



Office of the Inspector of the
Independent Commission Against Corruption

Annual Report for the period ending 30 June 2018

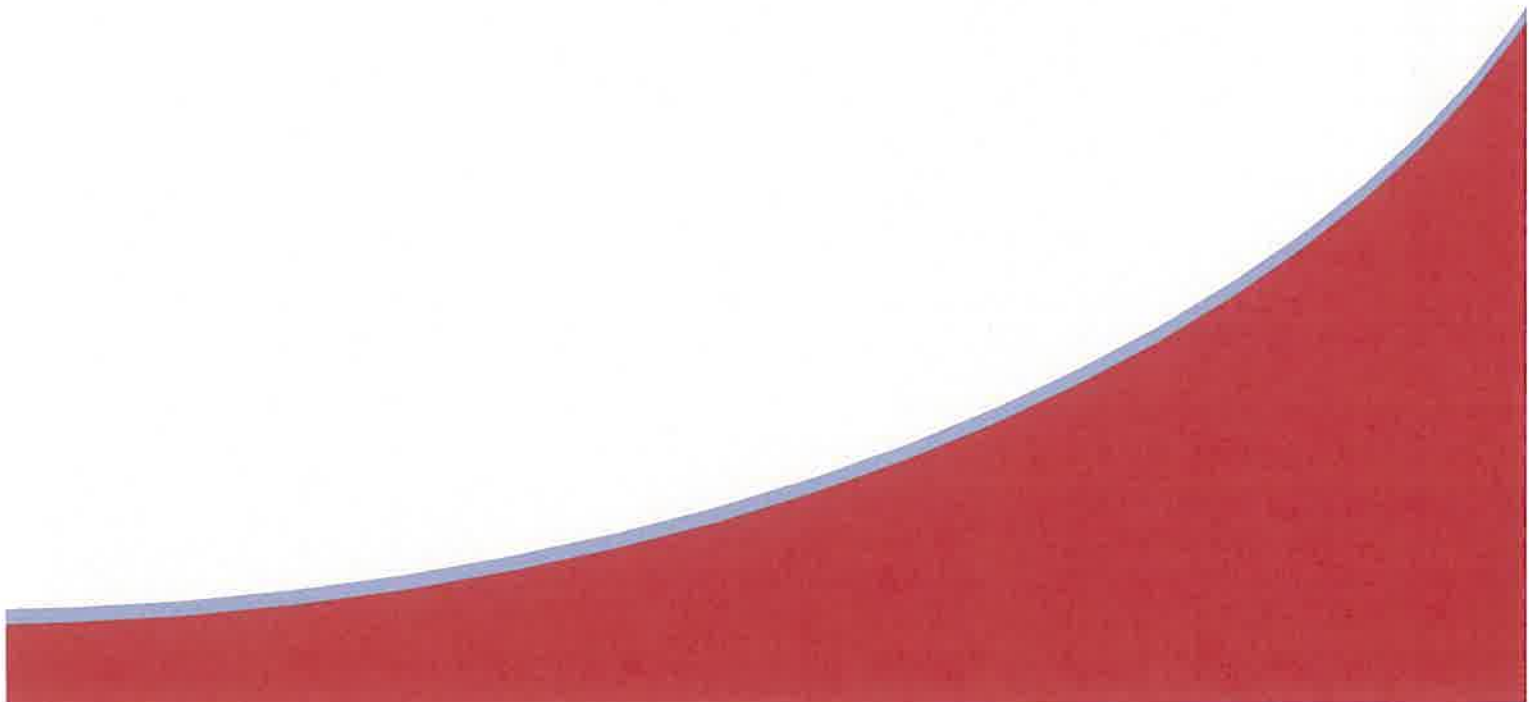


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PART 1: THE INSPECTOR'S ROLE AND FUNCTIONS

1.1 FOREWORD AND PRELIMINARY OBSERVATIONS

I am pleased to present this Annual Report pursuant to s77B of the *Independent Commission Against Corruption Act 1988* (NSW) (ICAC Act) and recommend that this Report be made public forthwith pursuant to s78(1A) of the ICAC Act. This Report relates to the year ended 30 June 2018 and is my first Annual Report as the Inspector of the Independent Commission Against Corruption (ICAC or Commission) in respect of a year in which I was Inspector. Although I signed off on last year's Annual Report, I did not in fact commence as Inspector until 1 July 2017.

On my appointment as Inspector, I saw it as my duty to deal with the then outstanding complaints against the Commission, some received as long ago as 2015, as a matter of priority. At the time of writing the 2016-17 Annual Report I noted that, of the 23 complaints that were outstanding as of 1 July 2017, I had resolved or closed the files in respect of 15 of those complaints and 8 complaints remained outstanding.

I had set a goal for myself to deal with each of the eight remaining complaints by 30 June 2018. Unfortunately, three months sick leave prevented me from achieving that deadline. However, of those eight complaints only three were carried forward to the 2018-19 reporting period and those three have since been dealt with. Those files are now closed. Thus, I am pleased to report that all 23 complaints that were outstanding when I took Office last year have now been finalised.

Given that it is my first annual report for which I have been the Inspector for the reporting period, I thought it necessary to explain the approach I have taken in dealing with complaints to my Office.

I have adopted two methods of dealing with complaints, bearing in mind that Parliament in section 57B(1)(b) and (c) of the ICAC Act requires that I deal with

complaints by reports to Parliament, that is, to the Presiding Officer of each House of Parliament, that is the President of the Legislative Council and Speaker of the Legislative Assembly.

The first such method is by letter to the complainant, setting out my decision as to the complaint. In cases where I have adopted this method, I have included a reference to the complaint and its disposition below in this annual report. In my opinion, that method of dealing with complaints satisfies my statutory obligations.

The second is by formal report to Parliament which I present personally to the Presiding Officer of each House of Parliament, the President of the Legislative Council and the Speaker of the Legislative Assembly.

I dealt with most of the outstanding complaints by writing to the complainant to advise them of my decision. However, there were five complaints for which I took the view that it was necessary, and in the public interest, to deal with by submitting a Special Report to Parliament pursuant to sections 57B(5) and 77A of the ICAC Act. A summary of those Reports is provided below.

In deciding whether to make a formal report to Parliament as opposed to dealing with the matter by letter, I took account of factors such as whether an issue of principle or matter of importance arising under the legislation is involved or whether the complainant has raised particular legal or policy issues that I thought were necessary and in the public interest to make some comment about. To illustrate, in one of the Reports, I dealt with a common misperception that the ICAC is a court, not, as in fact it is, a specialist investigative agency and an arm of the executive government of New South Wales.

Although I did not uphold any complaints in the reporting period, in any case that I do, I shall submit a Special Report to Parliament.

Many of the complaints that I dealt with in the reporting period were lacking in any substance, that is, they disclosed no arguable basis for a finding of “abuse of power, impropriety or other forms of misconduct” or “maladministration” on the

part of ICAC or an officer of ICAC, the terms used in section 57B of the ICAC Act. Some indeed could be described as vexatious. It would be an unnecessary formality to deal with such matters by Special Report (as opposed to making reference to them in this Report as I have in Table 1 below), a waste of public resources and, importantly, inconvenient to the Presiding Officers and a waste of their time and that of their staff.

A particular issue that arose in the course of dealing with the outstanding complaints against ICAC, is that I have taken the position that if there are any pending criminal proceedings relevant to the complaint, I will not determine it and will wait until the proceedings are finally determined before I do so. I have done this because of my concern that my determination of the complaint may interfere with the criminal proceedings. This may best be illustrated by example. Consider the position that if I determined such a complaint adversely to the ICAC and made a finding that, in the course of the investigation that led to the prosecution, ICAC had engaged in abuse of power or impropriety. That could conceivably influence a jury in its approach to determining guilt or innocence if it were to learn of my decision.

I sought the views of the Chief Commissioner of ICAC and the Director of Public Prosecutions. The Chief Commissioner considered that “to be a prudent approach to take in general” and suggested that it may be appropriate to consider exceptions to the general rule where any criminal proceedings are being dealt with summarily or otherwise without a jury. This of course is an issue that I will deal with on a case by case basis. As at the time of writing this Annual Report I am yet to receive a response from the Director of Public Prosecutions about his views on this matter.

Another consistent theme in the complaints to my Office and in media reports is the Commission’s alleged failure to disclose exculpatory evidence in the course of its public hearings. This is a matter I have under consideration in respect of a complaint received in the reporting period and in respect of which I will present a report to the Presiding Officers in the near future. However, I thought it necessary to mention this issue in my Annual Report given that it has arisen on several

occasions since I took Office. I note that the Commission now has in place *Public Inquiry Procedural Guidelines* pursuant to s31B of the ICAC Act that deal with the disclosure of exculpatory material held by the Commission. A copy of those Guidelines can be found here:

<http://www.icac.nsw.gov.au/documents/investigations/5047-section-31b-guidelines-february-2018-final/file>

My dealings and those of my Office with the Commission have been helpful and productive. My Office often requests from the Commission detailed responses to complex matters which requires the Commission to not only prepare those responses but also source relevant documents and other information from extensive record holdings. I appreciate the Commission's detailed and expeditious responses to such requests, particularly given that some of the questions I have asked the Commission have required very detailed investigation by Commission staff, some of which were not at the Commission at the time that the issue I am inquiring about arose.

Given that the three Commissioner model has been in operation for a little over 12 months now, it is also appropriate to make some comment on my initial observations about how it is functioning. In short, it seems to me to be functioning extremely well. The number of inquiries that the Commission is now able to hold simultaneously, which it has been doing consistently since the three Commissioner model came in to effect, is a significant advantage for the Commission, not only in terms of its primary objectives of investigating and exposing corruption, but it is also a sensible and efficient use of its resources in terms of its public education function. The scope of issues that the Commission's public inquiries have focused on since I have been Inspector have been wide-ranging and of significant importance, particularly in terms of raising awareness of corrupt conduct, which is critical to their role of promoting the importance of integrity and good governance in the proper administration of public institutions.

1.2 NEW LEGISLATION AND OTHER LEGAL DEVELOPMENTS

The *Independent Commission Against Corruption Amendment Act 2016* No. 65 which commenced on 7 August 2017 resulted in a number of significant changes to the Commission. It:

- restructured the Commission to consist of a Chief Commissioner and two part-time Commissioners
- provided that the powers of the Commission are exercisable by any Commissioner, but the exercise of the Commission's power to conduct a public inquiry must be authorised by the Chief Commissioner and at least one other Commissioner
- provided for the appointment, by the Chief Commissioner, of a Chief Executive Officer who has responsibility for the day-to-day management of the Commission
- required the Commission to issue guidelines to its staff and Counsel Assisting to ensure procedural fairness during public inquiries
- required the Inspector (and the Commission) to give a person an opportunity to respond before including an adverse finding or adverse opinion about the person in a report and to include in the report a summary of the substance of any response that the person requests be included
- permitted the Commission to exercise certain investigative powers after referring a matter to the DPP or Electoral Commission if requested to do so by the DPP or Electoral Commission
- provided that a non-publication order made by the Commission will not prevent the making of a complaint to the Inspector of the ICAC, the disclosure of information to the Inspector or the disclosure of information to the DPP.

On the same date these changes came in to effect the Hon. Peter Hall QC was appointed Chief Commissioner of ICAC for a five-year term. Patricia McDonald SC and Stephen Rushton SC were appointed part-time Commissioners, also for five-year terms, also from 7 August 2017.

1.3 ROLE OF THE INSPECTOR

The Inspector's role and functions are prescribed by Part 5A of the ICAC Act. Under section 57A of the ICAC Act the Inspector is appointed by the Governor of NSW. A Committee of the NSW Parliament comprising representatives of all political parties and independent members called "The Committee on the Independent Commission Against Corruption" ("the Committee") is empowered to veto the proposed appointment which is required to be referred to the Committee by the Minister.

"The Minister" referred to above, and below under section 57B(2) of the ICAC Act, is the Premier of New South Wales.

The principal functions of the Inspector are set out in section 57B(1) of the ICAC Act. These are to:

- Audit the operations of the Commission for the purpose of monitoring compliance with the law of the State, and
- Deal with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Commission or officers of the Commission, and
- Deal with (by reports and recommendations) conduct amounting to maladministration (including, without limitation, delay in the conduct of investigations and unreasonable invasions of privacy) by the Commission or officers of the Commission, and
- Assess the effectiveness and appropriateness of the procedures of the Commission relating to the legality or propriety of its activities.

The definition of maladministration is set out under section 57B(4) of the ICAC Act as follows:

action or inaction of a serious nature that is:

- a. Contrary to law, or*
- b. Unreasonable, unjust, oppressive or improperly discriminatory, or*
- c. Based wholly or partly on improper motives.*

Section 57B(2) of the ICAC Act enables the Inspector to exercise the prescribed statutory functions on the Inspector's own initiative, at the request of the Minister, in response to a complaint made to the Inspector, or in response to a reference by the Joint Committee or any public authority or public official.

Section 57B(3) of the ICAC Act provides that the Inspector is not subject to the Commission in any respect.

Under section 77A of the ICAC Act the Inspector may make special reports on any matters affecting the Commission or on any administrative or general policy matter relating to the functions of the Inspector.

Under section 77B of the ICAC Act the Inspector is required to report annually to Parliament. Pursuant to both sections Reports are to be made to the Presiding Officer of each House of Parliament.

1.4 INSPECTOR'S POWERS UNDER THE ICAC ACT

Section 57C of the ICAC Act establishes the powers of the Inspector. The Inspector may investigate any aspect of the Commission's operations or any conduct of any officers of the Commission.

Section 57D of the ICAC Act empowers the Inspector to make or hold inquiries for the purposes of the Inspector's functions. Under section 57D(2) any inquiry made or held by the Inspector under this section provides the Inspector with the powers, authorities, protections and immunities of a Royal Commissioner as conferred by Division 1 of Part 2 of the *Royal Commission Act 1923 (NSW)*, with the exception of section 13 of that Act. There have been no inquiries held pursuant to section 57D to date by my predecessors or myself.

PART 2: OTHER RELEVANT LEGISLATION

2.1 GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009 (GIPA ACT)

The *Government Information (Public Access) Act 2009* (“GIPA Act” or “GIPA”) came into force on 1 July 2010 replacing the *Freedom of Information Act 1989*. Information concerning the Inspector and the ICAC’s statutory functions are exempt from being released under an access application made under the *GIPA Act*.

Under Schedule 1 of the GIPA Act, an access application made for access to any information relating to the ICAC’s corruption prevention, complaint handling, investigative or reporting functions will not be granted.

Under Schedule 2 of the GIPA Act an access application made for access to any information relating to the auditing, complaint handling, investigative and reporting functions of the Inspector of the ICAC will not be granted.

Applications for access to information made in respect of the Inspector’s administrative functions (for example, human resources policies and practices) may be granted. Such applications will be assessed on a case by case basis.

In compliance with section 125 of the GIPA Act and clause 7(b) of the Regulation the Inspector advises that there were no access applications made under the GIPA Act to the Inspector during the current reporting period.

As required under section 20 of the GIPA Act, the Office is in the process of preparing an Agency Information Guide. The Guide will soon be available on the Office website: www.oiiac.nsw.gov.au.

The Agency Information Guide will include information about the Inspector’s functions and the structure of the Office and other matters as required by section 20 of the GIPA Act, namely:

- Structure and functions of the Office of the Inspector of ICAC
- Description of the ways in which the functions of the Office (including, in particular, the decision-making functions) of the Office affect members of the public
- Specify any arrangements that exist to enable members of the public to participate in the formulation of the agency's policy and the exercise of the agency's functions
- Identify the various kinds of government information held by the Office
- Identify the kinds of government information held by the agency that the agency makes (or will make) publicly available
- Specify the manner in which the Office makes (or will make) government information publicly available
- Identify the kinds of information that are (or will be) made publicly available free of charge and those kinds for which a charge is (or will be) imposed.

Under section 7(3) of the GIPA Act, the Inspector advises that he has conducted an annual review of his program to proactively release information which is in the public interest. All information which is publicly available is contained on the Office website.

In compliance with section 7(a) of the *GIPA Regulation* the Inspector advises that the web site content was reviewed to assess what, if any, further information could be pro-actively released. Furthermore, the Inspector reviewed all categories of administrative information which is published in previous Annual Reports and to assess what, if any, further information could be pro-actively released. Five Special Reports prepared by the Inspector and submitted to Parliament were uploaded to the website. In addition, existing information was updated to ensure currency and relevance. It is a process of ongoing review.

2.2 THE PUBLIC INTEREST DISCLOSURES ACT 1994 (PID ACT)

The *Public Interest Disclosures Act 1994* (“the PID Act”) provides for public servants and other public officials to report serious wrong doing in public sector agencies on a confidential basis. Under the PID Act complaints or allegations made by public servants and public officials are called disclosures. The PID Act provides for public servants and public officials making disclosures to be protected against actual or potential reprisals.

The Inspector is an eligible authority to whom a public disclosure can be made under the PID Act.

Pursuant to section 6D(1) of the PID Act the Inspector has developed policies and procedures for receiving, assessing and dealing with public interest disclosures. These policies and procedures as well as the Inspector’s Statement of Commitment to the PID Act are available for viewing on the Office’s website at www.oicac.nsw.gov.au.

The following information, relevant to the current reporting period, is provided pursuant to section 31 of the PID Act and clause 4 of the *Public Interest Disclosures Regulation 2011*:

- a) The number of public officials who have made a public interest disclosure to the Inspector – 0

- b) The number of public interest disclosures received by the Inspector relating to each of the following:
 - i. corrupt conduct only– 0
 - ii. maladministration and/or corruption– 0
 - iii. serious and substantial waste of public money or local government money (as appropriate)– 0
 - iv. government information contraventions- 0
 - v. local government pecuniary interest contraventions- 0

2.3 TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) ACT 1979 (CTH) (TIA ACT)

The Inspector is included as an “*eligible authority*” for the purposes of the *Telecommunications (Interception and Access) Act 1979 (Cth)* (“*TIA Act*”). In accordance with reporting requirements under section 96(1) of the *TIA Act*, the Commonwealth Attorney-General’s Department was advised by the Inspector that there was nil usage of the relevant provisions of the *TIA Act* during the reporting period.

PART 3: THE OFFICE OF THE INSPECTOR OF ICAC

ADMINISTRATION

3.1 PREMISES

The Office of the Inspector of ICAC shares premises with the Office of the Inspector of the Law Enforcement Conduct Commission (OILECC). Both Offices relocated to new premises in August 2018 to accommodate the Inspector of LECC's staff that were transferred to his Office from the NSW Ombudsman on 1 July 2017.

The contact details for the Office are:

Postal address: GPO Box 5341, Sydney, NSW, 2001
Telephone: (02) 9228 5260
E-mail: oiicac_executive@oiicac.nsw.gov.au

3.2 STAFF

The Inspector shares two staff with the Inspector of the LECC, a Principal Legal Advisor and a Business Coordinator.

3.3 BUDGET AND FINANCE

The Office of the Inspector is a cost centre within the NSW Department of Premier and Cabinet (DPC).

The Office's expenditure for the period from 1 July 2017 to 30 June 2018 was \$469,582. This compares with a total expenditure of \$460,693 in the previous financial year. The budget for the 2017-2018 was \$461,224. The budget for 2018-2019 is \$476,854.

The Inspector is paid a daily rate of \$4600

PART 4: LIAISON AND COMMUNICATION

4.1 LIAISON WITH THE ICAC

On 2 November 2017 the Inspector signed a Memorandum of Understanding (MOU) with the Chief Commissioner of ICAC (attached at Appendix A). The MOU sets out the arrangements for liaison between the Commission and the Inspector concerning referral of matters, access to information and points of contact between both agencies. To date, the MOU has been operating effectively and the Commission has been forthcoming with the provision of information at the request of the Inspector.

During the reporting period the Inspector met with the ICAC Chief Commissioner and Commissioners on several occasions to discuss matters relevant to the exercise of the Inspector's functions.

In addition, informal and regular liaison occurs frequently between staff of the Office of the Inspector and executive support staff of the Commission for the purpose of requesting and obtaining documents from ICAC to assist the Inspector in exercising his functions.

4.2 MEETINGS/CONFERENCES UNDERTAKEN BY THE INSPECTOR

Date	With Whom	Where	Purpose
21 September 2017	The Hon. Michael Murray AM QC, Parliamentary Inspector of Corruption and Crime Commission (WA), Ms Karen Carmody, Parliamentary Crime and Corruption Commissioner (QLD), Robin Brett QC, Victorian Inspector (VIC), The Hon. Terry Buddin	Perth, WA	Meeting of Inspectors to discuss issues of mutual importance.

	SC, Inspector of the Law Enforcement Conduct Commission (NSW)		
14-16 November 2017	Australian Public Sector Anti-Corruption Conference	Sydney, NSW	Conference focused on the latest innovation, strategies and future directions in preventing corruption. Conference was hosted by NSW ICAC and Crime and Corruption Commission (QLD).
17 November 2017	Western Australian Joint Standing Committee on the Corruption and Crime Commission	Department of Premier and Cabinet, Sydney NSW	Meeting to obtaining the views of the NSW Inspector on matters of concern by the WA Committee.
1 December 2017	Chinese Delegation	University of Sydney	Inspector gave a speech concerning methods of preventing corrupt conduct and the supervision of integrity bodies specific to the NSW ICAC
1 June 2018	Parliamentary Committee on the ICAC	NSW Parliament	Committee inquiry into the Inspector's 2016-17 Annual Report.

4.3 WEBSITE

The Inspector's website is managed by the Office. The website address is www.oiiac.nsw.gov.au. The website of the Office of the Inspector of the ICAC is regularly updated and contains all relevant statutory and other information for members of the public.

PART 5: THE INSPECTOR'S STATUTORY FUNCTIONS

5.1 AUDITING THE OPERATIONS OF THE ICAC [Section 57B (1)(a)]

The ICAC is invested with compulsory powers to seek and obtain information under sections 21, 22, 23 and 35 of the ICAC Act. In addition there is the power to apply for and execute search warrants under Division 4 of part 4 of the ICAC Act and Division 4 part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002*. It is further empowered to apply for and execute surveillance device warrants pursuant to the *Surveillance Devices Act 2007* ("the SD Act"). Such warrants include listening device, data surveillance, optical surveillance and tracking surveillance.

There were no audits into the Commission's use of the above-mentioned powers in the reporting period, however I intend to commence routine audits on the use of these powers and report on them in the following reporting period.

5.2 AUDITS CONDUCTED IN THE PERIOD 1 JULY 2017 TO 30 JUNE 2018

There were no formal audits conducted during the reporting period.

However, I have since commenced an audit, pursuant to s57B(1)(a) and (d) of the ICAC Act in to the manner in which the Commission deals with, instructs and controls counsel assisting. I will report on the outcomes of that audit in next year's annual report.

I also advised the Committee of the ICAC that I am considering auditing the Commission's processes concerning the provision of evidence and other relevant material for consideration to the Office of the Director of Public Prosecutions¹ for the purpose of commencing criminal proceedings. There have been concerns

¹ Evidence given before the Committee on 1 June 2018, see p9 of transcript: <https://www.parliament.nsw.gov.au/ladocs/transcripts/2047/Transcript%20Review%20of%20the%202016%2017%20Annual%20Reports%20of%20the%20ICAC%20and%20Inspector%201%20June%202018.pdf>

raised with my Office that there have been occasions where ICAC have not provided all materials relevant to a prosecution which it holds.

5.3 COMPLAINTS [Sections 57(1)(b) and 57(1)(d)]

The Inspector is authorised to deal with complaints of abuse of power, impropriety, maladministration and other forms of misconduct only on the part of the ICAC or its officers or former officers.

Maladministration is defined as action or inaction of a serious nature that is contrary to law or unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

There is no power for the Inspector to deal with complaints against other bodies. Furthermore, there is no power for the Inspector to compel the ICAC to investigate or not to investigate a particular complaint nor is there power to tell the ICAC how an investigation should be conducted.

A substantial proportion of complaints involve matters in which ICAC declined to investigate or make a finding of corruption. In effect the complainant seeks to appeal against the decision of the ICAC. When assessing such complaints the Inspector's objective is to determine whether there was any evidence of ICAC engaging in the type of misconduct prohibited by the ICAC Act. Consequently, when considering such complaints the focus must be on whether the conduct of ICAC amounts to misconduct or maladministration of the type described above. In the course of looking at this focus, the conduct of those against whom complaints to the ICAC were initially made is considered, but only in the context of whether there was evidence of corruption on which the ICAC could have taken more action than it did and, if it could, whether its failure to do so amounts to such misconduct or maladministration.

Each complaint received is assessed and a decision is made as to whether it is out of jurisdiction, whether there is any substance to the complaint and, whether it warrants investigation.

5.4 PERIOD 1 JULY 2017 TO 30 JUNE 2018: NEW MATTERS

My Office dealt with a total of 39 complaints in the reporting period. A breakdown of the complaints that were dealt is as follows:

- Of the 23 complaints that I inherited when I took Office on 1 July 2017, 19 were finalised in the reporting period.
- Of those 19 complaints, 4 complaints were dealt with by way of Special Reports to Parliament (a summary of the Reports is provided below).
- The remaining 5 complaints of those that I inherited, have all now been appropriately dealt with, albeit those 5 were finalised outside the reporting period.
- The Inspectorate received 20 new complaints within the reporting period and of those 16 were closed in the same period. One of those complaints was dealt with by way of a Special Report to Parliament (a summary of the Report is below).
- Of the 4 that remained open at the conclusion of the reporting period, 3 of those complaints have now also been dealt with appropriately and the files closed.
- Only 1 complaint remains open and that is the subject of a broader inquiry that I am undertaking of my own motion pursuant to s57B(2) of the ICAC Act and will be the subject of a Special Report to Parliament.

Of note, is that there were two matters in the reporting period (see C3 and C14 in Table 1 below) where ICAC notified my Office, in accordance with paragraph 5.1 of the MOU between the Commission and myself (see Appendix A), of matters involving possible misconduct on the part of an officer of the Commission.

The first matter (see C3 in Table 1 below) concerned a complaint from an applicant for a position at the Commission. The applicant was concerned that a member of the selection panel disliked the applicant and as a result his application for the position was unsuccessful. I initially received this complaint direct from the complainant and then a short time later received a notification

from ICAC about the matter. ICAC conducted an internal investigation and dismissed the complaint. The Commission provided me with the details supporting its decision and I was satisfied with the decision to dismiss the complaint. I also wrote to the complainant suggesting that his employment grievance may, more appropriately, be dealt with by another NSW Government Agency.

In the second matter (see C14 in Table 1 below), I took the view that the Commission, as suggested by the Chief Commissioner, undertake a preliminary investigation in to the matters raised and advise me of the outcome. Following the Commission's internal investigation and the material provided to my Office I was satisfied with the manner in which the Commission dealt with the complaint and agreed with its finding that the allegations of misconduct could not be sustained and that the matter be closed.

A summary of the details of all the complaints received in the reporting period is provided below in table 1. To protect the identity of the complainants the description of the complaints is only provided in general terms.

Table 1

Complainant	Nature of Complaint	Inspector's determination of complaint
C1	Multiple emails received from complainant during the reporting period which were addressed to multiple recipients, including the Inspector, complaining broadly of corruption by ICAC and other state and national Government agencies.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.
C2	Broad complaint against various Government agencies and Ministers, alleging non-specific fraudulent activities.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act. Complainant was advised that a similar complaint was received from the complainant by a previous Inspector in 2006. Complainant was also

		advised that no further action will be taken by the Inspector.
C3	<p>Complaint of being overlooked for employment to a position at ICAC.</p> <p>Complainant requested that Inspector conduct investigation into ICAC recruitment processes.</p> <p>This complaint was received directly from the complainant and ICAC also advised the Inspector separately of this complaint.</p>	<p>Complainant advised that Inspector's jurisdiction does not extend to ICAC employment matters. Complainant advised of other possible avenues to pursue grievance.</p> <p>ICAC advised the Inspector of the outcome of the internal investigation in to this complaint. Inspector was satisfied with the Commission's decision to dismiss the complaint.</p>
C4	Complaint that the Ombudsman's report concerning 'Operation Prospect' was not within the jurisdiction of the Ombudsman thus invalidating the inquiry	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.
C5	Complaint about ICAC's conduct in Operation Spicer.	Inspector concluded that ICAC did not engage in "abuse of power, impropriety and other forms of misconduct" or "maladministration" pursuant to s57B(1)(b) & (c) of the ICAC Act.
C6	Complaint that ICAC failed to properly assess initial complaint about Orange City Council.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.
C7	Complaint alleging former Commissioner of ICAC interfered with the Executive arm of Government.	<p>Complaint was dismissed. See Inspector's Special Report 18/01:</p> <p>https://www.oiiac.nsw.gov.au/assets/oiiac/reports/special-reports/Report-and-Supplementary-Report-concerning-a-complaint-by-Mr-John-Atkinson-about-the-Conduct-of-ICAC-in-Operation-Jasper-.pdf</p>
C8	Complaint that ICAC breached	Complaint dismissed due to historical

	the secrecy provision of the ICAC Act.	nature of alleged breach and lack of evidence to substantiate claim.
C9	Request that exculpatory evidence presented in Operation Spicer be reviewed and made publicly available to demonstrate publicly that complainant was not corrupt.	Complaint dismissed. Allegations raised do not refer to any specific item of information that could be considered exculpatory material. Complaint did not enliven Inspector's jurisdiction and complainant was advised that no further action will be taken by the Inspector.
C10	Complaint to Inspector that decision by ICAC concerning complainant's former employer, Department of Ageing, Disability and Home Care, was beyond the power of ICAC. Complainant requested decision concerning his former employer be reconsidered.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.
C11	Complaint to the Inspector that Pittwater Council staff acted corruptly during the council amalgamation process.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.
C12	Complainant alleges ICAC failed to investigate the conduct of the Health Care Complaints Commission.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.
C13	Complaint about the timeliness of ICAC to respond to complainant.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.
C14	Referral from ICAC advising Inspector of allegations of possible misconduct on the part of one of its staff.	Inspector agreed with ICAC that the matter be initially investigated internally, with findings and relevant investigation reports and policies be provided to the Inspector at the conclusion. At the conclusion of the investigation,

		ICAC provided the Inspector with the preliminary investigation report and the Inspector agreed with the Commission that the allegations of misconduct could not be sustained and that the matter be closed.
C15	Complaint alleging corruption within Kempsey Shire Council.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.
C16	Anonymous complaint about recruitment practices within the NSW Department of Education.	Complaint referred to ICAC for appropriate action.
C17	Complaint about failure of ICAC to investigate a complaint and about the NSW Judicial Commission.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.
C18	Complaint that ICAC deliberately withheld crucial evidence that raises issues of credibility about one of its witnesses in Operation Jasper.	Complainant advised that Inspector will consider complaint pursuant to s57B(2) and conduct an inquiry of his own motion regarding the matters raised.
C19	Request that Inspector investigate concerns about a comet the complainant had witnessed following the failure of observatories to acknowledge his complaint.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.
C20	Complaint to Inspector about ICAC failing to investigate corruption on the part of Wollongong Council.	Complaint did not enliven Inspector's jurisdiction pursuant to s57B(1)(b) & (c) of the ICAC Act and complainant was advised that no further action will be taken by the Inspector.

5.5 Summary of Special Reports submitted to Parliament pursuant to sections 57B(5) and 77A of the ICAC Act

Below is a summary of the Inspector's Special Reports that were submitted to Parliament during the reporting period.

1. Report and Supplementary Report concerning a complaint by Mr John Atkinson about the conduct of the Independent Commission Against Corruption in Operation Jasper (Special Report 18/01)

This report determined a complaint against ICAC made by Mr John Atkinson. In its 2013 Operation Jasper Report², the Commission found that Mr Atkinson engaged in corrupt conduct in two respects:

- a) *Deliberately failing to disclose to IBC³ any involvement of the Obeid family involvement despite knowing that the IBC was concerned with any such involvement, and*
- b) *authorising Mr Poole to arrange for the Obeids to be extracted from the Mount Penny joint venture through arrangements involving Coal & Minerals Group and Southeast Investments, with the intention, in each case, of deceiving relevant public officials or public authorities of the NSW Government as to the involvement of the Obeids in the Mount Penny tenement.*

Mr Atkinson complained to my Office about the conduct of then ICAC Commissioner, the Hon. David Ipp AO QC. Specifically, Mr Atkinson complained that the Commissioner interfered with the executive arm of Government by meeting with the then NSW Premier, Barry O'Farrell, regarding ICAC's recommendation in its Operation Jasper report that the NSW Government cancel the mining licence that ICAC found had been tainted by corruption. Mr Atkinson complains that it was inappropriate for the Commissioner to meet with the Premier to discuss such matters.

² Investigation into the conduct of Ian MacDonald, Edward Obeid Senior, Moses Obeid and others, July 2013 p 152 ("Operation Jasper Report")

³ Independent Board Committee of White Energy of which Mr Atkinson was a Director.

I dismissed Mr Atkinson's complaint on the basis that the ICAC Commissioner was perfectly entitled to meet with the Premier. ICAC is an investigative body, not a court. A Commissioner of ICAC is entitled to meet with a Minister of the Crown in the same way that any other Government agency head can meet with the Minister that is responsible for their department.

A copy of Special Report 18/01 can be found at:

<https://www.oiiac.nsw.gov.au/assets/oiiac/reports/special-reports/Report-and-Supplementary-Report-concerning-a-complaint-by-Mr-John-Atkinson-about-the-Conduct-of-ICAC-in-Operation-Jasper-.pdf>

2. *Report concerning a Complaint by Mr Jeffrey McCloy about the conduct of the Independent Commission Against Corruption in Operation Spicer (Special Report 18/02)*

This Report concerns a complaint by Mr Jeffrey McCloy about the conduct of former ICAC Commissioner the Hon. Megan Latham and of senior counsel assisting during the Commission's Operation Spicer inquiry.

Mr McCloy complained of bias and misconduct on the part of the Commissioner and senior counsel assisting. However, the complaint to the Inspector was identical to matters raised in court proceedings by Mr McCloy (see *McCloy v Latham* [2015] NSWSC 1879).

In this Report I took the view that when the Supreme Court or Court of Appeal has considered issues similar or identical to those set out in a complaint to which the complainant to my Office is a party, where no new issues are raised in the complaint and I agree with the findings of the Court, I regard myself as having a discretion not to deal in detail with the complaint. I have taken the view that if the matters raised have been the subject of a determination by a Court dealing precisely with or substantially the same matters as those that are raised with my Office then I am not obliged to expend public resources to reconsider the complaint.

A copy of Special Report 18/02 can be found at:

<https://www.oiiac.nsw.gov.au/assets/oiiac/reports/special-reports/Report-concerning-a-Complaint-by-Mr-Jeffrey-McCloy-about-the-conduct-of-the-ICAC-in-Operation-Spicer.pdf>

3. Report concerning a Complaint by NuCoal Resources Limited about the conduct of the Independent Commission Against in Operation Acacia (Special Report 18/03)

This Report was in response to a complaint by NuCoal Resources concerning ICAC's conduct in Operation Acacia.

ICAC never found NuCoal to be corrupt. It did however, find that the granting of Exploration Licence 7270 to Doyles Creek Mining Pty Ltd, shares of which NuCoal acquired 100%, were done so improperly and were tainted by corruption. In the second Acacia Report, the Commission expressed the view that because of the corruption involved in its creation, EL 7270 should be expunged or cancelled and suggested that the NSW Government consider enacting legislation to do so, noting that that could be accompanied by a power to compensate any innocent person affected by the expungement. Legislation implementing that expungement (but without compensation) was enacted.

NuCoal's complaint to my Office alleged (amongst other things) that contrary to law, ICAC failed to consider NuCoal's submissions prior to making the recommendation that the legislation be expunged and that the Commission improperly engaged in discriminatory behaviour against NuCoal.

As I noted in my Special Report some of these issues were considered by the Supreme Court (Rothman J) in *NuCoal Resources Limited v Independent Commission Against Corruption* [2015] NSWSC 1400 and rejected. The Court found, for example, that the ICAC had properly considered NuCoal's submissions and investigated the matter fully. NuCoal did not appeal this decision.

I dismissed NuCoal's complaint for a number of reasons, but essentially I considered that it was unnecessary for the Commission to refer in its Acacia Report to every argument and every submission put to it and a failure to do so is no basis for suggesting that it failed to consider the submissions. In my opinion that could not amount to misconduct if, for example, it occurred as a result of inattention, a slip or incompetence. It can only satisfy the statutory criteria in s57B(1)(b) and (c) (which I am obliged to consider), it seems to me, if there were an element of intention, something approaching wilful blindness (to use a concept from another area of law). In addition, it is Parliament that made the decision to expunge the relevant mining licence. I have no power under the ICAC Act to express any view about that. Parliament is supreme and it saw fit to pass the legislation in question.

A copy of Special Report 18/03 can be found at:

<https://www.oicac.nsw.gov.au/assets/oicac/reports/special-reports/Report-concerning-a-Complaint-by-NuCoal-Resources-Ltd-about-the-conduct-of-the-ICAC-in-Operation-Acacia-1803.pdf>

4. *Report concerning a Complaint by Mr Murray Kear about the conduct of the Independent Commission Against Corruption in Operation Dewar (Special Report 18/04)*

This Report was prepared following a complaint that was received by the Inspector from Mr Murray Kear, former Commissioner of the State Emergency Service (SES). ICAC found that Mr Kear had engaged in corrupt conduct in two respects:

1. Deliberately failing to investigate allegations of misconduct made by one of two Deputy Commissioners against the other who was Kear's friend. The allegations were that the Deputy had used an SES credit card for personal use, fabricated diary entries and entered into service contracts on behalf of the SES that were not in accordance with standard NSW Government service contract guidelines and templates and had termination clauses that were particularly disadvantageous to the SES.

2. Dismissing the Deputy Commissioner who had made the above-mentioned allegations in reprisal for making allegations about the conduct of the one who was his friend.

Mr Kear complained to the Inspector that ICAC did not disclose or lead as evidence in its public inquiry material in its possession which was exculpatory of Mr Kear. He further complained that because of the failure to consider that exculpatory material the two findings of corrupt conduct were wrongly made. He also complained that the ICAC failed to provide the same exculpatory material to the Office of the Director of Public Prosecutions and asserted the prosecution for a breach of s20(1) of the *Public Interest Disclosure Act* should not have commenced.

In my Special Report I dismissed Mr Kear's complaint on the basis that on the overwhelming evidence available to the Commission it was open for ICAC to make the findings it did against Mr Kear. The "exculpatory" material referred to in Mr Kear's complaint to the Inspector, when considered against all the other material that ICAC had in its possession, seemed to me to have the opposite effect, that is, it provided compelling evidence that Mr Kear sacked one Deputy Commissioner in reprisal for her disclosures about the other Deputy Commissioner.

I also made the point in the Special Report that there appears to be a misunderstanding of the respective roles of ICAC and the courts and that because of the different evidentiary regimes that bind them there will be different results arising out of the same circumstances in controversies before the ICAC and before the courts. That difference does not establish that one of those bodies is right and that the other wrong in making a particular finding or decision to convict or acquit.

A copy of Special Report 18/04 can be found at:

<https://www.oiacac.nsw.gov.au/assets/oiacac/reports/special-reports/Report-concerning-a-Complaint-by-Mr-Murray-Kear-about-the-conduct-of-the-ICAC-in-Operation-Dewar-1804-Anon.pdf>

5. Report concerning a Complaint by Mr John McGuigan, Mr Richard Poole, Cascade Coal Pty Ltd, Mount Penny Coal Pty Ltd and Glendon Brook Coal Pty Ltd about the conduct of the Independent Commission Against Corruption in Operation Jasper (Special Report 18/05)

This Special Report determined a complaint made against ICAC and former ICAC Commissioner the Hon. David Ipp AO QC by Mr John McGuigan, Richard Poole, Cascade Coal Pty Limited, Mount Penny Coal Pty Limited and Glendon Brook Coal Pty Limited (collectively, “the Complainants”), concerning two aspects of the Commission’s conduct in Operation Jasper.

The first concerned what the Complainant’s assert to be inappropriate interactions between the Commission and the Executive Government of New South Wales and the second what they assert to be a denial of procedural fairness during the conduct of the Operation Jasper enquiry.

ICAC found that both Mr McGuigan and Mr Poole engaged in corrupt conduct for their knowledge and involvement in the Obeid family procuring the Mount Penny mining tenement.

I dismissed the complaints on the basis that I do not consider that a meeting of the former ICAC Commissioner and then Premier to discuss the Commission’s recommendations in its Operation Jasper Report, of itself, could amount to abuse of power, impropriety, misconduct or maladministration. The reason is that the ICAC is itself part of the Executive Government of New South Wales. It is a specialist investigative agency of the Executive. There can be nothing, of itself, wrong in one part of the Executive communicating with another. For example, would anyone think that there is something wrong with the Commissioner of Police communicating with the Premier on a matter relevant to his duties? The ICAC is in no different position.

The second basis of the complaint, was an alleged denial of procedural fairness, or as the complaint put it, a failure to adhere to the principles

governing inquiries. I dismissed this aspect of the complaint and agreed with Basten JA in *Duncan & others v Independent Commission against Corruption* [2016] NSWCA 143 (see p.16 of Special Report 18/05).

The Complainants also raised with the Inspector the credibility of witness Mr Paul Gardner Brook. The issue raised by the Complainants concerning Mr Brook is better dealt with in the wider inquiry I am presently undertaking of my own motion, pursuant to s57B(2) of the ICAC Act. I will defer resolution of that aspect of the complaint pending my findings in the inquiry.

A copy of Special Report 18/05 can be found at:

<https://www.oicac.nsw.gov.au/assets/oicac/reports/special-reports/Report-concerning-a-complaint-by-Mr-John-McGuigan-Mr-Richard-Poole-Cascade-Coal-Pty-Ltd-Mount-Penny-Coal-Pty-Ltd-and-Glendon-Brook-Coal-Pty-Ltd-about-the-conduct-of-the-Independent-Commission-Against-Corruption-in-Operation-Jasper.pdf>

5.6 MATTERS CARRIED OVER FROM THE 2016-2017 REPORTING YEAR

There were 7 matters from the 2016-2017 reporting period which were carried over to the 2017-2018 reporting year.

Of these, 5 matters were finalised during the reporting year. The remaining 2 matters have since been finalised.

5.7 MATTERS CARRIED OVER FROM THE 2015-2016 REPORTING YEAR

There were 3 matters from the 2014-2016 reporting period which were carried over and to the 2017-2018 reporting year.

All were finalised during the 2017-18 reporting year. One of these matters was finalised by way of Special Report to Parliament.

5.8 MATTERS CARRIED OVER FROM THE 2014-2015 REPORTING YEAR

There were 13 matters from the 2014-2015 reporting period which were carried over to the 2017-2018 reporting year. These related to Operations Jasper, Acacia, Spicer and Credo. The delay in resolution of those matters was partly due to ongoing legal proceedings involving the complainants to the Inspector, both civil and criminal.

Of those 13 matters, 11 were closed in the 2017-2018 reporting period. The remaining 2 matters have subsequently been finalised.

Of the 13 matters, 3 were finalised by way of Special Reports to Parliament.

PART 6: CONCLUSION

As at the time of writing this Annual Report I had commenced an investigation of my own motion, pursuant to s57B(2) of the ICAC Act, into a disclosure issue arising from ICAC Operations Jasper and Credo. That issue is whether the Commission should have disclosed certain matters of which it was aware, and which may have had an effect on the credibility of an important witness in both enquiries, Mr Paul Gardner Brook, to persons who were the subject of those enquiries. I will submit a Special Report of my inquiry to Parliament on this matter when my investigation is concluded.

Given that I have now dealt with all outstanding complaints that I inherited when I took Office last year, I wish to now focus on the auditing functions of my role which Parliament has bestowed upon me in s57B(1)(a) and (d) of the ICAC Act. These functions enable me to audit the Commission's operations for the purpose of monitoring compliance with the laws of NSW and assessing the effectiveness and appropriateness of the Commission's procedures relating to the legality or propriety of its activities. I anticipate that my next Annual Report will have a greater focus on the results of the audits I intend to undertake.

B. R. McClintock

Bruce McClintock SC

Inspector ICAC

15 October 2018

Appendix A

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE INDEPENDENT COMMISSION AGAINST CORRUPTION
AND
THE INSPECTOR
OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

This Memorandum of Understanding ("MOU") is made on the ^{2nd} of November 2017 between the Independent Commission Against Corruption ("the Commission") and the Inspector of the Independent Commission Against Corruption ("the Inspector").

1. BACKGROUND

- 1.1 The Inspector's role was created by the provision of the *Independent Commission Against Corruption (Amendment) Act 2005* which inserted Part 5A into the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). The relevant provisions commenced operation on 1 July 2005.
- 1.2 The principal functions of the Inspector are set out in section 57B of the ICAC Act:
1. *The principal functions of the Inspector are:*
 - a) *to audit the operations of the Commission for the purpose of monitoring compliance with the law of the State, and*
 - b) *to deal with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Commission or officers of the Commission, and*
 - c) *to deal with (by reports and recommendations) conduct amounting to maladministration (including, without limitation, delay in the conduct of investigations and unreasonable invasions of privacy) by the Commission or officers of the Commission, and*
 - d) *to assess the effectiveness and appropriateness of the procedures of the Commission relating to the legality or propriety of its activities.*
 2. *The functions of the Inspector may be exercised on the Inspector's own initiative, at the request of the Minister, in response to a complaint made to*

the Inspector or in response to a reference by the Joint Committee or any public authority or public official.

3. *The Inspector is not subject to the Commission in any respect.*
4. *For the purposes of this section, conduct is of a kind that amounts to maladministration if it involves action or inaction of a serious nature that is:*
 - a) *contrary to law, or*
 - b) *unreasonable, unjust, oppressive or improperly discriminatory, or*
 - c) *based wholly or partly on improper motives.*
5. *Without affecting the power of the Inspector to make a report under Part 8, the Inspector may, at any time:*
 - a) *make a recommendation or report concerning any matter relating to the functions of the Inspector under this section that the Inspector considers may effectively be dealt with by recommendation or report under this section, and*
 - b) *provide the report or recommendation (or any relevant part of it) to the Commission, an officer of the Commission, a person who made a complaint or any affected person.*

1.3 Section 57C of the ICAC Act sets out the powers of the Inspector and provides as follows:

The Inspector:

- a) *may investigate any aspect of the Commission's operation or any conduct of officers of the Commission, and*
- b) *is entitled to full access to the records of the Commission and to take or have copies made of any of them, and*
- c) *may require officers of the Commission to supply information or produce documents or other things about any matter, or any class or kind of matters, relating to the Commission's operations or any conduct of officers of the Commission, and*
- d) *may require officers of the Commission to attend before the Inspector to answer questions or produce documents or other things relating to the Commission's operation or any conduct of officers of the Commission, and*

- e) *may investigate and assess complaints about the Commission or officers of the Commission, and*
- f) *may refer matters relating to the Commission or officers of the Commission to other public authorities or public officials for consideration or action, and*
- g) *may recommend disciplinary action or criminal prosecution against officers of the Commission.*

2. PURPOSE

- 2.1 To set out arrangements for liaison between the Commission and the Inspector concerning referral of matters, access to information and points of contact between both agencies.

3. INTENT

- 3.1 The Commission undertakes to co-operate fully and frankly with the Inspector and his staff in order to assist the discharge of the Inspector's functions under the ICAC Act.

4. LIAISON

- 4.1 The primary point of liaison will be between the Inspector and the Chief Commissioner.
- 4.2 The Inspector and the Chief Commissioner agree to meet periodically, to discuss relevant issues and raise any matters touching on the Inspector's functions and the conduct of the Commission. Both the Inspector and the Chief Commissioner will keep their own short notes of these meetings.
- 4.3 If the Inspector or his staff need information or material or to inquire of the Commission regarding a complaint or other matter touching on the conduct of the Chief Commissioner or other Commissioner, this will be referred to the Chief Commissioner in the first instance. In the absence of the Chief Commissioner or of another Commissioner, such inquiry will be directed to the Solicitor to the Commission.

- 4.4 For any other matters arising from the Inspector's functions, general inquiries, or requests for information and material etc, liaison shall occur between the Inspector's staff and Commissioner McDonald or Commissioner Rushton. In the absence of a Commissioner, such inquiry will be directed by the Inspector's staff to the Solicitor to the Commission.
- 4.5 Where the Inspector and/or his staff wish to interview any of the Executive Directors of the Commission in connection with a complaint, the Chief Commissioner will be notified wherever possible.
- 4.6 Where the Inspector and/or his staff wish to interview any staff of the Commission in connection with a complaint, Commissioner McDonald or Commissioner Rushton will be notified wherever possible.
- 4.7 The Commission acknowledges however, there may be occasions where the Inspector and his duly authorised staff may need to act unilaterally without prior notification as outlined in paragraphs 4.5 and 4.6.
- 4.8 Written correspondence from the Commission to the Inspector will be addressed to the Inspector and marked "Private and Confidential" c/-;

Office of the Inspector of the Independent Commission Against Corruption
GPO Box 5341
SYDNEY NSW 2001

Or by email to oiicac_executive@oiicac.nsw.gov.au

Or such other address as the Inspector may advise.

5. NOTIFICATION OF COMPLAINTS OF MISCONDUCT BY THE COMMISSION TO THE INSPECTOR

- 5.1 The Commission (usually through the Solicitor to the Commission) will notify the Inspector of matters which come to its attention which involves conduct of an officer of the Commission that comes within the principal functions of the Inspector.

- 5.2 Unless urgent and requiring immediate attention, in which case oral communication will be provided to the Inspector as soon as possible to be subsequently confirmed in writing, all such matters will be communicated to the Inspector by way of written notification.
- 5.3 Unless the Inspector decides to deal with the matter directly, the Commission will keep the Inspector informed of what action it takes with respect to each matter.
- 5.4 The Commission will make information concerning the Inspector's role and functions publicly available to complainants. This includes:
- a) having appropriate information about the Inspector and links to the Inspector's website on the ICAC webpage;
 - b) where a determination is made not to investigate a complaint, further advise the complainants of the basis upon which they may be able to pursue a complaint with the Inspector and provide the Inspector's contact details.
- 5.5 Furthermore, where requested, Commission officers will provide any persons with the contact details for the Inspector as per the address details in paragraph 4.8 and/or the Office of the Inspector's general telephone number of (02) 9228 5260.

6. REGULAR PROVISION OF INFORMATION TO THE INSPECTOR

- 6.1 The Chief Commissioner will arrange for a copy of the monthly Investigations Management Group (IMG) reports to be provided to the Inspector as soon as possible after each IMG meeting. Certain information in the IMG reports relating to telecommunications interception may be redacted to comply with the requirements of the *Telecommunications (Interception and Access) Act 1979*.
- 6.2 The Manager Assessments will provide the Inspector with a quarterly report setting out the number of matters received by the Commission during the quarter, a breakdown of the matters (including complaints by Government sector and Government function), the number of matters escalated to investigation and the number or current operations.

7. REVIEW

7.1 This MOU may be reviewed at any stage at the request of either party but in any event shall be reviewed no later than 24 months from the date of the MOU.



The Hon. Peter Hall QC
Chief Commissioner of the ICAC



Bruce McClintock SC
Inspector of the ICAC