of HSC submitted works is required to ensure that each submitted work is wholly the work of the student entered for the HSC and has been completed under the supervision of the English teacher. The Board of Studies will provide a certification form for this purpose.

If the supervising teacher cannot certify the student’s work the school must then complete a non-certification report document.

It is essential that:

- (a) aspects of the process of development of the submitted works take place in school time*
- (b) work completed away from school is regularly monitored by the supervising teacher*
- (c) each student sign a statement, witnessed by the supervising teacher and the school principal, that the submitted Major Work is his or her own work*
- (d) the Major Work Journal be submitted with the Major Work. This requirement is necessary for verification of authenticity and will be referenced in the case of appeals being made to the Board of Studies*
- (e) the student and the supervising teacher ensure that any disks, films or tapes submitted to the Board of Studies are operable.²⁶*

The ACE Manual (2002 edition) also requires certification by the student, his/her class teacher and school principal for all submitted works including Major Work for English Extension 2. The content of the certifications is discussed on pages 23–24.

Chapter 3: Investigation of allegations of improper tutoring practices

As set out in Chapter 1, on 27 June 2005 the Commission received a report from the Board of Studies NSW (BOS) which notified the Commission of allegations of improper tutoring services being given to NSW high school students for Major Works being submitted as part of the Higher School Certificate (HSC).

This report was made to the Commission under section 11 of the ICAC Act, which requires principal officers of NSW public authorities to report to the Commission any matter that the officer suspects on reasonable grounds concerns or may concern corrupt conduct.

If proven, the allegations reported to the Commission could amount to corrupt conduct as defined in the ICAC Act. Such conduct by tutors and students could adversely affect the exercise of official functions by a NSW public official, in this case a BOS assessor responsible for assessing and grading the works submitted, or a school teacher conducting internal assessment to facilitate the HSC process on behalf of the BOS and could, for the purposes of sections 8(2) and 9 of the ICAC Act, involve fraud.

The Commission therefore determined to conduct an investigation to ascertain if any persons had engaged in corrupt conduct and if so the extent of that conduct. The Commission also decided to investigate because the allegations implied that systemic weaknesses might exist so as to allow, encourage or cause the occurrence of corrupt conduct.

This chapter provides details of the Commission's investigation of these allegations and the reasons why no findings are made that any person engaged in corrupt conduct.

Was there any corrupt conduct?

The Commission found that some students had been provided with varying degrees of assistance from various private tutors employed at Acclaim Education. This assistance involved changing words, rewriting paragraphs, providing drafts for consideration and adjusting story lines. In one case a student had copied material from a source provided by a tutor without acknowledging that source.

The investigation did not identify any situation where a tutor wrote an entire English Extension 2 Major Work.

One of the issues to be determined by the investigation was whether the assistance provided by the tutors went

beyond acceptable levels of tutor input so as to amount to corrupt conduct for the purpose of the ICAC Act. Ultimately, there was insufficient evidence on which to base any finding of corrupt conduct.

As set out in more detail in Chapter 5 of this report, one of the significant difficulties encountered in the course of the investigation was determining whether the type of assistance provided by certain Acclaim Education tutors complied with policies and guidelines published in BOS documents. Failure to meet BOS policies and guidelines on acceptable levels of assistance might be an indicator of corrupt conduct. However, as demonstrated in Chapter 5, these documents were inconsistent in their definition of behaviour that could be termed malpractice (the term used by the BOS) or cheating, and in defining what constitutes a student's "own work" in assessment tasks.

The lack of clear standards imposed insurmountable difficulties in determining whether individual conduct identified by the investigation contravened those standards. This in turn made it difficult to establish whether any conduct came within the definition of corrupt conduct in the ICAC Act.

The definition of corrupt conduct is found in sections 8 and 9 of the ICAC Act. To be corrupt, conduct must come within section 8 of the ICAC Act and not be excluded by section 9 of the ICAC Act. In the factual circumstances of this investigation in order not to be excluded by section 9 of the ICAC Act the conduct would need to constitute or involve a criminal offence.

Section 8(1) of the ICAC Act outlines how corrupt conduct may be constituted by improper conduct on the part of a public official, or conduct on the part of another that facilitates improper conduct on the part of a public official. This section was not relevant as none of the conduct investigated by the Commission involved improper conduct by a public official.

Section 8(2) of the ICAC Act extends the definition of corrupt conduct. Under this section it is not necessary to show that a public official behaved improperly. It outlines how corrupt conduct can be constituted by the conduct of a person, or persons, (whether or not a public official) that adversely affects, or could adversely affect the exercise of official functions by a public official. In addition, this conduct must be such that it could fall within one of a series of conduct categories that are specified in the section. These conduct categories generally involve criminal type activity. The relevant conduct category for the purposes of this inquiry is fraud.

The persons whose conduct was examined are certain Acclaim Education tutors, and students who were the recipients of their services. The relevant public officials were BOS assessors assessing English Extension 2 Major Works and school teachers who were conducting school-based assessments as part of the HSC assessment process administered by the BOS.

The conduct of these tutors and their students would have constituted corrupt conduct, as defined in section 8(2), if their conduct adversely affected, or could have adversely affected, the manner in which the student's work was assessed by the relevant BOS assessor or school teacher, and if this conduct could also have amounted to a fraud.

The Commission was left with the practical question of whether the material submitted for marking adversely affected, or could have adversely affected the exercise of official functions. There was no evidence to show that the exercise of official functions was, as a matter of fact, adversely affected. However, it is sufficient for the purposes of section 8(2) that official functions "could" have been adversely affected. The meaning of the word "could" in section 8(2) has not been judicially considered.

In *Attorney-General's Department v. Cockcroft* (64 ALR 97), the Federal Court considered the phrase "could reasonably be expected to prejudice the future supply of information", in section 43(1) of the *Freedom of Information Act 1982* (Cwlth). The Court held that the words require a judgement to be made by the decision-maker as to whether it is reasonable, as distinct from something that is irrational, absurd or ridiculous, to expect that those who would otherwise supply information of the prescribed kind would decline to do so if the document was disclosed. Similarly, in *Vale Press Pty Ltd v. Deputy Commissioner of Taxation* (105 ALR 207), the Federal Court held that the phrase "could reasonably be expected to have been sold by a manufacturer by wholesale", in the *Sales Tax Assessment Act 1930* (Cwlth), required the making of an estimate, not a mere guess.

It is the Commission's position that "could" in section 8(2) requires more than a vague possibility or guess that official functions might be adversely affected. There should be evidence from which it is reasonably possible to conclude a clear likelihood that official functions could be adversely affected by particular conduct.

In the current investigation there was, with one exception, insufficient evidence to conclude, to the requisite standard, that there was such likelihood.

The one exception related to a situation where passages were copied by a student from another source. For

such conduct to come within section 8(2), and not be excluded by section 9 of the ICAC Act, it would need to involve fraud. In the circumstances of this particular matter the Commission was not satisfied, to the requisite standard, that the student acted dishonestly rather than by mistake. In these circumstances the Commission could not be satisfied that the conduct could constitute or involve fraud.

For the reasons set out above the Commission could not be satisfied that any person had engaged in corrupt conduct.

Section 74A(2) statement

Under section 74A(2) of the ICAC Act, the Commission is required to include in its reports, in respect of each "affected" person, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:

- (a) *obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of any person for a specified criminal offence,*
- (b) *the taking of action against the person for a specified disciplinary offence,*
- (c) *the taking of action against the person as a public official on specified grounds, with a view to dismissing, dispensing with the services of or otherwise terminating the services of the public official.*

An "affected" person is defined in section 74A(3) of the ICAC Act as including a person "against whom in the Commission's opinion, substantial allegations have been made in the course of or in connection with the investigation concerned".

As no public official acted improperly, (b) and (c) are not relevant. A number of tutors and students of Acclaim Education were the subject of substantial allegations, however, there is insufficient evidence on which to base any prosecution. Accordingly the Commission states that it is not of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of any person for a specified criminal offence.

Although no findings of corrupt conduct are made, the evidence gathered by the Commission during its investigation identified areas of practice and procedure affecting the HSC that were conducive to corrupt conduct. The remainder of this report focuses on the Commission's inquiry into the systemic and procedural deficiencies that were identified.

Chapter 4: Overview of the higher education environment and related issues

The Commission has for some time been concerned about the increasing corruption risks in the provision of educational services in NSW. The Commission's attention has been on the tertiary sector, where increasing commercialisation of university services has led to increased opportunities for corruption. In recent years the Commission has undertaken a range of activities in relation to examining and dealing with the emerging corruption risks in this sector.²⁷ This investigation and the survey the Commission conducted with NSW high school principals (see Appendix 3) suggests corruption risks exist in the secondary education sector in NSW and that more can be done to better manage these risks.

Chapters 5 to 7 outline the particular corruption risks and issues identified through the Commission's investigation. In these chapters the Commission does not purport to address the appropriateness of the way students are dealt with when they have been caught cheating or engaging in student misconduct. The Commission's primary concern is with the management of risks and the development and communication of clear and correct messages about standards and consequences, thus ensuring that those students considering cheating and other forms of malpractice are deterred.

The purpose of this chapter is to provide an overview of the environment within which the Higher School Certificate (HSC) currently operates and to provide a summary of the literature that focuses on the relevant matters of plagiarism and cheating. This latter section also presents the comments made by schools, all of which had students attending Acclaim Education, on the issue of authentication of school-based HSC assessment tasks and submitted work. Their comments reinforce the Commission's concern with current HSC processes and procedures, discussed in Chapters 5 to 7.

The climate in which the HSC currently operates

The changes over time in the administrative and assessment arrangements of the HSC have coincided with other developments in the secondary education sector. It would appear that a number of factors have led to a shift in the environment surrounding the operation of the HSC in NSW. As well as increasing general concerns regarding the prevalence of plagiarism and cheating discussed later in this chapter, these factors include:

- the HSC being conducted in an increasingly competitive environment for university entry into certain professional courses;
- an expansion in the tutoring industry, an industry which is unregulated; and
- an increased diversity in assessment tasks and methods, including assessment of work undertaken by students without direct supervision.

These factors are discussed in more detail below.

Increasing levels of competition

Senior secondary education in NSW is being conducted in an increasingly competitive environment. One reason for this is the high participation rate. As previously stated, approximately 70% of all young people in NSW will now go on to complete Year 12. In addition, community expectations have shifted so that in today's society tertiary education is seen as an extremely valuable commodity and a passport to a well-paid, high status career. Because education is seen as a key factor in future wealth creation, a growing number of parents are prepared to take whatever steps seem necessary to ensure a successful outcome in the HSC for their child. In such scenarios, education is seen by students and parents principally as a means to an end rather than an end in itself.

Increasingly, school students are under pressure to perform well and obtain the best marks possible, particularly in terms of:

27. This work has included:

- the publication of *Degrees of Risk – A corruption risk profile of the New South Wales university sector*, Independent Commission Against Corruption, August 2004.
- a number of investigations (see *Report under section 14(2) of the ICAC Act 1988 into fraudulent applications for enrolment of overseas full-fee paying students at the University of Sydney*, Independent Commission Against Corruption, October 2004 and *Report on investigation into the University of Newcastle's handling of plagiarism allegations*, Independent Commission Against Corruption, June 2005 (available at www.icac.nsw.gov.au).
- the production of a training package for universities (2006), aimed at senior university administrators.

- the Year 6 State Selective Schools Test;
- the selection of subjects to maximise possible marks in the HSC, and
- when assessment tasks and examinations are undertaken in the HSC.

As previously stated, the Universities Admissions Centre uses HSC marks to create a student's Universities Admission Index (UAI) rank, which is then used to offer students places in particular tertiary courses according to their ranking. Universities are increasingly using additional selection measures, such as interviews or applicant portfolios, as part of the selection process for certain courses. Nevertheless, students and their parents understand all too well the link between the HSC mark and university admission and also understand that a slight difference in a UAI rank can be crucial to determining success in gaining entry to a preferred university course.

While the HSC is a statement of educational achievement, its link to the UAI means that, rather than simply achieving their personal best, students are locked into a very competitive process with each other. While healthy competition between students can be seen as a good thing, it may well also be responsible for a rise in cheating. Dr William McKeith, Principal of Presbyterian Ladies' College in Sydney, comments:

It's right throughout school now, this intense competition, and you get students who know that a few marks can change everything, so they'll do whatever they can to get them, they'll cover every possible outcome through coaching.²⁸

In the same article *The Sydney Morning Herald* discusses the active involvement some parents take in their children's education and schoolwork. It reports Roslyn Arnold, a former HSC examination committee chairwoman and now dean of education of the University of Tasmania, as stating:

Is it the HSC, pressure for places, parents, the schools? It's possibly a bit of everything. We have a fiercely competitive culture in our schools now.

Expansion in the tutoring industry

Not surprisingly, this growth in competition and pressure on young people to be high achievers has been accompanied by an expansion of the tutoring industry. Standards Australia describes academic coaching as one of the fastest growing industries in Australia and estimates it to be valued at \$1 billion a year. There are approximately 500 tutoring colleges in NSW and it has

been claimed that approximately a quarter of Australia's four million students will receive coaching at some point in their time at school.²⁹

For some school children, coaching begins in primary school and continues through to high school. Tutoring organisations keenly promote a range of services to students at all levels, but with a particular focus on enhancing a child's performance in state-wide assessment tests such as the State Selective Schools Test and the HSC.

The tutoring industry in NSW is unregulated, although in 2005 the Australian Tutoring Association (ATA) was established with its operational headquarters in Sydney. The Association has a national membership and aims to represent tutors and tutoring organisations, act as a lobby group and raise standards of tutoring in Australia. The ATA has also developed and released a code of conduct, "The Australian Tutoring Association Code of Conduct" which is binding on all its members. The ATA Code deals with advertising, curriculum, programming, standards including plagiarism, and sanctions.³⁰

Standards Australia recently released a "Tutoring code of practice" that was developed by Standards Australia with the participation of members of the industry, parent groups, the NSW Department of Education and Training and consumer groups. The Standards Australia Code covers ethical principles, qualifications, experience and competence of tutors, and operations management.³¹

Varied HSC assessment methods

As explained in Chapter 2, varied assessment methods (a term used by BOS) as well as external independent examinations are used to officially measure the performance of NSW HSC candidates. Assessment methods used can include practical tests, research projects, assessment of products developed over time and assessment of speaking and listening skills, as well as traditional pen and paper tests. While these tasks are generally done under the supervision of the school, some are completed over an extended period of time during the academic year, usually at home or away from the direct supervision of the classroom teacher.

The combination of internal and external assessment methods is a fundamental component of the NSW HSC and other school assessment programs nationally and internationally. The BOS reports that, together, the examination and school-based assessment marks provide a more consistent and complete picture over time of a student's achievements in terms

28. Justin Norrie, "I didn't do it and that is the problem", *The Sydney Morning Herald*, 25 June 2005 (available at www.smh.com.au/au/news/national/i-didnt-do-it-and-thats-the-problem/2005/06/2).

29. Standards Australia media release, January 2006.

30. www.ata.edu.au.

31. www.standards.com.au.

of the required syllabus outcomes, than a written examination alone can do.

The BOS advised the Commission that:

Experience shows that what is in some way assessed is what students will focus on and learn. Curriculum developers have aimed to overcome the constraints of traditional pen and paper testing by introducing more valid ways of assessing the changes introduced in the curriculum. To ensure that students focus on all syllabus outcomes, it is essential that the many skills and abilities that cannot be tested in pen and paper examinations be tested in other ways including, inter alia, performances, major works, compositions and extended essays.³²

The BOS goes on to say that some of the numerous assessment exercises required will necessarily have to be undertaken away from the teacher's direct supervision. The BOS notes that the independent work in itself is a test of an educational outcome:

... this greater independence is itself one of the most valuable challenges to the student.³³

While being committed to these types of assessment processes the BOS recognises that take-home assessment tasks give rise to a greater risk of malpractice. The BOS has advised the Commission that:

While varied assessment methods strengthen the achievement of educational outcomes and increase the validity and reliability of the process, the price is a greater risk of malpractice, both intentionally and from a lack of thorough understanding of where the boundaries of fair practice lie.³⁴

A 1998 study of Australian secondary students in religious schools and their perceptions about academic dishonesty makes the point that:

Unfortunately, there is evidence to support the view that as school assessments moved from the external to the internal mode [i.e. school-based] so the incidence of dishonest practices by students increased. ... In the past decade academic cheating has gained significant press coverage both overseas and within Australia ... The community wishes to believe that cheating does not occur in assessments to safeguard the concept that the assessments conducted by school systems are a reliable and valid indication of student ability. The press reports are a cause of community concern. They

report a trend towards a rise in academic cheating in Australian educational institutions.³⁵

The authors list dishonest practices in assessment tasks, including copying from books and assignments set in previous years, collusion among students in preparing assignments, getting assistance from relatives, using illegal notes and copying in tests in relaxed classroom settings.

It is clear that educational outcomes are central to the HSC program and the BOS. However, the Board's emphasis on education as an important end in itself, is not necessarily a primary concern of all students involved in the program or of their parents. Unfortunately, in some situations, the educational aims of the BOS may differ from those of students or parents who may take a much more opportunistic view of education and the benefits it can deliver. While independent study is clearly an important means of achieving educational and syllabus outcomes, this 'independence' does present an opportunity or risk for cheating that requires management.

Cheating and plagiarism – broader issues

Plagiarism in educational environments, made easy by students' ready access to information on the internet, is recognised as a serious and growing problem both within Australia and internationally. Unchecked plagiarism compromises academic integrity and, if sufficiently widespread, can ultimately result in a deterioration of standards.

Much of the focus relating to plagiarism to date has been on the tertiary sector. In its 2002 publication *Assessing Learning in Australian Universities*³⁶ the University of Melbourne's Centre for the Study of Higher Education states that "universities around the world have become concerned with the question of how to minimise and respond appropriately to student plagiarism and other forms of cheating". The report further states that:

*While there is still insufficient evidence to indicate whether or not the incidence of plagiarism has risen in higher education, there is much greater awareness among both staff and students of the new possibilities for plagiarism created by electronic technologies. **When the technological possibilities are coupled with the pressures on students to work long hours and achieve academic success, the conditions are ripe for plagiarism to occur** [emphasis added].³⁷*

32. Board of Studies NSW, advice to the Commission dated 19 October 2005, p. 1.

33. *ibid*, p. 1.

34. *ibid*, p. 2.

35. John R Godfrey and Russell F Waugh, "The perceptions of students from religious schools about academic dishonesty", *Issues in Educational Research*, vol. 8, no. 2, 1998.

36. *Assessing Learning in Australian Universities*, Centre for the Study of Higher Education, University of Melbourne, 2002, p. 37 (www.cshe.unimelb.edu.au).

37. *ibid*, p. 5.

Student plagiarism can take various forms, and definitions of this type of malpractice vary. The Centre for the Study of Higher Education lists some of the common forms of plagiarism in higher education as follows:

- submitting, as one's own work, an assignment that another person has completed;
- downloading information, text, computer code, artwork, graphics or other material from the internet and presenting it as one's own without acknowledgement;
- quoting or paraphrasing material from a source without acknowledgement;
- preparing a correctly cited and referenced assignment from individual research and then handing part or all of that work in twice for separate subjects/marks;
- cheating in an exam, either by copying from other students or using unauthorised notes or other aids;
- copying from other members while working in a group;
- contributing less, little or nothing to a group assignment and then claiming an equal share of the marks.³⁸

The growth in third parties offering services to assist students in the preparation of their essays has exacerbated the problem of plagiarism. There are now a number of 'essay help' sites on the internet that offer a range of paid services to students. In Britain, it has recently been suggested that the practice of on-line sites selling essays is undermining the quality of British education.³⁹

Plagiarism and associated forms of cheating in the tertiary sector are also being recognised as issues in secondary schools. Dr William McKeith, Principal of Presbyterian Ladies College in Sydney, states that:

Many of us who work with children have for some time been concerned about plagiarism and the role of unscrupulous tutoring organisations ... Widespread copying of music on the internet appears to have softened the ethical line that once discouraged young people from taking that to which they have no right. The use of search engines to locate and cut and paste information into a student's own documents with minimal effort has increased the incidence of plagiarism.⁴⁰

Dr McKeith's comments are supported by a number of other NSW school principals. As part of this investigation the Commission undertook a survey

of school principals of 42 government and non-government schools in the Sydney metropolitan area (further details of the survey are provided in Appendix 3). Each of these schools had had students who had attended Acclaim Education. The survey asked questions about the issues associated with the authentication of school HSC assessment tasks and submitted work, that is, verification that the work submitted was the student's own. The survey results reinforced the growing concern that plagiarism and associated malpractice is a serious problem in the NSW secondary education sector.

The Commission asked the following questions in its survey:

- *Do you think that the practice of HSC students submitting assessment work that is not their own is a matter of concern for NSW schools?*
- *Do you think that the practice of HSC students submitting assessment work that is not their own because of tutors making significant contributions is a matter of concern for NSW schools?*
- *Do you think that the practice of HSC students submitting work that is not wholly their own work is increasing?*

and these responses reflect the majority view among respondents:

... the nature of HSC assessment, with its focus on 'rank' achieved, increases the competitive element to achieve the highest mark possible. Equally, the high proportion of assessment components which must be completed in non examination conditions increases the chances of unethical practice.

... pressure for high UAI's and university offers impact on the lengths some students are prepared to go.

The HSC must be a credible certification. The issue of plagiarism calls into question the very integrity of the HSC. Students and teachers need to be confident that their [i.e. the students'] results are valid and that their achievements are appropriately recognised.

Pressure from parents, pressure from society, less places in universities, students looking for the easy way out – students with more disposable income. Also I can see increasing pressure on schools to produce results.

That academic standards in secondary schools may be being compromised is supported by current research. Some studies suggest that students' attitudes and

38. *ibid*, p. 38.

39. <http://education.guardian.co.uk/gcses/story/0,,1834469,00.html>.

40. "Great expectations fuel the rise of school plagiarism", *The Sydney Morning Herald*, 10 June 2006, p. 13.

cheating behaviour are well formed by the time they reach university.⁴¹ The issues of plagiarism and cheating in secondary schools are currently topical subjects in Britain. In June 2006 *The Guardian Unlimited* reported that the growth of plagiarism among university students is increasing and that:

*Examiners now feel the problem has spread to schools where pupils – and at times their parents – are copying material from the internet without acknowledging their sources. There has also been a rise in ‘cheat sites’ selling essays and coursework – with a disclaimer saying they must not be passed off as a student’s own work – on which the government and trading standards authorities have been unable to crack down.*⁴²

The British equivalent of the BOS, the Qualifications and Curriculum Authority, has recently examined plagiarism and associated cheating behaviour in secondary schools with a focus on malpractice in examination coursework (take-home assessment tasks). A November 2005 report confirmed the educational value of coursework in assessing students’ performance but highlighted the problems of candidates receiving assistance with their coursework and plagiarism, especially involving use of the internet, when the coursework itself forms part of the assessment.⁴³

Take-home assessment tasks can be part of the school-based assessment tasks and submitted works that are used by the BOS to officially measure student performance in the NSW HSC (as discussed in Chapter 2). While these tasks are done under the supervision of the school, they are largely completed outside the classroom, without direct oversight by the teacher. The major risk with take-home assessment tasks is that it is possible for students to receive inappropriate and unacknowledged assistance from a third party. This type of cheating generally comes under the banner of plagiarism. However, unlike net-based plagiarism, the role of third parties such as tutoring

colleges and others in enhancing students’ work such that it no longer comprises the students’ own work is not an area that has been well-researched.

Some researchers point to the normalisation of cheating in academic life. This is discussed in an Australian research study by Brimble and Stevenson-Clarke⁴⁴ who state that:

The fear, then, is that cheating will become (has already become?) normative behaviour for today’s students who are arguably under more pressure than ever before to achieve high grades in order to secure scholarships or well paid employment.

Perhaps even more concerning is the authors’ suggestion that students who flout the requirements of academic integrity while at university will take this attitude forward into their future professional and personal relationships. The authors cite a study by Nonis and Swift⁴⁵ who found a high correlation between the frequency of cheating at university/college and the frequency of cheating later at work, suggesting that dishonest behaviour may not be situation-specific.

Frank Furedi, Professor of Sociology at the University of Kent, recently commented that:

The really interesting story is not the disturbing extent of cheating but the increasing normalization of it ... The internet turns plagiarism into child’s play, but it does not possess the moral power to incite otherwise honest students to pass off other people’s work as their own. Blaming the internet simply distracts attention from the responsibility that the system of education bears for cultivating a climate where cheating is not seen as a big deal.

Professor Furedi states that cheating has become so commonplace that it is covertly accepted as part of academic life and that while institutions officially condemn cheating, they are reluctant to take a robust stand in specific cases.⁴⁶

41. For example, in June 2005 the Center for Academic Integrity based at Duke University in North Carolina released its most recent results from a nationwide assessment project. The research showed that studies of 18,000 students at 61 schools suggest cheating is a significant problem in high schools, with over 70% of respondents surveyed at public and parochial schools admitting to one or more instances of serious test cheating and over 60% admitting to some form of plagiarism www.academicintegrity.org/cai_research.asp. Also research by Stacey Conradson, Stacey and Pedro Hernandez-Ramos, Santa Clara University (2004) “Computers, The Internet, and Cheating Among Secondary School Students: Some Implications for Educators”, *Practical Assessment, Research and Evaluation* suggests that cheating in secondary schools has increased and become more sophisticated in recent years <http://pareonline.net/getvn.asp?v=9&n=9>.

42. Donald Macleod, “New software to catch online coursework cheats”, *The Guardian Unlimited*, 6 June 2006 (available at <http://education.guardian.co.uk/alevels/story/0,,1791634,00.html>).

43. A review of GCE and GCSE coursework arrangements, Qualifications and Curriculum Authority 2005 (available at www.qca.org.uk). The views of over 1,700 teachers had been canvassed, and interviews had been held with 460 candidates and over 400 parents. The report pointed out that the internet was available in the homes of 93 per cent of candidates interviewed during the review and that while it has expanded the resources available for coursework preparation, the internet has increased the potential for plagiarism. The report noted that coursework assignments are available on the internet at any level and in any subject and that in Britain there are at least ten popular websites producing coursework from secondary to degree level.

44. Mark Brimble and Peta Stevenson-Clarke, “Perceptions of the Prevalence and Seriousness of Academic Dishonesty in Australian Universities”, *The Australian Educational Researcher*, vol. 32, no. 3, December 2005, pp. 19–44.

45. S. Nonis and C. Swift, “An examination of the relationship between academic dishonesty and workplace dishonesty: a multicampus investigation”, *Journal of Education for Business*, vol. 77, no. 2, 2001, pp. 69–77.

46. Frank Furedi, “What’s wrong with cheats”, *The Guardian*, 28 March 2006 (available at <http://education.guardian.co.uk/higher/comment/story/0,,1741131,00.html>).

In summary

The HSC is a fundamental component of educational services in NSW. For the individual student it provides a record of personal achievement against defined educational standards, the basis for entry into the tertiary sector, and an entry card into some sections of the workforce. For the NSW community it provides a state-wide assessment process at the end of secondary schooling and is used as the basis for access to subsequent education and employment opportunities, including the fair allocation of limited places in tertiary education courses.

The HSC is conducted in a complex and changing environment and in recent years a number of key factors, including those listed below, have impacted on its operation.

- The competition for high-demand places at university, which is a key factor in student and parent responses to managing the HSC and in itself poses a significant corruption risk.
- In response to the focus on high achievement, the expansion of the tutoring industry in NSW that has also been unchecked by government regulation and associated standards.
- Modern technology which has facilitated the compromising of academic standards by making certain types of cheating easy and allowing it to go undetected. In the case of net-based plagiarism especially, this has meant that cheating is increasingly being seen as 'normal' behaviour. Certainly, it has made dealing with individual cases difficult and time-consuming for teachers.
- The use of a range of assessment methods to officially assess student performance provides a greater opportunity for dishonest conduct.

Together, these factors provide the terrain for new and difficult-to-manage corruption risks in the context of the operation of the NSW Higher School Certificate.

Chapter 5: Identifying and dealing with cheating and malpractice

Overview

As outlined in Chapter 1, the allegations received by the Commission which initiated this investigation implied that systemic weaknesses might exist so as to allow, encourage or cause the occurrence of corrupt conduct. Accordingly, and consistent with the Commission's corruption prevention role set out in section 13(1) of the ICAC Act, the Commission reviewed and analysed the applicable regulatory and legislative frameworks, and organisational policies, procedures and practices.

This aspect of the investigation did reveal areas of practice and procedure affecting the Higher School Certificate (HSC) that were conducive to corrupt conduct and it became apparent that there are several corruption risk areas which need attention by the Board of Studies NSW (BOS) and the NSW Department of Education and Training (DET).

Chapters 5 to 7 deal with each of the main risk areas, as follows:

Chapter 5 – risks associated with identifying and dealing with cheating and malpractice;

Chapter 6 – risks specific to English Extension 2;

Chapter 7 – risks associated with secondary employment and the tutoring industry.

Each of these chapters includes:

- a detailed discussion of the relevant corruption risks exposed by the Commission's investigation, including relevant survey results and selected examples of matters examined by the Commission during the investigation;
- a description of actions taken by the BOS or the DET in response to the identified risks; and
- Commission recommendations to further address the risks identified.

This chapter discusses a number of issues concerning the identification of the particular form of cheating and malpractice which involves improper assistance given by an unacknowledged third party. It was this issue that was at the centre of the Commission's investigation.

The first part of this chapter focuses on the definition of what is a "student's own work" and the issue of third party assistance. The next section focuses on the difficulties of identifying the form of cheating that can arise from improper third party assistance and the

effectiveness of existing measures for detecting this form of cheating. The following section then focuses on systems to raise awareness of this particular form of cheating and finally discusses the importance of dealing with serious incidents of malpractice in assessment tasks at the high school level. The final section of this chapter focuses on the general issue of effective corruption risk management.

Throughout the chapter, selected examples of evidence obtained through the Commission's investigation are referred to in order to highlight the corruption risks under discussion.

The chapter also acknowledges the further action that has been taken by the BOS since being made aware of the original allegations to better deal with the corruption risks discussed throughout the chapter. Where the Commission is of the view that more can be done to better manage the corruption risks being considered, recommendations are made.

Definition and explanation of "a student's own work" and acceptable and unacceptable third party assistance

The most significant difficulty for the Commission in its investigation was determining whether the type of assistance provided by the tutors from Acclaim Education was acceptable or unacceptable. To make this determination the Commission relied on directive BOS documents (i.e. those documents which students and teachers must comply with and which carry penalties for non-compliance). The documents contained inconsistent definitions and terms. The following highlights the different language used in these documents with emphasis added (bold type and underlining) to highlight phrases and words of particular significance:

- Year 12 students are required to sign a declaration that they have read and understood the contents of the *Rules and Procedures for Higher School Certificate Candidates*. All editions of that document from 2002 to 2006 state "You are required to certify that any submitted work **is your own.**"
- At confirmation of entry to the HSC program students must sign a Student Declaration that states "I am aware that any major works or projects that form part of the examination in any course must be undertaken under the supervision of my class teacher and that, when submitting

works, I will be required to have the work certified as **my own**.”

- For HSC submitted works the ACE Manual (2002 edition, section 12.3.4) requires students to certify that the submitted item was their own work. The 2002 Manual also required the class teacher and principal to certify that the work was developed under the teacher’s supervision, was the student’s own work and was completed by the due date. The BOS required schools to complete a Practical Projects Certification/Declaration Form to be signed by the supervising teacher, the principal and each of the students in the course. The Teacher Declaration states “I hereby certify that those students listed above against whose name I have signed have completed their projects under my supervision by the completion date and that the projects are their **own work in accordance with the Board’s rules**.” The Student Declaration requires the student to declare that “the planning, development, content and presentation of this project is **essentially my own work**, except for the limited material, if any, drawn from acknowledged sources”.
- With respect to English Extension 2 Major Works the English Stage 6 Syllabus (1999) states “Certification of HSC submitted works is required to ensure that each submitted work is **wholly the work of the student** entered for the HSC and has been completed under the supervision of the English teacher” (p. 130). The Syllabus also requires that “Each Major Work must be **entirely original** and must be completed **without undue assistance from another person**”. (p. 131)

None of these documents defines what is meant by “own work”, “entirely original”, “essentially my own work”, “wholly the work of the student” and “without undue assistance”. Moreover, the Commission is concerned that there is internal inconsistency between the concepts of “wholly” and “essentially” (the student’s own work), and, work that is “entirely original” or completed “without undue assistance”. The definition of malpractice given at 3.1.4 in the BOS’s 2003 publication *HSC Assessment in a Standards-referenced Framework – A Guide to Best Practice* (and subsequently included in the 2005 edition of the ACE Manual at 9.4.1) gives some assistance as to what “student’s own work” would exclude:

Malpractice is any activity undertaken by a student that allows them to gain unfair advantage over others. It includes, but is not limited to:

- copying someone else’s work in part or in whole, and presenting it as their own
- using material directly from books, journals, CDs or the internet without reference to the source
- building on the ideas of another person without reference to the source
- buying, stealing or borrowing another person’s work and presenting it as their own
- submitting work to which another person such as a parent, coach or subject expert has contributed **substantially** [emphasis added]
- using words, ideas designs or the workmanship of others in practical and performance tasks without appropriate acknowledgement
- paying someone to write or prepare material
- breaching school examination rules
- using non-approved aides during an assessment task
- contriving false explanations to explain work not handed in by the due date
- assisting another student to engage in malpractice.

Although the above definition is of some assistance in identifying what is considered unacceptable, neither the *HSC Assessment in a Standards-referenced Framework – A Guide to Best Practice* nor the ACE Manual (2005 edition) gives examples or a definition of what would constitute a “substantial contribution” by a parent, tutor or subject expert. It is this issue which was of importance in the Commission’s investigation. This investigation highlighted the consequence of a lack of consistency, clarity and applicable standards. The Commission believes that where standards and definitions are unclear, this increases the opportunities for malpractice or corruption.

In order to comply with the Board’s requirements, students, parents and teachers need to know with some precision which is the agreed term and what it means in practice. As discussed later the Commission recommends the BOS adopt an agreed standard and a minimal number of well-defined terms, consistent with that standard, to describe what is expected of students. The use of multiple terms with no precise definition means students and third parties can claim ignorance of the standards required, whether they believe they have transgressed them or not.

While examining a number of cases and trying to apply the definition and standards provided by the BOS, the Commission found that it could not determine, with any certainty, whether the line had been crossed between a third person encouraging the learning and development of students so that the students

themselves are able to produce high quality work, and actually doing the work for students. It is difficult to determine where that line is.

The examples presented on the following pages show the types of assistance that were provided by the Manager and other tutors at Acclaim Education. The examples show that some students claimed that it is acceptable for a tutor to directly edit their work, either in their presence or not. One justification given for this was that it is acceptable as long as the student is in a position to either accept or reject the changes made by the tutor. Another example shows that one student claimed that it is acceptable to use another student's work as an example of best practice and to copy large sections of that work. One student told the Commission that he received significant assistance in relation to the direction and content of his Major Work from two tutors, one of whom was his older sister, and the Manager of Acclaim Education. This student said that he had no problem with the fact that his Major Work was actually the result of a collaborative effort between these people and himself.

What the following examples demonstrate is a level of confusion and ignorance as to what is acceptable practice. They also demonstrate how easy it is to claim ignorance of standards when these standards are ambiguous and unclear. In particular, they highlight the different understandings of what is acceptable and unacceptable third party assistance and what constitutes "a student's own work". The examples point to a need for the BOS to be more precise about what is acceptable and appropriate third party assistance.

Example 1 – Tutor directly editing a student's work

The Commission examined the work of Student B, a NSW high school student who sat for the HSC in 2005. Student B was enrolled in English Extension 2 and received tutoring in this subject from Acclaim Education. Student B provided the Commission with general information about the manner in which she received tutoring support from the Manager of Acclaim Education throughout her preparation of her English Extension 2 Major Work. She described how most of the time the Manager would review her work in her presence.

She'd ask me a question I'd answer, then she'd kind of say to me, "Is that what – is that what you want to say? What are you trying to say here?" I'd explain to her. She'd type a couple of words, she'd look at me and say, "Now what do you think about that?" I'd agree or disagree with her and then she would write what might – what I thought was right.

She also spoke about occasions when the Manager would review her work out of her presence.

I'd type up things for her and she said to me, "Okay, kiddo, just leave it with me. I'll look over it and then next week I'll show you exactly what I've done and I'll" – and she'd show me the week after with my work and she'd have, you know, her words in red telling me what she had done, this and that, and then I'd go through and look at it and talk to her about it.

And later:

[Student B] A: *Whatever things – things that she wrote, she'd write either bold, italicised or in red. Her added words were in red.*

[Commission] Q: *So that you could see those words and make a determination whether you accepted those words or not?*

[Student B] A: *Yes, yes.*

Example 2 – Tutor providing a student with another student's work

The current English Syllabus requires English Extension 2 students, for internal assessment purposes, to prepare a report on the impact of independent investigation on the development of their Major Work.⁴⁷ To assist Student B in the preparation of her internal assessment report, the Manager of Acclaim Education gave Student B a copy of an internal assessment report prepared by another NSW high school student (Student Y), who was also a student at Acclaim Education.

An early draft of Student B's internal assessment report contains the following comment from the Manager of Acclaim Education.

[Student B], parts of this are excellent, I have restructured a little. You will note that you have repeated yourself in places, get rid of this repetition in the final cut. You have used too many of [Student Y's] words. Remember she is also sitting the hsc [sic], and that you will both put your reports in your logs. The logs are handed in with the major work. What if you both have the same marker who accesses your logs? Get the picture? The most incredible coincidences do happen. Maintain the present structure, but for everybody's sake ensure you change the words that are the same as [Student Y's]. I'm sure that you would have done this in any case, and I know I am viewing a work in progress.

47. English Stage 6 Syllabus, Board of Studies NSW, 1999, p. 140.

I have put comments throughout and edited what needs editing.

You still have a way to go with this, if you want me to see the finished product, send it back to me, but ring me to tell me you have done so otherwise I won't even look on the net until Wednesday.

Good luck kiddo, see you next Saturday.

A substantial amount of text recorded in the document discussed above, is exactly the same as text recorded in the internal assessment report prepared by Student Y. Ultimately, Student B submitted an internal assessment report that was significantly altered from the earlier draft referred to above but which still included several paragraphs similar to those from Student Y's document. Student B incorporated her internal assessment report into her Major Work Journal that she submitted to the BOS, along with her Major Work.

Student Y spoke to the Commission and confirmed that she had received coaching from the Manager of Acclaim Education in relation to her English Extension 2 Major Work. She had provided the Manager with copies of her Major Work and related documents, including her internal assessment report. Student Y said she recalled the Manager telling her that she had shown her work to someone who was using it as a guideline. She was not aware that her work was being copied. If she had known this, she would have been very distressed "as I could have been called before the NSW Board of Studies and accused of cheating in the HSC".

The Manager of Acclaim Education advised the Commission that she had given Student B access to Student Y's document simply to assist her with the structure of her report and that her above comments were not an attempt to ensure Student B concealed any plagiarism.

Student B explained the use of Student Y's work in a number of ways.

- *it was a very, very, very early draft and I knew that ultimately I wouldn't use a lot of [Student Y's] work.*
- *and at the beginning when I didn't actually think that [Student Y] was a current student, and when [Student Y] was an HSC student, I thought was actually a – a previous student than now.*
- *I just thought that I could kind of say, use her expression which meant – which was actually exactly what I was doing because she articulated it so well.*

Student B received a mark of 50 out of 50 for her English Extension 2 Major Work.

Example 3 – Tutors taking control of the content and direction of a Major Work

Student C was a NSW high school student who sat for the HSC in 2004 and received coaching from Acclaim Education in English Extension 2. He advised the Commission that the Manager of Acclaim Education influenced his original proposal for his English Extension 2 Major Work and that she was responsible for some of the characters in the text. He also advised that in the early stages Tutor A may have substantially improved his first unstructured drafts. He acknowledged that Tutor A and the Manager made changes directly into his text and that these additions could have amounted to whole paragraphs.

[Commission] Q: *Is it the case that, well it has been suggested that at one stage [Tutor A] did an edit where she basically took an unstructured piece of work and turned it into something better. Would that have happened, [Tutor A] doing an edit involving taking an unstructured piece of work and turning it into something better?*

[Student C] A: *I believe this could have happened, yes.*

When asked about the Manager of Acclaim Education's instructions for assisting students with the development of their English Extension 2 Major Work, Tutor A (the daughter of the Manager) told the Commission:

The main instruction that mum [the Manager] gave me was to make sure that it was at a band six level⁴⁸ so that the student would get a mark of 45 and above out of 50. So I just had to try and gauge the calibre of the work and bring it up to scratch.

Tutor A acknowledged seeking to influence the storyline of Student C's work and making direct changes to the text, including adding whole paragraphs. However, the Manager claimed that she did not contribute to the work's storyline, nor did she write any part of the Major Work. She did acknowledge and describe how she guided Student C in confining his text as he had a tendency to be too 'wordy' in his writing and would "go off on tangents".

The Commission was able to obtain different drafts of Student C's Major Work. These drafts reflect various stages of the development of the work and include comments or directions that appear to have been made by tutors to guide Student C. They also include

48. See Glossary for an explanation of the term "Band Six".

modifications, highlighted on the drafts by being in different coloured print.

One draft included the following comment:

*I have only worked up till here – we need to get a twist in with the Schindler’s list. Definitely stick to the highlight delete Tuttle ending. At the moment it’s too busy – in the sense that about page 4 it becomes difficult to follow – the actual narrative – I think it’s because a lot of the sections list too much stuff – I reckon cut down the student factions in the school and highlight delete a couple of the teacher characters. Mum, let him keep Mr. Hirihito – then he must come into the Schindler’s list twist. Once you work out the rest of the story we can figure out which characters are essential to the overall story line. [Student C’s] **Mash** allusion needs to be made prominent and it would be good to fit in the second choice for the reader – when we put Tuttle in a scenario and the reader gets to choose if he makes a capitalist choice or a democratic one.*

Have fun guys – I hope you like what I’ve given you to work with – it’s definitely better than the unstructured piece I began with!

Student C indicated that it was his understanding that the highlighted comments involved directions and suggestions from Tutor A.

There was a series of drafts after this where the text was further developed. At the end of one draft, in red, is the following direction about how the piece should be completed:

... look at the Christ motif; look at the ato vampire idea, look at the idea of mccarthy as the shadow, remember the “I’m doing enough suffering for everyone – let me bear the burden.” Tuttle’s death a sacrifice for the whole of humanity to learn the sin of cliché tuttle becomes a cliché by rebelling against nothing, being obsessed with image and identity like all teenagers. The balls/testicle motif, the author trying to kill tuttle, but he can never manifest as anything more than a shadow, or occasionally as a puff of smoke. Tuttle Highlight deletes gives up, hangs up his laptop, chucked in the laptop. Rode off in the sunset. Sunrise, three days later, and some characters can’t die, tuttle resurrected in a new text at hilter grammar.

Student C told the Commission that these directions were written by a tutor, either Tutor A or the Manager, to provide him with ideas about how he might conclude the text.

Example 4 – Submission of a Major Work - a last minute group effort?

Student C also explained to the Commission what happened two days before his Major Work was due to be submitted.

[Commission] Q: *When you came close to being required to hand the document in, is it the case that there was a bit of a last-minute rush with changes being made at the last minute?*

[Student C] A: *Yes...We were trying to finish it off, make it all perfect. There was some plot lines that were unresolved. There were some things that were incoherent and there was basically – we were just going through and looking at anything that could be made better, should we make it better. We were – me and [the Manager] were on the phone quite a lot. I think two days before it was due I had gone over there for eight hours in the evening and we were having last-minute discussions, last minute editing, things like that*

Q: *Can you remember what time you were there until?*

A: *I believe it was until 2.00 or 3.00 in the morning.*

He described a type of workshop environment.

Q: *There was no-one else there. There was just yourself and – as in no-one else involved in your Major Work, just yourself and [the Manager]?*

A: *My sister, who was a tutor at Acclaim Education, had also come along to discuss ideas.*

Q: *She was present as well?*

A: *She was present, yes.*

Q: *She was involved in the discussions about the plot line?*

A: *Yes.*

Q: *She was making suggestions as well?*

A: *Yes.*

Q: *As the new directions were being resolved, how were they being put into the text?*

A: *After it had been resolved, we would like to go back through the text and point – like look for the actual paragraph where that plot line would emerge and we would tweak it. We would add in new lines. We would make sure that it didn't go over the maximum limit of words and ...*

Q: *But did this involve all three of you together being together as the changes were put into the text?*

A: *Yes.*

From the information available to the Commission it appears that there were significant changes made to Student C's Major Work, including substantial changes to the storyline, immediately before it was due to be submitted. When questioned about this during her compulsory examination by the Commission, the Manager denied responsibility for the changes and said that she would not "re-work" a document in that way. She maintained that the changes would have been made by Student C rather than by her.

Student C received a mark of 38 out of 50 for his English Extension 2 Major Work.

Example 5 – Tutor undertaking a last-minute detailed edit to a Major Work

Student A gave evidence to the Commission about the tutoring she received for her English Extension 2 Major Work. Student A is a former student of a NSW high school who sat for the HSC in 2002 and received tutoring from Acclaim Education.

When examining a number of drafts of Student A's Major Work the Commission found that the final draft was last saved at 2.58 am on 27 August 2002. This was the day the BOS stipulated for the work to be completed and the day before the work was required to be handed in. At the commencement of this draft the following words appear in red: "[Student A], see my comments at the end. I have it down to 5017 words." Both the Manager and Student A have confirmed that this comment was placed there by the Manager.

At the end of the document, consistent with the comment at the commencement of the document, the following comments have been added:

Finally, I see effort!

Check that I haven't made any gaffs [sic] as I cut and pasted.

Finish footnotes properly.

This took me nearly five hours. I fixed before I cut and was too tired to reread. You do that with fresh eyes. I really should see a hard copy before you submit it in case I pick something up that is obvious but I'm missing on the computer.

Have the reflection statement ready to show me too.

You should do very well with this. Take note of any bold font in the text and fix.

Consistent with the Manager's claim that she "fixed" before she "cut", there are significant additions and deletions made to this draft from the previous draft. In all there were changes in 49 places over 22 pages of text. These varied from changes to single words to the re-working of whole paragraphs. The changes did not involve the establishment of new arguments. Rather, they involved the adjustment of language and sentencing to improve the presentation of the Major Work. Many of the changes involved deletions of text that appears to have been deemed superfluous.

The Manager agreed the changes would have been made in Student A's absence, but said that they would have been made according to her directions.

I would say that [Student A] worked on that document in the centre and asked me to go through it and maybe to cut – that she's had trouble cutting. That's what I would say has happened there and that I've told [Student A] to go home and I've cut it following her instructions. That's what I would say has happened.

This seems unlikely given the extent of the changes and the nature of the comments made on the document by the Manager. These are consistent with a free-ranging edit controlled by the Manager herself:

I have it down to 5017 words.

I fixed before I cut.

Student A received a mark of 48 out of 50 for her HSC English Extension 2 Major Work.

What did the students think was an acceptable level of assistance?

In relation to her Major Work in English Extension 2, Student B explained to the Commission that she thought it was acceptable for her tutor to add or subtract words or sentences as long as she herself was in a position to either accept or reject the changes.

[Commission] Q: *You say that [the Manager] typed in her own words and then you would look at them and decide whether you'd accept them or not ...*

[Student B] A: Yes, but while [the Manager] typed them she'd always talk to me about it, too. She'd type and say, "Now, this is what I'm doing. This is what I am saying for this purpose" and I'd agree or disagree with her.

A: I think it is. I mean that's the purpose of – I – I think it is, Commissioner, I just think that that's what a tutor is there to do, to help me express myself ...

Student B also explained how the Manager of Acclaim Education was able to significantly cut down the original word count and ensure that her work was presented in a professional manner.

[The Manager] would simplify a whole sentence for about two words for – to make it sound articulate to – to flow a little bit more, to make it a bit, you know, because it's a 4 unit major work. It has to be – it's a 100 per cent mark. It has to be perfect so she was really improving my own expressions ...

[The Manager] was able to help me cut a – a lot out. She was able to help me distinguish what was good and what was actually not – not worth – not worth my 4 unit mark ...

[The Manager] was able to help me twist the words around and make it sound professional ...

The Commissioner asked Student B whether, with all this help from the Manager, she thought that the work would still be considered to be her own.

[Commissioner] Q: Could I ask you this? When you do that major topic, the assignment, or something, and you put it in – what do you understand the people who are assessing it would be looking at?

[Student B] A: My own work.

Q: Your capacity to express in English – of an idea that you had or a concept you have?

A: Yes.

Q: Then can I ask you this, if someone else starts rephrasing what you are wanting to do ...

A: Yes.

Q: Do you still think that's your own work for this assessment?

Initially, Student A told the Commission that she thought it would be wrong for a tutor to add or delete sections of an assessment work or to add paragraphs or sentences to a work, or even rework a sentence without consultation with the student. She later softened her position on this when the Manager's changes to her work were brought to her attention. She said that cheating "seems too strong a word" to describe the removal of words by a tutor and that "tweaking" would not amount to cheating. Eventually Student A agreed with the Commission's suggestion that if additions and deletions by a tutor enhanced a piece of work so that it moved from being worth 80 per cent to being worth 100 per cent, this may constitute cheating.

Student F, who sat for the HSC in 2003, also gave evidence to the Commission about the influence of tutors at Acclaim Education in the preparation of her English Extension 2 Major Work. In her evidence Student F acknowledged that the Manager of Acclaim Education edited her work in a manner whereby she would write sections in and that it was very likely that she also deleted sections. She compared this direct approach to the approach previously adopted by another tutor, Tutor E, who merely gave guidance.

I suppose it was easier, but it made me uncomfortable, but I mean it's not that I – like I said, it's not like I didn't go over what – so I also went over it and decided if I liked it, and if I didn't, I usually just put in my own ...

Student F claimed she did not consider that this conduct amounted to cheating. She supported this claim by saying that from her perspective provided she was aware of and made a decision to accept the Manager's entries, the work remained properly hers.

Some may view the above examples as tutors making a 'substantial', 'large' or 'major' contribution to the works and consequently falling within the BOS definition of malpractice. Others, like the students mentioned above, may not.⁴⁹ The issue is further complicated by the fact that the Guidelines for Marking English Extension 2 Major Works⁵⁰ suggest that clarity of expression, which arguably characterises much of the assistance provided

49. The Board of Studies advised the Commission that in its view the conduct referred to in this part of the report was unquestionably cheating in such a context and that on that basis a tighter definition would not be of assistance in deciding such questions.

50. BOS HSC English Extension 2 Marking Guidelines (available at www.boardofstudies.nsw.edu.au/syllabus_hsc/pdf_doc/english_ext2_mark_guide.pdf). These guidelines were first published in 2000 as Sample Marking Guidelines. They were replaced in 2002 with Marking Guidelines that were essentially the same as the Sample set. They have remained the same since 2003.

by tutors at Acclaim Education, is an important criterion in obtaining a high mark in the Major Work.

During the course of this investigation the issue of what might be considered inappropriate was discussed with the head English teacher (Teacher F) who had supervised Student C in English Extension 2. After viewing the material demonstrating the level of assistance provided by Student C's tutor the supervising teacher noted that a teacher would make suggestions to a student about how the student's work could be improved, but that the teacher would not "go to this length with an assessment task".

This lack of clarity as to what is "a student's own work" was also reflected in responses to the survey conducted by the Commission with 42 NSW high school principals (Appendix 3 provides further detail about the survey). While a small number of schools commented that they thought the guidelines provided by the BOS were helpful (particularly the more recent publications discussed later), others thought the guidelines could be clearer. One respondent said:

We have to establish the wording as Board of Studies wording is somewhat imprecise.

This respondent noted that because of the lack of precision in BOS definitions, the teachers at the respondent's school:

... indicate on BOS documents that we cannot guarantee it is predominantly the student's own ideas or work.

Board of Studies response to the issues

In June 2005 the BOS commissioned an independent review of the Board's policies, rules and procedures relating to the preparation of HSC school assessment tasks and Major Works/projects.

In December 2005 the BOS released a revised version of its Assessment, Certification and Examination Manual (ACE Manual) which includes the definition of malpractice as detailed on pages 21–22 of this report. This Manual contains a more extensive definition and discussion of what constitutes malpractice than previous editions. The BOS has advised the Commission that the 2005 revision of the ACE Manual was a major undertaking that was underway independently of the allegations of cheating.

In March 2006 the BOS provided additional advice to students, parents and teachers in relation to HSC assessments and submitted works. This included the following brochures:

- *HSC Assessments and Submitted Works – Advice to Students*
- *HSC Assessments and Submitted Works – Advice to Parents*
- *HSC Assessments and Submitted Works – Best Strategies for Preventing and Dealing with Malpractice – A Guide for Teachers.*

In its publication *HSC Assessments and Submitted Works – Advice to Students* the BOS advises students that:

Plagiarism is when you pretend that you have written or created a piece of work that someone else originated. It is cheating, it is dishonest and it could jeopardise your HSC exam results. (p. 3)

Students are advised that:

It is not plagiarism to have someone correct your spelling and grammar. However, if a parent or tutor or anyone else makes major changes to the wording of your draft, the final version is no longer your own work.

In its publication *HSC Assessments and Submitted Works – Advice to Parents* the BOS advises parents that while it is important to support their son or daughter in their assessment work, parents must not do the work for their children.

It is important that students have support from teachers, parents and friends when working on their assessments, but they must not let others do their work. (p. 3)

Both pamphlets are available in hard copy and on the BOS website. From April 2006 the pamphlet for parents has been available on the BOS website in six community languages (Chinese, Vietnamese, Arabic, Korean, Spanish and Turkish). A web-based document for teachers, similar to those for students and parents, has been designed to assist teachers in guiding and supervising student works and activities. This document is available in hard copy and has been distributed to secondary school teachers and has been available on the BOS website since March 2006.

The BOS has also introduced the *HSC: All My Own Work* program which is discussed on page 50 of this report.

Commission recommendations

The advice materials produced by the BOS and listed above do attempt to clarify what constitutes cheating or malpractice in assessments tasks. However, in the Commission's view a significant lack of clarity, consistency and defined standards remains. In light of the information examined by the Commission during this investigation and the responses to the Commission's survey, it is clear that a more precise standard is needed to assist students, parents and teachers determine more accurately when a student's assessment task can no longer be considered their own work – to demarcate, for the sake of all stakeholders (including those investigating alleged instances of malpractice), when assistance and encouragement move from appropriate help to inappropriate assistance, thus constituting malpractice and cheating.

The Commission recognises that it is difficult to neatly define what constitutes "a student's own work". However, this investigation has demonstrated the need to narrow the grey area between what is clearly the student's own work and what is not. As long as a substantial grey area exists a student can claim ignorance of the standards for compliance whether the claim is genuine or not. Making determinations of malpractice, misconduct or corrupt conduct is greatly assisted by having clear, established standards against which to test the behaviour in question. It is recommended that the BOS conducts a comprehensive review of the types of conduct that would be considered inappropriate and develops a definition of what "a student's own work" means in practice. In presenting this information to students, parents and teachers the BOS should include examples and case studies to enable these stakeholder groups to objectively examine and assess their actions.

As previously noted there appears throughout BOS documents a range of different terms, often used interchangeably – "own work", "entirely original", "essentially my own work", "wholly the work of the student", "major assistance" and "without undue assistance". The BOS should adopt an agreed standard and a minimal number of well-defined terms, consistent with that standard, to describe what is expected of students. That standard and the associated terms should be used consistently throughout BOS publications, including guidelines, policies and procedures.

The Commission is also concerned that the BOS guidelines should be clear in stating that there will be consequences for students found to have engaged in plagiarism. For example, as discussed on page 45, the BOS publication *HSC Assessments and Submitted Works – Advice to Students* states in respect of plagiarism "It

is cheating, it is dishonest and it could jeopardise your HSC exam results". The Commission is of the view that these and other guidelines should state that plagiarism "if detected will jeopardise your HSC exam results".

RECOMMENDATION 1

That the Board of Studies NSW adopt one agreed standard and a minimal number of well-defined terms, consistent with that standard, to describe what is expected of students, and in particular the extent to which a student's work must be his or her own.

The standard and associated terms should be used consistently throughout BOS publications, including guidelines, policies and procedures and where relevant should be supported by examples and case studies showing what is both acceptable and unacceptable practice.

RECOMMENDATION 2

That the Board of Studies NSW conducts a comprehensive review to determine the types of third party assistance that are unacceptable for HSC students. To guide students, parents, teachers and tutors, BOS publications should set out examples and case studies of what is both acceptable and unacceptable third party assistance.

RECOMMENDATION 3

That all Board of Studies NSW guidelines should clearly state that plagiarism if detected will jeopardise the student's HSC exam results.

Identification of cheating in take-home assessment tasks

The Commission's investigation has highlighted the practice of students obtaining considerable assistance, on this occasion from paid tutors, in relation to the preparation of their English assessment tasks and particularly their English Extension 2 Major Works. In none of the cases examined by the Commission did the schools, teachers or the BOS have any idea of the level of assistance provided. None of the Major Works, Major Work Journals or Reflection Statements acknowledged the assistance given to the students. In one case, the tutor specifically advised the student against making the teacher aware that tutorial assistance was sought (see page 48).

The risk of malpractice or corruption of the process increases in a situation where teachers and markers are unable easily to identify the type and level of third

party assistance provided to HSC students in their take-home assessment tasks.

The difficulty in identifying this type of cheating

The overwhelming majority of the respondents to the Commission's survey of high school principals agreed that the practice of HSC students submitting work that is not their own because of high levels of tutor involvement is a matter for concern. Some respondents also pointed out that it is not just the level of input from tutors that is of concern but also input from other sources:

I had not thought of this as involving coaching colleges but rather individual teachers working from home as workers or older brothers and sisters "helping". Either way it invalidates the comparability of the task.

The support of not only tutors but family members and others is of concern. Verification that the work is the student's work can be difficult.

It is difficult to know where the help has come from: a tutor, parent, university student.

Respondents to the survey were divided about how easy it is for teachers to identify cheating. They pointed out that identifying cheating depends very much on a number of things:

- the ability of the student to produce high quality work;
- the nature of the assessment task;
- the teacher's familiarity with the student's work;
- the level of sophistication of the student.

The respondents acknowledged that it is easy to detect or suspect cheating when a poor or average student submits a high quality piece of work; however, it is much more difficult to do this in relation to more competent students. With such students the differences between their own and overly assisted work may not be so stark as to put the teacher on alert.

It is difficult when the quality of the work submitted is within the demonstrated capability of the student concerned. It is very easy of course when it is significantly higher than the usual demonstrated capacity.

This depends on how sharp the teacher is (and experienced) and how well he/she knows the students and the quality of their written work.

What the Commission observed was not less able students seeking high marks by having others prepare their assessable work. Such assistance would have been relatively easy for high schools and the BOS to identify. The English Extension 2 works examined by the Commission were mostly of highly talented, hard-working students, using the assistance of tutors in the hope of gaining marginal increases in their assessment and examination marks, in the context of a highly competitive market for limited tertiary opportunities.

Lack of awareness

In the first instance, classroom teachers are the ones who are best placed to detect a student who cheats in a take-home assessment task. Teachers believe they are able to identify this type of cheating, although they admit that it can be very difficult when examining the work of high achieving students.

As discussed on page 45 the Commission interviewed Teacher F, the high school teacher who had supervised Student C for English Extension 2. The teacher had never been advised by Student C that he was receiving assistance from a tutor. This teacher is a head English teacher who has extensive experience in the teaching, supervising and marking of HSC English, including English Extension 2. Student C was one of a small number of students studying English Extension 2. This teacher had met with the group regularly and allocated each student a 40-minute period each week to talk individually about their work. Group meetings gave students an opportunity to share their ideas and read extracts of their work to each other. During individual sessions the teacher discussed the students' progress, heard them read portions of their work and offered them advice about how they could refine or progress the Major Work they were progressively developing. Teacher F would make suggestions about other literary works or academic sources that they could refer to in order to enhance their understanding of the particular medium, genre or subject chosen. As part of the assessment schedule for the course all students were required to present a viva voce, an oral progress report on their Major Work.

After being made aware by the Commission of the level of assistance provided by tutors to Student C, Teacher F, who supervised Student C's work, advised the Commission that the level of assistance provided was, in this teacher's opinion, unacceptable. This teacher believed that in this instance the student was not the sole author of the work and that this would amount to cheating. Teacher F advised the Commission that had he known of the level of assistance provided, the Practical Projects Certification/Declaration Form would not have been signed.

In this teacher's view, professional experience is the best way of determining whether a student's work is his or her own. Our survey results suggest that many other teachers share this view. Teacher F pointed out that when teachers work closely with students they become aware of the students' strengths and limitations in written expression, and examples of plagiarism usually stand out.

The consistency of the final product with drafts and other work known to the teacher also assists in the process of determining the originality of any work. To a large extent how successful this is depends on the goodwill and relationship that exists between the student and the teacher and the level of supervision of the student. Teacher F said he had been concerned about the quality of Student C's work, yet at no time did he doubt that the submitted work was the student's own. Unfortunately, these methods were unsuccessful in detecting that considerable assistance had been given to Student C.

The above scenario shows that even a highly experienced teacher may not recognise signs of cheating. Two possible reasons may exist for this. First, teachers may not be generally alert to the idea that an able group of students would engage in this type of cheating behaviour. Second, while there are widespread concerns about third party assistance in the secondary education sector, the extent and nature of the practices demonstrated in this investigation may not be widely known and appreciated.

The effectiveness of existing measures designed to reduce opportunities for malpractice and cheating

As detailed in Chapter 2, the BOS and NSW schools have policies and procedures in place to identify various forms of malpractice. As well as advice and information to students the BOS has in place a number of authentication checks as outlined on pages 22–24.

In relation to English Extension 2, the English Syllabus requires that during the development of the Major Work the student keeps a process journal which, as stated in Chapter 2 (pages 25–26), has a stated role in establishing the authenticity of the work. When the work is completed students are also required to compose a Reflection Statement.

Both the Major Work Journal and the Reflection Statement provide an opportunity for students to discuss any significant influences on the development and production of their Major Work. The Reflection Statement is submitted to the BOS with the Major Work for marking. The Major Work Journal must be

submitted with the Major Work but is not marked. If there are doubts about the authenticity of the major work, the candidate's Major Work Journal is examined.

As shown in this investigation, these measures did not alert markers of the submitted Major Works that assistance had been given, which would have allowed a query on the extent of the assistance provided to be made.

The students who had received assistance signed the required certification forms and so did their teachers. As the following two examples demonstrate, at no time did these students advise their supervising teachers that they were receiving assistance with their Major Work from paid private tutors, or acknowledge this in their Major Work Journals or Reflection Statements.

Example 6 – Reflection Statement content

In her evidence to the Commission, Student A discussed the contents of her Reflection Statement that was submitted to the BOS together with her Major Work. In her Reflection Statement she discusses the people who influenced the development of her work, including a cousin from America and a learned elderly friend whose advice she says was critical to the final outcome of her work. Yet Student A makes no mention of the person who clearly had a significant influence on her work, her tutor, the Manager of Acclaim Education. When asked why she did not mention her tutor Student A explained:

[Student A] A: *Well, [the Manager] always told me never to say that I got tutoring, private tuition, so I left that out.*

[Commission] Q: *She said what, sorry?*

A: *She always told all her students "Don't tell any of your teachers, you've got private tuition because, basically, yeah, they can assume that I've done the work, I guess and they will undermine – it will put it under question" so she always advised that I never mention anything about her, so ...*

...

Q: *So your teacher at school didn't know that you were being tutored?*

A: *I am not sure. She may have received the assumption – I mean other – my friends and everyone knew, so whether they – she knew, I'm not sure. She may have had an*

idea perhaps, but I never directly told her I'd been tutored.

Q: *You don't consider that the Reflection Statement was somewhat misleading in that you talk about – you give an outline of people who have influenced your work but you don't mention probably the most significant influence on your work?*

A: *I mean these are still people who did influence it. As I said, yeah, I was probably just following her instruction not to mention her. Maybe that's misleading, but she – yeah. She didn't really – she – helped, yeah, I agree, yeah. I'll leave it at that.*

and say how this tends to take you down the wrong paths. Say that this is your greatest fault and you hope that the process of the major work will discipline you in such a way that you may overcome this fault.

Entry Seven in both the draft and the submitted Major Work Journal records:

Entry Seven

As I sit here writing this, I am looking over the two different proposals. I think it is my habit of being too spontaneous, too flippant in my work that led to this. However I had the good sense to ask some friends to read over it and criticise me. I think Hitler has been less criticised than [sic] me after hearing their comments. I hope to discipline myself when it comes to work, but I do not want to turn into Al Gore, so I am trying some different tactics in this area.

Example 7 – Assistance with a Major Work Journal

The Commission found that Acclaim Education provided a document to Student C providing him with specific guidance to assist in the preparation of his Major Work Journal. Both Student C's draft and submitted Major Work Journal were prepared consistently with the guideline document provided by Acclaim. For example:

1. Entry 6 in the guideline document records:

Entry 6

Reflect on how you made a big boo, and your proposal was not serious enough and stick in the after R proposal.

Entry Six, in both the draft and the submitted Major Work Journal, commences:

Entry Six

I have written a proposal which I think might offend some personalities in the school, so I will change it. The first proposal is directly attacking the school, however my intentions were to be subtle. It's like Mark Holden, I begin with good intentions, but end up going on like a raving lunatic. Some acquaintances of mine have nicknamed it, the big boo boo, and not the cool bear who is Yogi's assistant. This is my 'refined' draft.

Student C, in his evidence, confirmed that the "big boo boo" related to a fundamental change in the nature of his Major Work that was made after discussions with the Manager.

2. Entry 7 in the guideline document records:

Entry 7

Reflect on your habit to be flippant and spontaneous

The Commission found that in all likelihood the Major Work Journal submitted by Student C to the BOS was based on detailed guidelines provided to him by the Manager of Acclaim Education. The evidence before the Commission also suggested that it was likely that the journal entries were not completed by Student C gradually over the life of the project, as would have been expected by the BOS, but as multiple entries made on only a couple of occasions.

It may be that these students did not consider their Major Work Journal or Reflection Statement as appropriate documents in which to declare the level of tutor assistance they had received. They may have seen these documents as requiring details of more personal and creative influences. Nevertheless, the Commission's investigation demonstrates that some students are prepared to sign authentication forms stating that the work is their own without acknowledging any third party assistance provided.

Board of Studies response to the issues

As previously stated, the BOS has recently commenced providing additional advice to students, parents and teachers about preventing and dealing with malpractice in HSC assessments and submitted works (page 45). Students and parents are advised that students have a responsibility to "avoid behaviour which could be considered cheating, including plagiarism, and ensure that all assessment work is [their] own or acknowledges the contribution of others".⁵¹

The BOS has also made teachers aware of additional strategies to use to prevent malpractice in assessment tasks. These include:

51. HSC Assessments and Submitted Works – Advice to Parents, Board of Studies NSW, 2006, p. 2 and HSC Assessments and Submitted Works – Advice to Students, Board of Studies NSW, 2006, p. 2.

- ensuring students are adequately briefed and feel prepared for the challenges presented by an assessment task;
- allocating class time to the planning and drafting of an initial response;
- requiring students to prepare annotated references, maintain a process diary/journal, present work either orally or in writing at key stages of the development process, submit original drafts in addition to the final copy;
- requiring tasks to be submitted at specific stages of their development as a means of monitoring a student's progress;
- ensuring students understand that practical and performance pieces that incorporate the words, ideas, designs or workmanship of others must clearly identify the original source;
- asking students to develop an action plan with time frames to be signed off when each task is completed;
- asking students to keep logbooks, journals or reflection statements or deliver a short talk or presentation on their progress including submitting their log books and discussing the entries.⁵²

The BOS has developed the *HSC: All My Own Work* program. This on-line ethical scholarship program began with 2006 Year 10 students continuing into Year 11 and will encompass areas such as academic integrity, ethical scholarship, plagiarism and cheating. The program is intended to enhance the integrity of the HSC by ensuring that all students who are undertaking an HSC course of study understand ethical practices and the importance of honest study. This program is compulsory and schools will have to certify that students have completed the course before they enrol students in the HSC.⁵³

The BOS has also strengthened the certification requirements. The wording of the Student Declaration contained in the HSC Confirmation of Entry form has been modified. In addition to existing requirements, students are now required to declare the following:

I have read and discussed with my parent/guardian/carer the Higher School Certificate Rules and Procedures, including those on plagiarism and malpractice, and have retained a copy of these rules ...

I have confirmed all of the above information is correct; and

I understand that if this declaration contains false information I might not be eligible to receive my Higher School Certificate results.

The Practical Projects Certification/Declaration Form has also been revised. In addition to existing requirements students must now certify that “the planning, development, content and presentation of this ... is [their] own work in every respect and [they] have read and discussed with [their] parents/guardian/carer the HSC Rules and Procedures, including those on plagiarism and malpractice”.

The declaration form signed by teachers and principals now requires them to certify that the work submitted by the student is consistent with earlier drafts and other examples of the student's work.

Commission recommendations

The above actions by the BOS will serve to raise awareness about these issues and emphasise the importance of academic integrity. They may serve to heighten awareness of the consequences of cheating, although this will depend on students believing there is a credible threat of detection and being sanctioned if they cheat.

The evidence from this investigation does imply that some of the suggested strategies for teachers to use to prevent malpractice in assessment tasks (e.g. keeping journals and logbooks) may fail as forms of verification. Likewise, the strengthened certification requirements are worthwhile but can still be manipulated by determined students.

The type of assistance described in the examples in this chapter is particularly hard to identify and will require a more direct response in addition to the above measures. It appears to the Commission that in the Advanced English courses that include a number of take-home assessment tasks, students should be required to explicitly acknowledge any assistance they have received, including any assistance they may have received from paid tutors, and the nature of the assistance given. This is particularly important for English Extension 2, where the Major Work accounts for 100 per cent of the overall mark awarded for the subject.

The English Stage 6 Syllabus (1999) already requires that students prepare a Major Work Journal and Reflection Statement to accompany their Major Work.

52. *HSC Assessments and Submitted Works – Best Practice Strategies for Preventing and Dealing with Malpractice – A Guide for Teachers*, Board of Studies NSW, 2006, p. 3.

53. *HSC – All My Own Work*, Board of Studies NSW (available at <http://www.amow.boardofstudies.nsw.edu.au>).

These documents are meant to detail the development of the work and provide a review of the process. The original intent of the Reflection Statement and the Major Work Journal may not have been to include acknowledgement of third party assistance, however not to acknowledge the substantial influence of a tutor in such documents appears to the Commission to be potentially false and misleading. Without full disclosure of all third party assistance these documents lack integrity.

Finally, the BOS should consider whether the Major Work Journal should be submitted to the school and signed off by the school in stages. This would reinforce the message that the Major Work Journal should document the evolution of the Major Work and prevent the Journal from simply being “made up” at the end of the process.

RECOMMENDATION 4

That the Board of Studies NSW requires students who undertake English Extension 2 to explicitly acknowledge all assistance they receive with the preparation of their Major Work, including any assistance they may receive from paid tutors. It is also recommended that the nature of the assistance given be specified.

RECOMMENDATION 5

That the Board of Studies NSW considers whether this requirement should be extended to other HSC courses that include significant take-home assessment tasks or submitted works.

RECOMMENDATION 6

That the Board of Studies NSW considers requiring the Major Work Journal for English Extension 2 to be submitted to the school and signed off by the school at certain nominated points in the development of the work to reinforce the message that the Major Work Journal should document the evolution of the Major Work across a course of time and to prevent the Journal from simply being “made up” at the end of the process.

Awareness of the seriousness of cheating in HSC assessment tasks

As highlighted in Chapter 4, the NSW HSC is now conducted in an increasingly competitive environment. The results achieved by students in their HSC are seen by many as crucial to determining the next stages in their lives. Cheating in the HSC effectively involves an attempt to manipulate and distort an official assessment procedure. This manipulation and distortion leads to an unfair advantage to those who have cheated and a disadvantage to honest students.

This report is concerned with third party assistance given to HSC students. As previously highlighted, the Commission was unable to identify when this form of assistance moves to being inappropriate based on the current applicable standards. It has been recommended that the BOS provide in their publications examples and case studies of what is deemed acceptable and unacceptable assistance.

There is no doubt that third party assistance beyond a certain point would be considered by the BOS as malpractice. The BOS describes this type of cheating as one form of plagiarism. While this may be the case, including this type of cheating under the banner of plagiarism may cause it to be taken less seriously than it should be. Plagiarism is acknowledged to be a serious issue, however, there is a sense in which plagiarism is sometimes seen as commonplace and undertaken innocently and unintentionally by individual students, through ignorance as to correct practices.

While the practice of having others significantly assist in the preparation of submitted work may be a form of plagiarism, it may also be a form of fraud when it involves significant and/or improper third party assistance. This type of plagiarism does not involve a student acting alone but includes the concealed actions of a third party and an attempt to gain advantage for one student over another. When successful, such improper assistance confers advantage over other students in:

- the student’s high school assessment mark;
- the student’s class ranking in the subject;
- the (moderated) mark that contributes to the student’s final HSC mark and ultimately to his/her UAI rank.

In subjects where there is an external written examination cheating based on improper assistance provided by a tutor is less likely to have such an impact.

It is both easy and potentially very advantageous to get improper third party assistance in English Extension 2 since the Major Work is largely undertaken outside the classroom and is worth 100 per cent of the student's final mark. It is not clear whether these factors serve as an incentive to some students to enrol in the course, but it is clear that the combination of opportunity and incentive make the course vulnerable to malpractice.

English Extension 2 would usually be undertaken by the more competent students who are essentially competing with each other for entry into select university courses. A one mark advantage could translate into a small percentage improvement in their UAI rank which is nevertheless sufficient to make up the difference needed to gain entry into highly competitive courses such as law, medicine or veterinary science at university. Needless to say, if the student only gains entry because they cheated, they are improperly and unfairly taking the place of similarly capable students who did not.

In the current environment, students and parents are well aware of the importance of achieving high marks in the HSC. Some students, supported by their parents, may well be prepared to deliberately bend the rules to ensure that they do well in the HSC. As a starting point, it is important that the growing seriousness and implications of this activity be explicitly acknowledged by educational authorities and made known within the community. Students, parents and tutors need to know that cheating through significant assistance given by a third party could potentially be quite serious and considered fraudulent.

A greater awareness and understanding of these issues would no doubt lead to a lack of tolerance within the community, increased identification and reporting of this type of conduct, and better management of incidents of malpractice.

Board of Studies response to the issues

In its latest advice to students, parents and teachers the BOS does recognise the seriousness of cheating in the HSC and advises students and parents that cheating is unacceptable as it undermines the integrity of the qualification and distorts legitimate measures of a student's achievements, leading to inaccurate reporting and disadvantage to other students. Students and parents are also advised that the BOS will take measures to deal with students who are caught.

In *HSC Assessments and Submitted Works – Best Strategies for Preventing and Dealing with Malpractice* –

A Guide for Teachers the BOS advises teachers that:

Cheating in relation to the HSC is a serious offence as it distorts legitimate measures of a student's achievements. While cheating advantages the individual, it disadvantages other students by altering the order in which they are ranked within their class group and distorting the moderation process that is applied to internal assessment marks. (p. 2)

When announcing the above measures on 28 February 2006 the NSW Premier stated his commitment to maintaining the integrity of the NSW HSC:

The measures I am announcing today make it clear to each and every student what is expected and the serious consequences for anyone who is caught cheating.⁵⁴

Commission recommendation

The latest action by the BOS has raised the profile of this issue and stressed the seriousness of cheating in the HSC. These are important steps towards developing a student culture averse to cheating. However, there is further work to be done. The BOS needs to work with the DET and the non-government schools sector to ensure that the nature and seriousness of the type of cheating is well understood. Stakeholders also need to be aware that cheating in its most serious form may be considered to be corrupt conduct and may need to be reported to the Commission.

RECOMMENDATION 7

That the Board of Studies NSW includes in advice to students, parents and teachers a statement that serious and deliberate acts of cheating in the Higher School Certificate would amount to corrupt conduct. The Board of Studies NSW should provide advice as to how it handles such allegations, the consequences to those involved if the allegations are sustained and that, where appropriate, the Board of Studies NSW will report matters to the Independent Commission Against Corruption.

Dealing with serious incidents of malpractice in assessment tasks at the school level

NSW schools are responsible for identifying and managing malpractice associated with school-based HSC assessment tasks and with submitted works before these are forwarded to the BOS for marking. Schools are responsible for identifying, investigating, assessing and determining malpractice incidents. Most schools

54. "New Measures to Combat Cheating", Board of Studies NSW media release, 28 February 2006.

form a committee to review any cases of suspected malpractice and determine the appropriate action should the malpractice be proven.

As detailed in Chapter 2 of this report, in the case of school-based HSC assessment tasks the school makes the final decision. The only right of appeal to the BOS available to students is on the basis of the school process, not marks awarded.

In the case of works submitted to the BOS for assessment, the school goes through the same process of identifying, investigating and assessing malpractice incidents. If necessary, the school completes a non-certification form which is submitted to the BOS and explains the reasons for the teacher being unable to certify the work as the student's own. The BOS then makes the final determination as to how to mark the work and advises the student and the school. These matters are determined by the Board's Non-Certification Panel. Sometimes cheating in submitted works is identified by the BOS HSC examination markers. These matters, including any penalties, are determined by the BOS's Examination Rules Committee.

The BOS has advised the Commission that in 2005 there were 124 cases where submitted works were not confirmed by the school. Approximately 60 per cent of the matters were for lateness, 24 per cent for unsupervised work where it was nevertheless considered the student completed the task themselves, and 16 per cent [20 cases] for "assistance with work".⁵⁵ The BOS also advised the Commission that in 2005 its Examination Rules Committee dealt with 16 cases of malpractice in HSC examinations. Twelve cases involved the use of unauthorised notes or material and four involved plagiarism.⁵⁶

The Commission notes that the number of cases dealt with by both the BOS's Non-Certification Panel and its Examination Rules Committee is low. The BOS has advised the Commission that the number is low because of the effectiveness of various checks and balances in the system. While there are a number of checks and balances in the system, this investigation casts doubt on their overall effectiveness and suggests that another explanation for the low number of cases may be because these are difficult matters for schools and the BOS to identify and manage. It may be that because of a lack of practical and expert support for schools, these matters are often not identified or, when they are identified, not progressed as they should be.

Without sufficient support and guidance, schools and teachers may simply be unable to deal effectively with suspected incidents of malpractice, particularly cases involving sophisticated malpractice.

Information obtained during this investigation suggests that dealing with malpractice incidents can be an onerous and often daunting task for teachers and principals, particularly in cases of serious malpractice.

While approximately one-quarter of respondents to the Commission's survey of NSW school principals thought that it was somewhat difficult or very difficult to identify third party assistance in assessment tasks or submitted works, three-quarters thought that it was somewhat difficult or very difficult for teachers to actually prove that a student had received inappropriate support from another party. So while these types of incidents may be identified, they are unlikely to be effectively resolved. The respondents suggested that this is because there are real challenges faced by teachers in trying to prove a student has cheated. Teachers are not trained investigators nor do they generally have training in legal matters. Their usual role is based on goodwill and working collaboratively with students:

Teachers are not trained investigators and rely very much on goodwill that exists between teachers and student. A dishonest student (especially in Ext 2) would find it fairly easy to deceive the best of teachers.

To prove is to accuse and make judgment. It is normally denied and teachers are reluctant to take on parents or face potential legal action.

Especially if it comes from highly capable students and competitive students. Also the nature of proof is highly subjective and students are aware of their rights and often challenge teacher's findings.

Even though a teacher may have a suspicion that the student has received assistance, it is difficult to determine to what degree. Has it been guidance that has led to improvement or has it been high instruction or involvement in preparing the assessment task?

An allegation of cheating within the HSC environment is a serious matter and can quickly become emotionally charged. One of the main concerns appeared to be the possibility of students or parents taking or threatening to take legal action. In an interview with the Commission, Tutor A advised the Commission that the Manager of Acclaim Education told her students what to do if they were ever accused of plagiarism. Tutor A advised the

55. The penalties given were not differentiated by the issue, so it can only be assumed that the one student who received zero marks for their submitted work was in the category "assistance with work". It is assumed that the other 19 in this category were among the 25 penalised by "reduced marks". Most students on the non-certification list received no penalty.

56. The Board of Studies NSW has advised the Commission that the type of plagiarism identified includes submitting part or all of a project submitted by a previous student, significant use of internet material without attribution or the inclusion of commercial material without acknowledgement.

Commission that the Manager of Acclaim Education would advise students to break into tears, not tell the teacher anything and telephone their parents immediately. Parents were advised to go to the school, remove their son or daughter and seek legal advice or talk to the Manager of Acclaim Education.

Results from the Commission's survey did tend to suggest that while schools suspect incidents of cheating in assessment tasks, in a significant number of cases teachers felt unable to take further action. Approximately three-quarters of respondents felt that schools did not receive sufficient support to effectively address situations where they suspect that an assessment task or submitted work is not the student's own work. In general, schools commented that these are difficult issues for teachers to handle and that they would appreciate more support and tangible, independent expert assistance from the BOS. The following quotes encapsulate the views of a number of respondents on this matter:

Because of the intense emotion that surrounds any such investigations schools often err on the side of generosity to avoid controversial situations. Having an 'independent' advisor would mean that schools might be more likely to pursue more overt cases.

An independent investigator needs to investigate the matter and the whole issue taken out of the school's area of responsibility ie teachers may be personally concerned for their own well-being.

There are obvious risks in a situation where unsupported teachers and schools may suspect cheating has occurred but find it difficult to prove or are intimidated by parents when the school pursues the matter.

The following case study, based on evidence collected by the Commission during the investigation, illustrates the difficulties schools can face in trying to resolve these types of incidents effectively, particularly when there are insufficient internal resources and expertise to manage the issues which may arise.

Case study

An HSC teacher set a major take-home assessment task for her HSC Business Studies students that involved them researching a global business. When marking the assessment tasks she came across one that had clearly not been written by a member of her student group. The paper was of an exceptionally high quality and above any level of work the teacher had ever seen from a Year 12 student. In her words, the paper was far too well synthesised, the footnoting was of a standard exceeding a fourth year university student's capability, and the bibliography included texts that were rare and hard to find. The teacher did not know which student had completed the paper as it was identified only by a student number. The teacher gave the paper a mark of 20/20.

The teacher became concerned when she returned the paper and found out which student had submitted the paper. This student had never displayed a strong work ethic and had previously been consistently ranked in the bottom 20% of his cohort. The teacher was convinced that the student could not have completed the work. The teacher discussed the matter with her supervisor who agreed that the language and synthesis of the question were highly sophisticated and inconsistent with what the supervisor knew of this student's performance.

A number of meetings were held between the student, his parents, the teacher and senior school staff. At the first meeting the parents and the student claimed that the work was 100 per cent the student's own work. They shouted and became very emotional, claiming they were being victimised and that the school was being racist. A second meeting was arranged where it was agreed that the student could demonstrate his capacity to research and write the assessment task. During this second meeting the student had difficulty accessing the websites he had referred to in his assessment task, he was unable to footnote to the standard in his assessment task, had no idea what was written in his assessment task and was unable to pronounce or explain the meaning of a number of words included in the paper. Following the student's attempts, the father agreed that his son had possibly had help with 10 per cent of the assignment, apologised for his son's rude behaviour during the interview and offered to negotiate.

When the teachers advised the father that they were not in a position to negotiate but were required to follow the Board of Studies guidelines, the father pulled out a large bundle of \$100 notes and commenced flicking through the notes until he reached a business card that he gave to the teachers. The student and his parents were advised that the school would consider the matter and advise the student and parents.

Later that night the teacher received three telephone calls from the father wanting to negotiate and telling the teacher that the student's future rested in the teacher's hands.

The school considered the matter and sought advice from the Board of Studies NSW, which advised that the student should receive zero marks for the task. After a number of discussions, the school decided to offer the student the chance to re-do the task under greater supervision or to give him the average rank that he had achieved on all other assessment tasks to that point in Business Studies. The student and his family eventually chose the latter option. The student was awarded 16/25 for the Business Studies assessment task.

During the process the school received a call from a psychiatrist stating that in his opinion the school was victimising the student and putting his mental health at risk. This health 'professional' was later disclosed as a family friend. The school also received letters from the father's lawyers and a youth legal centre, who accused the school of treating the student unfairly and sought access to certain materials in order to pursue the matter on the student's behalf. At that stage the school sought its own legal advice.

The above case study highlights the pressure that schools may come under with the threat of legal and other action. The Commission is of the view that where it is clear that student malpractice has occurred that schools should not succumb to such pressure and ensure that appropriate sanctions are imposed. In taking such action schools should have the full support of the BOS. This issue also highlights the need for schools to have advice and support from the BOS when dealing with student malpractice.

Board of Studies response to the issues

The BOS has recently provided additional guidance to teachers in regard to strategies for dealing with malpractice. While this guidance is useful, the responsibility placed on teachers and schools, especially schools that are not well resourced, remains onerous. The new guidelines advise teachers that "all claims must be substantiated" and that "teachers should refrain from making any accusations until the facts have been established".⁵⁷ While this advice is based on the principles of natural justice, the Commission's information suggests that substantiating claims and establishing facts is very difficult particularly in cases concerned with improper assistance from third parties. The Commission is of the view that teachers should be able to make enquiries regarding the originality of a student's work where there is a suspicion of student malpractice or plagiarism. It should not be necessary for a teacher or school to demonstrate that malpractice or plagiarism has occurred in order to question a student on how they formulated their submitted work.

Commission recommendations

Board of Studies advice and support

The information obtained in the preparation of this report suggests that schools need practical and expert assistance in order to deal more effectively with malpractice in take-home assessment tasks. Teachers need to be able to recognise the signs of work prepared through improper means and be confident about pursuing the matter. After suspecting improperly prepared work, taking the next step can be extremely difficult and risky. In the first instance, students and parents may deny the allegation and call into question the school's own teaching standards. They may threaten legal action as shown by the above case study. A teacher or school may be inclined to avoid this scenario. Teachers are more likely to take appropriate action if they are properly informed and supported. Providing this type of assistance will also ensure equity and uniform practice across schools.

Most schools have well-established processes to deal with malpractice incidents once they have been clearly established. However, it appears to the Commission that, while not shifting responsibility for investigating suspected cheating from schools, teachers and schools would benefit from some form of independent expert advice and support during the initial management of these incidents. Teachers may have a suspicion that a student has received too much assistance from a third party and comprehensive BOS guidelines could assist them in their initial identification of possible malpractice. However, taking positive steps to act on that suspicion is where teachers need extra practical support. This could include an information and advice giving function, assistance with identifying the specific

57. *HSC Assessments and Submitted Works – Best Practice Strategies for Preventing and Dealing with Malpractice – A Guide for Teachers*, Board of Studies NSW, March 2006, p. 3.

features of the alleged malpractice and a support role through the process to ensure the investigation moves through to an appropriate conclusion. This type of assistance is of crucial importance at the point when a teacher has a suspicion of malpractice but is unsure as to whether or how the matter should be pursued.

The Commission is of the opinion that the BOS should provide tangible support to schools and teachers to help them more effectively act on and manage malpractice in take-home assessment tasks. Without adequate practical support from the BOS there is a high risk that BOS policies and guidelines will not be implemented as envisaged, teachers will not take the next step, incidents will go unreported and the types of third party assistance outlined in this report will continue unchecked.

This type of practical support should include easy and direct access to expert advice and assistance from the BOS. This could take the form of an expert telephone and email advice line. Schools may also need BOS experts to act as independent advisers in meetings with students and their parents. The service would need to be provided by experts who have had experience in detecting and dealing with plagiarism and its associated forms of cheating. The provision of an advice and support service would also need to be segregated from that part of the BOS that considers appeals from students in relation to assessment tasks. The Commission acknowledges that there may be certain resource implications in developing such a program and recommends that this be discussed at the appropriate level of the NSW Government.

This type of service is similar to that which is now operating at a number of universities both within Australia and overseas. Some universities now have specialist officers located within a school or department or a panel of experts to deal with cases of plagiarism, determine sanctions and provide expert advice to academic staff to assist in the identification and management of incidents. For example, the University of Newcastle now has Student Academic Conduct Officers that, among other duties, provide advice to students and staff on matters of student academic dishonesty and monitor the extent and nature of student plagiarism within the University.⁵⁸

RECOMMENDATION 8

That, with input from the secondary school sector, the Board of Studies NSW develops an appropriately resourced and independent expert advice and support service to assist schools and teachers in the management of individual cases of malpractice in assessment tasks and submitted works.⁵⁹

Central recording, assessment and analysis of the number and type of misconduct incidents in assessment tasks

As previously discussed the BOS documents the incidents of malpractice in submitted works. However, in relation to school-based assessment tasks, there is no consolidated reporting and analysis of the number and range of alleged cases of malpractice. This is because, in relation to school-based assessment tasks, the cases are dealt with by NSW schools with no requirement for the information to be reported to the BOS.

Dr McKeith, Principal of Presbyterian Ladies College, Sydney, makes the comment that “when half the mark for each HSC course is determined by the school, it could be a deficiency that we do not know how many incidents of plagiarism in assessment tasks are routinely identified and what action each school took against the offender”.⁶⁰

The Commission agrees that the lack of a centralised, coordinated database detailing the number and type of malpractice incidents that occur in all take-home assessment tasks represents a significant knowledge gap and potentially an unmanaged corruption risk area. This lack of detailed data means that the BOS faces a gap in its understanding and sense of the nature and scale of the problem. The BOS also has no reliable knowledge about how well teachers and schools deal with suspected malpractice incidents, including how sanctions are applied or their effectiveness.

The information obtained during this investigation and through the survey highlights a need to document and analyse the incidents of malpractice in school assessment tasks together with submitted works. This would raise the profile of the issue, increase accountability and allow for more informed and coordinated decision-making and responsive action across the sector. It would allow for monitoring of misconduct incidents, where they are occurring and in what subjects and provide an indication of how

58. *Report on Investigation into the University of Newcastle's handling of plagiarism allegations*, Independent Commission Against Corruption, June 2005, p. 75.

59. The Board of Studies NSW has expressed its concern to the Commission as to whether its statutory functions would permit it to implement this recommendation and also Recommendation 9. The Commission is of the view that the broad nature of the Board's general functions under the *Education Act 1990* would allow it to implement these recommendations.

60. William McKeith, “Great expectations fuel the rise of school plagiarism”, *The Sydney Morning Herald*, 10 June 2005, p. 13.

effective different strategies are in addressing the problem. This is the type of information the BOS can use in its ongoing corruption risk management activities and allow the recommended advice and support service to provide informed and effective advice to schools. In addition, schools would need to comply with the record-keeping requirements, an action which, in itself, may serve to reinforce the need for teachers to favour action over inaction.

A reporting mechanism and schedule for schools would need to be devised in concert with the Director-General of the DET. It is also important that information about the number, type and management of malpractice incidents be publicly reported. This will act to raise awareness and serve as a deterrent to possible future malpractice.

The Commission notes that there are potential privacy issues associated with the collection of such data and recognises that these will need to be addressed. It is considered that these can be largely overcome by ensuring that the reporting arrangements do not include references to individuals and schools.

RECOMMENDATION 9

That, with input from the secondary education sector, the Board of Studies NSW develops a system for centrally recording, assessing and analysing the number and type of misconduct incidents that occur in the Higher School Certificate assessment program and submitted works.

RECOMMENDATION 10

That, after the reporting system has been established, the Board of Studies NSW publicly reports numbers and types of malpractice incidents and investigation outcomes for all incidents of malpractice in take-home assessment tasks, including how cases were dealt with.

RECOMMENDATION 11

That, to raise awareness about the application of sanctions, the Board of Studies NSW considers developing and publishing a series of case studies in its information to students that provide examples of where malpractice has been identified, the sanctions applied and the effect of those sanctions on the student's Higher School Certificate results.

Determining malpractice incidents

In reviewing a number of school assessment policies and procedures as part of the survey of NSW high school principals, the Commission notes that one school has an Authentication Policy which advises students that, in assessment tasks, they must wholly and authentically use their own language and expression. The policy also discusses the onus of proof and advises students that, if there is any doubt as to the authenticity of their work, the onus is on them to supply evidence of authenticity.

The Senior Secondary Assessment Board of South Australia includes a similar provision in its Supervision and Verification of Students' Work Policy. The policy provides that:

Where appropriate, a teacher may withhold his or her signature until sufficient evidence is available to show that the submitted material is the student's own work. In such circumstances, the onus is on the student to give evidence that the work submitted was completed under conditions consistent with the principles set out in this policy. This is likely to have entailed keeping in contact with the teacher during development stages and, for example, meeting sub deadlines, and informing the teacher of any changes in plans for the specified task.⁶¹

This same strategy is recommended by the University of Melbourne-based Centre for the Study of Higher Education in its *Assessing Learning in Australian Universities*, in which it recommends that students suspected of cheating be asked for evidence that they have not cheated.⁶²

When a suspicion of malpractice or a dispute arises, it is a practical solution for students to be required to supply concrete evidence of authenticity. Such a requirement puts students on notice and may assist teachers and schools to resolve and determine suspected malpractice incidents more easily.

RECOMMENDATION 12

That the Board of Studies NSW considers introducing a standard requirement that, should a reasonable suspicion of malpractice or dispute concerning malpractice arise, students will be required to demonstrate that the work is entirely their own.

61. *Supervision and Verification of Students' Work Policy*, Senior Secondary Assessment Board of South Australia (available at www.ssabsa.sa.edu.au/docs/policy/ap-03web.pdf).

62. *Assessing Learning in Australian Universities*, Centre for the Study of Higher Education, University of Melbourne, 2002, p. 45 (available at www.cshe.unimelb.edu.au).

Corruption risk management

All activities conducted by the public sector involve some form of risk. Risk management is recognised as an integral part of good management practice and sound corporate governance. Corruption and/or malpractice within an organisation is a risk that can affect the achievement of operational objectives in the same way as other types of risks, and needs to be identified and assessed together with them. Using a risk management approach to corruption prevention means focusing on identifying specific corruption risks, analysing these in terms of likelihood and consequences and identifying potential treatment strategies.

Based on its experience and research, the Commission considers that there are three elements of an effective corruption prevention approach:

1. Ensuring that there are appropriate detection and enforcement mechanisms in place, including referral to external agencies such as the Commission, appropriate internal investigation mechanisms and that effective sanctions for misconduct (or malpractice) are made known and enforced.
2. Establishing a culture of integrity and changing and guiding behaviour through tools such as a code of behaviour or activities such as ethics awareness training.
3. Reducing systemic opportunities by identifying corruption risks, ensuring that there are clear policies, procedures and guidelines in place to manage those risks, and that these are effectively communicated.

This report emphasises the importance of the BOS taking a corruption risk management approach to malpractice in take-home assessment tasks. The BOS requires schools to implement a range of strategies to deal with possible cheating in HSC assessment tasks and submitted works. The BOS needs to ensure that schools undertake these activities and that the strategies are effective in managing possible corruption risks.

The DET has a responsibility to ensure that government schools comply with the BOS's requirements and that students, parents/carers and teachers understand the requirements of the BOS for the award of the HSC. In discussions with the Commission the DET has acknowledged that it needs to focus more attention on these types of compliance issues within schools and that this is occurring.

In September 2005 the DET issued schools with a memo titled "Monitoring of Higher School Certificate Requirements for 2006". This memo reminded schools of their general responsibilities in relation to the HSC and advised that from 2006 principals would be required to complete a checklist confirming their school's adherence to BOS requirements. The checklist asks principals to confirm that the appropriate HSC information booklets have been provided to students, HSC subject requirements have been discussed with head teachers and HSC teachers, and that all requirements are being met by all students.

The DET has advised that in 2005 the number of school education directors increased to 78, each with responsibility for, on average, 28 schools (previously the ratio was closer to 1 to 60 schools). These directors have direct responsibility for the performance of principals and are required to visit each school at least four times a year to provide support and monitor activities in all aspects of a school's operation, including compliance with DET and BOS requirements in relation to the HSC.

Board of Studies response to the issues

The BOS is currently undertaking an evaluation of aspects of the HSC Assessment Program. This evaluation was initiated partly in response to these allegations, but was also planned as a detailed review of issues that have emerged in the Board's ongoing review of its programs. The BOS has told the Commission that the evaluation is examining whether changes are needed to address issues associated with:

- student workload and stress;
- consistency of the conduct of the program across schools;
- the specific directions given to schools;
- consistency of expectations across different courses;
- the balance between internal and external assessment in particular subjects.

The BOS also undertakes an annual review of the HSC program for the year just finished, including both external examination and school assessments.

Commission recommendations

The type of activities and system weaknesses revealed by this investigation highlight the need for the BOS to undertake ongoing risk management in relation to its HSC Assessment Program. The BOS needs to consult with the DET and the non-government school sector to ensure ongoing and coordinated risk management to guard against corruption risks associated with

malpractice in HSC assessment tasks and submitted works. The DET has advised the Commission that it is currently focusing attention on ensuring compliance with the BOS's requirements in relation to the HSC and that the additional regional school directors will play an important role in the task.

The Commission supports the actions of the BOS in its review of the HSC Assessment Program. This investigation demonstrates that the type and scale of malpractice in take-home assessment tasks may be subject to rapid change and or escalation. The Commission would therefore suggest that the annual review of the HSC includes these issues. In addition, an evaluation similar to that currently underway may need to be undertaken regularly to ensure that existing and emerging malpractice risks are recognised and managed in a timely fashion.

RECOMMENDATION 13

That the Board of Studies NSW adopts a risk management approach in relation to the corruption risks associated with its HSC Assessment Program and that regular reviews are undertaken to ensure that existing and emerging risks are recognised and managed in a timely fashion. The Commission recommends that there is coordination between the Board of Studies NSW, the NSW Department of Education and Training and the non-government school sector in this regard.

RECOMMENDATION 14

That the NSW Department of Education and Training ensures that the new level of oversight provided by additional school education directors is used effectively to ensure compliance with the Board of Studies' Higher School Certificate policies and procedures.

Chapter 6: Risks specific to English Extension 2

This report has considered the problems schools experience in the authentication of student Higher School Certificate (HSC) assessment tasks and submitted works with specific regard to work submitted for the HSC English Extension 2. As previously noted, the work for English Extension 2 is undertaken by the student largely away from the school and the direct supervision of the classroom teacher.

As previously discussed, the Commission conducted a survey of 42 high school principals. The focus of this survey was take-home assessment tasks associated with HSC English – Advanced, Extension 1 and Extension 2. Information from the survey shows that due to the problems with authenticating students' take-home work schools are now conducting many assessment tasks at school. A small number of schools advised the Commission that they have in fact limited the number of assessment tasks being undertaken away from the direct supervision of the teacher. They are doing this even though it runs counter to the spirit of the BOS guidelines:

It is no longer a problem as all assessments are now held 'in house'.

... some schools insist all HSC tasks in Year 12 are written in class but this is against the spirit of teaching and assessment.

There are large numbers of students going to tutors across the state, in particular selective schools. Many assessment tasks are done at school to overcome this issue.

We have no evidence that this is occurring. We have changed the nature of assessment tasks to avoid the situation so that the practice is minimal.

Almost all assessment tasks are now done in class. English is a problem because of the 30%.⁶³

I think that the Board of Studies should remove externally assessed projects from the HSC, particularly Extension 2 English. The process is too difficult to manage. It lends itself to inequity and corruption.

Schools are moving away from submitted tasks, although some syllabuses restrict non-exam type tasks (English Stage 6 eg).

These views are supported by what was uncovered by this investigation and what is said in the literature

(see Chapter 4). The program of study such as that for English Extension 2 is particularly open to possible corruption of the process. This is due to a combination of factors including:

Opportunity

- The mark for English Extension 2 is determined solely around the submitted Major Work. While this is done under the supervision of the school, it is largely completed away from the direct oversight of the classroom teacher. There is no formal examination in English Extension 2 to balance the advantage achieved by any cheating in the Major Work.

Motivation

There are three elements to this:

- very high marks are needed to secure high value places at particular universities
- the structure of English Extension 2 assessment requirements make it a course where students know that outside help to gain high marks may well go undetected
- the perception of the need for Major Works to display a high level of sophistication reinforces the "value" of getting such help.

Low threat of detection

- As highlighted in this investigation, in the case of the more competent students and the group likely to be completing English Extension 2, detection is, or has been, unlikely.

One respondent to the Commission's survey made the following comment about the difficulty of identifying malpractice in English Extension 2 work.

Sometimes it is easy because the work is so out of character with previously submitted work. It is much more difficult with Extension 2 work, especially in that a teacher has not seen other work by the student in Advanced or Extension 1 (as does happen).

It is interesting to note recent reports from the UK that suggest educational authorities are to limit unsupervised coursework (take-home assessment tasks).⁶⁴ Ken Boston, chief executive of the

63. The English Stage 6 Syllabus requires that examinations such as class tests, term tests and trials must not exceed 30% of the assessment program.

64. This follows the November 2005 review of coursework arrangements in secondary schools conducted by the Qualifications and Curriculum Authority (previously referred to on page 36 of this report).

Qualifications and Curriculum Authority is reported in *The Guardian Unlimited* as stating:

*We recognise that the practice of students carrying out coursework at home and the wide availability of the internet have created greater opportunities for malpractice ... This gives problems with ensuring authenticity and hence fairness.*⁶⁵

It is reported that final recommendations will be made soon but indications are that future specifications for secondary school subjects will place greater emphasis on examinations and coursework tests in class.

Commission recommendation

In light of the information contained in this report, it would appear that the BOS needs to pay particular attention to the format, requirements, assessment procedures and associated malpractice risks in the English Extension 2 program. This investigation has shown that the structure of the English Extension 2 course makes it particularly vulnerable to manipulation and possible corruption of the process. In reviewing English Extension 2, the BOS will need to assess whether the English Extension 2 course of study can be conducted in such a way as to minimise opportunities for undetected cheating, particularly in the form of unacknowledged improper assistance from third parties.

RECOMMENDATION 15

That the Board of Studies NSW reviews the format, requirements, assessment procedures and associated corruption risks in the English Extension 2 course of study to determine if this course of study, as it currently stands, can be conducted in such a way as to better manage the corruption and malpractice risks. The Board of Studies NSW should then take the appropriate steps to deal with the identified risks.

65. Matthew Taylor, "GCSE coursework to be curtailed to stop internet cheats", *The Guardian Unlimited*, 1 August 2006 (available at <http://education.guardian.co.uk/gcses/story/0,,1834469,00.html>).

Chapter 7: Secondary employment and the tutoring industry

This chapter discusses two issues worthy of further consideration in light of the Commission's review. The first relates to secondary employment of NSW teachers in the tutoring industry and the second relates to the operation of the tutoring industry in NSW.

Teachers' private employment in the tutoring industry

One issue that has not been previously discussed in this report is the fact that the Manager of Acclaim Education was on leave from her position as an English teacher at a metropolitan NSW government high school when she established her private tutoring business.

Information obtained through the investigation shows that the Principal of the NSW government high school where the Manager of Acclaim Education was employed as a teacher had some difficulty in managing the Manager's private employment activities. The Manager did not declare her private employment in accordance with section 89 of the *Teaching Services Act 1980* which requires staff to apply in writing for permission to engage in outside employment or to engage in or undertake any commercial business. Section 9 of the 1997 Department of Education and Training (DET) Revised Code of Conduct also required approval to engage in outside employment. When challenged at that time, the Manager denied her active involvement with Acclaim Education even though she was the Manager of that business.

In addition, a number of teachers from both the Manager's school and other schools were employed as part-time tutors at Acclaim Education. The Principal attempted to deal with this issue. He issued staff with a letter of his professional expectations of them and included the issue of potential conflicts of interest. Staff were advised that if they were involved in activities outside teaching which may be in conflict with their functions at the school, they were to see the Principal to discuss the circumstances. They were also advised that they may ultimately need to seek permission in writing to be involved in such activities.

The failure to manage the secondary employment activities of staff exposes NSW public sector agencies to a number of possible corruption risks including unmanaged conflicts of interest and misuse of organisational resources including the misuse of confidential information.

In light of this investigation the DET is now examining issues associated with the private employment of

teachers more closely. The DET has a Private and Secondary Employment Policy (2004) and associated procedures. The policy and procedures set out the principles of, and the requirements for, approval for private and secondary employment for all employees of the DET. Private employment is defined as any employment outside the DET. Secondary employment is defined as any work or position within the DET which is in addition to an employee's principal full-time employment with the DET.

The DET recognises that private employment, such as lecturing, teaching and tutoring in universities, can contribute to an employee acquiring additional skills and knowledge. DET employees may therefore engage in private or secondary employment if they gain approval and meet the requirements of the 2004 policy.

Any paid work beyond a teacher's normal duties requires prior written approval. This includes employees wishing to undertake private employment while they are on leave. The policy provides that any private or secondary employment should not create any conflict of interest with the employee's primary obligation to the DET. The policy also provides that private or secondary employment undertaken without written approval as specified in the policy is a breach of policy and may result in disciplinary action.

Teaching staff in schools need to seek approval for private and secondary employment from their principal and renew those applications annually. The principal must maintain a record of all such applications and record their outcomes, the nature of any conflict of interest or potential problems, and the means of managing conflicts of interest. The principal must ensure the currency of the approvals. A copy of the approval to engage in private or secondary employment must be placed on the employee's personal file. Managers and supervisors are required to monitor the work performance of employees who are engaged in approved private or secondary employment to ensure that it does not adversely affect the proper and efficient performance of their primary DET duties.

The Private and Secondary Employment Policy (2004) is consistent with the DET's 2004 Code of Conduct. The Code clarifies the standards of behaviour that are expected of staff of the DET in performance of their duties and gives guidance in areas where staff need to make personal and ethical decisions. The Code deals with conflicts of interest and requires staff to disclose in writing any perceived or actual conflict of interest. The

Code notes that private employment may be one area that could conflict with departmental duties. The code has specific provisions dealing with teachers coaching their own students. It provides:

If a teacher were to coach their own students it could be perceived to be in the financial interests of the teacher to create a situation where students require, or believe they require, coaching. It also creates an impression that if teachers coach their own students, what teachers do in class is not good enough. Therefore coaching of students over whom the teacher has influence at work should only be approved where there is no alternative source of coaching and the conflict of interest can be managed.⁶⁶

The DET has advised the Commission that it is taking active steps to ensure the effective implementation of its Private and Secondary Employment Policy and that this is occurring through increased audit and compliance activities. In February this year the Director-General sent a memorandum to all DET employees requiring compliance with this policy. The Director-General gave all staff until 24 March 2006 to ensure they comply with the provisions of the policy. The memo advised that any employees found to be engaging in private or secondary employment without written approval after that date may be liable to disciplinary action. The DET has informed the Commission that staff compliance with this directive will be the subject of future review.

Commission recommendations

Effective implementation of the above policies is vital given the growth of the tutoring industry and the likelihood that teachers will increasingly seek private employment in the tutoring industry. There are a number of risks associated with this which need to be managed, including those outlined above. In addition, there may also be situations where teachers refer students to a tutoring college with which they have links. There may also be situations where teachers have a conflict of interest between their role as an educator and the sometimes different pressures of the tutoring industry. This report demonstrates the possibility that tutoring businesses could exist where improper means may be seen as acceptable to justify the end of students being awarded high marks.

The DET's Private and Secondary Employment Policy (2004) provides sound advice to employees wishing to engage in private or secondary employment. The challenge the DET now faces is to ensure the policy's effective implementation. The DET also needs to

understand and actively manage the new risks that it is exposed to with the growth of the tutoring industry and the inevitable movement of its staff into that field of private employment. The Commission suggests that, in the first instance, the DET will need to provide additional advice to its staff about managing the conflicts of interest and possible corruption risks associated with this type of employment.

The Commission advises that determining whether a conflict of interest has arisen should be on the basis of whether a reasonably minded and informed person would form that view, and recommends that the DET's Code of Conduct adopt and reflect that standard.

It is also worth noting that Recommendations 16–19 will also be of interest to the non-government school sector.

RECOMMENDATION 16

That the NSW Department of Education and Training undertakes a corruption risk assessment of the increasing involvement of its staff in the private tutoring industry.

RECOMMENDATION 17

That the NSW Department of Education and Training provide additional guidance to teachers who seek to undertake private employment in the tutoring industry, including managing properly identified conflict of interest issues and corruption risks.

RECOMMENDATION 18

That the NSW Department of Education and Training ensures the effective implementation of its 2004 Private and Secondary Employment Policy and associated procedures through ongoing awareness raising, and audit and compliance activities, and that the policy is reviewed in light of these activities early in 2008.

RECOMMENDATION 19

That the NSW Department of Education and Training Code of Conduct makes clear that a conflict of interest exists when a reasonably minded and informed person would form that view.

66. Department of Education and Training Code of Conduct, NSW Department of Education and Training, June 2004, section 23.5.

An unregulated tutoring industry

The Commission has investigated the tutoring practices of only one tutoring business, and the accounts the Commission received about the nature of the tutoring practices at Acclaim Education varied widely.

Tutor A (also the daughter of the Manager of Acclaim Education) told the Commission:

All tutors that are employed at Acclaim Education, within two weeks of working there, they all realise that [the Manager] wants them to write for students.

The Manager of Acclaim Education, on the other hand, denied that tutors at her agency ever engaged in practices that assisted students to cheat. Indeed, she struggled with the concept of what cheating in the HSC involved:

[Commission] Q: *What I'm asking now is not what you would do, I'm trying to clarify your understanding of what is proper activity from what is cheating activity?*

[Manager] A: *Well, I've never really thought about what is cheating activity because I've never really indulged in cheating, so I can't say that I'm an expert on it.*

When asked whether she ever pressured any of her tutors to complete work for other students, she replied:

Never, they've never been asked to, never been pressured to, never been directed to. It's just an anathema.

The Commission spoke to former tutors and students about their experiences. Here too there was significant divergence.

Some former tutors indicated that they were pressured to “write and complete” the work of students “to bring it up to band six level”. Others were adamant that they had never been placed under such pressure, and had never observed others to be placed under such pressure.

Tutor B, who was both a student and subsequently a tutor at Acclaim Education, denied ever engaging in improper practices, but described how she came under pressure to do this, not from the Manager, but from students.

[Commission] Q: *Are you aware of any instances where tutors have engaged in improper practices?*

[Tutor B] A: *I'm not aware of instances of others but I know that students have asked me to write things for them and I'd say no, I wouldn't, because they assumed after coming to tutoring that I would. I know that students have the expectation for tutors to write for them but I'm not sure if other tutors did.*

This was different from the Manager's experience.

[Commission] Q: *Did you ever feel under pressure to improve a student's work by improper means?*

[Manager] A: *Never. Never.*

Q: *So you never felt under pressure to write sections of a Major Work or an assessment task for a student?*

A: *No, never.*

The Commission has no evidence to suggest that the type of tutoring practices undertaken by tutors at Acclaim Education are occurring at other tutoring colleges. However, concern with the activities of the tutoring industry and the potential impact of the industry on education in NSW has been the subject of media interest and community discussion for some time. Dr William McKeith, Principal of Presbyterian Ladies College, Sydney made the following comment in *The Sydney Morning Herald* in June 2005:

There is a need for a greater degree of regulation in the tutoring industry. It seems peculiar that we entrust our children to tutors without substantial checks and balances on qualifications, professional and personal backgrounds and ethical standards.⁶⁷

In the same article, Mohann Dhall from the Australian Tutoring Association is quoted as saying that:

There are more than 500 tutoring organisations in NSW ... the recent growth has been rapid, profitable for providers and largely uncontrolled.

Two weeks later *The Sydney Morning Herald* reported Wendy Michaels, a former teacher and HSC marker, as making the point that:

Most students feel they are not getting a competitive edge from their school teachers ... and seek out

67. William McKeith, “Great expectations fuel the rise of school plagiarism” *The Sydney Morning Herald*, 10 June 2005, p. 13.

*tutors for extra help, even intellectual stimulation – which makes them prime targets for a small band of shysters looking to turn a quick buck.*⁶⁸

This last comment implies that the responsibility for ethical practice lies squarely on the shoulders of tutors and the industry, rather than on students or their parents. It is based on an assumption that students and their parents have only honourable requests and expectations of tutors. The Commission's inquiry does not wholly support this assumption. It may be that some students and parents are actually being targeted by unscrupulous operators offering services other than standard tutoring practices. Lack of standards and poor accountability within the industry generally means vulnerable groups can easily be targeted; however, it also means that parents and students, in order to meet their own needs, are more easily able to seek out suspect tutoring organisations or to influence tutors into engaging in unethical practices. It is not clear in relation to the matters dealt with in this investigation where the primary forces lay; however, it is important to address the corruption and misconduct risks inherent in this form of cheating as they apply to the different stakeholders.

To date, the NSW Government has supported self-regulation of the tutoring industry. In May 2002 the then Minister for Education and Training, John Watkins, released a discussion paper considering the issue of regulation of the tutoring industry. He later proposed a range of regulatory models for public consideration. In March 2004, the then NSW Minister for Education and Training, Andrew Refshauge, advised that the NSW Government considered the best way forward was for industry self-regulation through a code of practice. He promoted Standards Australia as a vehicle for its development.

In 2006 Standards Australia released the *Tutoring Code of Practice*⁶⁹, a Handbook that provides a voluntary code of practice for the tutoring industry. It aims to promote wider awareness within the tutoring industry of agreed standards in relation to ethical practice and operations. The Code was developed by a working group, including members of the industry, parent groups, consumer groups and the DET. The group was chaired by Mr Mohan Dhall, Public Officer for the Australian Tutoring Association. When the Code was launched the CEO of Standards Australia, John Tucker, said that the new Code would become the “bible” for the tutoring industry in NSW and around the country.

NSW Parents Council Executive Officer Duncan McInnes stated that:

*The Code is an important step forward and in the right direction by the tutoring industry in response to growing concerns. Parents are encouraged, when choosing tutoring services, to seek that the Code of Practice is acknowledged in a written agreement.*⁷⁰

The Code covers ethical principles, qualifications, experience, competence of tutors and operations management. It also includes advice about plagiarism and states:

Plagiarism includes situations when tutors produce original work which is then claimed to be the work of the student. Plagiarism also refers to the copying of intellectual property of others. All tutors and tutoring organisations should work to ensure that these practices do not occur.

The Australian Tutoring Association (ATA) was formed in March 2005 and has released its own self-regulatory code – *The Australian Tutoring Association Code of Conduct*⁷¹, which is binding on all its members. The ATA Code deals with a range of issues, including advertising, curriculum and programming, and standards and sanctions. The Code defines plagiarism as “the act of appropriating the work of another and passing it off as one's own work. It is a form of cheating that draws on the work of another (written, electronic, verbal or artistic) without giving due acknowledgement to the author/originator”. Section 28 of the Code advises ATA members that:

A Member shall not engage in any form of plagiarism or cheating. The creation of dependencies is NOT to be encouraged at ANY level. [original emphasis]

Both these codes have been in operation for only a short while. It is therefore too early to make any rigorous assessment of their effectiveness. In addition, Standards Australia has advised the Commission that the Tutoring Code of Practice is currently a Handbook not a Standard, which means that businesses cannot apply for certification against the Code.

The Australian Tutoring Association is actively promoting self-regulation within the tutoring industry. Unfortunately, this has proven a difficult task. The Association has advised the Commission that only

68. Justin Norrie, “I didn't do it and that is the problem” *The Sydney Morning Herald*, 25 June 2005 (available at www.smh.com.au/au/news/national/i-didnt-do-it-and-thats-the-problem/2005/06/2).

69. www.standards.com.au.

70. www.parentscouncil.nsw.edu.au/uploads/New_Code_of_Practice_for_Tutoring_Industry.pdf.

71. www.ata.edu.au.

about 20 per cent of tutoring establishments in NSW have joined the ATA and there is no indication at this stage that that level of coverage will increase. While a strong supporter of effective self-regulation, the ATA remains concerned about the activities of a number of businesses within the industry and their failure to voluntarily respond to self-regulatory standards. In light of the current activities within the industry, the ATA has advised the Commission that it would currently support the introduction of more formal government regulation of the industry.

As the Commission has noted in its 2006 publication *Corruption risks in occupational licensing and strategies for managing them*⁷², there are a number of public policy-related reasons why entry into and/or the practice of certain occupations should be regulated by government, rather than being unregulated or self-regulating. It may be that licensing a particular occupation is needed to protect the public from inadequately skilled operators; or it could be important to check that the person performing the role meets certain probity requirements, such as being a fit and proper person to hold a position or to work with children.

The Commission is not in a position to determine whether all or parts of the tutoring industry should be regulated or not. The issues regarding regulation of this particular industry extend well beyond the specific focus of this particular report. The tutoring industry services all levels and types of education and that landscape is a complex one. However, it should be recognised that the industry has a large and direct impact on the NSW education sector and the work of NSW public officials. This is particularly so in relation to the operation of state-wide public assessments processes such as the State Selective Schools Test and the HSC.

Commission recommendation

The NSW Government should consider the possibility that some form of tutoring industry regulation could be of assistance in effectively managing the risks around the delivery of government education. However, this consideration can only be made in response to a full risk analysis of the environment within which the tutoring industry operates in NSW and how it impacts on the NSW education and training sector.

RECOMMENDATION 20

That the NSW Minister for Education and Training, using a risk management approach, determines whether a form of tutoring industry regulation may be effective in minimising opportunities for malpractice and/or corrupt conduct within the NSW education and training sector.

72. *Corruption risks in occupational licensing and strategies for managing them*, Independent Commission Against Corruption, December 2006.

Appendix 1: The role of the Commission

The ICAC Act is concerned with the honest and impartial exercise of official powers and functions in, and in connection with, the public sector of New South Wales, and the protection of information or material acquired in the course of performing official functions. It provides mechanisms which are designed to expose and prevent the dishonest or partial exercise of such official powers and functions and the misuse of information or material. In furtherance of the objectives of the ICAC Act, the Commission may investigate allegations or complaints of corrupt conduct, or conduct liable to encourage or cause the occurrence of corrupt conduct. It may then report on the investigation and, when appropriate, make recommendations as to any action which the Commission believes should be taken or considered.

The Commission can also investigate the conduct of persons who are not public officials but whose conduct adversely affects or could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority. The Commission may make findings of fact and form opinions based on those facts as to whether any particular person, even though not a public official, has engaged in corrupt conduct.

The ICAC Act applies to public authorities and public officials as defined in section 3 of the ICAC Act.

The Commission was created in response to community and Parliamentary concerns about corruption which had been revealed in, inter alia, various parts of the public service, causing a consequent downturn in community confidence in the integrity of that service. It is recognised that corruption in the public service not only undermines confidence in the bureaucracy but also has a detrimental effect on the confidence of the community in the processes of democratic government, at least at the level of government in which that corruption occurs. It is also recognised that corruption commonly indicates and promotes inefficiency, produces waste and could lead to loss of revenue.

The role of the Commission is to act as an agent for changing the situation which has been revealed. Its work involves identifying and bringing to attention conduct which is corrupt. Having done so, or better still in the course of so doing, the Commission can prompt the relevant public authority to recognise the need for reform or change, and then assist that public authority (and others with similar vulnerabilities)

to bring about the necessary changes or reforms in procedures and systems, and, importantly, promote an ethical culture, an ethos of probity.

The principal functions of the Commission, as specified in section 13 of the ICAC Act, include investigating any circumstances which in the Commission's opinion imply that corrupt conduct, or conduct liable to allow or encourage corrupt conduct, or conduct connected with corrupt conduct, may have occurred, and cooperating with public authorities and public officials in reviewing practices and procedures to reduce the likelihood of the occurrence of corrupt conduct.

The Commission may form and express an opinion as to whether consideration should or should not be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of a person for a specified criminal offence. It may also state whether it is of the opinion that consideration should be given to the taking of action against a person for a specified disciplinary offence or the taking of action against a public official on specified grounds with a view to dismissing, dispensing with the services of, or otherwise terminating the services of the public official.

Appendix 2: Corrupt conduct defined and the relevant standard of proof

Corrupt conduct is defined in section 7 of the ICAC Act as any conduct which falls within the description of corrupt conduct in either or both sections 8(1) or 8(2) and which is not excluded by section 9 of the ICAC Act. An examination of conduct to determine whether or not it is corrupt thus involves a consideration of two separate sections of the ICAC Act.

The first (section 8) defines the general nature of corrupt conduct. Section 8(1) provides that corrupt conduct is:

- (a) *any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or*
- (b) *any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or*
- (c) *any conduct of a public official or former public official that constitutes or involves a breach of public trust, or*
- (d) *any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.*

Section 8(2) specifies conduct, including the conduct of any person (whether or not a public official), that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority, and which, in addition, could involve a number of specific offences which are set out in that subsection.

Section 9(1) provides that, despite section 8, conduct does not amount to corrupt conduct unless it could constitute or involve:

- (a) *a criminal offence, or*
- (b) *a disciplinary offence, or*
- (c) *reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or*

- (d) *in the case of conduct of a Minister of the Crown or a Member of a House of Parliament – a substantial breach of an applicable code of conduct.*

Three steps are involved in determining whether or not corrupt conduct has occurred in a particular matter. The first step is to make findings of relevant facts. The second is to determine whether the conduct, which has been found as a matter of fact, comes within the terms of sections 8(1) or 8(2) of the ICAC Act. The third and final step is to determine whether the conduct also satisfies the requirements of section 9 of the ICAC Act.

Section 13(3A) of the ICAC Act provides that the Commission may make a finding that a person has engaged or is engaged in corrupt conduct of a kind described in paragraphs (a), (b), (c) or (d) of section 9(1) only if satisfied that a person has engaged or is engaging in conduct that constitutes or involves an offence or thing of the kind described in that paragraph.

A finding of corrupt conduct against an individual is a serious matter. It may affect the individual personally, professionally or in employment, as well as in family and social relationships. In addition, there is no right of appeal against findings of fact made by the Commission nor, excluding error of law relating to jurisdiction or procedural fairness, is there any appeal against a determination that a person has engaged in corrupt conduct. This situation highlights the need to exercise care in making findings of corrupt conduct.

In Australia there are only two standards of proof: one relating to criminal matters, the other to civil matters. Commission investigations, including hearings, are not criminal in their nature. Hearings are neither trials nor committals. Rather, the Commission is similar in standing to a Royal Commission and its investigations and hearings have most of the characteristics associated with a Royal Commission. The standard of proof in Royal Commissions is the civil standard, that is, on the balance of probabilities. This requires only reasonable satisfaction as opposed to satisfaction beyond reasonable doubt, as is required in criminal matters. The civil standard is the standard which has been applied consistently in the Commission. However, because of the seriousness of the findings which may be made, it is important to bear in mind what was said by Dixon J in *Briginshaw v. Briginshaw* (1938) 60 CLR 336 at 362:

... reasonable satisfaction is not a state of mind that is attained or established independently of the

nature and consequence of the fact or fact to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters 'reasonable satisfaction' should not be produced by inexact proofs, indefinite testimony, or indirect inferences.

This formulation is, as the High Court pointed out in *Neat Holdings Pty Ltd v. Karajan Holdings Pty Ltd* (1992) 67 ALJR 170 at 171, to be understood:

... as merely reflecting a conventional perception that members of our society do not ordinarily engage in fraudulent or criminal conduct and a judicial approach that a court should not lightly make a finding that, on the balance of probabilities, a party to civil litigation has been guilty of such conduct.

See also *Rejtek v. McElroy* (1965) 112 CLR 517, the report of McGregor J into Matters in Relation to Electoral Redistribution in Queensland in 1977 and the report by the Hon W Carter QC into An Attempt to Bribe a Member of the House of Assembly (Tasmania) in 1991.

As indicated above, the first step towards making a finding of corrupt conduct is to make a finding of fact. Findings of fact and determinations set out in this report have been made applying the principles detailed in this Appendix.

Appendix 3: Survey conducted with NSW high school principals

In 2005/2006 the Commission undertook an investigation into allegations that Acclaim Education provided improper services to students who were candidates for the NSW Higher School Certificate (HSC). The central issue related to whether HSC assessment tasks and submitted work comprised the students' own work, or whether tutors employed by the tutoring college made significant contributions.

During the course of its investigation the Commission obtained a range of information from various sources including the Board of Studies NSW (BOS), the NSW Department of Education and Training (DET) and school principals. Some of the information received by the Commission suggested a possible gap between theory and practice in the identification and management of cheating (students not submitting their own work).

In March 2006 the Commission undertook a confidential survey of school principals from 42 NSW government and non-government schools. The purpose of the survey was to examine issues relating to the authentication of school-based HSC assessment tasks and of submitted work (work submitted to the BOS for assessment). It was important for the Commission to gain a clear understanding of the context in which students may be submitting work that does not meet the criteria as established by the BOS, namely that it be the students' own work. The aims of the survey were to gain some understanding of how extensive malpractice of this nature is considered to be, the impact of such behaviour on schools and teachers, how schools recognise and deal with instances of suspected malpractice in relation to student assessment tasks, and the kind of support and assistance schools and teachers may need in the future to deal effectively with such matters.

Survey method

The Commission surveyed only those schools where its records indicated there had been students enrolled who attended Acclaim Education. It was considered that those schools would have first-hand experience of dealing with students who had attended a tutoring college. This totalled 42 schools: 22 government schools and 20 non-government schools. The survey was sent to the principals from each school with reply paid envelopes. Two reminder letters were sent to schools. Most schools sent the survey back in the reply paid envelopes.

Survey content

This was an anonymous survey in which neither the school nor the school principals were identified.

The survey focused on assessment tasks associated with HSC English (Advanced, Extension 1 and Extension 2). It sought from school principals information as to how cheating is dealt with in their schools when it is suspected, what support teachers have to deal with cheating and what further support they need in this regard. A copy of the survey is attached. It is a three-page document containing both specific and open-ended questions.

A copy of the survey, including a covering letter from the ICAC Commissioner, was posted to the 42 schools. Government schools also received a letter of support for the survey from Mr Andrew Cappie-Wood, Director-General of the Department of Education and Training.

Response rate

The Commission received responses from 39 schools. Although the survey asked for one response, two schools provided additional surveys that were completed by their head teachers. This resulted in a total of 46 responses: 21 from government schools, 12 from Catholic schools and 13 from independent schools. In addition, one principal chose not to complete the survey but discussed the issues with an ICAC officer by telephone.

Results

Schools who participated in this survey were given an assurance by the Commission that the information they provided, including the identity of each school and principal, would be kept confidential and would be used only to assist the Commission in gaining a better understanding of the relevant issues. For this reason the Commission has not published detailed results from the survey and has not identified the source of comments made in the survey which have been reproduced and/or referred to in this report.

Independent Commission Against Corruption (ICAC) Survey

Issues relating to the authentication of school HSC assessment tasks and submitted works

This survey deals with issues relating to a school's Higher School Certificate (HSC) assessment program and works submitted to the Board of Studies as part of the HSC examination. The ICAC is particularly interested in those tasks associated with HSC English – Advanced, Extension 1 and Extension 2.

In the English Stage 6 Syllabus the NSW Board of Studies advises that submitted work should be *wholly the work of the student* seeking assessment. However, it is the Commission's understanding that some support from a third party may be permissible as it is expected that students would speak to other people in the course of preparation of works.

The ICAC is undertaking enquiries into allegations that Acclaim Tutoring College provided improper services to students who were candidates for the New South Wales HSC. The central issue of those enquiries is whether HSC assessment work and submitted work comprised the students' own work, or whether tutors employed by the tutoring college made significant contributions.

In this survey, the ICAC would like to know how schools manage the authentication of assessment and submitted work as being wholly that of the student, how related issues are managed and any concerns that may have arisen.

Responses received will remain confidential and will be used only to help the ICAC gain a better understanding of the relevant issues.

If you have any queries regarding this survey, please contact

Ms Vicki Klum
Senior Corruption Prevention Officer
Independent Commission Against Corruption
Telephone: 02 8281 5844 Email: vkum@icac.nsw.gov.au

1. Do you think that the practice of HSC students submitting assessment work that is not their own is a matter of concern for NSW schools? Yes No

Why/Why not?

2. Do you think that the practice of HSC students submitting assessment work that is not their own *because of tutors making significant contributions* is a matter of concern for NSW schools? Yes No

Why/Why not?

3. Do you think the practice of HSC students submitting assessment work that is not wholly their own work is increasing? Yes No

Comments:

4. How easy do you think it is for teachers to IDENTIFY when a student has received support from another party in an assessment task to an extent that it would constitute the work not being their own? (please circle)

very
easy

somewhat
easy

neither easy
nor difficult

somewhat
difficult

very
difficult

If you indicated that it is somewhat difficult or very difficult, why is it difficult?

5. How easy do you think it is for teachers to PROVE that a student has received support from another party in an assessment task to an extent that it would constitute the work not being their own? (please circle)

very
easy

somewhat
easy

neither easy
nor difficult

somewhat
difficult

very
difficult

If you indicated that it is somewhat difficult or very difficult, why is it difficult?

If insufficient space please attach additional pages

Page 2 of 3

6. Does your school have guidelines for dealing with students who are suspected of:
- a) submitting work that is not wholly their own? (If yes, please include guidelines) Yes No
- b) submitting work that is not their own because of professional tutors making significant contributions? (If yes, please include guidelines, if separate from overall guidelines) Yes No
7. Please describe the steps your school takes in dealing with students who submit work which is not wholly their own.
- _____
- _____
- _____
8. In the last two years (2004, 2005 HSC) how many students did you suspect submitted work that may not have been wholly their own? Number
- Of those, in how many cases was there sufficient evidence for you to take action? Number
- Please describe the outcome(s) for any cases where action was taken.
- _____
- _____
- _____
9. Do you feel there is sufficient support for schools to address situations where they suspect that an assessment task or submitted work is not the student's own? Yes No
- If no, what support would be needed and from whom should it be provided?
- _____
- _____
- _____
10. Please provide any further comments.
- _____
- _____
- _____
11. Your school sector: (please circle)
- Government Catholic Independent

Thank you for participating in this survey.

If insufficient space please attach additional pages

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INDEPENDENT
COMMISSION
AGAINST
CORRUPTION

