



Australian Government

**Australian Commission for
Law Enforcement Integrity**

ANNUAL REPORT OF THE INTEGRITY COMMISSIONER

2008–2009

www.aclei.gov.au



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Australian Government
Australian Commission for
Law Enforcement Integrity

22 October 2009

The Hon. Brendan O'Connor MP
Minister for Home Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

I am pleased to present the third Annual Report of the Integrity Commissioner, concerning the operations of the Australian Commission for Law Enforcement Integrity, as required by section 201(1) of the *Law Enforcement Integrity Commissioner Act 2006*.

The report covers the period 1 July 2008 to 30 June 2009.

In compiling this report, I have had regard to section 206 of the Law Enforcement Integrity Commissioner Act, which relates to considerations about the content of annual reports of the Integrity Commissioner.

In my opinion, the report is suitable to be laid before each House of the Parliament.

Yours sincerely

A handwritten signature in black ink that reads 'Philip Moss'.

Philip Moss
Integrity Commissioner

ABN: 78796734093

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REPORTING CORRUPTION

HOW TO REPORT A CORRUPTION ISSUE

The Australian Commission for Law Enforcement Integrity (ACLEI) investigates corruption issues involving staff members and former staff members of the Australian Federal Police, the Australian Crime Commission and the former National Crime Authority.

Any information provided to ACLEI is received in the strictest confidence.

A person providing information about a corruption issue to ACLEI does not have to give a name, but should be aware that information given anonymously may be more difficult to investigate. If a person does not want to give his or her name, he or she may provide an alias and should arrange a way for contact to be made.

The Integrity Commissioner seeks to ensure that all corruption issues are properly addressed. Sometimes it may be preferable to pass the information provided (or part of it) on to another government agency better suited to investigate it. If that action caused a concern, it can be discussed with ACLEI at the time of providing the information.

A person who refers a corruption issue to ACLEI may elect to be kept informed of how the Integrity Commissioner deals with that issue. In appropriate circumstances, the Integrity Commissioner must also advise the person of the outcome of the investigation. It may not, however, be possible to provide progress reports during the course of an investigation, as this action may jeopardise the effectiveness of the investigation.

Corruption issues can be reported to ACLEI by any of the following means:

Hotline: (02) 6229 9393; +61 2 6229 9393

Fax: (02) 6230 7341; +61 2 6230 7341

Post: Australian Commission for Law Enforcement Integrity
GPO Box 305
CANBERRA ACT 2601
AUSTRALIA

Email: contact@aclei.gov.au

Online: www.aclei.gov.au

GUIDE TO THE REPORT

This annual report details the operations of the Integrity Commissioner and the Australian Commission for Law Enforcement Integrity (ACLEI) for the financial year ending 30 June 2009. Its purpose is to inform the Parliament and the general public about ACLEI's role and performance.

The report is presented in the following six parts:

PART ONE – OVERVIEW

The Integrity Commissioner's Review is a summary of ACLEI's principal achievements during the year, and outlines the year in prospect.

The Agency Overview describes ACLEI's role and functions, authority and powers, and organisational structure.

PART TWO – PROGRESS TOWARDS OUTCOMES

This part reviews ACLEI's performance in detecting, investigating and preventing corruption during 2008–09. It also provides an overview of ACLEI's financial performance. These outcomes and outputs reflect the 2008–09 Portfolio Budget Statements and Portfolio Additional Estimates Statements.

An overview of corruption issues received by ACLEI, a summary of completed investigations, and a report on patterns and trends in corruption are also reported here.

PART THREE – MANAGEMENT AND ACCOUNTABILITY

This part of the annual report provides an overview of ACLEI's approach to corporate management, governance and accountability.

PART FOUR – FINANCIAL STATEMENTS

ACLEI's audited accounts are presented in this part.

PART FIVE – APPENDICES

The appendices provide information about:

- papers and presentations given by the Integrity Commissioner;
- additional statistics;
- significant changes affecting ACLEI's operating environment;
- Freedom of Information; and
- consultancy services provided to ACLEI.

PART SIX – AIDS TO ACCESS

This part includes:

- acronyms used in this report;
- compliance index; and
- alphabetical index.

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PART ONE OVERVIEW

SNAPSHOT

**CHAPTER 1
INTEGRITY COMMISSIONER'S REVIEW**

**CHAPTER 2
AGENCY OVERVIEW**

SNAPSHOT

This year...

- Fifty-one notifications and referrals about corruption issues were brought to the Integrity Commissioner for assessment. With the 29 issues carried over from the previous year, ACLEI's operational workload was comprised of 80 issues.
- A total of 35 issues involving allegations of corruption were subject to investigation by ACLEI, the ACC, the AFP or other government agencies.
- Thirteen investigations directly involving ACLEI were current, five of which were commenced during the year.
- Coercive information-gathering powers were used in 41 instances, relating to seven investigations, including holding 19 private hearings.
- Thirty-one notifications and referrals about corruption were concluded.
- The Integrity Commissioner provided one investigation report to the Minister for Home Affairs relating to an investigation finalised during the year.
- The Integrity Commissioner or other ACLEI staff made strategic presentations about integrity in law enforcement and corruption prevention on 29 occasions to various audiences.
- ACLEI published *Resistance to Corruption*, a review of the anti-corruption arrangements of the ACC and the AFP.
- The Integrity Commissioner contributed to Australian Government policy development about the connections between organised crime and corruption in law enforcement, whistle-blowing in the public sector, and improvements to secrecy law.

CHAPTER 1

INTEGRITY COMMISSIONER'S REVIEW

The Integrity Commissioner's Review surveys ACLEI's impact through the reporting year, and canvasses the prospects and challenges in the year to come.

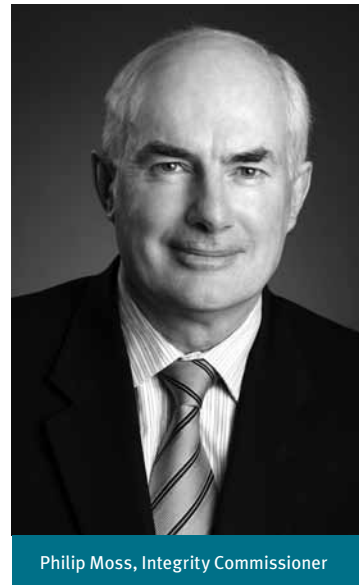
The 2008–09 year was an important one for ACLEI. The period under review was ACLEI's second full year of operation and represents the period from 18 months to 30 months since the *Law Enforcement Integrity Commissioner Act 2006* (the LEIC Act) commenced. In relative terms, ACLEI is still a new agency.

During this time, ACLEI consolidated itself in its role and, with the benefit of another year of experience, fine-tuned its direction.

Among many achievements in 2008–09, ACLEI dealt with 80 corruption issues and concluded 31 of them, the number of hearings held (19) increased markedly over the previous year (5), a pilot exercise was completed that surveyed anti-corruption arrangements in the Australian Crime Commission (ACC) and the Australian Federal Police (AFP), an outreach program was developed and delivered, the fit-out of specialised premises for ACLEI investigation staff was commenced, and a third investigation report was provided to the Minister for Home Affairs.

For these and other achievements, I would like to record my appreciation for the efforts of ACLEI staff during the past twelve months. Much was accomplished by a small number of people. The work that ACLEI is now doing to detect, investigate and prevent corruption is innovative, and responds to the contemporary integrity challenges faced by agencies with law enforcement functions.

Since its inception, ACLEI has received 114 notifications and referrals of information or allegations about corruption, a sizeable number of them involving credible intelligence about serious matters. At the close of the reporting period, 39 corruption issues had been, or were still, subject to some form of investigation by ACLEI or another government agency, and a further 20 were under assessment.



Philip Moss, Integrity Commissioner

ACLEI's higher than anticipated workload continues to affect our priorities. Since the number of new corruption issues notified or referred to ACLEI in 2008–09 remained high (53 issues), some matters already in progress had to be set aside in favour of issues requiring more immediate attention.

The high tempo at which ACLEI operates provides a continuing challenge as to where to direct ACLEI's investigative resources. Additional funding for staffing will be available to ACLEI as staged growth in 2009–10 (see Chapter 3), which will assist me to develop ACLEI further to meet this challenge. In addition, I will continue to ensure that ACLEI's work practices, partnership arrangements, use of secondments, and priority setting each contribute to a sustainable solution.

Strategic orientation

Corrupt conduct can take many forms – conflict of interest, improper association, nepotism and cronyism, abuse of office or power, perjury, inappropriate disclosure of information, fabrication or destruction of evidence, fraud and theft, to name just a few. Some types of corrupt conduct involve the commission of criminal offences, although many do not.

During the reporting year, I oriented ACLEI's focus and priority towards countering the possible relationship between willing or vulnerable law enforcement agency staff members, including former staff members, who may cooperate with, or facilitate, the illicit activities of organised criminal groups. I describe this potential relationship between corrupt law enforcement officials and organised crime as the 'corruption handshake'.

It would be a serious matter if such a relationship were found to exist. Accordingly, I consider that an important part of ACLEI's role is, together with the ACC and the AFP, to mount guard against this threat.

ACLEI's tightened focus, which is consistent with the requirement in the LEIC Act that I give priority to serious corruption and systemic corruption, takes its lead from the National Security Statement,¹ made to the Parliament in December 2008, in which the Prime Minister drew attention to the threat to Australia posed by transnational and organised crime. That threat is estimated conservatively to cost the Australian economy – individuals, businesses and governments – between \$10–15 billion each year.

Sixteen of the corruption issues that have been notified or referred to ACLEI since its commencement have a possible connection to serious and organised crime. Seven of these issues arose in 2008–09.

¹ *The First National Security Statement to the Parliament*, Address by the Prime Minister of Australia, The Hon. Kevin Rudd MP, 4 December 2008, http://www.pm.gov.au/media/speech/2008/speech_0659.cfm (Accessed 27 June 2009).

By concentrating on exposing the law enforcement end of any 'corruption handshake', ACLEI can help to ensure that legitimate law enforcement activities, which are intended to counter organised crime, are not undermined from within. This approach will require the use by ACLEI of coercive, intrusive and covert investigation methods, intelligence-gathering and intelligence-sharing. Building the confidence of potential whistleblowers to come forward forms another key component of the strategy.

I intend that this approach would be a springboard for a new form of partnership between ACLEI, other integrity agencies and law enforcement agencies. It would be one directed towards targeting the facilitation of organised crime, and characterised by the exchange of information and the sharing of resources and facilities. Such is the potential of developing further the present national approach to law enforcement integrity.

Influencing our environment

Corruption deterrence – creating a law enforcement environment that is resistant, even hostile, to corruption – is at the heart of ACLEI's role.

During 2008–09, ACLEI concentrated on raising awareness about the dimensions of corruption. Through investigations, publications, presentations and speeches, case management, projects, and policy submissions, ACLEI used every opportunity to draw attention to the concept of 'corruption-risk'.

This strategy was aimed at ensuring that the precursors of corruption are identified and understood as part of the spectrum of corrupt conduct. In this way, ACLEI demonstrated the importance of sustaining a firm interest in the key aspects of corruption prevention – understanding how corruption occurs and what controls or measures may deter corrupt conduct – as distinct from a narrow focus on the conduct of individuals or 'bad apples'. Accordingly, ACLEI has contributed to making the Federal law enforcement environment more resistant to corruption. Some examples from 2008–09 follow.

- *'Resistance to Corruption'* was the report of a pilot review of the anti-corruption arrangements of the ACC and the AFP. This ACLEI publication was the product of a joint project undertaken in partnership with the ACC and the AFP during 2008–09. The report mapped the broad corruption-risk profile of the agencies, and surveyed the arrangements in place (or planned) to address corruption risks in each agency. On the basis of the evidence, I suggested that both agencies should undertake a systematic 'stocktake' to identify areas of high corruption risk, and also to review the resources that are directed to integrity assurance measures so that they match both general and specific risks. The report has been well received by the heads of the ACC and the AFP, who have each put in place an implementation process.
- To create the right environment, an agency must develop a culture in which corrupt conduct is not tolerated and its merest indications are reported. During the year, ACLEI engaged with staff of the ACC and the AFP through presentations that encouraged them to report corruption issues and explained how they may do so.

These presentations were targeted to recruits and seconded officers in the ACC and the AFP, and also to staff and managers. Importantly, the presentations contributed to the ACC's program of transitioning from a compliance-based culture to a values-based culture. A positive result has been that a link has been established that facilitates contact from staff members of both agencies with ACLEI.

- *Investigation Report 01/2009*, details of which are set out in Chapter 6, was concerned with allegations about the ACC relating to unfair dismissal proceedings, and certain other integrity matters. While no findings of corrupt conduct were made, my report noted the corruption risks that may be posed by unsatisfactory management of staffing issues, a greater loyalty directed to colleagues than to professional standards, and the desensitisation of law enforcement officers to their operating environment, with the effect that rules and boundaries become blurred. Responses to these risks have since been embedded in ACC ethical awareness training.
- During the reporting year, ACLEI made a submission to the Australian Law Reform Commission's (ALRC) Inquiry into Secrecy Law. Many notifications and referrals received by ACLEI relate to the unauthorised disclosure of information or other security breaches. Accordingly, ACLEI's submission noted the high corruption risk environment in which law enforcement officers operate, and the attendant prospect of 'tip-offs' about law enforcement activity or methods. ACLEI suggested that a tiered approach be adopted, to recognise that the unauthorised release of some information may cause greater harm than the release of other types, and should attract a higher penalty as a deterrent. The ALRC will make its recommendations during 2009–10.

I anticipate a high return from these types of endeavour. They ensure that the lessons learned from assessments, investigations, intelligence-gathering and other ACLEI activities are turned into practical measures to improve integrity outcomes in law enforcement agencies.

Seeking to understand corruption and strengthening corruption-deterrence arrangements have been important strategies for ACLEI. Clarifying the Integrity Commissioner's corruption prevention function under the LEIC Act would place these types of activity onto a firmer footing. During the year, after examining the corruption prevention models in State integrity agencies, the Parliamentary Joint Committee on ACLEI recommended to Government that the LEIC Act should be amended in this way.²

Since ACLEI is the only Australian Government agency whose sole focus is to counter corruption, I support the Committee's recommendation.

² Recommendation 3, Parliamentary Joint Committee on ACLEI, *Inquiry into Law Enforcement Integrity Models*, tabled February 2009.

Enhanced approach

This year, ACLEI has improved the sophistication of its intelligence collection and investigations, aiming to match ACLEI's capabilities to the seriousness of the corruption issues with which it deals.

The coercive hearing power has been central to ACLEI's investigation strategies, which also include other methods such as forensics, behavioural sciences, surveillance, and covert intelligence gathering and analysis. Increasingly, these fields of expertise and methods are being used in unison.

This integrated approach exercises skills and resources from across the agency, as well as those that are sometimes obtained through secondments or directly from external sources.

The present arrangement for ACLEI to source covert investigative capabilities from other agencies has again worked well. As I noted in last year's annual report (page 9), I will keep this issue under review to ensure it is the best framework for obtaining these services.

As of 1 July 2009, the final tranche of a funding increase from the 2008 Federal Budget is due. From that date, ACLEI will have resources enough for a single multi-disciplinary investigation team of nine people, in addition to the Integrity Commissioner and the Executive Director who are also directly involved in investigations.

This increase will bring the total ongoing staff numbers to seventeen and help to increase ACLEI's investigation capacity, and to deal over time with assessments and investigations from previous years which have yet to be finalised.

Integrity partnerships

To achieve its objectives, ACLEI works in partnership with a range of agencies.

ACLEI cooperates closely with the State agencies that investigate law enforcement corruption, namely the Corruption and Crime Commission (Western Australia), the Crime and Misconduct Commission (Queensland), the Office of Police Integrity (Victoria) and the Police Integrity Commission (New South Wales). This cooperation extends to the sharing of resources and knowledge, and the cross-referral of intelligence.

Together, ACLEI and its State counterparts form a national intelligence and investigation capability, directed towards detecting any 'corruption handshake' that may exist between law enforcement efforts and organised crime. I hope to see this role develop as part of the national response to that threat.

Working in partnerships of integrity with the ACC and the AFP is another fundamental part of combating corruption. As Integrity Commissioner, I am in close contact with the heads of those agencies. These relationships are characterised by the acceptance of ACLEI's specialised role within the criminal investigation framework, and the frankness of the exchanges required to make those relationships work well.

In particular, I record ACLEI's appreciation of the ACC's and the AFP's Professional Standards units which form the day-to-day basis of the integrity partnership which exists between ACLEI, the ACC and the AFP.

During the year, Mr Alastair Milroy AM, retired as Chief Executive Officer of the ACC. His successor, Mr John Lawler APM, has also made integrity a priority for the ACC, particularly at a time when the Australian Government is placing renewed emphasis on efforts to counter serious and organised crime. ACLEI's relationship with the ACC remains strong.

Also during the year, the AFP Commissioner, Mr Mick Keelty APM, announced his retirement after 35 years of policing service. As Commissioner, Mr Keelty's support was crucial in establishing the cooperative and effective partnership between the AFP and ACLEI. I acknowledge Mr Keelty's contribution and look forward to working with his successor, Mr Tony Negus APM.

The year in prospect

In May 2009, the Parliamentary Joint Committee on ACLEI commenced an Inquiry into the operation of the LEIC Act. The Terms of Reference for the Inquiry are set out in Chapter 4 of this report.

One of the Terms of Reference is to consider whether ACLEI's jurisdiction should be extended to include any other Australian Government agencies with law enforcement functions. To assist the Committee's deliberations, ACLEI's submission proposes a set of criteria for determining jurisdiction based on corruption risk, consistent with ACLEI's focus on the 'corruption handshake'.

The framework provided by the LEIC Act – mandatory notifications by agency heads, and coercive information-gathering hearings combined with covert investigation capabilities – is well suited to the task of applying close scrutiny to agencies that operate in high corruption risk environments. This arrangement ensures that the Integrity Commissioner has an overview of corruption risk as well as of specific corruption issues, and the powers to respond appropriately.

Presently, the Australian Government is strengthening measures to address organised crime. Accordingly, it is appropriate that the Committee's Inquiry will review the anti-corruption framework that applies to agencies with a role in opposing organised crime, and which may be attractive to infiltration or compromise as a consequence.

The Committee's Inquiry is expected to conclude in late 2009 or early 2010.



Philip Moss

Integrity Commissioner

CHAPTER 2

AGENCY OVERVIEW

This chapter provides an overview of ACLEI’s role, responsibilities and structure.

OUR VISION	■ A law enforcement culture that is hostile to corruption
OUR PURPOSE	■ Through integrity partnerships, to disrupt and deter corrupt conduct in prescribed Australian Government law enforcement agencies
OUR RESPONSIBILITIES	<div>■ Detect, investigate and prevent corrupt conduct</div> <div>■ Maintain and improve the integrity of law enforcement staff, through awareness-raising and making recommendations for reform of practices and laws</div> <div>■ Collect and process information about corruption, and advise the Australian Parliament about patterns and trends</div>

Role

ACLEI provides independent assurance to government about the integrity of prescribed law enforcement agencies and their staff members. The office of the Integrity Commissioner and ACLEI are established by the *Law Enforcement Integrity Commissioner Act 2006* (the LEIC Act).

Presently, those agencies subject to the Integrity Commissioner’s jurisdiction are the Australian Crime Commission (ACC), the Australian Federal Police (AFP) and the former National Crime Authority (NCA). Other agencies with a law enforcement function may be added by regulation.

ACLEI’s primary role is to investigate law enforcement-related corruption issues, giving priority to serious and systemic corruption.

The Integrity Commissioner must consider the nature and scope of corruption revealed by investigations, and report annually on any patterns and trends in corruption in law enforcement agencies. Accordingly, ACLEI collects intelligence about corruption in support of the Integrity Commissioner’s functions.

ACLEI also aims to understand corruption and prevent it. When, as a consequence of performing his or her functions, the Integrity Commissioner identifies laws of the Commonwealth or administrative practices of government agencies that might contribute to corrupt practices or prevent their early detection, he or she may make recommendations for these laws or practices to be changed.

Any person, including members of the public and law enforcement officers, can give information to the Integrity Commissioner. Information can be given in confidence or provided anonymously.

In addition, the Minister may request that the Integrity Commissioner conduct a public inquiry into all or any of the following:

- a corruption issue;
- an issue about corruption generally in law enforcement; or
- an issue or issues about the integrity of staff members of law enforcement agencies.

ACLEI's approach to informants

ACLEI uses the term 'informant' to refer to any person, including a member of the public or a whistleblower from within an agency, who provides information about corrupt conduct. ACLEI does not have a complaint handling role and is not oriented specifically to achieving a personal remedy or restitution for an informant.

Nevertheless, the Integrity Commissioner acknowledges the need to take account of the personal interest of people who approach ACLEI, and of the circumstances and frame of mind in which they may come forward. Accordingly, ACLEI's staff endeavour to be sensitive and helpful to people who approach ACLEI.

A comparison of the roles and functions of complaint-handling and anti-corruption bodies is contained in ACLEI's 2006–07 Annual Report (page 18). ACLEI's annual reports are available online at www.aclei.gov.au.

Independence

ACLEI is a statutory agency, and part of the Attorney-General's portfolio. The Minister for Home Affairs is responsible for the administration of the LEIC Act.

Impartial and independent investigations are central to the Integrity Commissioner's role. The Minister may ask the Integrity Commissioner to conduct a public inquiry, but cannot direct how inquiries or investigations will be conducted.

A feature of the LEIC Act is that it contains measures to ensure that the decisions of the Integrity Commissioner remain free from political interference. For instance, the Integrity Commissioner:

- is appointed by the Governor-General and cannot be removed arbitrarily;
- is appointed for a once-only term of up to five years;
- can commence investigations on his or her own initiative;
- can make public statements; and
- can release reports publicly.

In these ways, the Integrity Commissioner maintains an independent relationship with government.

Responsibilities and Powers

Investigation options

Information about corruption comes from members of the public, members of law enforcement agencies, and from ACLEI's own detection initiatives. The ACC and the AFP must also notify corruption issues to the Integrity Commissioner. Any information that indicates corrupt conduct has occurred, is occurring, or may be likely to occur, can be investigated by the Integrity Commissioner.

The Integrity Commissioner decides independently how to deal with each corruption issue. The Integrity Commissioner is not expected to investigate every corruption issue that arises in Commonwealth law enforcement. Rather, the Integrity Commissioner's role is to ensure that indications and risks of corruption in law enforcement agencies are identified and addressed effectively.

The Integrity Commissioner can choose from a range of options in dealing with a corruption issue. The options are to:

- investigate the corruption issue independently;
- investigate the corruption issue jointly with another agency;
- refer the corruption issue to the law enforcement agency for internal investigation (with or without management or oversight by ACLEI);
- refer the corruption issue to another agency, such as a State integrity agency, the AFP, or another Government agency, for investigation; or
- take no further action.

The Integrity Commissioner will investigate when there is advantage in ACLEI's direct involvement, for example if an independent investigation were beneficial, or if the use of ACLEI's coercive investigation powers were desirable.

Chapter 5 sets out how corruption issues were reported and dealt with during 2008–09.

Investigative powers

A challenge facing ACLEI is that those law enforcement officers subject to investigation by the Integrity Commissioner are likely to be well-versed in law enforcement methods, and may be skilled at countering them in order to avoid scrutiny. As a consequence, ACLEI has access to a range of special law enforcement powers and methods.

The corruption investigation methods available to the Integrity Commissioner include:

- coercive information-gathering hearings and notices;
- telecommunications interception and data access;
- electronic surveillance;
- controlled operations and assumed identities;
- search warrants; and
- scrutiny of financial transaction records.

In addition, the Integrity Commissioner may issue orders to prevent disclosures being made by witnesses about the nature and existence of ACLEI hearings. This measure is designed to prevent collusion between witnesses and other forms of compromise that may arise, were the fact of an ACLEI investigation to become known. The non-disclosure capability is also one of the methods by which ACLEI may provide protection to whistleblowers.

Monitoring of agency investigation outcomes

When the Integrity Commissioner decides not to investigate, and refers a corruption issue to an agency for it to investigate without ACLEI's supervision or management, the Integrity Commissioner retains an interest in the investigation's progress and outcome.

On receiving a final report resulting from a supervised or managed investigation, the Integrity Commissioner may make recommendations to the head of the agency, for example to investigate further, to initiate disciplinary action, or to recommend that criminal charges be preferred against a person.

If the Integrity Commissioner were not satisfied with the response or proposed actions of an agency head, the Integrity Commissioner may provide his or her view, and reasons for this view, to the Minister. The Integrity Commissioner may also provide the material to the President of the Senate and the Speaker of the House of Representatives for presentation to each House of the Parliament.

Investigation reports

Investigations completed by the Integrity Commissioner culminate with a final report to the Minister for Home Affairs. In most circumstances, a copy of the report is also provided to the head of the relevant law enforcement agency.

A report made to the Minister can be publicly released by the Integrity Commissioner when the Integrity Commissioner considers it to be in the public interest.

If a public hearing were held as part of the investigation, or if a public inquiry were requested by the Minister, the Minister must lay the Integrity Commissioner's report before each House of the Parliament.

The Integrity Commissioner's investigation reports must include findings, and the evidence or material on which those findings are based. Accordingly, the LEIC Act provides for the Integrity Commissioner to make findings and express opinions.

In addition, the Integrity Commissioner can make recommendations regarding, for example, disciplinary action or termination processes against a member of a law enforcement agency.

The LEIC Act also encourages the Integrity Commissioner to consider measures that would remedy deficient practices that may give rise to corruption, or hamper its detection. The Integrity Commissioner is authorised to explore such issues in reports and to make recommendations accordingly.

A summary of each completed investigation, and any recommendations, is required to appear in the Integrity Commissioner's annual report (see Chapter 6).

Prosecutions, civil actions and disciplinary action

If the Integrity Commissioner, through investigating a corruption issue, discovers evidence of an offence, a liability to civil penalty, or evidence that would be admissible in a proceeding under the *Proceeds of Crime Act 2002* (or a State or Territory equivalent), a brief of evidence must be given to the relevant public prosecution agency or police force.

'Direct use indemnity' applies when a person is not excused from providing information that may incriminate him or her. With limited exceptions, information provided during a coercive hearing by a witness who claimed a 'direct use indemnity' is not admissible in evidence against the person in criminal proceedings, or any other proceedings for the imposition or recovery of a penalty.

The 'direct use indemnity' does not apply to disciplinary proceedings. Evidence about a breach of duty or misconduct which is of sufficient force that it might justify terminating the employment of, or initiating disciplinary proceedings against, a staff member of a law enforcement agency, must be provided to the head of the relevant law enforcement agency. This provision extends also to secondees, and allows the Integrity Commissioner to provide the information to a secondees' home agency.

Strengthening integrity

The Integrity Commissioner must consider the nature and scope of corruption revealed by investigations, and report annually on any patterns and trends in corruption in law enforcement agencies.

The Integrity Commissioner may also include in the annual report any recommendations for changes to the laws of the Commonwealth, or to the administrative practices of government agencies, to the extent that these deficiencies or unintended consequences might contribute to corrupt practices or prevent their detection.

The Integrity Commissioner may provide to the Minister a special report, which is then required to be laid before each House of the Parliament. Special reports may relate to investigations or to any other matters relating to, or arising in connection with, the performance of the Integrity Commissioner’s functions, or the exercise of the Integrity Commissioner’s powers.

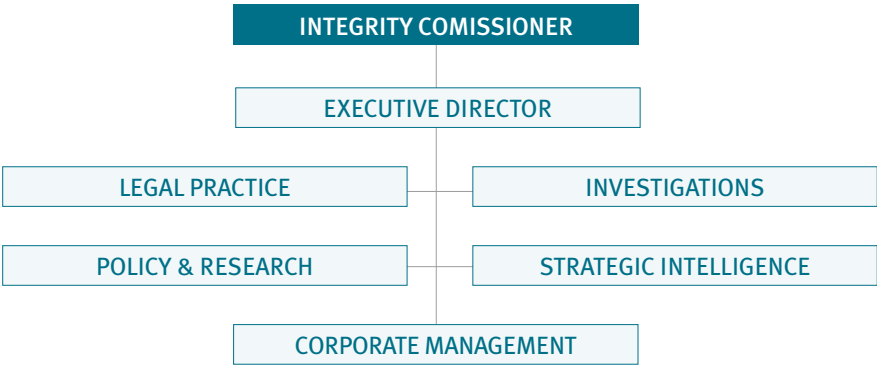
Organisational structure

During 2008–09, ACLEI had ongoing funding for a staff of 12 people, including the Integrity Commissioner.

In the second half of the reporting year, the Integrity Commissioner reviewed ACLEI’s organisational structure to recognise the specialist skills required in a corruption investigation agency, to provide stronger management, to make the best use of additional staff due in the 2009–10 reporting year, and to promote workflow and integration between areas.

ACLEI’s organisational structure, represented in Figure One, is discussed further in *Management of human resources* in Chapter 8.

FIGURE ONE: ACLEI’s organisational structure



PART TWO

PROGRESS TOWARDS OUTCOMES

CHAPTER 3
PERFORMANCE OVERVIEW

CHAPTER 4
STRENGTHENING INTEGRITY SYSTEMS

CHAPTER 5
ASSESSMENTS AND INVESTIGATIONS

CHAPTER 6
REPORTS TO THE MINISTER

CHAPTER 7
PATTERNS AND TRENDS

CHAPTER 3

PERFORMANCE OVERVIEW

This chapter provides a summary of ACLEI’s performance against objective measures and gives an overview of ACLEI’s financial resources.

Strategic objectives

Annual reporting by Australian Government agencies is based on an ‘outcome and output’ structure, which also incorporates performance measures. Portfolio Budget Statements are published as part of the annual Budget process (see www.budget.gov.au), and specify the outcomes and outputs that Government expects each agency to achieve in any given year.

By reporting performance against outcomes and outputs, each agency should demonstrate to the Parliament whether the funding it has received has been spent effectively and efficiently to achieve Government’s objectives.

Unchanged from 2007–08, ACLEI had one outcome and one output in 2008–09, as follows:

- Outcome:** Assurance that Australian Government law enforcement agencies and their staff act with integrity
- Output:** Detect, investigate and prevent corruption in prescribed Commonwealth law enforcement agencies; assist law enforcement agencies to maintain and improve the integrity of staff members

Performance measures

The 2008–09 Portfolio Budget Statements adopted a system of performance measures that were based on ‘Key Performance Indicators’ and ‘Targets’, as distinct from the ‘Quality’ and ‘Quantity’ measures of the previous year.

In developing the 2008–09 targets, ACLEI set challenging standards that have proved to be overly ambitious. A snapshot of ACLEI’s performance in 2008–09 appears in Table One, and is discussed in the following pages.

The LEIC Act and Regulations require comprehensive reporting about ACLEI’s activities. Accordingly, Chapters 4 to 7 of this report provide greater detail about ACLEI’s performance and achievements during the year.

TABLE ONE: Summary of ACLEI’s performance

KEY PERFORMANCE INDICATORS	2008–09 TARGET	PERFORMANCE SUMMARY
Possible corruption issues in the AFP and the ACC that are brought to the attention of the Integrity Commissioner are independently assessed and, where appropriate, investigated in a timely manner	100% of possible corruption issues brought to the attention of the Integrity Commissioner are assessed within 90 days	Not achieved. 27% of assessments were completed within 90 days of receipt.
	75% of investigations of corruption issues are concluded within six months of commencement of the investigation	Not achieved. No ACLEI investigations have been completed within the six month target range.
Corruption prevention awareness is increased in the AFP and ACC	A total of 15 presentations on corruption prevention awareness are made to staff of the AFP and ACC (AFP—10, ACC—5)	Achieved. The Integrity Commissioner and the Executive Director addressed a total of 29 strategically-selected audiences (AFP—17, ACC—5, Other audiences—7).

Timeliness of assessments

ACLEI received 51 notifications and referrals in 2008–09, each requiring assessment as to jurisdiction, susceptibility of investigation (e.g. quality of information, age, strength of evidence, potential avenues of enquiry) and priority (e.g. seriousness and impact, currency, availability of resources). Many of these notifications involve complex issues.

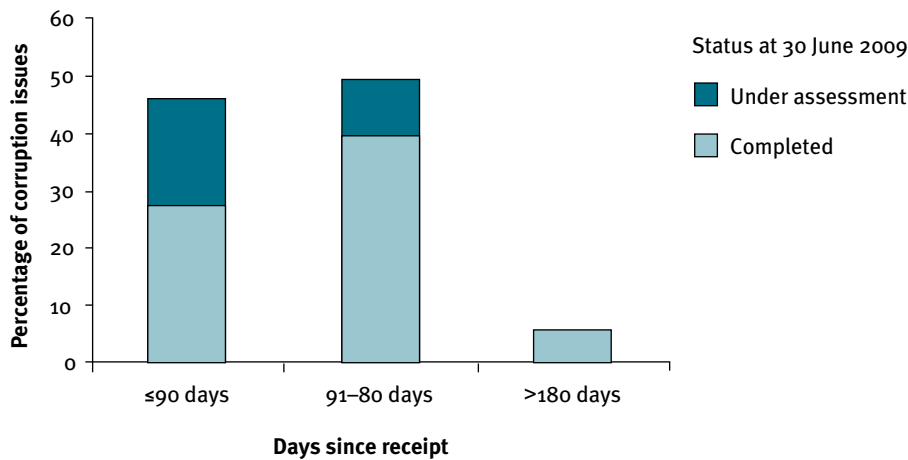
The assessment process often requires cross-checking of information, for instance with other integrity agencies or with law enforcement databases. The assessment process also involves extraction and recording of key information that may have anti-corruption intelligence value.

Each corruption issue that is notified or referred to ACLEI undergoes an assessment process, prior to a decision being made as to how the issue will be dealt with. In some instances, an investigation is commenced immediately, when the information warrants such action. In other cases, for instance where it is clear that the information provided would not merit investigation, an assessment can also be made quickly. At other times, a full assessment must be deferred until resources become available. This situation results in variability in the timeliness of assessments.

Other reasons for variability in the completion of assessments include: complexity of the issues as presented; delays in obtaining information or corroborative evidence from third parties; limitations imposed by the need for discretion; and the need to balance assessments against other demands on ACLEI’s resources, such as investigations.

In 2008–09, ACLEI aimed to complete a full assessment of each corruption issue within 90 days of receipt. Of the 51 issues received, 37 assessments (or 73%) were completed within the reporting year. Of these issues, 14 assessments (or 27% of the total) were completed within the target timeframe. For a further 14 corruption issues, five of which were received just prior to the end of the reporting year, assessments will be completed in 2009–10. At 30 June 2009, all assessments older than six months had been completed. These results are shown in Figure Two.

FIGURE TWO: Key Performance Indicator – Corruption issues: timeliness of assessments as at 30 June 2009



Timeliness of investigations

The Integrity Commissioner undertakes investigations only when ACLEI's direct involvement would be beneficial – for instance when the Integrity Commissioner's coercive and intrusive powers may assist in obtaining evidence, or when independent investigation is warranted.

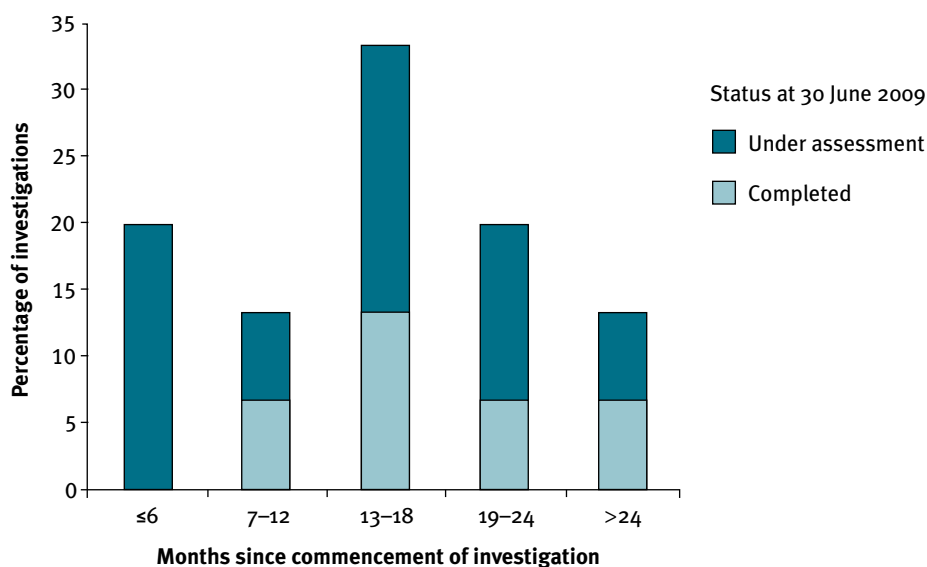
Since the commencement of the LEIC Act in January 2007, the Integrity Commissioner has initiated 15 investigations, including five joint investigations with other agencies, all relating to allegations and information provided to ACLEI. By the close of 2008–09, five investigations had been concluded – three culminating in a report to the Minister for Home Affairs (one during the reporting year), and two that were discontinued due to changing priorities and the disposition of evidence.

Investigations involving serious corruption issues are ordinarily conducted in private, to facilitate the collection of evidence and prevent its destruction or concealment. To date, investigations have required hearings, interviews, surveillance and meetings to be conducted in various locations around Australia.

These complexities, combined with the practical limits imposed by ACLEI's small size and single location, have meant that investigations have taken some time to resolve, and that no investigations could be completed within the six-month target time frame. Figure Three shows the length of time taken to complete investigations, and the time elapsed so far for corruption issues that are under investigation at 30 June 2009.

ACLEI's investigations are discussed in more detail in Chapter 5 *Assessments and Investigations*.

FIGURE THREE: Key Performance Indicator – Corruption issues: timeliness of investigations as at 30 June 2009



In 2009–10, ACLEI’s ability to complete investigations is expected to improve for a number of reasons.

First, a review of investigations prior to the end of 2009 will ensure that ACLEI’s resources remain directed to those cases in which the Integrity Commissioner’s investigative powers may be put to their best use. This strategic reorientation will, in particular, target the risk of improper connections between law enforcement officers and organised crime groups. It is anticipated that this direction will result in the closure of some investigations in which further inquiry is no longer warranted, and the referral of others to other agencies under section 26 or 22 of the LEIC Act.

Secondly, ACLEI plans to allocate resources in 2009–10 specifically to finalise reports for those investigations that are otherwise complete.

Finally, two new operational positions will be created in 2009–10 as a consequence of additional resources allocated to ACLEI in the 2008 Federal Budget.

Corruption awareness measures

Corruption deterrence relies to a large extent on the possibility of detection. There are a number of strategies by which corruption may be detected, such as testing for illicit drugs and data mining. Another effective form of deterrence and detection is a corruption-resistant culture, in which corrupt conduct is not tolerated and its merest indications are reported. A precondition for this situation is that individuals, including whistleblowers and managers, must be able to recognise corrupt behaviour and report information appropriately.

Accordingly, the Integrity Commissioner and other ACLEI staff promote ACLEI to staff members of the ACC and the AFP and raise awareness about corruption and the integrity framework.

These presentations are made to various audiences – new recruits, middle managers and senior executives – and ACLEI’s messages are tailored accordingly. For instance, recruits are made aware of whistleblowing options, while managers are informed about corruption risk indicators. Other presentations are designed to meet specific workplace challenges. Usually, ACLEI’s presentations are made in conjunction with activities of the host agency, such as ethics awareness training. On occasions, these presentations resulted in information about corruption issues being provided to ACLEI or to the agency concerned.

During 2008–09, the Integrity Commissioner and other ACLEI staff addressed a total of 29 strategically-selected audiences. Details about these presentations are set out in Appendix 1. ACLEI’s corruption awareness activities for 2008–09 are summarised in Table Two.

TABLE TWO: Key Performance Indicator – Corruption prevention awareness presentations

TYPE OF PRESENTATION	2008–09 TARGET	2008–09 ACTUAL	2007–08 ACTUAL	2006–07 ACTUAL
Presentations made in public about ACLEI and the integrity system	n/a	2	1	0
Presentations to other agencies about ACLEI's role	n/a	5	3	0
Presentations about integrity and corruption awareness to AFP staff and management	10	16	6	0
Presentations about integrity and corruption awareness to ACC staff and management	5	5	0	0
Presentations to ACC or AFP special purpose or regional offices	n/a	1	4	0
TOTAL	15	29	14	0

Changes to performance measures in 2009–10

In December 2008, the Australian Government's *Operation Sunlight* introduced a requirement for greater detail and accountability in relation to public reporting of government agencies' impact and activities.

Accordingly, the Portfolio Budget Statements performance measures for 2009–10 have been revised to place greater emphasis on the delivery of ACLEI's outcome and objectives.

The 2009–10 key performance indicators encompass a broader range of ACLEI's activities than was the case in 2008–09 and include measurements of quality and impact. In particular, the key performance indicators relating to the timeliness of assessments and investigations have been replaced with alternative measures of efficiency and effectiveness.

The 2009–10 Portfolio Budget Statements, including those relating to ACLEI, are published on the Attorney-General's Department website, www.ag.gov.au.

Financial performance

Financial summary

The budgeted cost to Government for ACLEI for 2008–09 was \$2.821 million, providing an average staffing level of 12 people, including the Integrity Commissioner.

As a result of a one-off provision in the 2008 Federal Budget, ACLEI had access in 2008–09 to a capital equity injection of \$0.750 million for the purpose of fitting out additional premises to accommodate ACLEI operations staff in a fit-for-purpose, secure work environment.

During 2008–09, ACLEI sought approval for an operating loss of up to \$0.392 million. The request was based on the need to bring forward from 2009–10 the rental of additional office space to enable the fit out of the specialised premises so as to be ready by mid–2009, and to employ non-ongoing staff for specific projects, such as: project management for the fit out of new premises; the development of an Agency Collective Agreement; and the development of a *Handling of personal information* Policy Advice.

This request was approved by the Minister for Finance and Deregulation, and enabled ACLEI to access unspent appropriations from previous years. Not all of the approved operating loss was eventually used. Accordingly, total resources used by ACLEI in 2008–09 were \$2.963 million, including an operating loss of \$0.142 million. ACLEI’s actual average staffing level during 2008–09 was 14.3.

As shown in Table Three, the continuing resources provided to ACLEI increased in 2008–09, and are scheduled to increase again in 2009–10. As announced in the 2008 Federal Budget, these additional funds recognise ACLEI’s higher than anticipated workload, and the need to accommodate additional staff.

Table Three also shows how Budgeted Operating Loss approvals in 2007–08 and in 2008–09 affected ACLEI’s staffing levels.

TABLE THREE: Resources available to ACLEI

	2007–08		2008–09		2009–10	2010–11
	ORIGINAL BUDGET*	ACTUAL EXPENSES#	ORIGINAL BUDGET*	ACTUAL EXPENSES*	ORIGINAL BUDGET**	ORIGINAL BUDGET**
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Resources	2,013	2,322	2,821	2,963	4,127	4,149
Average staffing level	9	10.6	12	14.3	17	17

* Budgeted estimates are based on Table 3.2.1: Budgeted departmental income statement, ACLEI, 2008–09 *Portfolio Budget Statements, Budget Related Paper No. 1.2, Attorney-General’s Portfolio*, p 87.

** Budgeted estimates are based on Table 3.2.1: Budgeted departmental income statement, ACLEI, 2009–10 *Portfolio Budget Statements, Budget Related Paper No. 1.2, Attorney-General’s Portfolio*, p 90.

Actual expenses include Original Budget, Revenue from Government, and Budgeted Operating Loss approvals made by the Minister for Finance and Deregulation on an annual basis.

Performance

ACLEI’s audited 2008–09 Financial Statements appear in Part Four of this annual report.

The Integrity Commissioner again reports that ACLEI received an unqualified audit opinion from the Australian National Audit Office (ANAO) for these accounts.

For convenience, some major features of the accounts reflecting ACLEI’s financial performance are summarised in this section.

Table Four sets out the total resources available to ACLEI during the year, including unspent appropriations from previous years (which require permission from the Minister for Finance and Deregulation to be used in any year), and the one-off capital injection for fit-out of premises.

TABLE FOUR: Agency Resource Statement 2008–09

	ACTUAL AVAILABLE APPROPRIATIONS FOR 2008–09 \$'000	PAYMENTS MADE 2008–09 \$'000	BALANCE REMAINING \$'000
	(a)	(b)	(a–b)
Ordinary Annual Services¹			
Departmental appropriation			
Prior year departmental appropriation	3,006	184	2,822
Adjustment – Prior year departmental appropriation ²	105	100	5
Departmental appropriation	2,821	2,420	401
s 31 Relevant agency receipts	–	–	–
Total departmental appropriation	5,932	2,704	3,228
Total ordinary annual services	5,932	2,704³	3,228
Other services⁴			
Departmental non-operating			
Equity injections	750	–	750
Previous years' outputs	75	–	75
Adjustment – Previous years' outputs ⁵	65	3	62
Total departmental non-operating	890	3	887
Total other services	890	3	887
Total Resourcing and Payments	6,822	2,707	4,115

1 Appropriation Bill (No.1) 2008–09.

2 Adjustment to prior year departmental appropriation made to show total departmental appropriation from prior years available at 1 July 2008 (\$3.111m).

3 Total payments made are exclusive of GST.

4 Appropriation Bill (No.2) 2008–09.

5 Adjustment to previous years' outputs included to show total non-operating resources from previous years available at 1 July 2008 (\$0.140m).

Table Five shows the net cost of ACLEI's output. As previously noted, the net result for ACLEI's output was an operating loss of \$0.142 million (refer to Note 17A of the Financial Statements, Net Cost of Outcome Delivery, page 145).

TABLE FIVE: Resources for outcomes

Outcome 1 – Assurance that Australian Government law enforcement agencies and their staff act with integrity

	BUDGET * 2008–09 \$'000	ACTUAL EXPENSES 2008–09 \$'000	VARIATION \$'000
	(a)	(b)	(a)–(b)
Output Group 1.1:			
Departmental outputs			
Ordinary annual services (Appropriation Bill No. 1)	2,821	2,963	(142) [#]
Subtotal for Output Group 1.1	2,821	2,963	(142)
Total for Outcome 1			
Departmental	2,821	2,963	(142)
Average staffing level (number)		14.3	

* Full-year budget, including any subsequent adjustment made to the 2008–09 Budget

Variation is the deficit attributable to the Australian Government.

CHAPTER 4

STRENGTHENING INTEGRITY SYSTEMS

This chapter describes ACLEI's contribution to the national law enforcement integrity framework.

Building ACLEI's investigative capability

During the reporting year, ACLEI built on its first 18 months of operation by consolidating and shaping the capabilities required to support ACLEI's future outlook and strategic focus.

Additional staff

Additional resources, provided in the 2008 Federal Budget, enabled ACLEI to appoint staff to investigations and intelligence positions in 2008–09. ACLEI recruited candidates with experience in the detection and investigation of law enforcement corruption to these two positions.

The Minister for Finance and Deregulation's approval for ACLEI to sustain an operating loss also allowed for the short-term secondment to ACLEI of other staff with experience in complex covert investigations.

These appointments and secondments allowed opportunities for skill and knowledge transfer, and further enhanced ACLEI's capacity to use sophisticated investigation techniques. This increased staffing meant, not only that corruption issues were pursued more thoroughly, but also that additional investigation capabilities were identified and acquired.

Operations facility

The 2008 Federal Budget allocated \$750,000 for the fit-out of a secure operations facility for ACLEI. At the close of the reporting year, new high-security accommodation for ACLEI's legal, intelligence, investigation and seconded taskforce staff was near completion.

Secure IT systems

ACLEI's new operations facility includes a secure Information and Communication Technology (ICT) network for ACLEI. The system facilitates secure electronic communications between ACLEI investigators within the office, and allows for secure data transfer with other agencies.

ACLEI is also investigating solutions for remote access to the secure network.

Intelligence gathering

During the year, ACLEI updated its Case Management System to allow for better interrogation of data. Combined with information from other sources, the database is becoming a valuable intelligence instrument.

During the 2008–09 reporting year, ACLEI developed and adopted a revised case assessment protocol to enable ACLEI's intelligence database to be used to inform assessments of notifications and referrals.

Intelligence sharing

Through various Memorandums of Understanding, ACLEI has arranged access to key law enforcement and government databases. ACLEI's intelligence staff use this information to investigate corruption issues, and to assess corruption issues notified or referred to ACLEI. For instance, obtaining information about the ownership of assets is critical to conducting investigations.

However, access to some information holdings, even for law enforcement purposes, is granted on a fee-for-service basis. As a small agency, ACLEI does not have the economies of scale to absorb high establishment and access costs. Accordingly, ACLEI is presently exploring options with some of these providers.

Legal practice

The ability to conduct coercive information-gathering hearings under the LEIC Act is an important aspect of the Integrity Commissioner's role, and sets ACLEI apart from courts and many other law enforcement agencies. To support the Integrity Commissioner in this role, ACLEI has an in-house legal practice that provides a counsel-assisting service for hearings. During the reporting year, 19 coercive information-gathering hearings were conducted in relation to four investigations.

The legal practice is also responsible for secure, lawful and accountable handling of all matters related to warrants, notices and summonses, including the service of all legal documents. Forty-one such documents were issued during the reporting year.

ACLEI's legal practice further supports the Integrity Commissioner by identifying issues of legal policy relevant to ACLEI's functions and powers (see Appendix 3 for examples).

Policy support to investigations

ACLEI's Policy and Research Section was established in late 2008–09.

Knowledge about how corruption may be prevented and what systemic vulnerabilities may give rise to corruption assists the Integrity Commissioner to assess and prioritise the allegations and information that ACLEI receives, and to make findings and recommendations in relation to corruption investigations.

Accordingly, the Policy and Research Section provides support to ACLEI's operations in a number of ways:

- identifying emerging corruption risks;
- assisting in drafting and finalising reports and correspondence;
- responding to ministerial, parliamentary and media enquiries;
- drawing lessons about corruption risk from the reports of integrity agencies in other jurisdictions;
- keeping ACLEI informed of how corruption is treated in other jurisdictions and countries; and
- conducting targeted research into the treatment and prevention of specific corruption, to inform investigation findings and recommendations.

Understanding the environment

Understanding the operational environment of the ACC and the AFP is essential for ACLEI to deliver its role and functions. ACLEI must be familiar with the diversity of agencies' activities and locations in order to provide informed assurance of the integrity of the law enforcement agencies and their staff members.

During the reporting period, the Integrity Commissioner and senior ACLEI staff visited several ACC and AFP regional and special purpose offices to meet staff and managers in Sydney, Melbourne, Adelaide, Brisbane, and (in the case of the AFP) the Solomon Islands.

The visits assisted the Integrity Commissioner to gain an understanding of operational issues and challenges for regional staff and specialist teams, building ACLEI's understanding of corruption risks and how they may be treated.

Technology-enabled crime

In July 2008, the Integrity Commissioner and a number of ACLEI staff visited the AFP's High Tech Crime Operations to be briefed about the measures which the AFP uses to combat technology-enabled crime. Of particular interest were the partnership arrangements that the AFP has developed to enhance its policing capability.

Subsequently, ACLEI and the AFP were able to work collaboratively in investigating a corruption issue related to technology-enabled crime.

Integrity partnerships

ACLEI's performance of its role and functions is based on cooperative arrangements between government agencies at State, Territory and Commonwealth levels. This approach works best when the responsibilities of each partner are understood, and time is devoted to establishing and maintaining productive relations.

ACC and AFP

The responsibility for maintaining and improving integrity in law enforcement is shared between the Integrity Commissioner and the heads of the law enforcement agencies whose staff (and former staff) are subject to the scrutiny of the Integrity Commissioner. Accordingly, the integrity arrangements rely to a high degree on the cooperation of the ACC and the AFP.

ACLEI aims for sound relationships with these agencies, whereby the Integrity Commissioner brings an independent perspective and specialist skills to the challenge of deterring and disrupting corrupt conduct in high corruption-risk environments.

Regular discussions occurred throughout the year between the Integrity Commissioner and the Chief Executive Officer of the ACC and the AFP Commissioner, and with other senior staff of those agencies.

In most cases, the purpose of these meetings was to share information about emerging corruption issues and to discuss arrangements for their investigation. Other meetings included discussions about the enhancement of strategies for deterring and detecting corrupt conduct.

Commonwealth and Law Enforcement Ombudsman

The mandatory notification of corruption issues by agency heads to ACLEI is an effective mechanism by which the Integrity Commissioner acquires an overview of corruption issues in prescribed agencies.

Other forms of misconduct may also indicate the presence of corruption or corruption-risk and are relevant to the Integrity Commissioner's obligations to identify trends and to decide independently what action is required to deal with a particular corruption issue. In this respect, a pattern of misconduct may be as important as a single incident of criminal corruption.

Under the *Australian Federal Police Act 1979*, the AFP is required to inform the Commonwealth and Law Enforcement Ombudsman of misconduct issues that do not involve corruption. Under the LEIC Act, the AFP Commissioner is required to notify the Integrity Commissioner of corruption issues, and the Integrity Commissioner's role is to determine how each corruption issue will be dealt with. Sometimes, the dividing line is not clear.

Accordingly, the Integrity Commissioner and the Commonwealth and Law Enforcement Ombudsman began discussions in 2008–09 with a view to agreeing on the identification and preliminary handling of corruption issues, and to take account of the different functions, powers, skills and focus of the two agencies. The purpose of these discussions is to ensure that integrity arrangements are administered efficiently and effectively.

ACLEI is consulting with the ACC and the AFP during the development of the agreement.

State integrity agencies

Strong operational links that exist between ACLEI and the State integrity agencies continued in 2008–09. These links included collaborations with the Corruption and Crime Commission (Western Australia), the Crime and Misconduct Commission (Queensland), the Office of Police Integrity (Victoria) and the Police Integrity Commission (New South Wales).

The Integrity Commissioner again used the purpose-built hearing room facilities of some of these integrity agencies for investigations conducted outside of Canberra. ACLEI also used specialist services, such as surveillance, provided by State integrity agencies. The Integrity Commissioner appreciates the provision of these resource-intensive services and acknowledges the impact upon the State integrity agencies' own demands for the same services.

During the year, the Integrity Commissioner and ACLEI staff met on several occasions with the heads and operations staff of each of these agencies to exchange information and to discuss investigation methods. One joint investigation was conducted with a State integrity agency.

In the coming year, ACLEI looks forward to extending this cooperation to other areas of mutual benefit, such as corruption prevention, research, policy, and related activities.

Corruption prevention

One of the objectives of the LEIC Act is to maintain and improve the integrity of staff members of law enforcement agencies. Building on ACLEI's detection and investigation activities, the Integrity Commissioner uses complementary corruption-prevention strategies to strengthen the integrity framework.

Document security at the ACC

The unauthorised access and disclosure of law enforcement information is a persistent corruption issue. In October 2008, the Integrity Commissioner and the then ACC Chief Executive Officer discussed lapses of internal document security that appeared to be related to the ACC's electronic document handling system.

In response to the Integrity Commissioner's and the Chief Executive Officer's concerns, the ACC reviewed its document holdings and corrected access controls for fifty records that had been left vulnerable as a consequence of a document migration from a legacy system. The ACC also instigated new document security arrangements and gave prominence to information handling risks in the context of the agency's professional standards training program for staff.

The Integrity Commissioner appreciates the willingness of the ACC to work in partnership with ACLEI to improve internal controls in order to minimise corruption risk.

Integrity checks for senior appointments at the AFP

Since ACLEI's establishment, the ACC and the AFP have consulted informally with the Integrity Commissioner about appointments to senior positions within those agencies.

In June 2009, the AFP Commissioner raised with the Integrity Commissioner the potential to formalise arrangements for ACLEI to provide input prior to senior law enforcement appointments and promotions, similar to arrangements that already exist in some States. In New South Wales, for example, the Commissioner of the Police Integrity Commission provides an integrity report in relation to proposed promotions in the NSW Police Force to positions of Inspector and above.

The Integrity Commissioner considers that such a role would enhance the integrity partnership between the AFP and ACLEI. It would augment ACLEI's ability to provide independent assurance to government about the integrity of staff members of prescribed law enforcement agencies.

Discussions in relation to this proposal continue.

Resistance to Corruption report

In June 2008, the ACC CEO and the AFP Commissioner agreed to participate with ACLEI in a pilot review of agency anti-corruption arrangements during 2008–09. The aim of the project was to help build a corruption risk profile for each agency, and to gain a high-level understanding of the strategies deployed or planned by each agency to address risks, and to identify how ACLEI may contribute to those efforts.

The review report, *Resistance to Corruption*, was given to the Minister for Home Affairs, the Hon Brendan O'Connor MP, on 30 June 2009, and published on ACLEI's website.

There are significant environmental and operational factors that increase the vulnerability of the two agencies to corruption. Additionally, both agencies are attractive targets for infiltration, grooming and compromise by organised criminal groups because of the information each agency holds.

Through their corruption control measures, both current and planned, the ACC and the AFP each demonstrated their willingness to engage with the challenge of combating corruption risk. The pilot review found that both agencies approach the task of addressing corruption with rigour and creativity. Each agency has different challenges to meet, and their integrity systems are at different stages of development.

ACLEI found that there is scope for increased cooperation between the ACC and the AFP, and perhaps between other Australian Government law enforcement agencies, in relation to professional standards. This prospect deserves further exploration, especially in the context of the Australian Government's commitment to combating organised crime.

The report noted that the ACC, the AFP and ACLEI intend to continue to work cooperatively to meet the challenges of countering corruption. Both the ACC and the AFP have welcomed the report and intend to use its findings to inform further development of their anti-corruption frameworks.

Presentations about integrity

ACLEI makes use of its intelligence holdings, gained through assessments, investigations, information-sharing and research, to raise awareness about contemporary corruption risk, and to promote integrity and ethical conduct.

For instance, in June the Integrity Commissioner addressed the inaugural Canberra meeting of the Corruption Prevention Network, hosted by the Australian Taxation Office. In his speech, *Corruption: Matching Measures to Risks*, the Integrity Commissioner reflected on the nature and history of corruption, discussed the benefits and limitations of different types of corruption treatments, described ACLEI's approach to dealing with corruption, summarised the lessons that ACLEI has learned so far about combating corruption, and challenged his audience to assess realistically their corruption risks and treatments. A transcript of the speech is available from www.aclei.gov.au.

Also during the reporting year, the Integrity Commissioner and other ACLEI staff made presentations to ACC and AFP audiences about integrity topics, ACLEI's role, and corruption prevention. These occasions are noted in Appendix One.

Integrity testing

The purpose of integrity testing is to create an environment that opposes corruption. Staged, covert integrity tests simulate corruption opportunities, thereby examining the honesty of individuals in a controlled (and observed) situation.

Several Australian State police services have integrity testing programs as part of their anti-corruption framework. ACLEI participates in a national forum of government agencies with these and other agencies that have an interest in integrity testing.

Presently, the AFP is considering introducing an integrity testing system to apply to AFP staff. During the reporting year, the Integrity Commissioner met the AFP Commissioner, and subsequently senior AFP staff, to consider what role ACLEI should have in such a regime, if it were introduced. Other issues to be considered are what legislative provisions may be necessary, and whether other law enforcement agencies should be included in an integrity testing regime administered by the AFP.

The Integrity Commissioner had related discussions with the Australian Federal Police Association and expects to have further dialogue on this topic.

Promoting ACLEI

During the reporting year, ACLEI produced a promotional pamphlet to raise awareness about the role of the Integrity Commissioner in countering corruption in law enforcement. The pamphlet provides information about how to contact ACLEI if a person were to have concerns about the integrity of a member of the ACC or the AFP.

Anti-corruption policy

The Integrity Commissioner has a responsibility under the LEIC Act to report on patterns and trends in corruption in law enforcement, and the power to make recommendations for changes to policy, practices and laws so as to reduce opportunity for corruption to occur, aid its detection, or to improve integrity.

Accordingly, ACLEI's contribution to broader policy development is a natural complement to ACLEI's investigation, intelligence and corruption prevention activities. ACLEI's Policy and Research Section supports the Integrity Commissioner in influencing the law enforcement operating environment to build resistance to corruption.

In 2008–09, the Integrity Commissioner contributed to policy development in the areas of transparency, accountability, corruption prevention and law enforcement powers. For instance, in addition to the activities summarised in the following pages, the Integrity Commissioner provided comment and advice to Government on: measures to strengthen the ACC's coercive powers; introducing 'loss of confidence' powers for the ACC, and updating them for the AFP; and Freedom of Information law reform.

National law enforcement policy

In September 2008, the Integrity Commissioner participated in the Federal Criminal Justice Forum held at Old Parliament House. The Forum brought together a diverse group of over 150 participants from the judiciary, the legal profession, law enforcement, government, academia, business, unions and community organisations with the intention of generating and formulating ideas for policy and law reform. The Forum's ideas and feedback have since been used to inform Criminal Justice policy development

Organised Crime Strategic Framework

In *The First National Security Statement to the Parliament* in December 2008, the Prime Minister announced a strategic approach to Commonwealth efforts to counter serious and organised crime. The Attorney-General and the Minister for Home Affairs subsequently announced that an Organised Crime Strategic Framework would be developed.

During the development phase of the Framework, ACLEI provided information about the nexus between organised crime and corruption, and corruption risks in law enforcement.

Inquiry into Law Enforcement Integrity Models

On 23 February 2009, the Chair of the Parliamentary Joint Committee on ACLEI, Ms Melissa Parke MP, tabled in Parliament the report into the Committee's *Inquiry into law enforcement integrity models*.

The Inquiry examined the various law enforcement integrity models in operation across Australia to inform possible changes to ACLEI's governance structure, operational processes and legislative environment.

ACLEI made a written submission to the Inquiry in June 2008 and provided evidence at a public hearing in September 2008.

The Committee made eight recommendations in relation to ACLEI's funding, functions, operations and legislative environment. The Integrity Commissioner welcomed the Committee's report as an important contribution to strategic policy development in the field of law enforcement oversight. More information about the committee's recommendations in relation to ACLEI may be found in Appendix 3 *Changes in ACLEI's operating environment*.

At the time of writing, the Government was considering its response to the Committee's recommendations.

The report, submissions and hearing transcripts can be found on the Committee's website, www.aph.gov.au/Senate/committee/aclei_ctte/.

Inquiry into the operations of the Law Enforcement Integrity Commissioner Act

On 14 May 2009, the Parliamentary Joint Committee on ACLEI commenced an inquiry into the operation of the *Law Enforcement Integrity Commissioner Act 2006*, pursuant to subsection 215(1)(d) of the LEIC Act and with reference to section 223A, which provides for the review of the first three years of its operation.

In particular, the Committee will examine and report on:

- Provisions for the extension of ACLEI's jurisdiction including but not limited to:
 - the merits or limits of extending ACLEI's jurisdiction to other Commonwealth departments and agencies with a law enforcement function and/or coercive powers;
 - an examination of the definition of 'law enforcement function' within the Act (section 5), including identification of the agencies to whom this definition applies;
 - the administrative and operational practicalities of restricting the Integrity Commissioner's jurisdiction to matters pertaining to an agency's law enforcement function;
 - the merits or limits of extending jurisdiction to other agencies by means of regulation or legislation; and
 - the expansion of the Integrity Commissioner's anti-corruption education and prevention role to all Commonwealth departments and agencies.
- administrative, policy, legislative and case law developments that may affect ACLEI's practices and/or legislation;
- the adequacy of ACLEI's reporting requirements with respect to performance and to investigation outcomes as set out in the Act and associated regulations;
- the strengths and the limits of the LEIC Act and regulations, and of other arrangements arising from the *Law Enforcement Commissioner (Consequential Amendments) Act 2006*; and
- the resources required to perform the functions set out in the LEIC Act and, in particular, the resourcing implications of any extension of ACLEI's jurisdiction.

ACLEI's submission to the Inquiry was being prepared as at 30 June 2009 and is now available on the Committee's website. It is expected that the Committee will report to the Parliament in late 2009 or early 2010.

More information about the Inquiry, can be found on the Committee's website, www.aph.gov.au/Senate/committee/aclei_ctte/.

Inquiry into whistleblowing protections within the Australian Government public sector

On 10 July 2008, the Attorney-General, on behalf of the Cabinet Secretary, asked the House of Representatives Standing Committee on Legal and Constitutional Affairs to inquire into and report on whistleblowing protections within the Australian Government public sector. The Committee was asked to consider a preferred model for legislation to protect public interest disclosures (whistleblowing).

The Integrity Commissioner made two written submissions to the Inquiry, in August and November 2008, and gave evidence at a public hearing on 23 October 2008. The submissions described the special protections afforded to whistleblowers under the LEIC Act and made suggestions for whistleblower arrangements based on ACLEI's experience and observations.

The Committee tabled its report in Parliament on 23 February 2009. The report made 26 recommendations in relation to the introduction of a Public Interest Disclosure Bill. Recommendation 18 proposes that the Public Interest Disclosure Bill provide for the Integrity Commissioner, as an external authority, to receive, investigate and refer public interest disclosures relevant to ACLEI's area of responsibility. This measure would preserve the Integrity Commissioner's present role in receiving information from whistleblowers.

The report, hearing transcripts and ACLEI's submissions can be found on the Committee's website at www.aph.gov.au/laca.

At the time of writing, the Australian Government was developing a response to the report.

Inquiry into proposed amendments to the *Independent Commission Against Corruption Act 1988*

On 12 March 2009, the Parliament of New South Wales Committee on the Independent Commission Against Corruption (ICAC) invited submissions to its *Inquiry into proposed amendments to the Independent Commission Against Corruption Act 1988*. The Inquiry related to the proposed use in disciplinary and civil proceedings of compulsorily obtained evidence provided under objection to ICAC. If adopted, the proposal would override an existing 'direct use indemnity' and allow for self-incriminatory information provided in a coercive hearing to be used in disciplinary proceedings.

The Integrity Commissioner's submission, lodged on 20 April 2009, outlined ACLEI's experience with the provision of evidence using the 'direct use indemnity' arrangements and exceptions that are available under the LEIC Act. ACLEI also noted the importance of creating workplace environments that oppose corruption.

A copy of the submission can be found at ACLEI's website, www.aclei.gov.au.

Inquiry into Commonwealth secrecy laws

In August 2008, the Attorney-General asked the Australian Law Reform Commission (ALRC) to review laws and practices relating to the protection of Commonwealth information, including the scope and appropriateness of legislative provisions regarding secrecy and confidentiality. The ALRC subsequently released a consultation paper, *Review of Secrecy Laws (Issues Paper 34)*, to seek ideas and feedback about how to achieve a balance between the need to maintain the secrecy and confidentiality of government information with a commitment to increased openness and transparency.

The Integrity Commissioner's submission, made in February 2009, was informed by several investigations about unauthorised releases of information, together with investigation outcomes from other jurisdictions. The submission provided commentary about the role that unauthorised access and disclosure of information has played in corruption in law enforcement. In particular, ACLEI proposed that there should be different tiers of offence for information disclosure, and that corruption should be considered to be an aggravating factor. A copy of the submission can be found at www.aclei.gov.au.

ACLEI's submission informed the ALRC's subsequent discussion paper, *Review of Secrecy Laws (DP 74, June 2009)*. ACLEI intends to make a further submission prior to the Inquiry's conclusion in 2009–10.

Federal audit of police capabilities

In January 2009, the former Minister for Home Affairs announced a Federal Audit of Police Capabilities to be conducted by Mr Roger Beale AO. The Integrity Commissioner contributed policy advice to Mr Beale's review about the nexus between serious and organised crime and corruption in law enforcement, and on potential corruption risks faced by the AFP in this respect.

Inter-Departmental Committee on Anti-Corruption

Domestic policy on trans-national crime, including corruption, is coordinated by the Attorney-General's Department. An Inter-Departmental Committee, comprised of Australian Government agencies with anti-corruption, fraud control or integrity roles, advises the Attorney-General (through the Department) on domestic corruption policy related to meeting Australia's international obligations.

ACLEI contributes to the Committee an operational, research and policy perspective about corruption control.

Australian National Audit Office fraud control project

Late in 2008–09, the Australian National Audit Office (ANAO) embarked on a project to examine the policies and practices of Australian Public Service agencies in relation to fraud control, with a view to updating the *Fraud control in Australian government agencies: better practice guide*.

In addition to participating in a survey, ACLEI met with the ANAO in June 2009 to discuss the relationship and differences between corruption and fraud, and to share the lessons that ACLEI has learned about corruption and fraud prevention from investigations and the *Resistance to Corruption* review.

ACLEI noted that standard measures to prevent fraud are not necessarily sufficient to prevent corruption, as corrupt conduct is not always associated with financial gain, and recommended that fraud and corruption control plans are developed separately. ACLEI also drew attention to the danger of agencies underestimating their risks or overstating the effectiveness of their fraud and corruption control measures.

Fostering anti-corruption initiatives

As the sole Australian Government agency that has anti-corruption as its mission, ACLEI is a focus of interest for organisations and individuals with an interest in integrity in the public sector.

The Integrity Commissioner and other ACLEI staff meet from time to time with researchers, representatives of Non-Government Organisations, and others with an interest in preventing corruption. These relationships assist ACLEI to engage in the broader dialogue about corruption risk. ACLEI acknowledges the positive contribution these organisations make.

Transparency International

ACLEI meets regularly with executive members of Transparency International (Australia) to discuss national and international developments in combating corruption.

Early in ACLEI's establishment, such a group, led by the then chairman, Frank Costigan QC, visited ACLEI to meet the new Integrity Commissioner, Mr Philip Moss. The Integrity Commissioner notes with regret the passing of Mr Costigan in March 2009, and would like to record his appreciation of Mr Costigan's support for ACLEI and of his contribution to opposing corruption in Australia.

Corruption Prevention Network

In June 2009, the Integrity Commissioner gave the keynote address to the Corruption Prevention Network at its inaugural meeting in Canberra. The Corruption Prevention Network is a national practitioners' forum concerned with exchanging information and ideas about best practice in corruption prevention.

Anti-corruption conference

The Australian Public Sector Anti-Corruption Conference (APSACC) is held every second year, and attracts a national and international audience of practitioners, policy makers, legislators and academics to learn about, and contribute to, the strengthening of anti-corruption arrangements.

Held in Sydney in 2007, Brisbane in 2009 and planned for Perth in 2011, APSACC is presented jointly by the Independent Commission Against Corruption (New South Wales), the Crime and Misconduct Commission (Queensland) and the Corruption and Crime Commission (Western Australia). In 2009, ACLEI, together with the Police Integrity Commission (New South Wales) and the Office of Police Integrity (Victoria), became a partner agency for the Brisbane conference.

Supporting APSACC enables ACLEI to contribute to the national network of anti-corruption agencies and raise awareness of the Integrity Commissioner's role.

Graduate diploma in integrity studies

During 2008–09, as a result of an Office of Police Integrity (Victoria) initiative, ACLEI, the State anti-corruption agencies, the Australian Taxation Office and other bodies commenced planning to offer a Graduate Certificate in Integrity Studies in conjunction with the Centre for Transnational Crime Prevention of the University of Wollongong.

The aim of the project is to offer a course that provides students with the theory and practice of building workplace cultures that promote integrity and resist corruption. It is envisaged that the integrity agencies will contribute guest lecturers and case studies to enliven the course with contemporary lessons learned about corruption, its detection and prevention.

Cooperative research

ACLEI aims to keep informed of innovation in corruption detection, investigation and prevention. This effort ensures that ACLEI makes use of contemporary anti-corruption theory during investigations and when formulating investigation findings. As reported last year, the Integrity Commissioner would like to develop this research function further, to enable ACLEI to record and communicate in a systematic way observations about corruption detection, investigation and prevention.

During the reporting year, ACLEI participated as a subject in a number of research projects about the national integrity framework. These projects were:

- *A study into police oversight agencies* (Ms Bernadine Tucker, Edith Cowan University);
- *A national stocktake of police integrity strategies and arrangements* (Dr Louise Porter, ARC Centre of Excellence in Policing and Security, Griffith University); and
- *The ACLEI model: Strengths and challenges* (Associate Professor Colleen Lewis, Monash University).

Engaging internationally

As with organised crime, to which it is often linked, corruption does not respect national or state boundaries. The eradication of this threat may not be achieved by individual countries in isolation. Combating transnational corruption requires vigilance, cooperative law enforcement efforts and collaboration in the development of international integrity frameworks.

Accordingly, ACLEI engages with agencies in other countries as opportunities arise, to exchange knowledge about combating corruption.

During the year, in addition to the activities noted below, the Integrity Commissioner met individually with visiting officials from Taiwan, Canada and Papua New Guinea.

Indonesia

During 2008–09, the Attorney-General’s Department, together with ACLEI and other interested Australian Government agencies, commenced negotiations with the Corruption Eradication Commission of Indonesia (Komisi Pemberantasan Korupsi) to develop a Memorandum of Understanding for bilateral cooperation on combating corruption.

New Zealand

In December 2008, the Integrity Commissioner hosted a visit to ACLEI by the Chair of the New Zealand Independent Police Conduct Authority, the Hon. Justice Lowell Goddard.

The Independent Police Conduct Authority is a national agency that has responsibility for overseeing aspects of police integrity in New Zealand. ACLEI expects to maintain close relations as the two agencies develop operational and policy links in coming years.

Bangladesh

In February 2009, the Integrity Commissioner met with a delegation from the People’s Republic of Bangladesh Ministry for Home Affairs and spoke with them about Australia’s approach to combating corruption and the particular challenges of detecting and investigating corruption in law enforcement.

Solomon Islands

In April 2009, when the then Minister for Home Affairs, the Hon. Bob Debus MP, travelled to the Solomon Islands, the Integrity Commissioner joined the delegation. The Integrity Commissioner also met separately with the Solomon Islands Anti-Corruption Taskforce and with members of the AFP’s International Deployment Group, performing duties with the Regional Assistance Mission to the Solomon Islands.

International Anti-Corruption Expertise Workshop, Singapore

In October 2008, Singapore's Corrupt Practices Investigation Bureau and Ministry of Foreign Affairs hosted the 3rd Anti-Corruption Expertise Workshop as part of the Singapore Cooperation Program. The theme for the 2008 workshop was "Excellence in Management of Anti-Corruption Agencies".

Conducted over three days, the workshop brought together 63 anti-corruption practitioners, academics and executives from 22 nations, including speakers from the World Bank. Australian representatives included ACLEI and the Corruption and Crime Commission of Western Australia. ACLEI Acting Executive Director, Mr Peter Bache, presented a paper on the challenges of establishing an anti-corruption agency, in which he referred to the importance of building trust and cooperative relations with organisations that an anti-corruption agency oversees.

CHAPTER 5

ASSESSMENTS AND INVESTIGATIONS

This chapter sets out information about the corruption issues dealt with by ACLEI during 2008–09.

Explanation of frequently used terms

Some terms used by ACLEI have a particular meaning in the LEIC Act. For instance, a ‘corruption issue’ comprises information or allegations about corruption that may be provided to the Integrity Commissioner under the LEIC Act. A corruption issue is ‘notified’ if it comes from the head of the ACC or the AFP, and is ‘referred’ if it comes from any other source. It should not be inferred that every allegation or all information that gives rise to a corruption issue will have substance.

Under the LEIC Act, the Integrity Commissioner has the option to either manage (see section 61) or oversee (see section 62) investigations of corruption issues that may be conducted by other government agencies, including the ACC and the AFP. ACLEI refers to these forms of oversight as ‘supervised investigations’.

Changes in recording practice

During 2008–09, ACLEI changed the way cases were recorded. Some of these changes operate retrospectively. The changes were designed to reflect ACLEI’s workload more accurately.

Out of jurisdiction

The first change to ACLEI’s recording practice is that all allegations or information received by ACLEI are now included in ACLEI’s statistics. This change reflects the effort involved in assessing information, in communicating with the person who gave it to ACLEI, and in referring information to other agencies.

Accordingly, information that may relate to corruption, but is clearly not attributable to the agencies in ACLEI’s jurisdiction, is now recorded in ACLEI’s statistics as ‘other’. There were four cases recorded in this category in 2008–09.

These four cases largely account for the nominal increase in the number of notifications and referrals of corruption issues this year (51 compared with 45).

External investigations

A second change relates to the way ACLEI records cases that the Integrity Commissioner has referred to other agencies for investigation. It relates also to notifications by the ACC or the AFP of investigations that are being conducted by the agency into ‘not significant’ corruption issues. In both instances, the Integrity Commissioner has a role in reviewing the outcome of these investigations. In previous years, ACLEI has recorded these cases as ‘closed’. ACLEI now records them as ‘open’ until ACLEI has received and reviewed the report and the Integrity Commissioner is satisfied with the conduct and outcome of the investigation.

As a consequence of this change, a larger number of cases remain ‘open’ at the end of the 2008–09 year than has been the case previously. In addition, three cases from 2007–08 that were reported in last year’s annual report as being closed, are this year recorded as ‘open’.

Where corruption information came from

Table Six sets out the various sources of the information about potential corruption that ACLEI received during the year. In 2008–09, ACLEI received 30 notifications (up from 19 the previous year) and 21 referrals (down slightly from 23 the previous year) – a total of 51 matters.

TABLE SIX: Sources of information about corruption issues that were assessed during 2008–09

	AFP	ACC	FORMER NCA	OTHER	TOTAL
Mandatory notification by ACC CEO or AFP Commissioner [s 19(1)]	21 (17)	9 (2)	0 (0)	0 (0)	30 (19)
Referral by Commonwealth Ombudsman [s 23(5)]	0 (3)	0 (0)	0 (0)	0 (0)	0 (3)
Other people or government agencies [s 23]	11 (13)	5 (3)	0 (3)	4 (0)	20 (19)
People in custody [ss 23 and 24]	1 (3)	0 (0)	0 (0)	0 (0)	1 (3)
Minister [s 18]	0 (0)	0 (0)	0 (1)	0 (0)	0 (1)
ACLEI intelligence / ‘Own Initiative’ investigation [s 38(1)]	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	33 (36)	14 (5)	0 (4)	4 (0)	51 (45)

Numbers in (brackets) are for the 2007–08 reporting year.

Notifications

Notifications from the ACC and the AFP are a source of reliable information about possible corruption, since the underlying information is generated from within the agency – from whistleblowers, internal detection mechanisms, and from managers.

The higher notification rates recorded during the reporting period reflect the increased efforts of the agencies throughout the year to raise awareness among managers and other staff to the risk of corruption. This result is a practical example of the close links between corruption prevention activities and corruption detection rates.

Referrals

Table Six also shows a decline in referrals from other sources, for example, the Commonwealth and Law Enforcement Ombudsman referred none in 2008–09, compared with three in 2007–08. Accordingly, notifications from the ACC and the AFP made up 59% (30 out of 51) of the total information or allegations about corruption this year, compared with 42% (19 out of 45) in 2007–08.

Table Seven breaks down further the sources of the 20 corruption issues brought to the Integrity Commissioner’s attention under section 23 of the LEIC Act (other people or government agencies). The table shows that referrals from members of the public rose slightly (17, compared with 15 in 2007–08), although four of those referrals, upon assessment, did not relate to ACLEI’s jurisdiction.

TABLE SEVEN: Sources of information about corruption issues – other people or government agencies [s 23]

	TOTAL
‘Whistleblowers’: members of the ACC or the AFP, or of the former NCA	1 (1)
Member of Parliament other than the Minister	0 (1)
Other government agencies (Commonwealth, State and Territory including other integrity agencies and police forces)	2 (2)
Other members of the public	17 (15)
Total	20 (19)

Numbers in (brackets) are for the 2007–08 reporting year.

Matters carried forward from previous years

In addition to the 51 notifications and referrals made to the Integrity Commissioner in 2008–09, ACLEI’s workload during the year included five matters carried forward from the 2006–07 reporting period and 24 matters from the 2007–08 period.

Of the 29 cases carried forward, eight were investigations involving the Integrity Commissioner (three from 2006–07, four from 2007–08, and a further issue that was under assessment at the end of 2006–07 that became an investigation in 2007–08). Two of these investigations are being conducted jointly with other agencies.

In addition, 16 notifications and referrals had been under assessment at the end of 2007–08.

Accordingly, as shown in Table Eight, ACLEI had a total of 80 corruption issues to deal with in 2008–09.

TABLE EIGHT: ACLEI's assessment and investigation workload for 2008–09

	AFP	ACC	FORMER NCA	OTHER	TOTAL
Notifications and referrals from 2006–07 carried over to 2008–09	3	2	0	-	5
Notifications and referrals from 2007–08 carried over to 2008–09	18	4	2	-	24
New notifications and referrals	33	14	0	4	51
Total	54	20	2	4	80

How notifications and referrals were dealt with

All information provided to ACLEI is assessed as to its reliability, that is, the likelihood that the information or allegation is true. ACLEI's role is to obtain evidence that may corroborate, exclude or contextualise information provided or sourced in other ways.

Once an assessment of the information is complete, the Integrity Commissioner decides how to deal with the issue. Factors in that decision include: jurisdiction; susceptibility of the issue to investigation (issues of quality of information, staleness, strength of evidence, potential avenues of enquiry); priority (seriousness and impact, currency, availability of resources); and corruption-disruption and prevention value.

The assessment and decision-making process for each allegation is documented in detail and reviewed by ACLEI's investigations and strategic intelligence managers as well as by the Integrity Commissioner.

The Integrity Commissioner can choose from among five options in dealing with a corruption issue, according to the circumstances. The options are to:

- investigate the corruption issue independently;
- investigate the corruption issue jointly with another agency;
- refer the corruption issue to the law enforcement agency for internal investigation (with or without management or oversight by ACLEI);
- refer the corruption issue to another agency, such as a State integrity agency, the AFP, or another Government agency, for investigation; or
- take no further action.

Table Nine is comprises three smaller tables that summarise the way ACLEI dealt with each of the 80 issues that were active in 2008–09:

- Sub-Table A shows all issues that, due to a decision of the Integrity Commissioner, resulted in a form of investigation;
- Sub-Table B summarises the way issues were concluded;
- Sub-Table C shows the assessments in progress at 30 June 2009; and
- Sub-Table D totals the number of notifications and referrals dealt with in 2008–09.

TABLE NINE: Total workload – how notifications and referrals were dealt with

SUB-TABLE A: INVESTIGATIONS OF CORRUPTION ISSUES BY ACLEI OR EXTERNALLY DURING 2008–09

		AFP	ACC	FORMER NCA	OTHER	SUB TOTAL	TOTAL
Investigated by ACLEI	ACLEI investigation [s 26(1)(a)]	3 (2)	6 (5)	0 (0)	N/A	9 (7)	
	ACLEI joint investigation [s 26(2)]	3 (2)	1 (1)	0 (0)	N/A	4 (3)	
	Public Inquiry at request of the Minister [s 71]	0 (0)	0 (0)	0 (0)	N/A	0 (0)	13 (10)
Supervised investigations	Agency investigation managed by ACLEI [s 26(1)(b)(i) or 26(1)(d)]	0 (0)	0 (0)	0 (0)	N/A	0 (0)	
	Agency investigation overseen by ACLEI [s 26(1)(b)(ii) or 26(1)(e)]	2 (2)	0 (0)	0 (0)	N/A	2 (2)	2 (2)
Unsupervised government agency investigations (outcome to be reviewed by ACLEI)	ACLEI satisfied that agency notifying a 'significant' issue should investigate (without supervision) [s 26(1)(b)(iii)]	1 (1)	0 (0)	0 (0)	N/A	1 (1)	
	Referred to AFP for investigation (without supervision) [s 26(1)(c)(iii)]	N/A	2 (0)	0 (0)	N/A	2 (0)	
	ACLEI satisfied that agency notifying a 'not significant' issue should continue to investigate (without supervision) [s 22(1)]	15 (3)	1 (0)	0 (0)	N/A	16 (3)	
	State integrity agency to investigate conduct of a secondee [s 29(6)(b)]	0 (0)	1 (0)	0 (0)	N/A	1 (0)	20 (4)
Total		24 (10)	11 (6)	0 (0)	N/A	35 (16)	

SUB-TABLE B: CORRUPTION ISSUES CONCLUDED DURING 2008–09

B1: ACLEI INVESTIGATIONS FINALISED	AFP	ACC	FORMER NCA	OTHER	TOTAL
ACLEI investigation finalised (Report to Minister)	0 (1)	1 (1)	0 (0)	N/A	1 (2)
ACLEI investigation discontinued (s 42 reconsideration)	2 (0)	0 (0)	0 (0)	N/A	2 (0)
Subtotal (B1)	2 (1)	1 (1)	0 (0)	N/A	3 (2)
B2: REVIEWS FINALISED	AFP	ACC	FORMER NCA	OTHER	TOTAL
External reports accepted by ACLEI [s 66]	2 (0)	1 (0)	0 (0)	N/A	3 (0)
Subtotal (B2)	2 (0)	1 (0)	0 (0)	N/A	3 (0)
B3: CONCLUDED FOLLOWING ASSESSMENT	AFP	ACC	FORMER NCA	OTHER	TOTAL
Did not raise a corruption issue within the meaning of the LEIC Act	12 (7)	4 (1)	1 (1)	4	21 (9)
Decided to take no further action (after assessment) [s 31(2)(b) or 32(2)]	0 (10)	0 (1)	0 (1)	N/A	0 (12)
Has been, is or will be the subject of court proceedings [s 31(4)(d)]	3 (0)	1 (0)	0 (0)	N/A	4 (0)
Refuse to investigate following a requirement to put allegation in writing [s 23(4)]	0 (0)	0 (0)	0 (0)	N/A	0 (0)
Subtotal (B3)	15 (17)	5 (2)	1 (2)	4	25 (21)
Total concluded issues (B)	19 (18)	7 (3)	1 (2)	4	31 (23)

SUB-TABLE C: ASSESSMENTS IN PROGRESS AT 30 JUNE 2009

	AFP	ACC	FORMER NCA	OTHER	TOTAL
Issues under assessment as at close of reporting year	15 (13)	4 (1)	1 (2)	0	20 (16)

SUB-TABLE D: TOTAL NOTIFICATIONS AND REFERRALS DEALT WITH IN 2008–09

	AFP	ACC	FORMER NCA	OTHER	TOTAL
(Subtables A + B3 + C)	54 (40)	20 (9)	2 (4)	4	80 (53)

Numbers in (brackets) are for the 2007–08 reporting year.

ACLEI investigations

An allegation or information that raises a corruption issue is accepted for investigation when assessment indicates that the information is reliable and susceptible of investigation, and when there is a public interest in the Integrity Commissioner's direct involvement. For instance, an investigation may be commenced if an independent investigation were beneficial, or if the use of ACLEI's investigative powers were desirable.

The Integrity Commissioner may opt to investigate solely, or may engage with other agencies in joint investigations. Joint investigations may be held with the ACC or the AFP, or with any Australian, State or Territory agency.

As shown in Sub-Table Nine A, thirteen ACLEI investigations were active during the reporting period.

The Integrity Commissioner commenced investigations into five corruption issues during 2008–09. Two investigations related to information provided to ACLEI in 2007–08. Of the five investigations, three are being conducted by ACLEI, and two are joint investigations.

Eight investigations continued from previous reporting years, namely six ACLEI investigations and two investigations that are being conducted jointly with other agencies.

The Integrity Commissioner allocates ACLEI's investigation resources to maximise strategic benefit and efficiency. Accordingly, all investigations remain under review with regard to the value of evidence gathered, the effort required to collect further evidence, the prospect of being able to reach a conclusion if evidence were available, the relative priority of the issue being examined, and the disruptive or deterrent effect of an ACLEI investigation. Upon reconsideration, the Integrity Commissioner may determine that a corruption issue should be dealt with in a different way, or determine that no further investigation is required.

Investigations conducted by ACLEI

There were nine investigations active in 2008–09 that were being conducted only by ACLEI. Three of them were closed during the year.

One investigation concluded with a report by the Integrity Commissioner to the Minister for Home Affairs. That report is summarised in Chapter 6 and a copy is available from ACLEI's website, www.aclei.gov.au.

Two other investigations were discontinued when it became apparent that further investigation would not achieve any worthwhile result, such as evidence of misconduct or lessons for corruption prevention. In these cases, the outcomes were conveyed to the agency concerned (which was the AFP) and no further action was taken by ACLEI.

At 30 June 2009, a further investigation was waiting for a final report to be concluded.

Joint investigations

The ability to undertake joint investigations is an important part of the LEIC Act framework, as it recognises that corrupt conduct is often not confined just to one jurisdiction.

Of the five investigations the Integrity Commissioner commenced during the year, two are being conducted jointly with other agencies. One of these issues had been an agency investigation supervised by ACLEI. The status of the investigation was changed because of new evidence which came to the Integrity Commissioner's attention.

Three other joint investigations continued from the 2007–08 year, one of which was reconsidered during the 2008–09 year and became an investigation conducted only by ACLEI.

At the end of 2008–09, there were four joint investigations in progress, from a total of ten ongoing investigations.

Nature of allegations

Table Ten sets out the nature of the five corruption issues that led to investigations being commenced during 2008–09, either as joint investigations or as investigations conducted solely by ACLEI.

Additional information about the 13 corruption issues that were under investigation during 2008–09 is set out in Appendix Two (see table relating to Regulation 20).

TABLE TEN: Investigations commenced by ACLEI in 2008–09: type of corruption issue

	AFP	ACC	FORMER NCA	TOTAL
Abuse of office [s 6(1)(a)]	1 (3)	2 (2)	0 (0)	3 (5)
Pervert the course of justice [s 6(1)(b)]	0 (1)	0 (0)	0 (0)	0 (1)
Corruption of any other kind [s 6(1)(c)]	2 (1)	0 (1)	0 (0)	2 (2)
Total	3 (5)	2 (3)	0 (0)	5 (8)

Numbers in (brackets) are for the 2007–08 reporting year.

Agency investigations

When an allegation or information which raises a corruption issue has credibility, one option available to the Integrity Commissioner is to refer the issue to another government agency for investigation.

Under this arrangement, corruption issues can be referred to:

- the ACC or the AFP for an internal investigation relating to the conduct of their own staff or appointees;
- the AFP (in relation to the conduct of an ACC staff member or secondee, including investigation of alleged breaches of Commonwealth criminal laws);
- a State or Territory police force (in relation to the conduct of a secondee from the State or Territory police force to the ACC or the AFP, or to investigate alleged breaches of State criminal laws by ACC or AFP employees);
- a State integrity agency (in relation to the conduct of a secondee to the ACC or the AFP from the respective State police force); or
- any other Australian Government agency.

For each of these options, the Integrity Commissioner may arrange to supervise an agency investigation, or to be notified of the outcome of an unsupervised investigation. Under section 77 of the LEIC Act, the Integrity Commissioner may comment on, or make recommendations about, any matter relating to or arising out of an investigation report prepared by another agency, or the investigation to which the report relates.

Table Eleven sets out the number of corruption issues dealt with as agency investigations during the year. The table also shows whether investigation reports have been received for review by the Integrity Commissioner. At 30 June 2009, eighteen reports were yet to be received from external agencies for review by ACLEI.

TABLE ELEVEN: Corruption issues dealt with as agency investigations during 2008–09

		AGENCY INVESTIGATION ABOUT THE AFP			AGENCY INVESTIGATION ABOUT THE ACC			TOTAL
		IN PROGRESS	REPORT RECEIVED AWAITING REVIEW	REPORT RECEIVED AND REVIEWED	IN PROGRESS	REPORT RECEIVED AWAITING REVIEW	REPORT RECEIVED AND REVIEWED	
Supervised agency investigations	Agency investigation managed by ACLEI [s 26(1)(b)(i) or 26(1)(d)]	0	0	0	0	0	0	0
	Agency investigation overseen by ACLEI [s 26(1)(b)(ii) or 26(1)(e)]	1	0	1	0	0	0	2
Unsupervised agency investigations	ACLEI satisfied that agency notifying a 'significant' issue should investigate (without supervision) [s 26(1)(b)(iii)]	1	0	0	0	0	0	1
	Referred to AFP for investigation (without supervision) [s 26(1)(c)(iii)]	N/A	N/A	N/A	2	0	0	2
	ACLEI satisfied that agency notifying a 'not significant' issue should continue to investigate (without supervision) [s 22(1)]	14	0	1	0	0	1	16
	State integrity agency to investigate conduct of a seconde (without supervision) [s 29(6)(b)]	0	0	0	0	1	0	1
Total		16	0	2	2	1	1	22

Supervised agency investigations

When the Integrity Commissioner makes an arrangement for a corruption issue to be investigated by another government agency, the Integrity Commissioner may supervise by managing or overseeing the investigation.

During 2008–09, two AFP internal investigations were overseen by ACLEI. One investigation concluded during the year with a report to the Integrity Commissioner under section 66 of the LEIC Act. That issue related to an unauthorised disclosure of information, but the investigation was unable to identify the source of the disclosure.

The remaining supervised investigation will continue in 2009–10.

Unsupervised agency investigations (section 22 of the LEIC Act)

The LEIC Act distinguishes between ‘significant’ and other corruption issues. A significant corruption issue relates to corrupt conduct that constitutes serious corruption or systemic corruption. Serious corruption involves corrupt conduct that could result in the staff member being charged with an offence punishable, upon conviction, by a term of imprisonment of 12 months or more.

When either the ACC or the AFP, at the time of notifying the Integrity Commissioner, is already investigating a corruption issue that is not identified under the LEIC Act to be significant, the Integrity Commissioner may allow the agency’s investigation to continue without supervision by ACLEI. This option is known as a ‘section 22 investigation’.

The Integrity Commissioner may also refer a corruption issue to a government agency for investigation without supervision by ACLEI. This option may be exercised in respect of any corruption issue, whether or not it has been identified as ‘significant’ under the LEIC Act.

In last year’s annual report, the Integrity Commissioner indicated his intention to manage ACLEI’s increasing workload by allowing the ACC and the AFP to conduct internal investigations and provide a final report to the Integrity Commissioner for review, unless special circumstances warranted closer supervision.

With issues of this type, ACLEI’s focus is on reviewing the agencies’ internal investigations once they are completed. If the Integrity Commissioner were not satisfied with an investigation, he can cause an agency to investigate further or decide that ACLEI should become involved in investigating the issue further.

Three corruption issues were dealt with as section 22 investigations in 2007–08, all of which were carried forward into 2008–09. A further thirteen notifications were dealt with as section 22 investigations during 2008–09.

By 30 June 2009, two agency investigation reports had been received by ACLEI and reviewed. One investigation found that instances of misconduct, but not corrupt conduct, had occurred, and disciplinary action is being contemplated by the agency concerned. In the second instance, the agency’s assessment concluded that the allegations were based on inaccurate information and unlikely to be true. Accordingly, no further investigation was pursued.

ACLEI concurred with the agencies’ conclusions in both investigations.

Unsupervised agency investigations (other)

The LEIC Act allows the Integrity Commissioner to make arrangements with another agency to investigate a corruption issue in which ACLEI also has an interest. This ability provides the Integrity Commissioner with flexibility, both as to where ACLEI’s resources may be directed, and as to ensuring corruption issues are dealt with appropriately. During the year, four corruption issues were dealt with as unsupervised government agency investigations.

One issue, which is still ongoing, has been conducted by the AFP as an internal investigation. A second issue, relating to the conduct of a secondee to the ACC who has since returned to a State police service, was investigated by a State integrity agency. ACLEI has received the report, but had not yet reviewed it at 30 June 2009.

Two other issues, both relating to the ACC, are being investigated by the AFP. This arrangement makes use of some of the AFP's specialised investigation capabilities.

ACLEI has been kept up to date as to progress, and will be provided with reports at the conclusion of each investigation.

Concluded issues

A corruption issue is finalised: when an investigation is completed and a report sent to the Minister; when an issue is referred to another agency under ACLEI management or oversight and is subsequently completed; when an issue is referred to an agency without the need for supervision by the Integrity Commissioner and a satisfactory final report is received; or when a decision is made that no investigation, or further investigation, by ACLEI is warranted.

Sub-Table Nine B summarises the various ways in which issues were concluded in 2008–09.

Issues not investigated

Of the 80 notifications and referrals dealt with in the 2008–09 reporting year, 21 cases did not raise a corruption issue within the meaning of the LEIC Act. In these instances, the issue raised either did not amount to corruption or did not involve members of agencies within ACLEI's jurisdiction, or both.

In four other instances, the Integrity Commissioner decided that it was inappropriate to investigate as the matters had been, were, or were likely to be, the subject of proceedings before a court.

Assessments pending

All allegations and information received by ACLEI are prioritised upon receipt to determine credibility, urgency, and the susceptibility of the issues to investigation. To manage ACLEI's workload, priority cases are dealt with immediately.

At the close of the period, 20 cases were in assessment phase, as shown in Sub-Table Nine C. A formal decision about how these issues should be dealt with will be made during 2009–10.

Issues carried forward to 2009–10

Table Twelve summarises the number of issues concluded this reporting year and shows the number of issues that will be carried forward to 2009–10.

ACLEI finalised marginally more issues in 2008–09 than it carried forward from the previous year (31 compared to 29). Due to the continuing high number of notifications and referrals (51 in 2008–09), ACLEI will carry over 49 issues to the 2009–10 year. At 30 June 2009, ACLEI's 49 issues on hand were as follows:

- Six investigations by ACLEI;
- Four investigations by ACLEI being conducted jointly with other government agencies;
- One supervised government agency investigation;
- Fourteen section 22 investigations, being conducted by the AFP as internal investigations without supervision by ACLEI;
- Two unsupervised AFP investigations relating to the ACC;
- One AFP unsupervised internal investigation into a significant corruption issue;
- One unsupervised investigation being conducted by a State integrity agency, relating to a former secondee to the ACC, for which a report had been received and was awaiting review at the end of the reporting period; and
- Twenty notifications and referrals under assessment.

As a consequence of additional funding allocated to ACLEI, that will become available on 1 July 2009, two additional operational positions will be created. These positions will assist ACLEI to provide more focus on assessments as well as ACLEI's ongoing investigations.

The Integrity Commissioner will continue to monitor the way ACLEI manages its workload.

TABLE TWELVE: Summary of throughput of issues in 2008–09

	AFP	ACC	FORMER NCA	OTHER	SUB- TOTAL	TOTAL
A: ACLEI investigations, supervised investigations and assessments carried forward from previous year	18	6	2	N/A	26	
B: Unsupervised investigations carried forward from previous year*	3	0	0	N/A	3	29
C: Notifications and referrals received during the reporting year	33	14	0	4		51
D: Issues finalised during the reporting year	19	7	1	4		31
Issues to be carried forward to 2009–10 (Rows A + B + C – D)	35	13	1	0		49

* In previous years, these investigations were counted as ‘closed’. To reflect ACLEI’s work more accurately, these cases are now included in ACLEI’s workload statistics.

Use of information-gathering powers

In investigating an issue under section 26(1)(a) of the LEIC Act, or conducting a public inquiry under section 71, the Integrity Commissioner can use certain investigative powers.

Coercive information-gathering powers

The Integrity Commissioner’s coercive information-gathering powers are set out in Part 9 of the LEIC Act. These powers require a person to produce documentary evidence or to appear as a witness and answer questions at a hearing. Notices or summonses can only be issued in relation to ACLEI investigations or joint investigations. It is an offence not to comply with these notices or summonses, and to refuse to answer questions.

The Integrity Commissioner’s exercise of coercive information-gathering powers is set out in Table Thirteen.

During the reporting year, the Integrity Commissioner exercised coercive information-gathering powers in seven investigations.

Nineteen summonses were issued for witnesses to appear in private hearings in relation to four investigations. All witnesses appeared. Four were legally represented. No witnesses applied to the Attorney-General for financial assistance in respect of their attendance.

A total of 22 ‘notices to produce’ information, documents or things were issued by the Integrity Commissioner in relation to six investigations (including three investigations that also included hearings).

During the reporting year, the Integrity Commissioner issued 19 summonses to witnesses to attend hearings in order to provide information, documents or things under section 83 of the LEIC Act, compared with five in 2007–08. In contrast, 22 ‘notices to produce’ information, documents or things were issued in the reporting year under sections 75 and 76 of the LEIC Act, compared to 31 in the previous year.

This change of practice, in favour of summonses, was because summonses attract a prohibition against disclosure of information where notated to that effect, and evidence obtained in hearings may be protected from disclosure by confidentiality directions made by the Integrity Commissioner. Accordingly, in 2008–09, ACLEI made use of summonses to protect investigations from compromise.

TABLE THIRTEEN: Use of coercive information-gathering powers during 2008–09

	TOTAL
Notice to a staff member of a law enforcement agency to provide information or produce documents or things [s 75(1)]	10 (5)
Notice to a person, other than a staff member of a law enforcement agency, to provide information or produce documents or things [s 76(1)]	12 (26)
Summons to attend a hearing to give evidence and/or produce documents or things [s 83]	19 (5)
Total	41 (36)

Numbers in (brackets) are for the 2007–08 reporting year.

Intrusive information-gathering powers

The Integrity Commissioner has certain intrusive and covert powers for the purpose of corruption investigations. These powers include:

- power of entry (section 105, LEIC Act);
- search warrant (Part 9, Division 4, LEIC Act);
- telecommunications (interception and access) warrant (*Telecommunications (Interception and Access) Act 1979*);
- surveillance device warrant (*Surveillance Devices Act 2004*);
- controlled operation authorisation (Part 1AB of the *Crimes Act 1914*); and
- assumed identity authorisation (Part 1AC of the *Crimes Act 1914*).

This year, as in the previous year, ACLEI did not use these powers in its own right. In some instances, ACLEI worked with agencies in joint investigations that involved the use of intrusive powers by those agencies.

Enforcement orders

No applications were made to the Federal Court of Australia for delivery of a witness's passport or for their arrest (sections 97–101, LEIC Act).

Legal proceedings

Prosecutions

No briefs for prosecution arising from investigations have been referred by the Integrity Commissioner this year.

Confiscation Proceedings

No matters were commenced under the *Proceeds of Crime Act 2002* during the reporting period.

CHAPTER 6

REPORTS TO THE MINISTER

This chapter summarises the investigation report submitted to the Minister during 2008–09, and tracks agency responses to the Integrity Commissioner’s recommendations.

Investigation reports

The Integrity Commissioner’s investigations may culminate in a report to the Minister. A copy may also be provided to the head of the agency to which the investigation relates.

Regulation 20(e) of the *Law Enforcement Integrity Commissioner Regulations 2006* requires a summary of any report made during the reporting period to the Minister, together with any recommendations, to be presented in the Integrity Commissioner’s annual report.

During the year, the Integrity Commissioner provided one investigation report to the Minister for Home Affairs. The report is available from ACLEI’s website, www.aclei.gov.au.

Report 01/2009 *An investigation into allegations about the Australian Crime Commission relating to unfair dismissal proceedings, and certain other integrity matters*

This investigation concerned two related corruption issues arising from the dismissal of a staff member of the ACC.

The first issue involved information provided by the staff member of the ACC (the informant) alleging that the (then) Chief Executive Officer of the ACC and a (now former) senior officer of the ACC had given false testimony before the Australian Industrial Relations Commission.

The second issue involved possible corrupt conduct on the part of the informant and two colleagues (the parties), whereby the informant used an ACC recording device to record covertly the meeting at which he was dismissed. The device also recorded subsequent conversations involving some sensitive law enforcement issues. Copies of the recording were then provided to private persons.

Following investigation by ACLEI, that included private hearings and notices to produce documents, the Integrity Commissioner found that no corrupt conduct was evident in either issue. The Integrity Commissioner recommended that the ACC take reasonable steps to recover all copies of the covertly recorded material.

The Integrity Commissioner assessed a number of other integrity matters raised by the informant. None of these issues revealed corrupt conduct.

The Integrity Commissioner did not consider that it would be appropriate for the ACC to take any disciplinary action in relation to this matter.

The Integrity Commissioner also recommended that the ACC review all internal policies and procedures relating to the control of, accountability for, and proper use of, covert surveillance devices. Such policies should explicitly limit the use of such devices to officially sanctioned purposes.

While the Integrity Commissioner did not find that individuals engaged in corrupt conduct, the investigation provided valuable lessons about the ways in which corruption may arise. These lessons included the importance of management practices that build and maintain trust with staff and of avoiding a culture of loyalty to colleagues rather than to professional standards.

Another corruption risk illustrated by this investigation relates to law enforcement officers specifically, namely that they may become desensitised to their operating environment, with the effect that rules and boundaries become blurred. In the present case, the familiarity of the parties with surveillance devices and covert methods appears to have contributed to their inappropriate use.

Acceptance of recommendations

The Integrity Commissioner has discussed with the ACC the corruption risks identified in his investigation. Through open dialogue with its staff, the ACC is working to promote a culture of allegiance to professional standards. The Integrity Commissioner is satisfied that ACC management understands the importance of engaging in this way to address corruption risks effectively.

The ACC has taken action to recover any sensitive material that may still be held by the informant or others known to him.

Further, the ACC is presently reviewing its policies and procedures relating to the use of covert surveillance devices. The review will take account of the issues raised by the Integrity Commissioner's investigation.

The Integrity Commissioner is satisfied with the actions undertaken by the ACC in relation to the recommendations made in the investigation report.

Previous recommendations

ACLEI takes an interest in how agencies deal with recommendations and suggestions made by the Integrity Commissioner.

Report 2/2008 *An investigation into an allegation that the Australian Federal Police 'tipped-off' a Federal Member of Parliament about an impending search*

Last year's annual report noted that the AFP had commenced a review of its guidelines and procedures about 'politically sensitive matters' relating to criminal investigations that may involve Members of Parliament and/or their staff. The purpose of the review was to take account of a recommendation made by the Integrity Commissioner in *Report 2/2008*.

That report, provided to the Minister in the 2007-08 reporting year, followed the Integrity Commissioner's investigation of an allegation that the AFP 'tipped-off' a Federal Member of Parliament about an impending search. The Integrity Commissioner found that there was no indication that the AFP investigation had been compromised, or that the AFP had alerted the Federal Member of Parliament.

After considering the issues raised by the investigation, the Integrity Commissioner recommended that the AFP should review its arrangements for criminal investigations of this type, to ensure that the AFP's independence and effectiveness are seen to be free from potential compromise.

During the 2008-09 reporting year, the AFP provided a copy of review documents to ACLEI. The Integrity Commissioner suggested that further clarification should be considered, prior to settling any policy revisions.

The AFP has since agreed to consult further with ACLEI and meetings have been arranged accordingly.

CHAPTER 7

PATTERNS AND TRENDS

This chapter provides a summary of the patterns, trends and emerging issues in corruption identified by the Integrity Commissioner in the course ACLEI's activities during 2008–09.

The LEIC Act requires the Integrity Commissioner to report annually on patterns and trends in corruption that have come to his attention during the year in prescribed law enforcement agencies and in other Australian Government agencies that have law enforcement functions.

ACLEI monitors patterns and trends in a number of ways, but most importantly through its assessment and investigation of notifications and referrals of information and allegations that are made under the LEIC Act to the Integrity Commissioner.

For instance, not only does ACLEI examine specific corruption issues and the conduct of individuals, but also analyses the circumstance, motive, method and environment of each case. Whether or not corrupt conduct is subsequently found, ACLEI's assessments and investigations generate contextual intelligence about trends, possible links to organised crime, deficient practices, workplace cultures and other systemic vulnerabilities.

In addition, through a national network of anti-corruption agencies, ACLEI has access to information about patterns and trends that may be observed in other jurisdictions, and what is being done or considered in these jurisdictions to build resistance to corruption. Access to this information enhances ACLEI's ability to detect and deter corruption through effective targeting strategies.

The Integrity Commissioner uses this patterns and trends analysis to inform agencies and government about precautions that may be taken to lessen any risks to integrity.

Corruption risk approach

In describing ACLEI's work, the Integrity Commissioner uses the terms 'corruption issue' and 'corruption risk'.

The first term, 'corruption issue', comes from the LEIC Act and has a reserved meaning: an allegation or information about possible corrupt conduct that is considered for investigation. The term 'corruption risk' relates to the conditions, or 'precursors', that may give rise to a 'corruption issue'.

'Risk' terminology is common in law enforcement and other areas that deal with the management of harms, and is particularly useful when the manifestations of the risk are likely to be rare or are largely invisible, as is the case with corruption.

ACLEI uses the term because it follows logically from one of the objects of the LEIC Act to “maintain and improve the integrity of staff members of law enforcement agencies” (section 3 of LEIC Act). By having regard to corruption risk, ACLEI is better able to:

- direct ACLEI’s efforts to serious and systemic corruption;
- assess which notifications and referrals are most likely to disclose actual corrupt conduct and present a risk to an agency’s operations and/or integrity;
- identify work areas and activities that may be associated with high corruption risk;
- work cooperatively with agencies to ensure that anti-corruption efforts are well-targeted;
- establish a benchmark against which to measure improvement;
- provide an early warning of new and emerging corruption risks;
- recommend appropriate treatments for specific risks; and
- identify what changes to law or practice may be needed, even when corruption is not proved.

By understanding corruption risk, ACLEI can provide informed assurance to government about the integrity of Australian Government agencies with law enforcement functions.

Agency risks

ACLEI collates information about corruption risk across a number of categories, according to the risk profile of the two agencies in ACLEI’s jurisdiction. A summary of the ACC and AFP risk profiles follows.

ACC corruption risk overview

The ACC is a national law enforcement agency with special powers, including coercive information-gathering powers. The main functions of the ACC are to assist partner agencies by collecting and analysing intelligence about serious and organised crime in Australia and conducting investigations of serious and organised crime.

To deliver its outcomes in 2009–10, the ACC will receive an appropriation of \$94.9 million and its average staffing level is expected to be 505 (not including secondees from other government agencies). The ACC maintains offices in most major Australian cities and has operated in a decentralised command structure.

As part of its functions, the ACC administers a national database of information that is relevant to the investigation of organised crime in Australia. The ACC works in partnership with other law enforcement agencies under task force, joint operations and intelligence-sharing arrangements. The ACC provides specialist advice on national criminal intelligence priorities and delivers criminal intelligence products such as the *“Picture of Criminality in Australia”* which informs the strategic decision-making and priority setting of the ACC, its Board and key stakeholder agencies.

To gather intelligence and investigate criminal activity, the ACC uses coercive powers and traditional law enforcement techniques such as physical and technical surveillance, controlled operations and covert human intelligence sources.

In summary, because of the ACC's role in combating organised crime, every aspect of the intelligence cycle – collection, collation, analysis, evaluation and dissemination – carries with it a risk of compromise. Likewise, investigations, which involve contact with criminals and exposure to criminal opportunity, carry an inherent risk of corruption.

Approximately 90 per cent of ACC operations involve staff members from other agencies who participate in joint operations or participate in ACC task forces. These arrangements provide the ACC with flexibility to meet changing demands, but also introduce corruption risks. For instance, not only may members of other agencies bring with them a mixed approach to professional standards, but also the ACC is limited in its ability to use 'loyalty to the ACC' as an anti-corruption strategy to manage the risk.

AFP corruption risk overview

The AFP was established by the *Australian Federal Police Act 1979* to deliver policing services for the Australian Government. The AFP has since grown to provide a diverse range of national and international policing functions and programs, including:

- Preventing and investigating serious organised and complex criminal activity affecting Australia's interests, particularly countering the threats posed by:
 - Transnational crime;
 - Technology-enabled (high-tech) crime;
 - Drug trafficking;
 - Money laundering;
 - Major fraud;
 - Criminal tax offences;
 - Identity crime; and
 - People smuggling and human trafficking;
- Addressing national security issues, particularly countering the threat of terrorism;
- Law enforcement response for other Commonwealth laws, including protecting the property of the Commonwealth, and for Family Law;
- Providing assistance to strengthen law and order in the Pacific region and other areas of national interest;
- Providing community policing services to the Territories of Christmas Island, Cocos (Keeling) Islands, Norfolk Island and Jervis Bay; and
- Airport Policing, provided under the Unified Policing Model.

To deliver these programs, the AFP uses a number of strategies and ancillary services, including:

- Criminal investigations;
- Intelligence collection and dissemination, including a national surveillance capability;
- Covert operations;
- Technical intelligence services, including telecommunications interception and surveillance device capabilities;
- Drug-handling facilities and registries;
- Armouries;
- Internet policing;
- Aviation security;
- Protection services, including protection of dignitaries and witness protection;
- Forensic services; and
- International deployment.

To deliver these outcomes in 2009–10, the AFP's average staffing level is expected to be 5,361, at an anticipated cost of \$1.25 billion.

The AFP also provides a community policing service to the Australian Capital Territory (ACT), under arrangements made with the ACT Government. In 2009–10, the average staffing level for this service is estimated to be 904, at a cost of \$138.5 million.

In summary, the size, complexity, geographical spread, law enforcement methods, activities and information holdings of the AFP, mean that the agency operates in a high corruption risk environment. Some areas of its work are more susceptible to corruption than others (for example community policing, informant management, drug-handling and international deployment, particularly in cultures where corruption may be commonplace). Apart from the high inherent risk, these same factors also lead to the likelihood that sub-cultures could arise that, if unchecked, could undermine organisational integrity.

Particular risks

During the year, ACLEI collected information about a number of specific corruption risks. Where practical, the Integrity Commissioner has made suggestions to the agencies concerned, or to government, about improving the management of these risks.

Corruption ‘handshake’

The infiltration of public agencies and corruption of public officials, including police and other law enforcement personnel, are known methods used by criminal groups to hide or facilitate illicit enterprises.

If serious or systemic corruption were to occur in law enforcement, it would undermine the effectiveness of legitimate measures that are designed to protect the Australian economy, businesses and individuals from the threat of serious and organised crime. For this reason, the control of corruption in law enforcement is a concern of the Australian Government, and of ACLEI.

ACLEI describes the relationship between willing or vulnerable law enforcement agency staff members who cooperate with, or facilitate, the illicit activities of organised criminal groups as the ‘corruption handshake’.

Their role in fighting serious and organised crime places law enforcement agencies at the forefront of the risk of corruption. Law enforcement also necessarily entails activities with high corruption risk, such as:

- dealing direct with criminals, such as informers (and the attendant risk that improper associations may arise);
- discretion over the investigation, charging and arrest of individuals (with the risk of perverting the course of justice);
- holding or having access to law enforcement information data sources (with the risk of compromise to legitimate operations); and
- seizing and handling property, firearms and illicit drugs (with the risk of theft or tainting of evidence).

The law enforcement environment also carries other types of risk that present challenges for agencies to manage, for example:

- ‘misplaced loyalty’, due to the strong bonds between law enforcement officers;
- ‘noble cause’, where officers break the rules to get the job done ‘at any cost’; and
- ‘investigating the investigators’, where corrupt officers are skilled in countering standard detection and investigation methods.

During the year, as in past years, a number of corruption issues notified or referred to ACLEI had a possible connection to organised crime, as shown in Table Fourteen.

TABLE FOURTEEN: Corruption issues with a possible connection to organised crime

	NUMBER
Corruption issues received in 2008–09	8*
Corruption issues received in 2007–08	6
Corruption issues received in 2006–07	3
Total	17*

* Upon assessment, including the exchange of information with a State integrity agency, ACLEI established that one issue related to a State police force and did not involve members of an agency in ACLEI's jurisdiction.

Due to the serious possible consequences involved, ACLEI's focus is on collecting intelligence about exposing and preventing the law enforcement end of any 'corruption handshake' and on creating a law enforcement environment that counters this type of corruption. This strategic direction accords with the LEIC Act's requirement for the Integrity Commissioner to give priority to serious and systemic corruption.

Operational security breaches

The proper management of information relating to law enforcement operations is a constant and serious corruption risk. Allegations relating to breaches of operational security through inappropriate disclosure of operational information are among the corruption issues most frequently raised with the Integrity Commissioner.

The investigation of these types of incident is complex as quite often the improper activity has already occurred. Accordingly, investigations rely for their success on the use of covert methods, including surveillance and financial transaction analysis. A number of investigations of this type were in progress as at 30 June 2009.

As one way of addressing the problem generically, the Integrity Commissioner made a submission during 2008–09 to the Australian Law Reform Commission's *Review of Secrecy Laws*. The submission suggested that relevant laws should consider corruption to be an aggravating factor relating to the unauthorised disclosure of law enforcement information, and that higher penalty provisions should be enacted to reflect that principle.

Complacency and desensitisation

A number of corruption issues raised with ACLEI involve allegations or information about junior- or middle-level employees engaging in multiple incidents of potentially corrupt conduct. Upon assessment and investigation, one theme forming is that inattention from supervisors has contributed in some way to the conduct occurring or continuing.

One possible explanation is that not all forms of corruption are considered to be serious within some sections of the law enforcement culture, for instance due to desensitisation and over-familiarity with law enforcement powers, methods or equipment. As an example, this phenomenon was seen in relation to covert surveillance devices in the Integrity Commissioner's Investigation Report 01/2009 – *An investigation into allegations about the Australian Crime Commission relating to unfair dismissal proceedings, and certain other integrity matters*.

In response, ACLEI's educational activities emphasise the role of the manager as the 'front line' of corruption control, and to draw attention to the warning signs of particular types of corruption.

More focus will be given in future to dispelling the idea that some forms of corruption may be more acceptable than others. In preparation for that work, ACLEI has prepared a typology that illustrates the various forms of law enforcement corruption (see *What is law enforcement corruption?* on page 68). The central idea is that non-criminal forms of corruption (for instance, nepotism in promotions or maintaining improper associations with criminals) are no less serious than the forms of corruption that are also crimes.

It is envisaged that this model will be refined over time to ensure it remains relevant to its educational purpose.

WHAT IS LAW ENFORCEMENT CORRUPTION?

‘Corruption’ is a nebulous term, and is frequently misunderstood and misapplied. ACLEI uses a descriptive approach to give the term meaning in the law enforcement context.

Corruption involves improper actions or abuse of power and trust by an official. It entails conduct that undermines or misuses the legitimate functions of a law enforcement agency, or of a position within an agency, for criminal, political or personal purposes.

Identifying what makes conduct *corrupt* rather than simply *unlawful* or *unethical* is difficult. Corrupt conduct may involve a crime, but not always. A person could act lawfully, but corruptly. A person’s intention in acting in a particular way is relevant, but is not always the final factor in deciding if conduct were corrupt.

‘Corrupt conduct’ is defined in section 6 of the LEIC Act as applying to three categories of improper activity by a public official with law enforcement functions, namely conduct that is engaged in for the purpose of:

- abusing his or her office as a staff member of a law enforcement agency;
- perverting the course of justice; or
- corruption of any other kind, having regard to the duties and powers of the staff member.

The LEIC Act definition is deliberately broad, because corruption may involve a wide range of misconduct or behaviour, and because corruption is adaptable – like crime, it changes to take advantage of new opportunities.

The special role and powers of law enforcement agencies mean that corruption may manifest in particular ways within those agencies. Examples of behaviour that may indicate corruption in a law enforcement context are listed on the following pages.

ABUSE OF OFFICE

1. Conduct that seeks to gain profit or benefit for self or others

- accepting, receiving or seeking illegitimate rewards, 'kickbacks' and/or bribes for any service (including services that would normally be provided free of charge in the course of normal duties);
- providing preferential treatment in expectation of a reward;
- accepting, receiving or seeking rewards on behalf of another person, with or without that person's consent;
- accepting, receiving or seeking payment for any corrupt act;
- improperly selling services or information to any person;
- extorting, or attempting to extort, benefits of any kind; or
- stealing money, property or drugs during arrests, execution of search warrants or other contact with the public.

Profits and benefits do not need to be of a high value. They may include: money, drugs, sexual favours or any other items. Advantages or favours may be for self or other people or groups.

2. Conduct that uses proper powers and discretions for an improper purpose

- misusing legitimate authority to apply discretion such as:
 - 'turning a blind eye' to the criminal actions of friends, family or criminal associates;
 - punishing or investigating other people without adequate cause;
 - favouritism in the discharge of duties (for example issuing fines or other penalties to one group, but not to another).
- misusing detention powers, such as unwarranted arrest or misuse of bail procedures;
- misusing surveillance, telephone interception or search powers;
- knowingly providing incorrect information in an affidavit to obtain access to intrusive powers;
- using powers to blackmail, extort or threaten individuals or organisations;
- excessive use of force (or threats) with a purpose to elicit information or prevent information from coming forward (see also 5); or
- using privileged access to information for personal purposes.

3. Conduct that uses law enforcement functions to support or assist criminal activity

- participating in criminal activity, including using agency property, for example vehicles, uniforms, firearms or surveillance devices;
- offering or providing protection to criminal activity;
- offering or providing information to one or more criminal groups (see also 4);
- engaging in any activity that sabotages law enforcement efforts (see also 5);
- diverting law enforcement efforts or attention to, or away from, an activity in order to advantage one criminal group over another; or
- using poor investigation practices to evade scrutiny of criminal activity.

4. Conduct that misuses information* to support or assist criminal activity

- seeking or obtaining classified, sensitive, confidential or personal information, for any improper purpose;
- improperly seeking or obtaining information about law enforcement investigations, methods, processes or plans;
- providing or leaking information to unauthorised persons about individuals, witnesses, investigations or any aspect of law enforcement (including ‘backroom’ information not directly related to an investigation);
- providing or leaking information to unauthorised persons that may assist them in a criminal act or that may advantage one criminal group over another; or
- making unauthorised public comments about law enforcement methods, practices or targets.

* ‘Information’ may include:

- the personal or financial affairs of a colleague or law enforcement employee;
- witnesses, informers or anyone connected with an investigation or prosecution;
- criminal intelligence;
- assumed identities;
- detection or investigation methods;
- criminal methods;
- planned law enforcement actions or investigations (for example, a ‘tip-off’ about a pending execution of search warrants or a timetable for regulatory inspections or interdictions);
- information technology or computer databases (that may assist hackers); or
- anything else that could provide an advantage to criminal activity.

PERVERSION OF THE COURSE OF JUSTICE

5. Conduct that sabotages the impartial detection, investigation and prosecution of crimes

- agreeing to ‘look the other way’ when a crime is committed;
- interfering with evidence, including failure to properly collect or document evidence;
- planting, falsifying evidence or ‘verballing’ to get a conviction or to ‘frame’ a person;
- destroying evidence which could incriminate a suspect or clear another;
- withholding criminal intelligence or information from an investigation;
- laying false charges, not laying charges or laying lesser charges;
- committing perjury; or
- interfering with witness testimony or prosecution processes using bribery, extortion, blackmail or other promise, threat or inducement.

CORRUPTION OF OTHER KINDS, HAVING REGARD TO THE DUTIES AND POWERS OF THE STAFF MEMBER

6. Conduct that may assist infiltration of an agency by criminal or corrupt groups

- 'grooming' or introducing others to corruption opportunities;
- forging qualifications or references to get a job or help place a person in an agency;
- favouritism or nepotism in recruitment, promotion or transfer;
- passing on information about recruitment or promotion practices; or
- leaking information about individuals engaged in investigations, joint operations, taskforces, etc.

7. Conduct that places at risk the impartial function of an agency

- improperly associating with criminals;
- engaging in criminal or suspect activity, such as illicit drug-taking or heavy gambling;
- using the uniform to support private business, for example, to imply law enforcement support for a questionable activity; or
- using a police vehicle, firearm or other law enforcement-related property for private or illegitimate purposes.

8. Conduct that facilitates corruption

- failure to declare conflicts of interest or improper associations;
- failure of supervisor to manage or treat conflicts of interest raised or declared by staff;
- accepting a 'share' of profit or benefits from others' corrupt activities;
- failing to report corrupt activity or misconduct;
- attempting to cover up or hide misconduct or corrupt behaviour of self or others; or
- obstructing inquiries of the Integrity Commissioner and others responsible for investigating corruption and misconduct.

PART THREE

MANAGEMENT AND ACCOUNTABILITY

CHAPTER 8
CORPORATE MANAGEMENT

CHAPTER 9
ACCOUNTABILITY

CHAPTER 8

CORPORATE MANAGEMENT

This chapter provides an overview of ACLEI's corporate management and governance practices, financial and human resource frameworks, and security and information technology infrastructure.

The Integrity Commissioner, in his role as head of ACLEI, is responsible for managing the agency in a way that promotes the proper use of Australian Government resources while achieving high-quality outcomes. The key elements of the governance framework that apply to the Integrity Commissioner are specified in the *Financial Management and Accountability Act 1997* (the FMA Act).

The Integrity Commissioner, supported by the Executive Director and ACLEI's Corporate Management, has put in place a range of management processes and controls to ensure compliance with his responsibilities. These controls include:

- *Chief Executive's Instructions* (CEIs) that set out the agency's procedures for financial transactions and accountability;
- financial delegations and authorisations, consistent with the CEIs;
- senior management involvement in budget development, allocation and monitoring; and
- an Audit Committee that provides advice to the Integrity Commissioner about corporate and financial management.

As an additional control measure, the Integrity Commissioner established an internal Risk Committee during 2008–09, to be responsible for the implementation and regular review of ACLEI's Risk Management Plan.

The Integrity Commissioner and the Executive Director meet weekly with Corporate Management to oversee these financial and governance arrangements.

Corporate projects

In addition to day-to-day business activity, ACLEI's Corporate Management manages selected projects that contribute to improving ACLEI's governance, transparency and efficiency. These projects may relate to any of a broad range of specialised subjects, including Human Resources, Finances and Procurement, Audit, Governance and Reporting, Information Technology, Records Management, Ministerial and Parliamentary Liaison, Security, and Facilities Management.

Significant projects undertaken during the reporting year included the development of ACLEI's policy for the handling of personal information, negotiation of an agency Collective Agreement and the lease and fit-out of additional secure office and operational facilities.

In making the most efficient use of its resources, ACLEI also draws on external relationships and partnerships to achieve its corporate objectives. For instance, as an agency in the Attorney-General's portfolio, ACLEI receives cooperation and support from the Attorney-General's Department's corporate and policy areas. The Department's staff have readily provided advice, guidance and practical assistance in relation to ACLEI's various corporate projects.

ACLEI is grateful to the Department for its assistance during the year.

Handling of personal information

The acts and practices of ACLEI, including those of the Integrity Commissioner, are exempt from the *Privacy Act 1988*. Owing to the sensitive nature of the information that ACLEI holds, the Australian Law Reform Commission recommended that ACLEI develop information-handling guidelines.

Accordingly, in 2008–09, ACLEI began the development of a new Agency Policy Advice for *Handling of Personal Information*. The Advice will summarise in one document ACLEI's policies that relate to the: collection; safe storage; internal use; disclosure; access and correction; data breaches, loss or compromise; and disposal of personal information.

More information on the development of the Agency Policy Advice can be found at Chapter 9, *Privacy management*.

ACLEI Collective Agreement

In 2008–09, ACLEI entered into negotiations with staff with a view to developing a Collective Agreement with non-Senior Executive Service staff by 1 July 2009.

Negotiations with the employee group commenced in March 2009 and the Minister for Home Affairs approved a draft Agreement on 30 June 2009. On the same day, after approval by ACLEI and the employee group, the draft Agreement was submitted to the Workplace Authority for assessment and approval. The *ACLEI Collective Agreement 2009–12* came into effect on 31 August 2009, after the end of the reporting period.

New operations facility

The 2008 Federal Budget allocated \$750,000 for the fit-out of a secure operations facility for ACLEI. During the year, ACLEI's Corporate Management managed the lease, planning and fit-out of the new secure office accommodation and operational premises. This major project included specially designed facilities, such as:

- a designated room for conducting interviews with witnesses and informants;
- a secure room for larger confidential meetings;
- secure storage for evidence, equipment and records;
- facilities to support ACLEI's intelligence functions;
- dedicated accommodaton for ACLEI's legal practice;
- a separate taskforce suite to enable ACLEI to host joint investigations with external agencies without compromising the security of other ACLEI investigations; and
- an open-plan operations area designed to facilitate the flow of information between investigation and intelligence staff.

In order to meet ACLEI's security needs, ACLEI engaged an *Australian Government Security Construction and Equipment Committee*-endorsed security consultant to inspect construction works, test physical security measures and ensure ACLEI's compliance with relevant Australian Government security requirements. Also, an acoustic engineering consultant was engaged to ensure appropriate sound attenuation so that classified information can be securely discussed within ACLEI premises.

The new facility, due to open in August 2009, will better support the secure and effective running of ACLEI's operations.

Governance practices

The Integrity Commissioner is mindful that, as an integrity agency, ACLEI must establish and maintain strong internal governance arrangements. During 2008–09, ACLEI continued to implement and refine governance arrangements to meet the standards expected of an agency with ACLEI's role and powers.

Audit Committee

The ACLEI Audit Committee is established in accordance with section 46 of the FMA Act. Due to the limited size of ACLEI's management, the Audit Committee is a vital component of ACLEI's internal governance arrangements.

As required by section 2.1 of the *Financial Management and Accountability Orders 2005*, Terms of Reference set out the framework and objectives of ACLEI's Audit Committee, including the role, functions, membership and operation of the Committee.

The Audit Committee is appointed by, and is responsible to, the Integrity Commissioner for the provision of advice relating to:

- ACLEI's systems of internal control;
- management of risk;
- review of financial reporting and control of public money and assets; and
- compliance with relevant laws, rules, regulations and directions.

The Committee advises the Integrity Commissioner on the exercise of his executive powers. The Committee is also authorised to obtain any information to perform its role from any employee or external party, and access any documents held by ACLEI.

The Audit Committee comprises three members external to ACLEI and two ACLEI staff members, and is chaired by an external member. As a matter of convention, the Auditor-General is invited to nominate a representative to attend each meeting.

In 2008–09, the Committee comprised the following members:

- Mr Mark Hummerston, Assistant Privacy Commissioner (Committee Chair);
- Ms Elizabeth Kelly, First Assistant Secretary, Criminal Justice Division, Attorney-General's Department;
- Mr Jeff Smart, Manager Corporate Services, High Court of Australia;
- Mr Peter Bache, Acting Executive Director, ACLEI; and
- Mr Nicholas Sellars, Acting Director Policy and Research, ACLEI.

As a group, the three external members bring relevant experience to the Committee, including management at the Chief Executive level, senior management experience in anti-corruption and privacy agencies, and Chief Financial Officer experience in small to medium-sized Australian and State Government agencies. The two internal members bring knowledge and experience of ACLEI's day-to-day operations and strategic direction, as well as of investigations in an integrity and administrative law environment.

The Committee's strong external representation provides a breadth of experience and expertise that would, ordinarily, not be available within an agency of ACLEI's size. The Committee's oversight, largely coming from outside of ACLEI, also provides for an objective appraisal of ACLEI's performance.

The Committee met four times during 2008–09, in September and December 2008 and in March and June 2009. During the year, the Committee:

- reviewed and endorsed ACLEI's Certificate of Compliance framework;
- reviewed the 2007–08 Financial Statements Audit by the ANAO;
- received reports on external audit activity;

- oversaw internal audit activity for 2008–09, incorporating review of financial controls and handling of sensitive information;
- monitored progress against recommendations arising from both internal and external audit activity;
- endorsed ACLEI's three-year Strategic Internal Audit Plan;
- reviewed the agency's financial performance and endorsed the Financial Statements Preparation Plan for 2008–09; and
- oversaw ACLEI's fraud control framework and endorsed ACLEI's Risk Management Plan.

Throughout 2008–09, the Audit Committee provided advice to the Integrity Commissioner that led to the strengthening of ACLEI's governance practices and helped ensure that internal controls are appropriate, robust and effective. The Integrity Commissioner acknowledges the contributions made by the Audit Committee during the reporting period and thanks the members for their assistance.

Internal audit

ACLEI's Director of Corporate Management performs the role of Head of Internal Audit and manages internal audit activity. ACLEI has engaged Deloitte Touche Tohmatsu (Deloitte) to provide internal audit services.

Internal Audit reports to the Audit Committee, and the Head of Internal Audit is accountable to the Integrity Commissioner for the efficient and effective operation of the function.

At the beginning of 2008–09, ACLEI introduced a Strategic Internal Audit Plan to direct internal audit activity. ACLEI's management will review the rolling three-year plan at the beginning of each financial year. Following the management review, the plan is subject to annual assessment and endorsement by ACLEI's Audit Committee. In addition, the plan will be informed by agency strategic risk assessments to ensure that internal audit activity continues to assist in addressing areas of risk for ACLEI.

During 2008–09, two internal audits were conducted within this framework. The initial subjects for review were ACLEI's financial controls and the handling of sensitive information. These audits are summarised in the following sections.

Internal audit of financial controls

Deloitte was asked to audit ACLEI's compliance with internal policies and procedures, including CEIs and financial delegations, and with the FMA Act, the FMA Regulations and the *Commonwealth Procurement Guidelines* (CPGs), in relation to the following key financial controls:

- procurement (and compliance with the CPGs including the reporting of outcomes on AusTender);
- the efficient and effective use of public money;
- future spending proposals;
- compliance with delegations and the recording of spending approvals;
- appropriate use of credit cards and reconciliation processes for credit cards;
- timeliness of banking of public money; and
- completeness and timeliness of bank reconciliations.

In general, Deloitte found ACLEI's financial management practices to be sound, and compliant with the relevant legislation and regulations. Areas identified for potential enhancement included improving internal procedural documents governing financial administration, and further segregation of financial duties.

Recommendations arising from the audit report were accepted and implemented immediately wherever possible. In addition, the Integrity Commissioner intends to review the *Chief Executive's Instructions* during 2009–10 to ensure that they reflect ACLEI's business requirements.

Internal audit of handling of sensitive information

ACLEI asked Deloitte to audit information security within ACLEI, in particular to review and assess security processes for information collected in the course of investigations and in the gathering of operational intelligence.

Deloitte found ACLEI's information security practices to be robust and effective, and that operational information is well protected. Recommendations arising from the internal audit related to documentation of procedures, provision of formal training and increased complexity of system passwords. ACLEI has accepted the audit's recommendations and has taken action to implement improvements.

Agency risk management

Towards the end of 2007–08, ACLEI began the development of a Risk Management Plan for the agency. ACLEI's Risk Management Plan was implemented in 2008–09.

The Risk Management Plan provides guidance to all staff on the application of risk management to their work, with the aim of achieving a structured and consistent approach to risk identification, analysis, and treatment throughout ACLEI.

The Risk Management Plan includes a Strategic Risk Register which identifies risks, provides an analysis of likelihood and consequence of occurrence, and lists current risk mitigation strategies and controls, as well as longer term measures to further mitigate identified risks. In addition, the Strategic Risk Register helps to identify and prioritise issues for internal audit activity under ACLEI's Strategic Internal Audit Plan.

In addition, the ACLEI Risk Management Policy is intended to: protect assets; fortify business operations; map liabilities; contribute to legal compliance and due diligence; create an environment where staff are 'risk aware'; and assist with quality improvement.

During 2008–09, the Integrity Commissioner established a Risk Committee comprising the senior management of ACLEI. The Risk Committee meets quarterly and is responsible for:

- ensuring that risk in the agency is identified and assessed;
- assigning responsibility for active management of specific risks;
- regularly reviewing and assessing the effectiveness of risk mitigation strategies and measures; and
- ensuring that ACLEI's Strategic and Fraud Risk Registers remain current.

Business planning

In 2007–08, ACLEI began a planning process to align the business plans of each of ACLEI's functional areas with the Integrity Commissioner's strategic directions.

Accordingly, during 2008–09, ACLEI developed Section Business Plans that describe how the general focus of each section is aligned with ACLEI's strategic direction and list specific projects or bodies of work targeted at achieving ACLEI's strategic aims.

Section Business Plans are also linked to individual staff performance plans, developed under ACLEI's Program for Performance Improvement, to ensure that the work of each staff member contributes to the Integrity Commissioner's strategic objectives and to achieving the agency's formal outcome and output as set down in the Portfolio Budget Statements.

Business continuity

Information Technology disaster recovery and business continuity arrangements established with the Attorney-General's Department remained in place throughout 2008–09. These arrangements ensure the retention and accessibility of electronic agency information in the event of a disaster, and the subsequent resumption of business within appropriate time frames.

ACLEI's Risk Management Plan ensures that the risk of business interruption is assessed regularly and that business continuity and disaster recovery arrangements remain appropriate.

Fraud control

Consistent with the principles of good corporate governance and the requirements of the FMA Act and the *Commonwealth Fraud Control Guidelines*, ACLEI has adopted a number of strategies to identify and address fraud risks, including a rolling three-year Fraud Control Plan.

Accordingly, ACLEI assesses fraud risk and revises the Fraud Control Plan annually. The revised Fraud Control Plan for the period 2009–2011 was approved by the Integrity Commissioner following endorsement by ACLEI's Audit Committee at its meeting in June 2009.

The Integrity Commissioner is satisfied that, for the 2008–09 reporting period, ACLEI had appropriate fraud control mechanisms in place that met the needs of the agency and complied with the *Commonwealth Fraud Control Guidelines*.

The Integrity Commissioner has also submitted ACLEI's annual statistical return to the Australian Institute of Criminology, in accordance with Guideline 1.6 of the *Commonwealth Fraud Control Guidelines*.

There were no cases of suspected fraud in the reporting period.

Management of financial processes

As an assurance that agencies protect the public revenue, Australian Government agencies are required to remain accountable for their financial practices. Transparency, independent auditing and adherence to guidelines each help to ensure that this goal is met.

Financial Statements

The 2008–09 reporting period saw the preparation of a full set of Financial Statements within ACLEI for the first time, for the 2007–08 financial year. This project proved to be a challenging task for a new agency.

ACLEI achieved an unqualified assurance finding for its 2007–08 Financial Statements. ANAO's Audit Report recommended action to improve the overall preparation process, particularly in the areas of planning and provision of supporting documentation.

In response, ACLEI developed a *2008–09 Financial Statements Preparation Plan* and instigated processes to perform regular financial reconciliations and assemble supporting documentation. As a consequence, ACLEI approached the end of the reporting period with a more efficient process for the preparation of the 2008–09 Financial Statements.

ACLEI thanks the ANAO auditing staff for their patience and cooperation during the preparation of the 2007–08 Financial Statements.

Purchasing

The *Commonwealth Procurement Guidelines*, ACLEI's *Chief Executive's Instructions* and the *Financial Management and Accountability Act 1997* provide the framework for decisions concerning the purchase of goods and services.

Within this framework, ACLEI uses procurement methods that are both efficient and cost effective, and that take account of ACLEI's security needs, specialised role and small size. For instance, ACLEI has been able to access supply panels and providers already selected by or contracted to the Attorney-General's Department, provided the value of ACLEI's contract is under \$80,000.

Value for money is always the guiding principle in selecting providers of goods and services to ACLEI. One factor in these decisions is reliability, that is, the assurance that a product will be delivered on time, with minimal project management from ACLEI.

As in past years, a range of ongoing contracts provide for a variety of services, including internal audit, banking, payroll, and office cleaning.

Information on ACLEI's expenditure on contracts and consultancies is also available on the AusTender website, www.tenders.gov.au.

Consultants

During 2008–09, two new consultancy contracts were entered into involving total actual expenditure of \$19,925.00 (including GST). There were no ongoing consultancy contracts active in the reporting period, and no consultancies will extend into the 2009–10 reporting year.

One consultancy was to obtain specialist expertise for the independent review of an investigation, at a cost of \$18,000. A second consultancy contract related to specialist advice on employment matters.

Additional information on consultancy contracts to a value of \$10,000 or more appears at Appendix Five.

Competitive tendering and contracting

Competitive tendering and contracting activity relates to the contracting out of government activities, previously performed by a government agency, to another organisation. ACLEI has not let any contracts of this nature.

Exempt contracts

No contracts costing more than \$10,000 including GST have been exempted by the Integrity Commissioner from being published in AusTender on the basis that it would disclose exempt matters under the *Freedom of Information Act 1982*. No contracts were let that did not provide for the Auditor-General to have access to a contractor's premises.

Legal services expenditure

In accordance with the requirements of the *Legal Services Directions 2005*, issued by the Attorney-General under the *Judiciary Act 1903*, ACLEI reports that the total expenditure on external legal services in 2008–09 was \$29,013.16 (including GST). This expenditure was incurred only on solicitors' fees and no costs were recovered.

No external legal counsel was engaged during the period.

Internal legal employee expenses, comprising salaries and on-costs, are estimated to have cost \$270,178.99 (excluding GST).

Discretionary grants

ACLEI neither made nor administered any discretionary grants during the financial year.

Management of human resources

The Australian Government made additional funds available to ACLEI from 2008–09. Announced in the 2008–09 Federal Budget, these new funds recognise ACLEI's higher than anticipated workload, and the need to lease premises to accommodate extra staff.

The increase in base funding allowed ACLEI to raise its ongoing full-time staff numbers from nine in 2007–08 to 12 in 2008–09, including the Integrity Commissioner.

The size and complexity of ACLEI's workload has continued to grow. Consequently, during 2008–09, ACLEI sought approval to record an operating loss of up to \$0.392 million. The Minister for Finance and Deregulation approved the request, allowing ACLEI to access funds that had been appropriated for the agency in previous budget years, but not spent.

Consistent with the terms of the Minister's approval, the operating loss provision was used to engage additional non-ongoing staff for specific projects.

Organisational review

ACLEI commenced 2008–09 with a new staffing structure designed to improve the efficiency of internal management processes. ACLEI's staffing establishment of nine positions in 2007–08 was increased to twelve, with the addition of a Senior Executive Service (SES) Band 1 Executive Director, a Senior Investigator and an Intelligence Analyst.

Following assessment of duties and responsibilities against work level standards, two other positions were reclassified, namely Senior Lawyer to Principal Lawyer and Manager Corporate Management to Director Corporate Management.

ACLEI also revisited its organisational structure at intervals throughout the reporting period to ensure that the allocation of resources continued to address emerging priorities.

In the second half of 2008–09, the Integrity Commissioner reviewed ACLEI’s organisational structure to recognise the range of specialist skill sets required in a corruption investigation agency, to provide a stronger management regime to make best use of additional staff to be recruited in the 2009–10 year, and to promote intelligent workflow and integration between areas.

Accordingly, two new organisational sections (Strategic Intelligence; and Policy and Research) were added to the existing structure (Investigations; Legal Practice; and Corporate Management). These new arrangements are intended to support ACLEI’s capability to collect and analyse information and provide operational intelligence in support of current investigations.

With the release of the final tranche of the 2008–09 Budget increase, five more ongoing positions will be added to ACLEI’s establishment with effect from 1 July 2009.

Senior Executive Service

ACLEI had no permanent Senior Executive Service (SES) employee during the reporting period. As in the previous year, the SES Band 1 position of Executive Director was occupied on a non-ongoing basis. The position was readvertised in June 2009 with a view to making a permanent appointment in 2009–10.

Staffing profile and remuneration

During 2008–09, ACLEI had ongoing funding for twelve positions, including the Integrity Commissioner. An approved operating loss, previously noted, allowed for the employment of additional temporary and seconded staff to undertake specific projects.

ACLEI began the reporting period with eight of the twelve establishment positions filled on an ongoing basis and five seconded or non-ongoing staff.

During 2008–09, ACLEI began recruitment action with a view to filling permanently the remaining ongoing positions, although not all of the recruitment was completed within the reporting period. ACLEI employed two more staff on a non-ongoing basis and seconded a further two staff from other agencies.

Two staff members left ACLEI during the reporting period, on promotion to other public service agencies. An other employee remains on a long-term period of Defence Leave that commenced in 2007–08.

As a result, ACLEI’s actual staffing profile at 30 June 2009 consisted of nine ongoing staff, supplemented by six temporary or seconded staff, a total of fifteen people.

During 2008–09, ACLEI also retained three staff on a casual basis at various times.

Table Fifteen sets out ACLEI’s salary bands for each level, provides a breakdown of gender and employment types, and includes acting arrangements as at 30 June 2009.

TABLE FIFTEEN: Staffing profile at 30 June 2009

CLASSIFICATION	ONGOING		NON-ONGOING		TOTAL
	MALE	FEMALE	MALE	FEMALE	
Statutory Office Holder	1 (1)	—	—	—	1 (1)
SES Band 1 (\$126,940)	1** (1**)	—	—	—	1 (1)
EL 2 (\$99,822 – \$112,481)	2 (1**)	—	1**+ 2* (0)	—	5 (1)
EL 1 (\$81,200 – \$98,678)	0 (2)	1 (0)	1** (1*)	1* (2*)	3 (5)
APS 6 (\$63,662 – \$73,131)	1 (1)	2 (1)	0 (1*)	1 (0)	4 (3)
APS 5 (\$58,945 – \$62,504)	—	—	—	—	—
APS 4 (\$52,847 – \$57,381)	—	1 (1)	—	0 (1)	1 (2)
APS 3 (\$47,418 – \$51,177)	—	—	—	—	—
APS 2 (\$41,632 – \$46,165)	—	—	—	—	—
APS 1 (\$36,785 – \$40,656)	—	—	—	—	—
Sub-total	5 (6)	4 (2)	4 (2)	2 (3)	
Total	9 (8)		6 (5)		15 (13)

Figures in (brackets) are for staffing numbers at 30 June 2008.

Notes:

* temporary transfers: staff who are ongoing staff seconded from other government agencies

** acting appointment

In 2007–08, casual staff were reported in the staffing profile table. This situation is no longer the case for 2008–09. Accordingly, the figures relating to 30 June 2008 have also been revised to exclude casual staff.

Non-salary benefits

As was the case in the previous year, benefits available to all ACLEI staff during the period included salary packaging, free influenza vaccinations, a reimbursement program for spectacles, and conference and study leave (discussed further under Staff performance and development). ACLEI also offered limited financial assistance for health and wellbeing activities and equipment.

During 2008–09, ACLEI entered into arrangements to offer employee assistance services, including confidential professional counselling.

Performance payments

ACLEI does not have a system of performance payments.

Senior Executive remuneration

As a statutory officer, the salary and allowances of the Integrity Commissioner are determined by the Remuneration Tribunal. The Tribunal's determinations are published on its website www.remtribunal.gov.au.

The remuneration for the Senior Executive Service (SES) position at ACLEI is determined by the Integrity Commissioner, taking into account previous experience, qualifications and achievements, and comparisons with SES officers in other agencies.

The annual salary rate for the SES position at 30 June 2009 was \$126,940.

Workplace agreements

During the reporting period, the salaries and conditions of ACLEI staff were governed in three ways: by individual Australian Workplace Agreements (AWAs); Common Law Contracts; and the *Public Service Award 1998*, supplemented by determinations made by the Integrity Commissioner under section 24(1) of the *Public Service Act 1999*.

The variety of employment arrangements arose because of new workplace relations regulations that applied from February 2008, and the transition from AWAs to a Collective Agreement framework, in line with Government policy.

Employment arrangements at ACLEI will be simplified significantly during 2009–10, with the commencement of the ACLEI Collective Agreement. The Collective Agreement will cover all ACLEI staff below the level of SES.

The draft Collective Agreement was approved by the Minister for Home Affairs on 30 June 2009 and was submitted at that time to the Workplace Authority. The *ACLEI Collective Agreement 2009–12* came into effect on 31 August 2009, after the end of the reporting period.

Security requirements

All ACLEI positions are Designated Security Assessed Positions. All employment at ACLEI is contingent on obtaining and maintaining a satisfactory security assessment, relevant to the employee's access to operational information. Currently, the minimum security requirement for all ACLEI operational positions is 'Top Secret', and 'Secret' for administrative staff.

Upon their commencement, ACLEI staff are also required to submit a Declaration of Private Interests to the Integrity Commissioner and to update that declaration as their personal circumstances change. This requirement ensures that any potential conflicts of interest associated with ACLEI employment are identified and appropriate action is taken.

Staff performance and development

ACLEI's Program for Performance Improvement is a part of ACLEI's staff development and retention strategy. It provides the basis for managing the performance of staff, and for aligning individual efforts and development with the achievement of operational and business objectives.

In 2008–09, the Program was integrated with ACLEI's business planning process, by linking individual performance plans to Section Business Plans, as described under *Business planning* in this report.

In addition, the Program links staff performance to incremental salary advancement.

ACLEI staff have the opportunity to identify preferred training and workplace development. In particular, staff are encouraged to undertake activity that aligns with the Australian Public Service Commission's Integrated Leadership System and contributes to development of generic leadership capabilities and foundation skills.

During 2008–09, staff attended a range of relevant training courses, conferences and mentoring sessions in line with performance assessment discussions held as part of the Program. The skills and knowledge gained by staff has supported ACLEI's development and growth over the reporting period.

As part of ACLEI's staff development and retention strategy, staff may also be eligible for support under the Studies Assistance Policy. The Policy provides for access to study leave where formal study is relevant to the work of ACLEI and is either consistent with the individual's work responsibilities or assists with career development.

During 2008–09, study leave was granted to three staff members to assist them to undertake undergraduate or graduate studies in subjects relevant to ACLEI's activities: law; management; and policing, intelligence and counter-terrorism.

Occupational Health and Safety (OH&S)

ACLEI is committed to providing a safe and secure workplace for staff and visitors. ACLEI's Corporate Management is responsible for developing and implementing the agency's Health and Safety Management Arrangements, in accordance with the *Occupational Health and Safety Act 1991* (OH&S Act).

As part of these Arrangements, a Health and Safety Representative has been appointed and provided with appropriate training.

As an organisation with less than 50 employees, ACLEI is not required to establish an OH&S Committee. Health and Safety issues are, however, addressed as a standing item once a month at a meeting of all agency staff. At all times, employees have direct access to the Health and Safety Representative as well as to Corporate Management staff.

During 2008–09, staff members were provided with ergonomic workstation assessments and recommendations arising from those assessments were implemented.

No incidents were reported to Comcare Australia under the reporting requirements of section 68 of the OH&S Act, and no OH&S investigations were conducted during the reporting period.

In accordance with section 74(1)(f) (Certain matters to be included in annual reports) of the OH&S Act, ACLEI reports that there were no directions or notifications made relating to ACLEI under sections 29 (Provisional improvement notices), 45 (Power to direct in writing that workplace etc not to be disturbed), 46 (Power to issue prohibition notices) and 47 (Power to issue improvement notices) of the OH&S Act.

Information technology

ACLEI and the Attorney-General's Department have a Memorandum of Understanding relating to ACLEI's Information and Communications Technology (ICT) requirements. The Memorandum of Understanding expires in June 2010.

Under that agreement, ACLEI procures and owns the necessary infrastructure and equipment, while the Department provides the Help Desk services, technical expertise, file backup and system security management that ACLEI requires for its operations. In addition, the Department provides assistance with ACLEI's electronic records management and hosting of the ACLEI web site.

This arrangement provides several advantages to ACLEI, including: a high level of service provision at reasonable cost; access to the Department's full range of ICT expertise; access to high-level computer applications which otherwise would be financially out of reach; data backup and business continuity; and a high level of assurance with regard to ICT security.

Electronic Records Management

Towards the end of 2007–08, ACLEI decided to move its official records to an electronic records management system. This undertaking was intended to enhance staff access to corporate records, improve transparency and accountability within the agency, and better enable compliance with the *Archives Act 1983* and other document handling standards.

Accordingly, the Attorney-General's Department created a segmented version of the Department's Electronic Document Management System (EDMS) for ACLEI's exclusive use. Early in 2008–09, ACLEI began creating new electronic records and back-capturing previously created records within the new EDMS environment.

Soon afterwards, the Department undertook an upgrade of its EDMS. Due to staffing constraints, the Department was unable to include ACLEI's environment in the upgrade and ACLEI's access to the EDMS was blocked. The back-capturing of records and creation of new records will resume late in 2009 when the upgrade of ACLEI's version of the EDMS is expected to occur.

Records relating to corruption issues are already stored electronically on a separate case management system that is accessible only to operations staff and their supervisors. ACLEI expects that the case management system will also be upgraded in 2009–10.

Secure ICT Network

From the commencement of ACLEI's operations in 2007, all information and records with security classifications above "Restricted" have been created and stored on secure, stand alone computers.

In 2008–09, under an agreement with the Attorney General's Department, ACLEI piloted the introduction of new technology to enable the creation and storage of highly classified information and records on a secure ICT network. The system facilitates secure electronic communications between ACLEI investigators within the office, and allows secure data transfer with other agencies.

The pilot has proved successful and, subject to agreement with the Department on support arrangements, the new technology will be installed for wider use by ACLEI's Operations and Legal staff from 2009–10.

ACLEI is also investigating solutions for high-speed remote access to the secure network, so as to facilitate field-based work.

Security

Due to the nature of ACLEI's work and the sensitivity of information held, ACLEI has physical security measures in place to protect ACLEI staff, information and assets. ACLEI occupies secure premises and operates under an Agency Security Plan based on the requirements of the *Australian Government Protective Security Manual 2005*.

A comprehensive review of ACLEI's security risks and measures had been scheduled for the reporting period. As described in this report, however, in 2008–09 ACLEI: piloted a secure ICT network; commissioned new secure premises for its operations staff and classified records; and performed an internal audit of its information security processes. Together, these activities involved the assessment and treatment of the major security risks to ACLEI's operations, and the planned security risk review was suspended. ACLEI's security risks and measures will continue to be assessed regularly as part of ACLEI's Risk Management Plan.

Other corporate issues

Listing of file titles

ACLEI complies with Senate Order J.270, as amended on 3 December 1998 (J.265). Accordingly, ACLEI places indexed lists of file titles on the ACLEI internet website, excluding those file titles or parts of file titles that relate to internal administration or would disclose commercially confidential, personal, or national security matters. The listings, produced twice yearly, are available on ACLEI's website at www.aclei.gov.au.

Environmental performance

ACLEI employs energy saving methods to make the best use of resources, reduce energy consumption and promote sustainability. ACLEI has implemented a number of initiatives to ensure issues of environmental impact are addressed.

ACLEI uses an 80–20 (80 per cent recycled–20 per cent new/virgin paper) for photocopying non-corporate documents and purchases recycled paper writing pads. Where possible, documents are printed or reproduced using both sides of the paper. Routine office procedures, such as leave approval and travel requisition, are performed electronically.

The empty toner cartridges from the unclassified facsimile are recycled. ACLEI uses waste recycling services for all unclassified paper waste.

Preference is given to environmentally-friendly products when purchasing office supplies. Purchase or leasing of ‘Energy Star’ rated office machines and equipment is encouraged, as are machines with ‘power save’ features.

The new office and operational accommodation leased in 2008–09 has low energy lighting installed throughout.

Secure storage for bicycles is also provided for staff who choose to ride to work.

Commonwealth Disability Strategy

The Commonwealth Disability Strategy was developed in 1994 as a planning framework to assist Australian Government agencies meet their obligations under the *Disability Discrimination Act 1992*. Until June 2007, agencies were required to provide performance information about the Strategy in annual reports. However, this information is now consolidated and reported in the Australian Public Service Commission’s annual *State of the Service* report.

Advertising and market research

ACLEI did not conduct any general advertising, market research, polling, direct marketing or any other form of advertising campaign during the reporting period.

Internet presence

The ACLEI website, www.aclei.gov.au, provides information about ACLEI and the Integrity Commissioner.

Inquiries about ACLEI, including reporting a corruption issue, can be sent to ACLEI by e-mail at contact@aclei.gov.au.

CHAPTER 9

ACCOUNTABILITY

This chapter describes ACLEI's external and internal accountability regimes.

As an integrity agency, ACLEI is expected by Government, the public and law enforcement agencies to achieve high standards of ethics and practice. Maintaining these parties' confidence in the integrity and efficiency of ACLEI is essential to its role.

The powers and authority provided by Parliament to the Integrity Commissioner are substantial. A variety of safeguards are in place to ensure that these powers are used lawfully, fairly and appropriately. A number of these safeguards take the form of external checks, while others are administered by the Integrity Commissioner as ACLEI's head of agency.

Parliamentary Joint Committee on ACLEI

Part 14 of the LEIC Act establishes the Parliamentary Joint Committee on ACLEI (the Committee). The duties of the Committee include to:

- monitor and review the Integrity Commissioner's performance of his or her functions;
- report to both Houses of Parliament, with such comments as it thinks fit, on any matter connected with the performance of the Integrity Commissioner's functions or relating to ACLEI that the Committee considers should be directed to the attention of Parliament;
- examine each annual report and any special reports and report to the Parliament on any matter appearing in, or arising out of, any of those reports;
- examine trends and changes in law enforcement in so far as they relate to corruption, corruption generally in Commonwealth Government Agencies with law enforcement functions; and
- report to the Parliament on any changes that the Committee thinks desirable to the Integrity Commissioner's functions or powers, the procedures followed by the Integrity Commissioner or ACLEI's structure.

The Committee is also a counter-balance to ACLEI's part exemption from accountability mechanisms that apply to administrative agencies of government, such as the *Archives Act 1983* and the *Privacy Act 1988*, and section 13 of the *Administrative Decisions (Judicial Review) Act 1977* concerning the requirement to give a statement of reasons.

Membership

At the beginning of the 2008–09 reporting year, Ms Melissa Parke MP commenced as Chair of the Committee. Senator Concetta Fierravanti-Wells continued as Deputy Chair until October 2008. Other members during 2008–09 have included Senators Carol Brown, Doug Cameron, Steve Fielding, the Hon. David Johnston and Stephen Parry, Mr Darren Chester MP, Mr Jason Clare MP, Mr Chris Hayes MP, the Hon. Sussan Ley MP and the Hon. Christopher Pyne MP.

Senator Johnston was elected as the Deputy Chair in October 2008 to replace Senator Fierravanti-Wells.

At the commencement of 2009–10, the Committee's Chair remains Ms Melissa Parke MP and the Deputy Chair is Senator the Hon. David Johnston. Other members are Senators Carol Brown, Doug Cameron, Steve Fielding and Stephen Parry, Mr Darren Chester MP, Mr Chris Hayes MP and the Hon. Sussan Ley MP. The Hon. Bob Debus joined the committee after the end of the reporting period.

The Committee's website is: www.aph.gov.au/Senate/committee/aclei_ctte/

Committee Briefings

From time to time, the Committee invites the Integrity Commissioner to attend private meetings for the purposes of providing briefings to the Committee, and to answer questions.

With limited exception, the Integrity Commissioner must give to the Parliamentary Joint Committee on ACLEI information it requests about an investigation. With the leave of the Committee, this information may be provided in private to protect the reputations of individuals against unfair exposure to criticism, or to protect against the compromise of ongoing investigations.

The Integrity Commissioner and senior ACLEI staff met in private with the Committee on 16 October 2008 and on 26 February 2009. Issues discussed at these meetings included: ACLEI's resourcing; apparent delays in certain investigations; employment arrangements in law enforcement agencies; and ACLEI's procedures in relation to informants.

Examination of the 2007–08 Annual Report

One of the Committee's duties is to examine each year the Integrity Commissioner's annual report.

On 13 March 2009, the Integrity Commissioner and other ACLEI staff appeared as witnesses at a public hearing held as part of the Committee's examination of the 2007–08 annual report. The Committee's report of the examination was presented to the Parliament in June 2009. A copy of that report can be obtained from the Committee's website, www.aph.gov.au/Senate/committee/aclei_ctte/.

The Committee commented that the 2007–08 year was a period of learning and consolidation for ACLEI, that ACLEI had made a smooth transition to corporate autonomy and that the strengthening of ACLEI’s internal governance arrangements provided a firm basis on which to build.

Senate Estimates

Estimates of government expenditure are referred to Senate committees as part of the annual Budget cycle. This opportunity to examine the operations of government plays a key role in the parliamentary scrutiny of the executive.

ACLEI responds to the Senate Standing Committee on Legal and Constitutional Affairs. At a public hearing, agency officials are questioned by members of the Senate Committee about the objectives, operational procedures and efficiency of the programs for which they are responsible.

The Senate Committee has no power to take evidence in private and all documents officially received as evidence by the committees become public documents.

The Integrity Commissioner appeared before the Senate Committee on 20 October 2008 and on 26 May 2009. The proceedings of these hearings are published on the Parliament of Australia website, www.aph.gov.au.

Process accountability

Many of ACLEI’s powers require the prior approval of an external authority, usually a Judge, a Federal Magistrate or a nominated Member of the Administrative Appeals Tribunal. Examples include:

- a search warrant (section 108 of the LEIC Act or Part 3–5 of the *Proceeds of Crime Act 2002*);
- a warrant to use or retrieve a data surveillance device, a listening device, an optical surveillance device or a tracking device (*Surveillance Devices Act 2004*);
- a warrant to intercept telecommunications or access stored communications (*Telecommunications (Interception and Access) Act 1979*); and
- an order that a person deliver his or her passport to the Integrity Commissioner (section 97 of the LEIC Act) or for an arrest warrant following a failure to surrender a passport (section 99 of the LEIC Act).

The Integrity Commissioner may give authorised ACLEI officers the authority to exercise other powers granted by law. In such cases, the relevant legislation also authorises the Commonwealth Ombudsman to inspect records relating to the authorisation and other

matters surrounding the exercise of the power. In some circumstances, the admissibility of the evidence collected through the exercise of a power may also be subject to review in a court. Examples include:

- controlled operations (Part 1AB of the *Crimes Act 1914*); and
- emergency authorisations to use or retrieve surveillance devices (*Surveillance Devices Act 2004*).

Some laws applying to ACLEI also provide that the use of some powers must be reported to the Attorney-General, and in some cases to the Parliament. These include:

- a warrant to use or retrieve a data surveillance device, a listening device, an optical surveillance device or a tracking device (*Surveillance Devices Act 2004*);
- a warrant to intercept telecommunications or access stored communications (*Telecommunications (Interception and Access) Act 1979*);
- controlled operations (Part 1AB of the *Crimes Act 1914*); and
- assumed identities (Division 6, Part 1AC of the *Crimes Act 1914*).

In combination, these requirements ensure that the granting of intrusive powers is subject to a rigorous process that provides safeguards against their misuse.

In addition, the exercise of intrusive powers is restricted to a person specifically authorised by the Integrity Commissioner. Under the LEIC Act, such a person must be a staff member of ACLEI and either a member of an Australian police force or a person who the Integrity Commissioner considers has suitable qualifications or experience.

As an additional safeguard, relevant legislation also provides for a range of offences for making false statements to obtain warrants or authorisations, and executing warrants without authorisation.

Judicial review

The authorities and powers of ACLEI and the Integrity Commissioner are open to review before the courts, as with any other government agency exercising law enforcement powers.

An ACLEI staff member is not liable to civil proceedings in relation to an act done, or omitted to be done, in good faith in the exercise of the staff member's powers or duties (section 222 of the LEIC Act). Similarly, an ACLEI staff member may not be compelled to give evidence in third party court proceedings (section 211).

There were no court or tribunal proceedings involving ACLEI or the Integrity Commissioner in the reporting period.

There were also no applications made under the *Administrative Decisions (Judicial Review) Act 1977* for orders of review in respect of any matter arising under the LEIC Act.

Commonwealth Ombudsman

The Commonwealth Ombudsman contributes to ACLEI's accountability in three important ways: independent investigation of complaints about ACLEI; 'own motion' investigation into matters of ACLEI's administration; and monitoring ACLEI's compliance with legislation relating to use of certain intrusive and covert powers.

Complaint handling

A person dissatisfied with ACLEI may complain to the Integrity Commissioner. Should the matter remain unresolved, the person may refer the complaint to the Commonwealth Ombudsman who will decide how the matter will be handled.

No investigations into complaints about ACLEI were notified to the Integrity Commissioner by the Commonwealth Ombudsman during the reporting period.

Own motion investigations

The Commonwealth Ombudsman may also decide to inquire into matters of administration on his or her own motion. In doing so, the Ombudsman may use the coercive information-gathering powers provided for in the Ombudsman Act. The Ombudsman can provide an investigation report to the Prime Minister, and may also decide to make an investigation report public.

No own motion investigations involving ACLEI were notified to the Integrity Commissioner by the Commonwealth Ombudsman during the reporting period.

Inspections and monitoring

ACLEI's use of certain intrusive or covert powers is subject to the inspection and monitoring of the Commonwealth Ombudsman. Inspections are made at least annually, and the Ombudsman may also inspect ACLEI's records at any time. The Ombudsman is required to report annually to the Parliament on the comprehensiveness and adequacy of ACLEI's records relating to the use of these powers.

The records that are subject to inspection relate to powers exercised under the following Acts:

- *Surveillance Devices Act 2004*;
- *Telecommunications (Interception and Access) Act 1979*; and
- Part 1AB of the *Crimes Act 1914* (controlled operations).

In addition, section 218 of the LEIC Act requires the Commonwealth Ombudsman to provide at least once a year a briefing to the Parliamentary Joint Committee on ACLEI about the Integrity Commissioner's involvement in controlled operations. The Committee meets in private for this purpose.

As ACLEI has not used powers that are subject to inspection, formal inspections by the Ombudsman returned a 'nil result'.

Auditor-General

The Auditor-General is responsible under the *Auditor-General Act 1997* for providing auditing services to the Parliament and public sector agencies such as ACLEI. The ANAO supports the Auditor-General, who is an independent officer of the Parliament.

As well as financial audits, the ANAO may conduct performance audits of selected areas of public administration. The ANAO has recourse to extensive powers of access to Commonwealth documents and information to support its role.

ACLEI was not subject to performance audit by the Auditor-General in the reporting period.

Freedom of Information

The *Freedom of Information Act 1982* (the FOI Act) extends the right of access to information in the possession of the Australian Government and its authorities.

The legislation achieves this aim by requiring agencies to:

- publish information about their operations and powers as well as their manuals and other documents used in making decisions and recommendations affecting the public; and
- provide access to their documents unless the document is within an exception or exemption specified in the legislation.

It is not possible to obtain access to all documents in the possession of ACLEI and the Integrity Commissioner, as confidentiality must be maintained to protect the public interest and the private and business affairs of persons and organisations in respect of whom information is collected. Disputes about decisions relating to Freedom of Information can be heard by the Administrative Appeals Tribunal, or a complaint (for example, about delay) can be made to the Commonwealth Ombudsman.

ACLEI contributes quarterly and annual returns for the Attorney-General's report to Parliament under section 93 of the FOI Act.

In the reporting year, ACLEI received one request for access to documents under the FOI Act, and no requests for correction or amendment.

See Appendix Four for ACLEI's *Freedom of Information Statement*, made under section 8 of the FOI Act.

Internal accountability

The Integrity Commissioner intends that ACLEI maintains high standards in investigation practice and accountability. This principle has guided the continued development of policies and practices during the year. In addition to the measures described in this section, Chapter 8 of this report summarises ACLEI's corporate and financial accountability controls.

Operational procedures

The Integrity Commissioner has made it a priority to establish clear policy and procedures manuals to guide ACLEI's work, to set appropriate standards, and to communicate expectations.

The Integrity Commissioner publishes a comprehensive set of 'Practice Notes' on ACLEI's website. These Notes, which are amended from time to time, set out the Integrity Commissioner's procedures for conducting hearings, whether in private or in public, including the rights of witnesses and their legal counsel.

ACLEI also has in place a number of operational guidelines. For instance, relating to the use of surveillance devices, telecommunications interception, controlled operations, assumed identities, informant handling, exhibit handling, forensic procedures and witness protection. The guidelines take into account the experience of similar agencies and guidance provided by prosecutorial authorities. They also comply with the Australian Government Investigation Standards.

ACLEI regularly reviews its operational policies and procedures. These reviews are conducted both formally, through post-investigation and assessment analysis, and informally, as the use of a broader range of investigation methods leads to operational learnings.

A formal review of operational policies and guidelines, foreshadowed in previous annual reports, was conducted in 2008–09. As a result, new guidelines have been drafted and it is intended that they will be finalised in 2009–10.

During 2008–09, the use of a wider range of investigation methods and the recent expansion of ACLEI's intelligence capacity has prompted the design of new operational practices and procedures. These developments include: intelligence collection plans; an intelligence-led assessment process for new corruption issues; and procedures for the collection, storage, analysis and dissemination of intelligence relating to corruption issues.

Performance reviews and monitoring

Maintaining confidence in the integrity and efficiency of ACLEI is essential to the achievement of ACLEI's objectives.

ACLEI recognises the need to ensure adherence to operating procedures approved by the Integrity Commissioner and to demonstrate the responsible exercise of the powers that are provided for in legislation. All proposals to use ACLEI's coercive information-gathering and intrusive law enforcement powers must be approved by the Integrity Commissioner. Each decision is accompanied by a contemporaneous record of the decision and the reasons for it.

ACLEI regularly reviews the use and storage of information sourced from government and other external databases to ensure that internal safeguards are adequate and that staff adhere to them.

There is also a need to learn from key operations, make assessments about how well ACLEI performed in response, and to address any shortcomings in ACLEI's performance. ACLEI conducts post investigation and assessment analysis which informs changes in policy and practice.

In 2008–09, the Integrity Commissioner created the Corruption Issue Assessment Group, consisting of the Integrity Commissioner, the Executive Director and the Directors of Intelligence and Investigations, and sometimes includes the Principal Legal Officer. The Group meets on a weekly basis to discuss the investigation and assessment caseload, including prioritisation of cases. This arrangement provides a regular forum to examine the performance of ACLEI's operations and allows for close monitoring of operational practices and the use of investigative methods, particularly those involving coercive or intrusive powers.

An Operations Coordination Group, chaired by the Executive Director, supports the Corruption Issue Assessment Group by implementing its decisions, including those relating to performance improvement or changes in priority.

Privacy management

The acts and practices of ACLEI, including those of the Integrity Commissioner, are exempt from investigation by the Privacy Commissioner under the *Privacy Act 1988* (the Privacy Act). This situation also means that ACLEI is not bound by the Information Privacy Principles of the Privacy Act.

The Integrity Commissioner recognises the importance of appropriate handling of personal information. For instance, ACLEI's investigations may attract publicity and have the potential to have a significant impact upon individuals associated with an investigation, regardless if corrupt conduct were to be found. Unauthorised releases of information may result in unfair harm to the reputations of witnesses, or even risk their physical security. In addition, ACLEI holds information about employees and others who contact ACLEI in the normal course of business.

The Australian Law Reform Commission's (ALRC) 2008 report *For Your Information: Australian Privacy Law and Practice* (Report 108) noted the sensitive nature of ACLEI's operations; the specific confidentiality provisions of the LEIC Act; and ACLEI's separate system of accountability and oversight. Accordingly, the ALRC recommended that ACLEI remain exempt from the Privacy Act, but develop information-handling guidelines.

In 2008–09, ACLEI began the development of a new Agency Policy Advice for *Handling of Personal Information*.

The draft Agency Policy Advice is informed by the Information Privacy Principles and complements ACLEI's confidentiality obligations under sections 207–211 of the LEIC Act, the applicable secrecy provisions of other specific Acts under which ACLEI operates, and section 70 of the *Crimes Act 1914* which creates an offence for unauthorised disclosure of information by public officers.

It is expected that, following consultation with the Privacy Commissioner, the Agency Policy Advice will be approved in mid 2009–10. An internal audit concerning ACLEI's handling of information is scheduled to commence in early 2010.

Inculcating ethical standards

As an integrity agency, ACLEI sets high standards with regard to operational security and ethical behaviour. Consistent with ACLEI's understanding of corruption prevention, a mixture of methods are employed to achieve high ethical standards. The measures include technology-based assurance, background checking, supervision and reinforcement of values and obligations, as follows:

- All ACLEI positions are Designated Security Assessed Positions. Security requirements involve extensive background checking, proportional to each employee's potential access to official information.
- The confidentiality requirements for ACLEI staff at section 207 of the LEIC Act are brought to the attention of staff at the commencement of employment or secondment to ACLEI. So too are the relevant provisions of the *Public Service Act 1999*, including the Australian Public Service (APS) Values (section 10) and APS Code of Conduct (section 13) and related misconduct procedures. These obligations are reinforced on a regular basis.
- Individual staff performance plans, developed under ACLEI's Program for Performance Improvement, help to ensure that each staff member adheres to policies and standards.
- During the reporting period, the Australian Public Service Commission launched the Ethics Advisory Service to provide advice to APS employees on ethical issues in the workplace. ACLEI has appointed an ethics contact officer to act as a point of contact for staff and to provide on-site assistance and advice.

- Underlining ACLEI's commitment to ethical standards, a comprehensive set of Agency Policy Advices are in place. These Advices include policies to deal with: conflicts of interest, harassment in the workplace, acceptance of gifts and benefits, breaches of the APS Code of Conduct, 'whistleblowing', outside employment, flexible working arrangements, email and internet policy, recruitment, employee separations, access to personal records, official travel, use of mobile phones, and approved use of identity cards and badges. Agency Policy Advices are reviewed over time and updated as necessary.
- Other fraud avoidance strategies, such as protections against misuse of ACLEI's corporate credit cards, are managed through the *Chief Executive's Instructions*. In addition, the ACLEI Audit Committee and internal audit provider have a role in scrutinising ACLEI's practices and performance relating to accountability.

Integrity assurance measures

The LEIC Act recognises that, from time to time, there may be a need to investigate allegations or information about possible corrupt conduct relating to members of ACLEI's staff.

Part 12 of the LEIC Act makes provisions for dealing with 'ACLEI corruption issues' (as defined by the Act) that relate to the conduct of the Integrity Commissioner or ACLEI current or former staff members. For example, all allegations of corruption that implicate the Integrity Commissioner must be directed to the Minister.

Any person may raise a concern with the Integrity Commissioner about the conduct of ACLEI staff. As an integrity assurance measure, section 174 of the LEIC Act creates an offence with a maximum penalty of imprisonment for six months, where the Integrity Commissioner or ACLEI staff fail to report an ACLEI corruption issue.

Accordingly, the LEIC Act establishes a mechanism whereby the Minister can arrange for these corruption issues to be investigated independently by a Special Investigator, using the same coercive powers that are available to the Integrity Commissioner.

The *Law Enforcement Integrity Commissioner Regulations 2006* (regulation 22(e)) prescribe that a summary of any investigation relating to an ACLEI corruption issue that is concluded during the year is published in the Integrity Commissioner's annual report.

One ACLEI corruption issue was notified to the Minister during 2008–09, and the investigation concluded in the same year.

Investigation summary

During the reporting year, a person (the informant) raised with the Integrity Commissioner a concern about the conduct of an ACLEI staff member.

Specifically, the informant alleged that the staff member had improperly influenced the outcome of ACLEI's assessment of a corruption issue, due to a conflict of interest caused by the staff member's association with one or more of the persons of interest in the issue under assessment.

In accordance with the LEIC Act, the Minister appointed a Special Investigator, Mr Anthony Blunn AO, to enquire independently into the allegation.

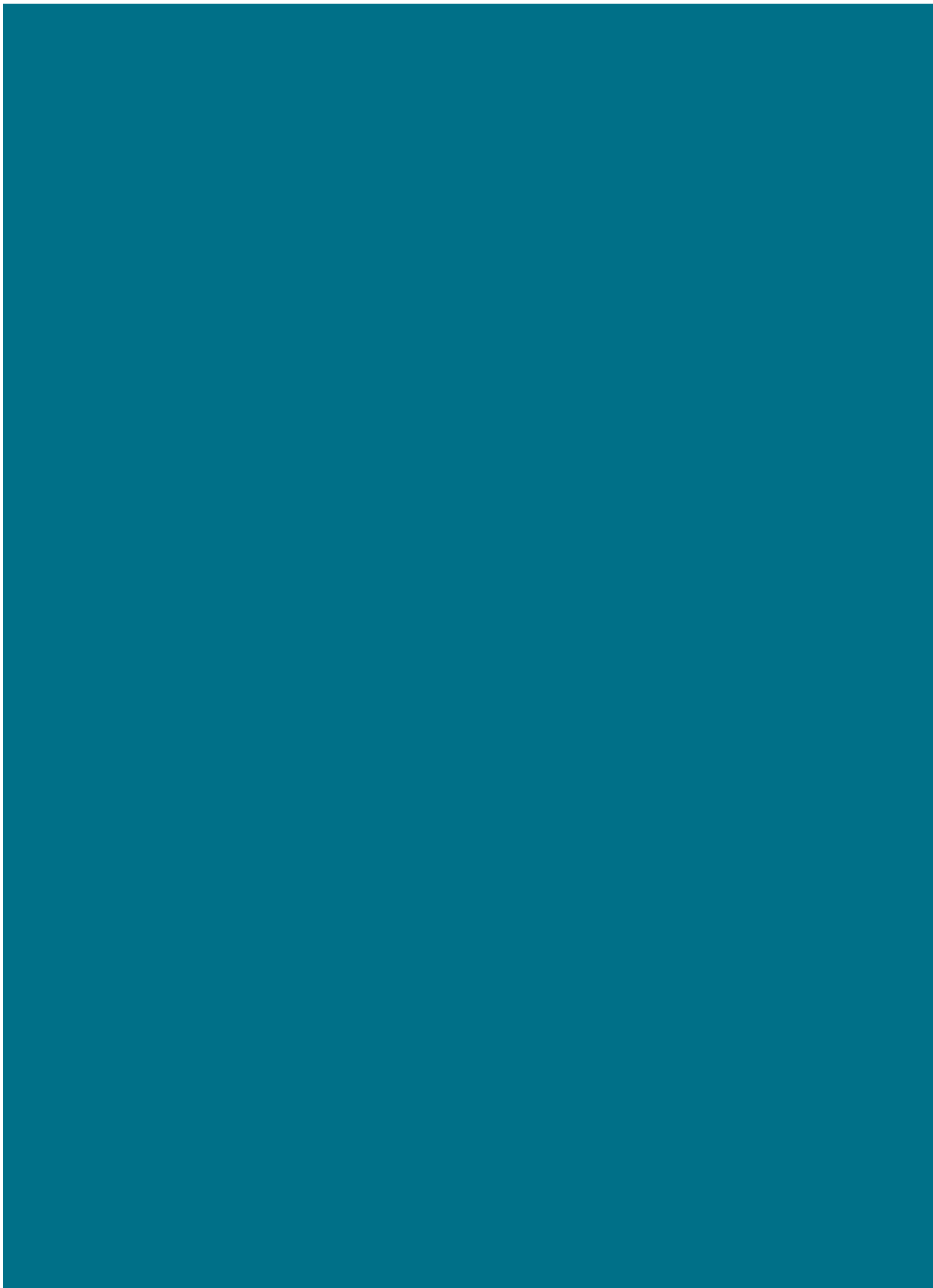
After examining documentary evidence and interviewing witnesses, the Special Investigator found that the staff member did not have the association that had been suggested, and found that there had been no improper influence on the outcome of ACLEI's assessment of the corruption issue.

The Special Investigator observed that the informant had not been in possession of all the relevant facts and his perception of the matter differed from the actual state of affairs.

As a result of suggestions made by the Special Investigator, ACLEI strengthened its procedures for declaring potential conflicts of interest, and for reporting informal contacts with law enforcement officers.

Cost disclosure

The appointment of a Special Investigator is made by the Minister for Home Affairs, with associated administration provided by the Attorney-General's Department. In this particular case, the cost of the appointment – \$36,000 – was borne by ACLEI. The cost is disclosed here for reasons of transparency and accountability.



PART FOUR

FINANCIAL STATEMENTS





INDEPENDENT AUDITOR'S REPORT

To the Minister for Home Affairs

Scope

I have audited the accompanying financial statements of the Australian Commission for Law Enforcement Integrity for the year ended 30 June 2009, which comprise: a Statement by the Integrity Commissioner; Income Statement; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies and Notes to and forming part of the Financial Statements, including a Summary of Significant Accounting Policies.

The Responsibility of the Commissioner for the Financial Statements

The Integrity Commissioner is responsible for the preparation and fair presentation of the financial statements in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards (which include the Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Agency's preparation and fair presentation of the

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financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Agency's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Integrity Commissioner, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Auditor's Opinion

In my opinion, the financial statements of the Australian Commission for Law Enforcement Integrity:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Australian Commission for Law Enforcement Integrity's financial position as at 30 June 2009 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



Simon Kidman
Executive Director

Delegate of the Auditor-General
Canberra

14 October 2009

STATEMENT BY THE INTEGRITY COMMISSIONER

In my opinion, the attached financial statements for the year ended 30 June 2009 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.



Philip Moss

Integrity Commissioner

13 October 2009

INCOME STATEMENT FOR THE AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY

for the period ended 30 June 2009

	NOTES	2009 \$'000	2008 \$'000
INCOME			
Revenue			
Revenue from Government	3A	2,821	2,013
Total revenue		2,821	2,013
Gains			
Other gains	3B	30	38
Total gains		30	38
Total Income		2,851	2,051
EXPENSES			
Employee benefits	4A	1,770	1,361
Suppliers	4B	1,029	811
Depreciation and amortisation	4C	194	174
Write-down and impairment of assets	4D	-	14
Total Expenses		2,993	2,360
Surplus (Deficit) attributable to the Australian Government		(142)	(309)

The above statement should be read in conjunction with the accompanying notes.

BALANCE SHEET FOR THE AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY

as at 30 June 2009

	NOTES	2009 \$'000	2008 \$'000
ASSETS			
Financial Assets			
Cash and cash equivalents	5A	62	183
Trade and other receivables	5B	4,312	3,375
Total financial assets		4,374	3,558
Non-Financial Assets			
Land and buildings	6A,C	369	54
Infrastructure, plant and equipment	6B,C	336	370
Intangibles	6D,E	40	67
Other non-financial assets	6F	28	31
Total non-financial assets		773	522
Total Assets		5,147	4,080
LIABILITIES			
Payables			
Suppliers	7A	543	471
Other payables	7B	135	72
Total payables		678	543
Provisions			
Employee provisions	8A	399	251
Other provisions	8B	151	-
Total provisions		550	251
Total Liabilities		1,228	794
Net Assets		3,919	3,286
EQUITY			
Parent Entity Interest			
Contributed equity		4,370	3,620
Reserves		-	-
Retained surplus (accumulated deficit)		(451)	(309)
Total Parent Entity Interest		3,919	3,311
Total Equity		3,919	3,311
Current Assets		4,374	3,589
Non-Current Assets		773	491
Current Liabilities		1,005	697
Non-Current Liabilities		223	72

The above statement should be read in conjunction with the accompanying notes.

STATEMENT OF CHANGES IN EQUITY FOR THE AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY

as at 30 June 2009

	RETAINED EARNINGS			ASSET REVALUATION RESERVES			CONTRIBUTED EQUITY/CAPITAL			TOTAL EQUITY	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000
Opening balance											
Balance carried forward from previous period	(309)	-	-	-	3,620	-	3,311	-	3,311	-	-
Adjustment for errors	-	-	-	-	-	-	-	-	-	-	-
Adjustment for changes in accounting policies	-	-	-	-	-	-	-	-	-	-	-
Adjusted opening balance	(309)	-	-	-	3,620	-	3,311	-	3,311	-	-
Income and expenses											
Income and expenses recognised directly in equity	-	-	-	-	-	-	-	-	-	-	-
Sub-total income and expenses recognised directly in equity	-	-	-	-	-	-	-	-	-	-	-
Surplus (Deficit) for the period	(142)	(309)	-	-	-	-	(142)	(309)	(142)	(309)	(309)
Total income and expenses	(142)	(309)	-	-	-	-	(142)	(309)	(142)	(309)	(309)
of which:											
attributable to the Australian Government	(142)	(309)	-	-	-	-	(142)	(309)	(142)	(309)	(309)
Transactions with owners											
Contributions by Owners											
Appropriation (equity injection)	-	-	-	-	750	-	750	-	750	-	-
Restructuring (Note 9)	-	-	-	-	-	3,620	-	3,620	-	3,620	-
Sub-total transactions with owners	-	-	-	-	750	3,620	750	3,620	750	3,620	3,620
Transfers between equity components	-	-	-	-	-	-	-	-	-	-	-
Closing balance as at 30 June	(451)	(309)	-	-	4,370	3,620	3,919	3,620	3,919	3,311	3,311
Closing balance attributable to the Australian Government	(451)	(309)	-	-	4,370	3,620	3,919	3,620	3,919	3,311	3,311

The above statement should be read in conjunction with the accompanying notes.

CASH FLOW STATEMENT FOR THE AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY

for the period ended 30 June 2009

	NOTES	2009 \$'000	2008 \$'000
OPERATING ACTIVITIES			
Cash received			
Goods and services		-	-
Appropriations		2,520	2,200
Interest		-	-
Dividends		-	-
Net GST received		97	-
Other cash received		188	-
Total cash received		2,805	2,200
Cash used			
Employees		1,629	1,309
Suppliers		1,265	679
Borrowing costs		-	-
Income taxes paid		-	-
Net GST paid		95	-
Other cash used		-	-
Total cash used		2,989	1,988
Net cash from (used by) operating activities	10	(184)	212
INVESTING ACTIVITIES			
Cash received			
Proceeds from sales of property, plant and equipment		-	-
Proceeds from sales of financial instruments		-	-
Investments		-	-
Other cash received		-	-
Total cash received		-	-
Cash used			
Purchase of property, plant and equipment		2	153
Purchase of financial instruments		-	-
Investments		-	-
Total cash used		2	153
Net cash from (used by) investing activities		(2)	(153)
FINANCING ACTIVITIES			
Cash received			
Contributed equity		65	124
Proceeds from issuing financial instruments		-	-
Other cash received		-	-
Total cash received		65	124
Cash used			
Repayment of borrowings		-	-
Dividends paid		-	-
Other cash used		-	-
Total cash used		-	-
Net cash from (used by) financing activities		65	124
Net increase (decrease) in cash held		(121)	183
Cash and cash equivalents at the beginning of the reporting period		183	-
Effect of exchange rate movements on cash and cash equivalents at the beginning of the reporting period		-	-
Cash and cash equivalents at the end of the reporting period	5A	62	183

The above statement should be read in conjunction with the accompanying notes.

SCHEDULE OF COMMITMENTS FOR THE AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY

as at 30 June 2009

	2009 \$'000	2008 \$'000
BY TYPE		
Commitments receivable		
GST recoverable on commitments	108	55
Total commitments receivable	108	55
Other commitments		
Operating leases ¹	1,170	567
Other commitments ²	24	39
Total other commitments	1,194	606
Net commitments by type	1,086	551
BY MATURITY		
Commitments receivable		
Other commitments receivable		
One year or less	37	20
From one to five years	71	35
Total other commitments receivable	108	55
Commitments payable		
Operating lease commitments		
One year or less	390	203
From one to five years	780	364
Total operating lease commitments	1,170	567
Other Commitments		
One year or less	18	17
From one to five years	6	22
Total other commitments	24	39
Net commitments by maturity	1,086	551

NB: Commitments are GST inclusive where relevant.

1. Operating leases included are effectively non-cancellable.
2. Other commitments included are effectively non-cancellable.

Operating Leases

Lease for Office Accommodation.

The Agency's original lease was surrendered and a new lease commenced during the reporting period. The period for the office accommodation lease is still current and an option to renew is not available. Lease payments are subject to annual increase of 4.95%.

Agreement for the provision of motor vehicles to senior executive officers.

No contingent rental exists. There are no renewal or purchase options available to the Agency.

Other Commitments

Service agreement for payroll services.

Service payments are subject to annual CPI variation. The initial period of the contract is still in place and may be renewed for a period of 12 months upon notification by the Agency to the service provider within 3 months of the termination date of the initial period.

The above schedule should be read in conjunction with the accompanying notes.

SCHEDULE OF CONTINGENCIES for the Australian Commission for Law Enforcement Integrity

as at 30 June 2009

The Agency has no Contingent Assets or Liabilities at 30 June 2009.

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NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

1.1 Objectives of the Australian Commission for Law Enforcement Integrity

The Australian Commission for Law Enforcement Integrity is an Australian Government controlled entity. The objective of the Australian Commission for Law Enforcement Integrity is to detect, investigate and prevent corruption in the Australian Crime Commission and the Australian Federal Police.

The Agency is structured to meet the following outcome:

Outcome 1: Assurance that Australian Government law enforcement agencies and their staff act with integrity.

Agency activities contributing toward these outcomes are classified as departmental. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by the Agency in its own right.

Departmental activities are identified under one Output. One Output is identified for Outcome 1.

Output 1.1: Detect, investigate and prevent corruption in prescribed Commonwealth law enforcement agencies; assist law enforcement agencies to maintain and improve the integrity of staff members.

The Agency has not conducted any administered activities during the year.

The continued existence of the Agency in its present form and with its present program is dependent on Government policy and on continuing appropriations by Parliament for the Agency's administration and programs.

1.2 Basis of Preparation of the Financial Report

The financial statements and notes are required by section 49 of the *Financial Management and Accountability Act 1997* and are a general purpose financial report.

The Financial Statements and notes have been prepared in accordance with:

- Finance Minister's Orders (or FMO) for reporting periods ending on or after 1 July 2008; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial report has been prepared on an accrual basis and is in accordance with the historical cost convention, except for certain assets at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial report is presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless an alternative treatment is specifically required by an accounting standard or the FMO, assets and liabilities are recognised in the balance sheet when and only when it is probable that future economic benefits will flow to the entity or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under agreements equally proportionately unperformed are not recognised unless required by an accounting standard. Liabilities and assets that are unrecognised are reported in the Schedule of Commitments and the Schedule of Contingencies.

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the income statement when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

1.3 Changes in Australian Accounting Standards

Adoption of New Australian Accounting Standard Requirements

No accounting standard has been adopted earlier than the application date as stated in the standard. The following new standards and amendments to standards are applicable to the current reporting period:

- AASB 2007–9 Amendments to Australian Accounting Standards arising from the Review of AASs 27, 29 and 31 relocated a number of paragraphs from AASs 27, 29 and 31 substantively unamended into the following existing standards AASB 3, 5, 8, 101, 114, 116, 127, 137.
- AASB1004 Contributions also received a number of substantively unamended paragraphs from AASs 27, 29 and 31 following their withdrawal.
- AASB1050 Administered Items and AASB1052 Disaggregated Disclosures were created and received a number of substantively unamended paragraphs from AASs 27 and 29.

It is not expected that the relocation of AASs 27, 29 and 31 will have a material financial impact but will affect the disclosures presented in future financial reports.

Future Australian Accounting Standard Requirements

The following new standards, amendments to standards or interpretations have been issued by the Australian Accounting Standards Board but are effective for future reporting periods. It is estimated that the impact of adopting these pronouncements when effective will have no material financial impact on future reporting periods.

- AASB 3 Business Combinations
- AASB 8 Operating Segments
- AASB 101 Presentation of Financial Statements
- AASB 123 Borrowing Costs
- AASB 2007–3 Amendments to Australian Accounting Standard arising from AASB 8
- AASB 2007–6 Amendments to Australian Accounting Standard arising from AASB 123
- AASB 2007–8 Amendments to Australian Accounting Standard arising from AASB 101
- AASB 2008–1 Amendments to Australian Accounting Standard – Share-based Payments: Vesting Conditions and Cancellations
- AASB 2008–2 Amendments to Australian Accounting Standard – Puttable Financial Instruments and Obligations arising on Liquidation
- AASB 2008–3 Amendments to Australian Accounting Standard arising from AASB 3 and AASB 127

1.4 Correction of Errors

The comparative figure for trade and other receivables in Note 14A: Categories of Financial Instruments has been amended to correctly reflect the reporting requirements under the Finance Minister's Orders (FMO's). Item 45.72G in the FMO's states that financial instruments do not include appropriation receivable and statutory charges receivable or payable (such as GST receivable from or payable to the Australian Taxation Office). These items were incorrectly included as financial instruments in 2007–08. The total adjustment was a reduction of \$3,222,000.00 in the 2007–08 balance.

1.5 Revenue

Revenue from Government

Amounts appropriated for departmental output appropriations for the year (adjusted for any formal additions and reductions) are recognised as revenue when the Agency gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

Resources Received Free of Charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government agency or authority as a consequence of a restructuring of administrative arrangements (refer to Note 1.7).

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Other Types of Revenue

No other types of revenue were received during the year.

1.6 Gains

Other Resources Received Free of Charge

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government agency or authority as a consequence of a restructuring of administrative arrangements (refer to Note 1.7).

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Sale of Assets

Gains from disposal of non-current assets is recognised when control of the asset has passed to the buyer.

1.7 Transactions with the Government as Owner

Equity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) are recognised directly in contributed equity in that year.

Restructuring of Administrative Arrangements

Net assets received from or relinquished to another Australian Government agency or authority under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

Other Distributions to Owners

The FMO require that distributions to owners be debited to contributed equity unless in the nature of a dividend.

1.8 Employee Benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of balance date are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

All other employee benefit liabilities are measured at the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Agency is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that applied at the time the leave is taken, including the Agency's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined using the shorthand method. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Superannuation

Staff of the Australian Commission for Law Enforcement Integrity are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS accumulation plan (PSSap).

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported by the Department of Finance and Deregulation as an administered item.

The Australian Commission for Law Enforcement Integrity makes employer contributions to the employee superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government of the superannuation entitlements of the Agency's employees. The Australian Commission for Law Enforcement Integrity accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

1.9 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased non-current assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

1.10 Borrowing Costs

All borrowing costs are expensed as incurred.

1.11 Cash

Cash and cash equivalents includes notes and coins held and any deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

1.12 Financial Assets

The Australian Commission for Law Enforcement Integrity classifies its financial assets in the following categories:

- financial assets at fair value through profit or loss; and
- loans and receivables.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition.

Financial assets are recognised and derecognised upon 'trade date'.

Effective Interest Method

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, where appropriate, a shorter period.

Income is recognised on an effective interest rate basis except for financial assets that are recognised at fair value through profit or loss.

Financial Assets at Fair Value Through Profit or Loss

Financial assets are classified as financial assets at fair value through profit or loss where the financial assets:

- have been acquired principally for the purpose of selling in the near future;
- are a part of an identified portfolio of financial instruments that the Agency manages together and has a recent actual pattern of short-term profit-taking; or
- are derivatives that are not designated and effective as a hedging instrument.

Assets in this category are classified as current assets.

Financial assets at fair value through profit or loss are stated at fair value, with any resultant gain or loss recognised in profit or loss. The net gain or loss recognised in

profit or loss incorporates any interest earned on the financial asset.

Loans and Receivables

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. They are included in current assets, except for maturities greater than 12 months after the balance sheet date. These are classified as non current assets. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

Impairment of Financial Assets

Financial assets are assessed for impairment at each balance date.

- *financial assets held at amortised cost – if there is objective evidence that an impairment loss has been incurred for loans and receivables or held to maturity investments held at amortised cost, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the income statement.*
- *available-for-sale financial assets – if there is objective evidence that an impairment loss on an available-for-sale financial asset has been incurred, the amount of the difference between its cost, less principal repayments and amortisation, and its current fair value, less any impairment loss previously recognised in expenses, is transferred from equity to the income statement.*
- *- available-for-sale financial assets (held at cost) – If there is objective evidence that an impairment loss has been incurred the amount of the impairment loss is the difference between the carrying amount of the asset and the present value of the estimated future cash flows discounted at the current market rate for similar assets.*

1.13 Financial Liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities.

Financial liabilities are recognised and derecognised upon 'trade date'.

Financial liabilities at Fair Value Through Profit or Loss

Financial liabilities at fair value through profit or loss are initially measured at fair value. Subsequent fair value adjustments are recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest paid on the financial liability.

Other Financial Liabilities

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs.

Other financial liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.14 Contingent Liabilities and Contingent Assets

Contingent Liabilities and Contingent Assets are not recognised in the Balance Sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

1.15 Financial Guarantee Contracts

Financial guarantee contracts are accounted for in accordance with AASB 139 *Financial Instruments: Recognition and Measurement*. They are not treated as a contingent liability, as they are regarded as financial instruments outside the scope of AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*.

1.16 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transfer or agency's accounts immediately prior to the restructuring.

1.17 Property, Plant and Equipment

Asset Recognition Threshold

Purchases of property, plant and equipment are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2,000.00, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to ‘makegood’ provisions in property leases taken up by the Australian Commission for Law Enforcement Integrity where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Australian Commission for Law Enforcement Integrity’s leasehold improvements with a corresponding provision for the ‘makegood’ recognised.

Revaluations

Fair values for each class of asset are determined as shown below:

Asset Class	Fair value measured at
Leasehold improvements	Depreciated replacement cost
Infrastructure, plant and equipment	Market selling price

Following initial recognition at cost, property plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets’ fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised through operating result. Revaluation decrements for a class of assets are recognised directly through operating result except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Australian Commission for Law Enforcement Integrity using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2009	2008
Leasehold Improvements	5 years	5 years
Furniture	5 years	5 years
Infrastructre	5 years	5 years
Equipment	3 years	3 years

IMPAIRMENT

All assets are assessed for impairment at 30 June. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the Australian Commission for Law Enforcement Integrity were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

1.18 Intangibles

The Australian Commission for Law Enforcement Integrity intangibles comprise of purchase computer software. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the Australian Commission for Law Enforcement Integrity's software are 3 years (2007–08: 3 years).

All software assets are assessed for indications of impairment as at 30 June 2009.

1.19 Taxation / Competitive Neutrality

The Agency is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Revenues, expenses and assets are recognised net of GST:

- except where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- except for receivables and payables.

NOTE 2: EVENTS AFTER THE BALANCE SHEET DATE

There are no events after the balance sheet date which have the potential to significantly affect the ongoing structure and financial activities of the Agency.

NOTE 3: INCOME

	2009 \$'000	2008 \$'000
REVENUE		
Note 3A: Revenue from Government		
Appropriations:		
Departmental outputs	2,821	2,013
Total revenue from Government	2,821	2,013
GAINS		
Note 3B: Other Gains		
Resources received free of charge	30	38
Total other gains	30	38

NOTE 4: EXPENSES

	2009 \$'000	2008 \$'000
Note 4A: Employee Benefits		
Wages and salaries	1,396	1,115
Superannuation:		
Defined contribution plans	73	41
Defined benefit plans	141	94
Leave and other entitlements	160	111
Total employee benefits	1,770	1,361
Note 4B: Suppliers		
Provision of goods – related entities	1	3
Provision of goods – external parties	103	62
Rendering of services – related entities	272	270
Rendering of services – external parties	474	286
Operating lease rentals – external parties:		
Minimum lease payments	175	186
Workers compensation premiums	4	4
Total supplier expenses	1,029	811
Note 4C: Depreciation and Amortisation		
Depreciation:		
Leasehold Improvements	14	13
Furniture	39	36
Infrastructure	43	40
Equipment	71	72
Total depreciation	167	161
Amortisation:		
Intangibles:		
Computer Software	27	13
Total amortisation	27	13
Total depreciation and amortisation	194	174
Note 4D: Write-Down and Impairment of Assets		
Asset write-downs from:		
Write-down of property, plant and equipment	-	9
Write-down of intangible assets	-	5
Total write-down and impairment of assets	-	14

NOTE 5: FINANCIAL ASSETS

	2009 \$'000	2008 \$'000
Note 5A: Cash and Cash Equivalents		
Cash on hand or on deposit	62	183
Total cash and cash equivalents	62	183
Note 5B: Trade and Other Receivables		
Goods and services – related entities	-	-
Goods and services – external parties	-	-
Total receivables for goods and services	-	-
Appropriations receivable:		
For existing outputs	4,055	3,068
Total appropriations receivable	4,055	3,068
GST receivable from the Australian Taxation Office	185	154
Other:		
Other receivables	72	153
Total other receivables	72	153
Total trade and other receivables (gross)	4,312	3,375
Less impairment allowance account	-	-
Total trade and other receivables (net)	4,312	3,375
Receivables are represented by:		
Current	4,312	3,375
Non-current	-	-
Total trade and other receivables (net)	4,312	3,375
Receivables are aged as follows:		
Not overdue	4,116	3,375
Overdue by:		
Less than 30 days	42	-
30 to 60 days	28	-
61 to 90 days	22	-
More than 90 days	104	-
Total receivables (gross)	4,312	3,375

NOTE 6: NON-FINANCIAL ASSETS

	2009	2008
	\$'000	\$'000

Note 6A: Land and Buildings

Leasehold improvements

Fair value	218	67
Work In Progress	178	-
Accumulated depreciation	(27)	(13)
Total leasehold improvements	369	54
Total land and buildings (non-current)	369	54

No indicators of impairment were found for land and buildings.

Note 6B: Infrastructure, Plant and Equipment

Furniture

Gross carrying value (at fair value)	172	166
Work In Progress	30	-
Accumulated depreciation	(75)	(36)
Total Furniture	127	130

Infrastructure

Gross carrying value (at fair value)	187	190
Work In Progress	86	-
Accumulated depreciation	(83)	(40)
Total Infrastructure	190	150

Equipment

Gross carrying value (at fair value)	159	159
Accumulated depreciation	(140)	(69)
Total Equipment	19	90
Total infrastructure, plant and equipment (non-current)	336	370

No indicators of impairment were found for infrastructure, plant and equipment.

Note 6C: Analysis of Property, Plant and Equipment

TABLE A – Reconciliation of the opening and closing balances of property, plant and equipment (2008–09)

	LEASEHOLD IMPROVEMENTS \$'000	FURNITURE \$'000	INFRASTRUCTURE \$'000	EQUIPMENT \$'000	TOTAL \$'000
As at 1 July 2008					
Gross book value	67	166	190	159	582
Accumulated depreciation/amortisation and impairment	(13)	(36)	(40)	(69)	(158)
Net book value 1 July 2008	54	130	150	90	424
Additions:					
By purchase	178	33	86	-	297
By finance lease	-	-	-	-	-
From acquisition of entities or operations (including restructuring)	-	-	-	-	-
Revaluations and impairments through equity	-	-	-	-	-
Revaluations recognised in the operating result	-	-	-	-	-
Impairments recognised in the operating result	-	-	-	-	-
Reversal of impairments recognised in the operating result	-	-	-	-	-
Reclassification	-	3	(3)	-	-
Assets held for sale or in a disposal group held for sale	-	-	-	-	-
Depreciation expense	(14)	(39)	(43)	(71)	(167)
Other movements (give details below)	-	-	-	-	-
Assets first recognised	151	-	-	-	151
Disposals:					
From disposal of entities or operations (including restructuring)	-	-	-	-	-
Other disposals	-	-	-	-	-
Net book value 30 June 2009	369	127	190	19	705
Net book value as of 30 June 2009 represented by:					
Gross book value	396	202	273	159	1,030
Accumulated depreciation/amortisation and impairment	(27)	(75)	(83)	(140)	(325)
	369	127	190	19	705

Note 6C: Analysis of Property, Plant and Equipment – continued

TABLE B – Reconciliation of the opening and closing balances of property, plant and equipment (2007–08)

	LEASEHOLD IMPROVEMENTS \$'000	FURNITURE \$'000	INFRASTRUCTURE \$'000	EQUIPMENT \$'000	TOTAL \$'000
As at 1 July 2007					
Gross book value	-	-	-	-	-
Accumulated depreciation/amortisation and impairment	-	-	-	-	-
Net book value 1 July 2007	-	-	-	-	-
Additions:					
By purchase	24	15	22	21	82
By finance lease	-	-	-	-	-
From acquisition of entities or operations (including restructuring)	45	151	168	148	512
Revaluations and impairments through equity	-	-	-	-	-
Revaluations recognised in the operating result	-	-	-	-	-
Impairments recognised in the operating result	-	-	-	-	-
Reversal of impairments recognised in the operating result	-	-	-	-	-
Reclassification	-	-	-	-	-
Assets held for sale or in a disposal group held for sale	-	-	-	-	-
Depreciation/amortisation expense	(13)	(36)	(40)	(72)	(161)
Other movements (give details below)	-	-	-	-	-
Disposals:					
From disposal of entities or operations (including restructuring)	-	-	-	-	-
Other disposals	(2)	-	-	(7)	(9)
Net book value 30 June 2008	54	130	150	90	424
Net book value as of 30 June 2008 represented by:					
Gross book value	67	166	190	159	582
Accumulated depreciation/amortisation and impairment	(13)	(36)	(40)	(69)	(158)
	54	130	150	90	424

	2009	2008
	\$'000	\$'000

Note 6D: Intangibles

Computer software at cost:

Purchased software	79	79
Total Computer Software	79	79
Accumulated amortisation	(39)	(12)
Total intangibles (non-current)	40	67

No indicators of impairment were found for intangible assets.

Note 6E: Analysis of Intangibles**TABLE C: Reconciliation of the opening and closing balances of intangibles (2008–09).**

ITEM	COMPUTER SOFTWARE PURCHASED \$'000	TOTAL \$'000
As at 1 July 2008		
Gross book value	79	79
Accumulated depreciation/amortisation and impairment	(12)	(12)
Net book value 1 July 2008	67	67
Additions:		
By purchase or internally developed	-	-
By finance lease	-	-
From acquisition of entities or operations (including restructuring)	-	-
Revaluations and impairments through equity	-	-
Revaluations recognised in the operating result	-	-
Impairments recognised in the operating result	-	-
Reversal of impairments recognised in the operating result	-	-
Reclassifications	-	-
Amortisation expense	(27)	(27)
Other movements (give details below)	-	-
Disposals:		
From disposal of entities or operations (including restructuring)	-	-
Other disposals	-	-
Net book value 30 June 2009	40	40
Net book value as of 30 June 2009 represented by:		
Gross book value	79	79
Accumulated depreciation/amortisation and impairment	(39)	(39)
	<u>40</u>	<u>40</u>

Note 6E: Analysis of Intangibles – continued

TABLE D: Reconciliation of the opening and closing balances of intangibles (2007–08).

ITEM	COMPUTER SOFTWARE PURCHASED \$'000	TOTAL \$'000
As at 1 July 2007		
Gross book value	-	-
Accumulated amortisation and impairment	-	-
Net book value 1 July 2007	-	-
Additions:		
By purchase or internally developed	71	71
By finance lease	-	-
From acquisition of entities or operations (including restructuring)	14	14
Revaluations and impairments through equity		-
Revaluations recognised in the operating result	-	-
Impairments recognised in the operating result	-	-
Reversal of impairments recognised in the operating result	-	-
Reclassifications	-	-
Amortisation	(13)	(13)
Other movements (give details below)	-	-
Disposals:		
From disposal of entities or operations (including restructuring)	-	-
Other disposals	(5)	(5)
Net book value 30 June 2008	67	67
Net book value as of 30 June 2008 represented by:		
Gross book value	79	79
Accumulated depreciation/amortisation and impairment	(12)	(12)
	67	67

	2009	2008
	\$'000	\$'000

Note 6F: Other Non-Financial Assets

Prepayments	28	31
Total other non-financial assets	28	31

All other non-financial assets were current assets.

No indicators of impairment were found for other non-financial assets.

NOTE 7: PAYABLES

	2009	2008
	\$'000	\$'000

Note 7A: Suppliers

Trade creditors	543	471
Operating lease rentals	-	-
Total supplier payables	543	471

Supplier payables – related entities are represented by:

Current	57	353
Non-current	-	-

Supplier payables – external parties are represented by:

Current	485	118
Non-current	1	-

Total supplier payables	543	471
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Settlement is usually made net 30 days.

Note 7B: Other Payables

Salaries and wages	131	45
Superannuation	2	2
Other	2	-
Total other payables	135	47

NOTE 8: PROVISIONS

	2009 \$'000	2008 \$'000
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Note 8A: Employee Provisions

Leave	399	251
Total employee provisions	399	251

Employee provisions are represented by:

Current	328	175
Non-current	71	76
Total employee provisions	399	251

The classification of current employee provisions includes amounts for which there is not an unconditional right to defer settlement by one year, hence in the case of employee provisions the above classification does not represent the amount expected to be settled within one year of reporting date. Employee provisions expected to be settled in twelve months from the reporting date are \$148,000.00 (2008: \$97,000.00), and in excess of one year \$251,000.00 (2008: \$154,000.00).

	2009 \$'000	2008 \$'000
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Note 8B: Other Provisions

Restoration obligations	151	-
Total other provisions	151	-

Other provisions are represented by:

Current	-	-
Non-current	151	-
Total other provisions	151	-

	Provision for restoration \$'000	Total \$'000
Carrying amount 1 July 2008	-	-
Additional provisions made	151	151
Amounts used	-	-
Amounts reversed	-	-
Unwinding of discount or change in discount rate	-	-
Closing balance 2009	151	151

The Agency currently has one agreement for the leasing of premises which have provisions requiring the Agency to restore the premises to their original condition at the conclusion of the lease. The Agency has made a provision to reflect the present value of this obligation.

NOTE 9: RESTRUCTURING

Note 9A: Departmental Restructuring

As a result of a restructuring of administrative arrangements, on 1 July 2007 the Australian Commission for Law Enforcement Integrity assumed responsibility for its complete operation from the Attorney-General's Department.

In respect of functions assumed, the net book values of assets and liabilities transferred to the Agency for no consideration and recognised as at the date of transfer were:

	2009 \$'000	2008 \$'000
Assets recognised	-	3,928
Liabilities recognised	-	(308)
Net assets/(liabilities) assumed	-	3,620

Income and expenses for the functions assumed by the Agency were as follows:

Income

Recognised by ACLEI	-	2,051
Total Income	-	2,051

Expenses

Recognised by ACLEI	-	2,360
Total Expenses	-	2,360

The transfer took effect on 1 July 2007, therefore, no revenue or expenditure items were recognised by the Attorney-General's Department (losing entity).

NOTE 10: CASH FLOW RECONCILIATION

	2009 \$'000	2008 \$'000
Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement		
Report cash and cash equivalents as per:		
Cash flow statement	62	183
Balance sheet	62	183
Difference	-	-
Reconciliation of operating result to net cash from operating activities:		
Operating result	(142)	(309)
Depreciation /amortisation	194	174
Net write down of non-financial assets	-	14
(Increase) / decrease in net receivables	(254)	(116)
(Increase) / decrease in prepayments	3	(16)
Increase / (decrease) in employee provisions	149	159
Increase / (decrease) in other payables	89	44
Increase / (decrease) in supplier payables	(256)	262
Increase / (decrease) in GST payable	-	-
Increase / (decrease) in accrued expenses	(118)	-
Increase / (decrease) in other provisions	151	-
Net cash from / (used by) operating activities	(184)	212

NOTE 11: CONTINGENT LIABILITIES AND ASSETS

Quantifiable Contingencies

At 30 June 2009, the Agency had no quantifiable contingencies. (2008: No quantifiable contingencies).

Unquantifiable Contingencies

At 30 June 2009, the Agency had no unquantifiable contingencies. (2008: No unquantifiable contingencies).

Remote Contingencies

The Agency has no remote contingencies.

NOTE 12: SENIOR EXECUTIVE REMUNERATION

	2009	2008
	\$'000	\$'000

The number of senior executives who received or were due to receive total remuneration of \$130,000 or more:

\$130 000 to \$144 999	-	-
\$145 000 to \$159 999	-	-
\$160 000 to \$174 999	1	-
\$175 000 to \$189 999	-	-
\$190 000 to \$204 999	-	-
\$205 000 to \$219 999	-	-
\$220 000 to \$234 999	-	-
\$235 000 to \$249 999	-	-
\$250 000 to \$264 999	-	-
\$265 000 to \$279 999	-	-
\$280 000 to \$294 999	-	-
\$295 000 to \$309 999	-	-
\$310 000 to \$324 999	-	1
\$325 000 to \$339 999	-	-
\$340 000 to \$354 999	1	-
\$355 000 to \$369 999	-	-
\$370 000 to \$384 999	-	-
Total	2	1

The aggregate amount of total remuneration of senior executives shown above.

524,036	317,488
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The aggregate amount of separation and redundancy/termination benefit payments during the year to executives shown above.

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NOTE 13: REMUNERATION OF AUDITORS

	2009	2008
	\$'000	\$'000

Financial statement audit services were provided free of charge to the Agency.

The fair value of the services provided was:

Financial Statement Audit	30	38
	30	38

No other services were provided by the Auditor-General.

NOTE 14: FINANCIAL INSTRUMENTS

	2009	2008
	\$'000	\$'000

Note 14A: Categories of Financial Instruments

Financial Assets

Loans and receivables:

Cash and cash equivalents	62	183
Trade and other receivables	72	153
	<u>134</u>	<u>336</u>

Carrying amount of financial assets

	<u>134</u>	<u>336</u>
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Financial Liabilities

At amortised cost:

Payables – Suppliers	543	471
	<u>543</u>	<u>471</u>

Carrying amount of financial liabilities

	<u>543</u>	<u>471</u>
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Note: Prior year comparative figure for Trade and Other Receivables has been amended to reflect the Financial Instruments requirements under the Finance Minister's Orders 2008 – refer Note 1.4.

Note 14B: Net Income and Expense from Financial Assets

There is no net income or expense from financial assets in 2008–09. (2007–08: No net income or expense from financial assets).

Note 14C: Net Income and Expense from Financial Liabilities

There is no net income or expense from financial liabilities in 2008–09. (2007–08: No net income or expense from financial liabilities).

Note 14D: Fair Value of Financial Instruments

The Agency's aggregate net fair values of the indentified financial instruments are the same as their carrying amounts (as disclosed in Note 14A).

Note 14E: Credit Risk

The Agency had endorsed policies and procedures for debt management (including the provision of credit terms), to reduce the incident of credit risk. In most instances, debtors for the Agency are other Government entities and therefore represent minimal credit risk.

The carrying amount of financial assets, net of impairment losses, reported in the balance sheet represents the Agency's maximum exposure to credit risk.

The following table illustrates the Agency's gross exposure to credit risk, excluding any collateral or credit enhancements.

	2009 \$'000	2008 \$'000
Financial assets		
Loans and Receivables:		
Cash and cash equivalents	62	183
Trade and other receivables	72	153
Financial liabilities		
At amortised cost:		
Payables – Suppliers	543	471
Total	(409)	(135)

The Agency holds no collateral to mitigate against credit risk.

Credit quality of financial instruments not past due or individually determined as impaired

	NOT PAST DUE NOR IMPAIRED 2009 \$'000	NOT PAST DUE NOR IMPAIRED 2008 \$'000	PAST DUE OR IMPAIRED 2009 \$'000	PAST DUE OR IMPAIRED 2008 \$'000
Loans and Receivables				
Cash and cash equivalents	62	183	-	-
Trade and other receivables	31	153	41	-
Total	93	336	41	-

Ageing of financial assets that were past due but not impaired for 2009

	0 TO 30 DAYS \$'000	31 TO 60 DAYS \$'000	61 TO 90 DAYS \$'000	90+ DAYS \$'000	TOTAL DAYS \$'000
Trade and other receivables	-	-	-	41	-
Total	-	-	-	41	-

Ageing of financial assets that were past due but not impaired for 2008

	0 TO 30 DAYS \$'000	31 TO 60 DAYS \$'000	61 TO 90 DAYS \$'000	90+ DAYS \$'000	TOTAL DAYS \$'000
List by class	-	-	-	-	-
Total	-	-	-	-	-

Note 14F: Liquidity Risk

The Agency's financial liabilities only include payables. Any exposure to liquidity risk is based on the notion that the Agency will encounter difficulty in meeting its obligations associated with financial liabilities. This possibility is highly unlikely due to appropriation funding and internal policies and procedures put in place to ensure there are appropriate resources to meet the Agency's financial obligations.

Maturities for financial liabilities 2009

	ON DEMAND	WITHIN 1 YEAR	1 TO 2 YEARS	2 TO 5 YEARS	> 5 YEARS
	2009	2009	2009	2009	2009
	\$'000	\$'000	\$'000	\$'000	\$'000

At amortised cost:

Payables – Suppliers

543	-	-	-	-
543	-	-	-	-

Maturities for financial liabilities 2008

	ON DEMAND	WITHIN 1 YEAR	1 TO 2 YEARS	2 TO 5 YEARS	> 5 YEARS
	2008	2008	2008	2008	2008
	\$'000	\$'000	\$'000	\$'000	\$'000

At amortised cost:

Payables – Suppliers

471	-	-	-	-
471	-	-	-	-

Note 14G: Market Risk

The Agency does not participate in any transactions in foreign currencies and as such is not exposed to market risk as a result of changes in exchange rates. The Agency also only has indirect exposure to interest rates and as such the impact on suppliers costs is not significant.

NOTE 15: APPROPRIATIONS

Table A: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations

PARTICULARS	DEPARTMENTAL OUTPUTS		TOTAL	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Balance brought forward from previous period (Appropriation Acts)	3,265	-	3,265	-
<i>Appropriation Act:</i>				
Appropriation Act (No. 1) 2008–2009 as passed	2,821	-	2,821	-
Appropriation Act (No. 3) 2008–2009 as passed	-	-	-	-
Appropriation Act (No. 5) 2008–2009 as passed	-	-	-	-
Other annual appropriation acts as passed	-	-	-	-
Departmental appropriations reduced (Appropriation Act section 10)	-	(9)	-	(9)
<i>FMA Act:</i>				
Repayments to the Commonwealth (FMA Act section 30)	8	-	8	-
Appropriations to take account of recoverable GST (FMA Act section 30A)	128	154	128	154
Relevant agency receipts (FMA Act s 31)	180	-	180	-
Adjustment of appropriations on change of agency function (FMA Act s 32)	-	5,137	-	5,137
Total appropriation available for payments	6,402	5,282	6,402	5,282
Cash payments made during the year (GST inclusive)	2,987	2,017	2,987	2,017
Balance of authority to draw cash from the Consolidated Revenue Fund for ordinary annual services appropriations and as represented by:	3,415	3,265	3,415	3,265
Cash at bank and on hand	-	183	-	183
Departmental appropriations receivable	3,230	2,928	3,230	2,928
Receivables – GST	185	154	185	154
Adjustments under s 101.13 of the Finance Minister's Orders not reflected above	-	-	-	-
Total as at 30 June	3,415	3,265	3,415	3,265

Departmental and non-operating appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental or non-operating appropriation is not required and request the Finance Minister to reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament. The Agency was not required to reduce departmental appropriations during 2008–09 [2007–08 from Appropriation Act No.01 was \$9,000.00].

Table B: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Other than Ordinary Annual Services Appropriations

PARTICULARS	NON-OPERATING EQUITY		TOTAL	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Balance brought forward from previous period (Appropriation Acts)	140	-	140	-
<i>Appropriation Act:</i>				
<i>Appropriation Act (No. 2) 2008–09 as passed</i>	750	-	750	-
<i>Appropriation Act (No. 4) 2008–09 as passed</i>	-	-	-	-
<i>Appropriation Act (No. 6) 2008–09 as passed</i>	-	-	-	-
Other annual appropriation acts	-	-	-	-
Departmental appropriations reduced (Appropriation Act section 13)	-	-	-	-
<i>FMA Act:</i>				
Repayments to the Commonwealth (FMA Act section 30)	-	-	-	-
Appropriations to take account of recoverable GST (FMA Act section 30A)	-	-	-	-
Adjustment of appropriations on change of agency function (FMA Act s 32)	-	264	-	264
Total appropriations available for payments	890	264	890	264
Cash payments made during the year (GST inclusive)	3	124	3	124
Balance of authority to draw cash from the consolidated revenue fund for other than ordinary annual services appropriations and as represented by:	887	140	887	140
Cash at bank and on hand	62	-	62	-
Departmental appropriation receivable	825	140	825	140
Adjustments under s101.13 of the Finance Minister's Orders not reflected above	-	-	-	-
Total as at 30 June	887	140	887	140

NOTE 16: COMPENSATION AND DEBT RELIEF

	2009 \$	2008 \$
Departmental		
No payments were made during the reporting period. (2008: No payments made).	-	-

NOTE 17: REPORTING OF OUTCOMES

There is only one outcome for this Agency as detailed in Note 1.1.

Note 17A: Net Cost of Outcome Delivery

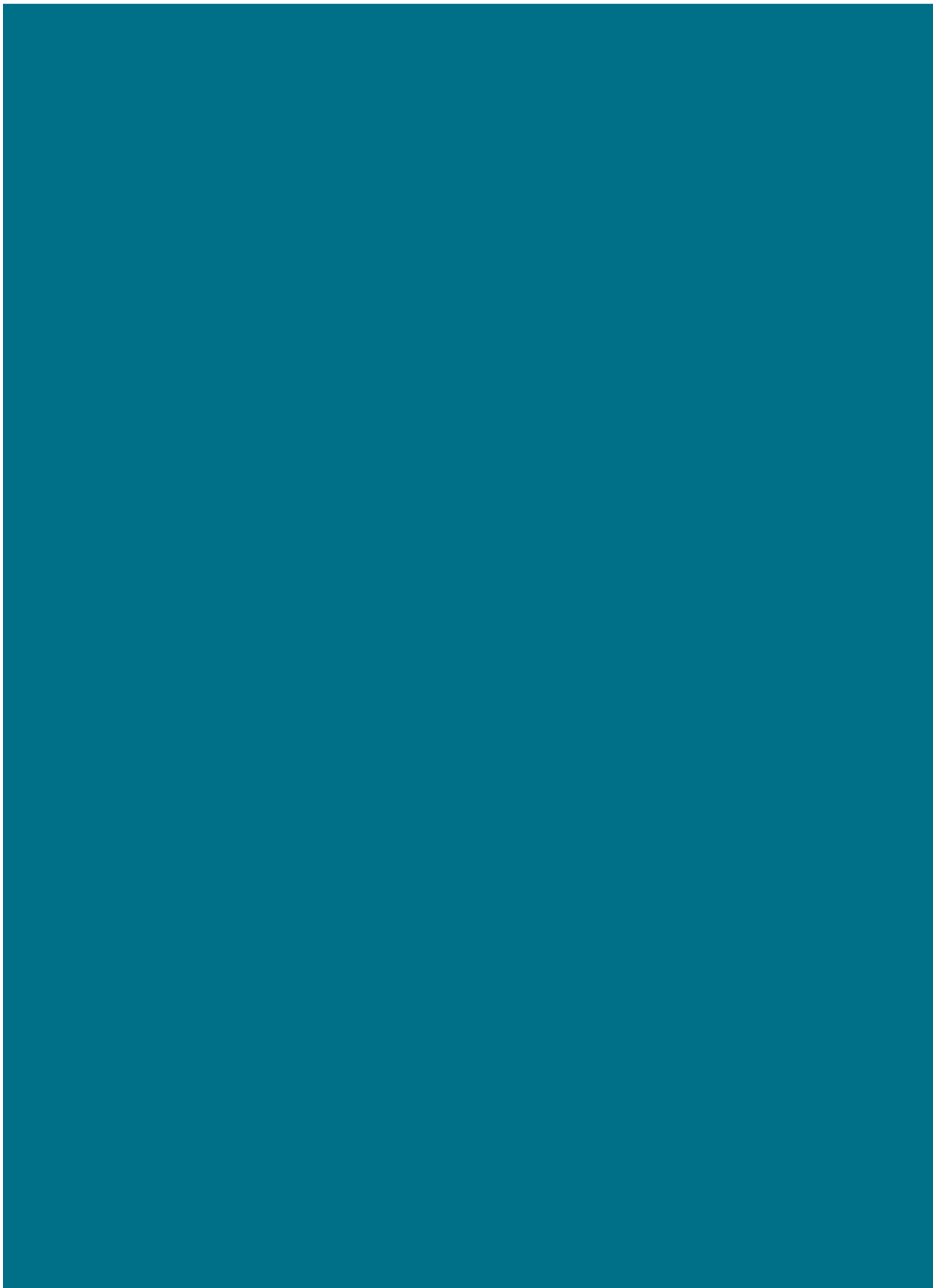
	OUTCOME 1		TOTAL	
	2009	2008	2009	2008
	\$'000	\$'000	\$'000	\$'000
Expenses				
Departmental	2,993	2,360	2,993	2,360
Total expenses	2,993	2,360	2,993	2,360
Costs recovered from provision of goods and services to the non government sector				
Departmental	-	-	-	-
Total costs recovered	-	-	-	-
Other external income				
Departmental	30	38	30	38
Total other external income	30	38	30	38
Net cost/(contribution) of outcome	2,963	2,322	2,963	2,322

Outcome 1 is described in Note 1.1. Net costs shown include intra-government costs that are eliminated in calculating the actual Budget Outcome. Refer to Outcome 1 Resourcing Table on page 25 of this Annual Report.

Note 17B: Major Classes of Departmental Income and Expenses by Output Group and Output

OUTCOME 1	OUTPUT GROUP 1.1 OUTPUT 1.1.1		OUTCOME 1 TOTAL	
	2009	2008	2009	2008
	\$'000	\$'000	\$'000	\$'000
Departmental expenses				
Employee benefits	1,770	1,361	1,770	1,361
Suppliers	1,029	811	1,029	811
Depreciation and amortisation	194	174	194	174
Write-down and impairment of assets	-	14	-	14
Total departmental expenses	2,993	2,360	2,993	2,360
Funded by:				
Departmental income				
Income from government	2,821	2,013	2,821	2,013
Other non-taxation revenue	30	38	30	38
Total departmental income	2,851	2,051	2,851	2,051

Outcome 1 is described in Note 1.1. Net costs shown include intra-government costs that were eliminated in calculating the actual Budget outcome.



PART FIVE APPENDICES

**APPENDIX 1
PAPERS AND PRESENTATIONS BY
THE INTEGRITY COMMISSIONER**

**APPENDIX 2
ADDITIONAL STATISTICS**

**APPENDIX 3
CHANGES TO ACLEI'S OPERATING ENVIRONMENT**

**APPENDIX 4
FREEDOM OF INFORMATION STATEMENT**

**APPENDIX 5
CONSULTANCY SERVICES**

APPENDIX 1

PAPERS AND PRESENTATIONS BY THE INTEGRITY COMMISSIONER

The following presentations were made by the Integrity Commissioner, Mr Philip Moss, during the year:

PUBLIC PRESENTATIONS	
<i>‘Corruption: matching measures to risks’</i> , keynote address to the inaugural Canberra meeting of the Corruption Prevention Network, Australian Taxation Office	June 2009
<i>‘Building the anti-corruption agency – current issues and challenges’</i> , Anti-Corruption Expertise Workshop, Singapore	October 2008*
PRESENTATIONS TO GOVERNMENT AGENCIES	
Commonwealth Ombudsman’s National Leadership Group meeting	September 2008
Independent Commission Against Corruption, <i>Corruption and anti-corruption executive program</i> , Crawford School of Economics and Government, Australian National University	November 2008
Interagency Integrity Investigators Program, hosted by the AFP	3 occasions*
PRESENTATIONS TO THE AFP	
Recruit courses	1 occasion
Lateral transfer courses (former State and Territory police officer induction to the AFP)	3 occasions*
Airport Uniform Police program	9 occasions*
International Deployment Group	2 occasions
AFP Confidant Network (serving officers undergoing training to become mentors in the AFP professional reporting scheme)	1 occasion*
AFP Professional Standards Forum	1 occasion
PRESENTATIONS TO THE ACC	
Presentations to the ACC management group	2 occasions
Ethics Awareness Sessions (Melbourne & Sydney)	3 occasions

* Some of these presentations were made on behalf of the Integrity Commissioner by the Executive Director.

APPENDIX 2

ADDITIONAL STATISTICS

The *Law Enforcement Integrity Commissioner Regulations 2006* set out the particulars that are required to be included in the annual report. The relevant statistics are presented in the following pages.

NOTES TO THE ADDITIONAL STATISTICS

1. The statistics presented here represent corruption issues. Just because a corruption issue has been brought to the Integrity Commissioner's notice, it should not be inferred that each one will have substance.
2. The definition of the ACC in the following tables includes members and former members of the ACC who may also have been members of the former NCA.
3. Numbers appearing in (brackets) are for previous reporting period, 1 July 2007 to 30 June 2008.

Regulation 17

Prescribed particulars relating to corruption issues notified to the Integrity Commissioner by heads of law enforcement agencies under section 19, during 2008–09.

Regulation 17(a), (b) and (c)

Type and number of corruption issues received during 2008–09, by corruption class, as assessed upon receipt

	AFP	ACC	FORMER NCA	TOTAL
Abuse of office [s 6(1)(a)]	5 (8)	5 (1)	0 (0)	10 (9)
Pervert the course of justice [s 6(1)(b)]	2 (3)	0 (0)	0 (0)	2 (3)
Corruption of any other kind [s 6(1)(c)]	12 (6)	4 (0)	0 (0)	16 (6)
Did not raise a corruption issue within the meaning of the LEIC Act	2 (0)	0 (1)	0 (0)	2 (1)
Total	21 (17)	9 (2)	0 (0)	30 (19)

Regulation 17(d) and (e)

Reasons for taking no further action

	AFP	ACC	FORMER NCA	TOTAL
Issue not identified as 'significant' under s 20: Integrity Commissioner satisfied that ACLEI involvement not warranted [s 22 (1)]	9 (3)	1 (0)	0 (0)	10 (3)
ISSUE IDENTIFIED AS 'SIGNIFICANT' UNDER SECTION 20:				
Integrity Commissioner arranged for State integrity agency to investigate [s 29(6)(b)]	0 (0)	1 (0)	0 (0)	1 (0)
Integrity Commissioner satisfied that another agency should investigate [s 31(4)(a)]	0 (0)	0 (0)	0 (0)	0 (0)
Referral of allegation or information is frivolous or vexatious [s 31(4)(b)]	0 (0)	0 (0)	0 (0)	0 (0)
Conduct to which the issue relates has been, is or will be subject of proceedings before a court [s 31(4)(d)]	0 (0)	0 (0)	0 (0)	0 (0)
Investigation not warranted in all the circumstances [s 31(4)(e)]	0 (2)	0 (0)	0 (0)	0 (2)
ANY ISSUE:				
After further assessment, did not raise a corruption issue within the meaning of the LEIC Act	0 (2)	2 (1)	0 (0)	2 (3)
Total	9 (7)	4 (1)	0 (0)	13 (8)

Regulation 17(f)**Investigations managed by Integrity Commissioner**

	AFP	ACC	FORMER NCA	TOTAL
Managed investigations [s 26(1)(b)(i) or 26(1)(d)]	0 (0)	0 (0)	0 (0)	0 (0)
Investigations undertaken by AFP and managed by ACLEI [s 26(1)(c)(i)]	N/A	0 (0)	0 (0)	0 (0)
Total	0 (0)	0 (0)	0 (0)	0 (0)

Regulation 17(g)**Investigations overseen by Integrity Commissioner**

	AFP	ACC	FORMER NCA	TOTAL
Investigations overseen [s 26(1)(b)(ii) or 26(1)(e)]	0 (1)	0 (0)	0 (0)	0 (1)
Investigations by AFP about ACC overseen by ACLEI [s 26(1)(c)(ii)]	N/A	0 (0)	0 (0)	0 (0)
Total	0 (1)	0 (0)	0 (0)	0 (1)

Other ways section 19 notifications were dealt with

	AFP	ACC	FORMER NCA	TOTAL
ACLEI investigation [s 26(1)(a)]	0 (2)	1 (1)	0 (0)	1 (3)
Joint investigation [s 26(2)]	1 (2)	1 (0)	0 (0)	2 (2)
Unsupervised investigation [s 26(1)(b)(iii)]	1 (1)	0 (0)	0 (0)	1 (1)
Investigations by AFP and neither managed nor overseen by ACLEI [s 26(1)(c)(iii)]	N/A	1 (0)	0 (0)	1 (0)
Direction to notifying agency to investigate [s 22(2a)]	0 (0)	0 (0)	0 (0)	0 (0)
Referrals to other government agencies (see Regulation 21)	0 (0)	0 (0)	0 (0)	0 (0)
Under assessment at close of reporting period	10 (6)	2 (0)	0 (0)	12 (6)
Total	12 (11)	5 (1)	0 (0)	17 (12)

Regulation 18

Prescribed particulars relating to corruption issues raised by allegations or information referred to the Integrity Commissioner under section 18 (by the Minister) and section 23 (by other people) during 2008–09.

Regulation 18(a), (b) and (c)

Type and number of corruption issues received during 2008–09, by corruption class, as assessed upon receipt

	AFP	ACC	FORMER NCA	OTHER	TOTAL
Abuse of office [s 6(1)(a)]	3 (6)	1 (2)	0 (0)	0 (0)	4 (8)
Pervert the course of justice [s 6(1)(b)]	2 (6)	1 (0)	0 (2)	0 (0)	3 (8)
Corruption of any other kind [s 6(1)(c)]	4 (4)	2 (1)	0 (1)	0 (0)	6 (6)
Did not raise a corruption issue within the meaning of the LEIC Act	3 (3)	1 (0)	0 (1)	4 (0)	8 (4)
Total	12 (19)	5 (3)	0 (4)	4 (0)	21 (26)

Regulation 18(d) and (e)

Reasons for taking no further action

	AFP	ACC	FORMER NCA	OTHER	TOTAL
Integrity Commissioner satisfied that another agency should investigate [s 31(4)(a)]	0 (0)	0 (0)	0 (0)	N/A	0 (0)
Referral of allegation or information is frivolous or vexatious [s 31(4)(b)]	0 (0)	0 (0)	0 (0)	N/A	0 (0)
Conduct to which the issue relates has been, is or will be subject of proceedings before a court [s 31(4)(d)]	0 (0)	0 (1)	0 (0)	N/A	0 (1)
Investigation not warranted in all the circumstances [s 31(4)(e)]	0 (8)	0 (0)	0 (1)	N/A	0 (9)
After further assessment, did not raise a corruption issue within the meaning of the LEIC act	9 (5)	2 (0)	0 (1)	4 (0)	15 (6)
Total	9 (13)	2 (1)	0 (2)	4 (0)	15 (16)

Other ways that section 18 and 23 referrals were dealt with

Investigations managed by Integrity Commissioner

	AFP	ACC	FORMER NCA	TOTAL
Managed investigations [s 26 (1)(b)(i) or 26 (1)(d)]	0(0)	0 (0)	0 (0)	0 (0)
Investigations by AFP about ACC managed by ACLEI [s 26 (1)(c)(i)]	N/A	0 (0)	0 (0)	0 (0)
Total	0 (0)	0 (0)	0 (0)	0 (0)

Investigations overseen by Integrity Commissioner

	AFP	ACC	FORMER NCA	TOTAL
Investigations overseen [s 26(1)(b)(ii) or 26(1)(e)]	1 (0)	0 (0)	0 (0)	1 (0)
Investigations by AFP about ACC overseen by ACLEI [s 26 (1)(c)(ii)]	N/A	0 (0)	0 (0)	0 (0)
Total	1 (0)	0 (0)	0 (0)	1 (0)

Other methods of handling

	AFP	ACC	FORMER NCA	TOTAL
ACLEI investigation [s 26(1)(a)]	0 (0)	0 (1)	0 (0)	0 (1)
Joint investigation [s 26(2)]	0 (0)	0 (1)	0 (0)	0 (1)
Unsupervised investigations [s 26(1)(c)(iii)]	N/A	1 (0)	0 (0)	1 (0)
Referrals to other government agencies [see Regulation 21]	0 (0)	0 (0)	0 (0)	0 (0)
Under assessment at close of reporting period	2 (1)	2 (0)	0 (0)	4 (1)
Total	2 (1)	3 (2)	0 (0)	5 (3)

Regulation 19

Own initiative investigations commenced during 2008–09

	AFP	ACC	FORMER NCA	TOTAL
Own initiative investigations [s 38]	0 (0)	0 (0)	0 (0)	0 (0)

Regulation 20

Corruption issues investigated by the Integrity Commissioner (including joint investigations).

Regulation 20(a), (c) and (d)

Type and number of corruption issues investigated during 2008–09 (including joint investigations and investigations carried forward from previous years)

	AFP	ACC	FORMER NCA	TOTAL
INVESTIGATIONS COMMENCED DURING 2008–09				
Abuse of office [s 6(1)(a)]	1	2	0	3
Pervert the course of justice [s 6(1)(b)]	0	0	0	0
Corruption of any other kind [s 6(1)(c)]	2	0	0	2
Sub total	3	2	0	5
INVESTIGATIONS COMMENCED DURING 2007–08 AND ACTIVE IN 2008–09				
Abuse of office [s 6(1)(a)]	2	2	0	4
Pervert the course of justice [s 6(1)(b)]	0	0	0	0
Corruption of any other kind [s 6(1)(c)]	0	1	0	1
Sub total	2	3	0	5
INVESTIGATIONS COMMENCED DURING 2006–07 AND ACTIVE IN 2008–09				
Abuse of office [s 6(1)(a)]	1	2	0	3
Pervert the course of justice [s 6(1)(b)]	0	0	0	0
Corruption of any other kind [s 6(1)(c)]	0	0	0	0
Sub total	1	2	0	3
Total	6	7	0	13

Regulation 20(b)

Investigations completed during 2008–09.

	AFP	ACC	FORMER NCA	TOTAL
Investigations completed by the Integrity Commissioner during 2008–09 (reports to the Minister)	0 (1)	1 (1)	0 (0)	1 (2)

Regulation 21

Corruption issues referred to government agencies for investigation.

Referrals to other government agencies

	AFP	ACC	FORMER NCA	TOTAL
Referral to State or Territory law enforcement agency [s 26(1)(b)]	0 (0)	0 (0)	0 (0)	0 (0)
Referral to AFP about ACC [s 26(1)(c)]	N/A	2 (0)	0 (0)	2 (0)
Referral to 'home agency' [s 29(6)(a)]	0 (0)	0 (0)	0 (0)	0 (0)
Referral to State or Territory integrity agency [s 29(6)(b)]	0 (0)	1 (0)	0 (0)	1 (0)
Total	0 (0)	3 (0)	0 (0)	3 (0)

Regulation 22

Part 12 of the LEIC Act includes provisions for dealing with allegations or information about possible corruption issues that relate to ACLEI staff, known as 'ACLEI corruption issues'.

Regulation 22(a), (c) and (d)

Type and number of ACLEI corruption issues investigated during 2008–09

	INVESTIGATED BY:		TOTAL
	INTEGRITY COMMISSIONER	SPECIAL INVESTIGATOR	
Abuse of office [s 6(3)(a)]	0 (0)	0 (0)	0 (0)
Pervert the course of justice [s 6(3)(b)]	0 (0)	0 (0)	0 (0)
Corruption of any other kind [s 6(3)(c)]	0 (0)	1 (0)	1 (0)
Total	0 (0)	1 (0)	1 (0)

Regulation 22(b)

Investigations of ACLEI corruption issues completed during 2008–09

	TOTAL
Investigations completed during 2008–09 (reports to the Minister)	1

Regulation 23 – Section 149 certificates

Section 149 certificates may be issued by the Attorney-General on the grounds that, were the information disclosed, it would prejudice the security, defence or international relations of the Commonwealth, prejudice the effectiveness of law enforcement agencies, the proper performance of the ACC, an investigation, fair trial, a person’s life or physical safety or disclose the identity of a confidential source, amongst other reasons (section 149, LEIC Act).

	TOTAL
Section 149 certificates issued by the Attorney-General	0 (0)

APPENDIX 3

CHANGES IN ACLEI'S OPERATING ENVIRONMENT

ACLEI seeks to keep aware of developments in legislation, case law and administrative review that may affect agency practices and procedures. These matters are reported below.

Inquiry into the *Privacy Act 1988*

The final report of the Australian Law Reform Commission's (ALRC) review of the *Privacy Act 1988* was released publicly in August 2008. The ALRC accepted that special circumstances existed in ACLEI's case to recommend to the Attorney-General that the Integrity Commissioner's exemption from the *Privacy Act* should continue. The ALRC also considered that ACLEI should develop information-handling guidelines in conjunction with the Office of the Privacy Commissioner.

During 2008–09, ACLEI developed draft information-handling guidelines and will consult with the Office of the Privacy Commissioner prior to finalising them.

At the time of writing, the Australian Government had not responded to the ALRC's recommendations.

Inquiry into Law Enforcement Integrity Models

In February 2009, the Chair of the Parliamentary Joint Committee on ACLEI, Ms Melissa Parke MP, tabled in parliament a report of the Committee's *Inquiry into Law Enforcement Integrity Models*.

The Committee made eight recommendations, six of which related directly to ACLEI. These recommendations concerned:

- ACLEI's funding levels (Recommendations 1 and 2);
- the addition of corruption prevention and education to the Integrity Commissioner's functions (Recommendation 3);
- the establishment of a national forum through which matters of mutual interest to state and federal law enforcement integrity agencies can be addressed (Recommendation 4);
- consideration in the long term as to the establishment of an integrity inspector to oversight ACLEI (Recommendation 5); and
- the establishment and ongoing maintenance of a secure hearing room, associated technical infrastructure and personnel support (Recommendation 6).

At the time of writing, the Australian Government had not responded to the Committee's recommendations.

In respect of Recommendation 4, the Integrity Commissioner and State anti-corruption agencies that have oversight of law enforcement agencies have since resolved to meet regularly to discuss strategic issues. An officer-level group relating to policy and research has been established under the umbrella of the Commissioner's group, to enhance exchange of information and ideas.

Inquiry into whistleblowing protections within the Australian Government public sector.

On 10 July 2008, the Attorney-General, The Hon. Robert McClelland MP, on behalf of the Cabinet Secretary, Senator the Hon. John Faulkner, asked the House Standing Committee on Legal and Constitutional Affairs to inquire into and report on whistleblowing protections within the Australian Government public sector.

The Integrity Commissioner made two written submissions to the Inquiry, in August and November 2008, and appeared at a public hearing on 23 October 2008. For more detail see *Anti-corruption policy* in Chapter 4 of this report.

The Committee tabled its report *Whistleblower protection: a comprehensive scheme for the Commonwealth public sector* in Parliament on 23 February 2009. The report made 26 recommendations in relation to the introduction of a Public Interest Disclosure Bill.

Recommendation 18 proposes that the Public Interest Disclosure Bill provide for the Integrity Commissioner, as an external authority, to receive, investigate and refer public interest disclosures relevant to ACLEI's area of responsibility. ACLEI supports this measure as it would preserve the Integrity Commissioner's present role in receiving information from whistleblowers.

At the time of writing, the Australian Government was considering its response to the report.

Review of Secrecy Laws

In August 2008, the Attorney-General asked the ALRC to conduct a Review of Secrecy Laws. The ALRC released an Issues Paper (IP 34) in December 2008.

The Integrity Commissioner made a submission in February 2009. The submission identified the various secrecy laws that apply to ACLEI staff, and also proposed that corruption be recognised as an aggravating factor in relation to breaches of secrecy obligations, due to the role that leaks and tip-offs about law enforcement activity and methods may play in enabling crime.

The ALRC released a Discussion Paper (DP 74) in June 2009. A final report is due in October 2009.

Anti-corruption policy in Chapter 4 of this report contains further information about the Integrity Commissioner's contribution to the Review.

Review of the Royal Commissions Act

On 20 January 2009, the Attorney-General asked the ALRC to review the operation and provisions of the *Royal Commissions Act 1902* and consider the question of whether there is any need to develop an alternative form or forms of Commonwealth executive inquiry, with statutory foundations, to provide more flexibility, less formality and greater cost-effectiveness than a Royal Commission (particularly whether there would be any advantage in codifying special arrangements and powers that should apply to such alternative forms of inquiry).

Other matters that the ALRC is required to consider include:

- whether there is any need to develop special arrangements and powers for inquiries involving matters of national security;
- the appropriate balances between powers for persons undertaking inquiries and protections of the rights and liberties of persons interested in, or potentially affected by, inquiries;
- the appropriateness of restrictions on the disclosure of information to, and use of information by, Royal Commissions and other inquiries, including restrictions contained in other legislation (but not including those arising from the operation of client legal privilege); and
- suggestions for changes to the *Royal Commissions Act* proposed or raised by Royal Commissions.

The ALRC released its Issues Paper, *Review of the Royal Commissions Act (IP 35)*, in April 2009, which sought feedback from the public on key questions for the Inquiry.

The ALRC is due to present its final Report and recommendations to the Attorney-General by 30 October 2009. The full Terms of Reference are available at www.alrc.gov.au/inquiries/current/royal-commissions/terms.html.

At the close of the reporting period, the Integrity Commissioner was considering his submission to the Inquiry and expected to provide suggestions based on ACLEI's experience with the investigation of corruption issues using coercive and intrusive powers.

Relevant decisions of courts and administrative tribunals

ACLEI was not a party to any matters reviewed by courts and tribunals this year. However, a number of court decisions were relevant to ACLEI’s practice and procedures. These decisions, and their effect, are summarised in the table below.

DECISION	WAS ACLEI A PARTY?	EFFECT ON ACLEI
<i>AA v Board of the Australian Crime Commission</i> [2009] FCA 642	No	Effect of unreasonableness or oppressiveness on validity of summons to attend compulsory hearings.
<i>A B Pty Limited v Australian Crime Commission</i> [2009] FCA 119	No	Effect of specificity, harshness, oppression or unreasonableness on validity of ‘notices to produce’.
<i>ABC v Sage</i> [2009] FCA 170	No	When a compulsory hearing will constitute a contempt of court. Whether a person is entitled to know the case against him or her before answering questions in a compulsory hearing.
<i>Hogan v Australian Crime Commission (No 4)</i> [2008] FCA 1971	No	Whether a court should order that officers be removed from an investigation if they have had access to seized materials that are subject to legal professional privilege.

APPENDIX 4

FREEDOM OF INFORMATION STATEMENT

Section 8 of the *Freedom of Information Act 1982* (the FOI Act) requires each Australian Government agency to publish information about the way it is organised, its powers, the kinds of decisions it makes, the documents it holds, the way members of the public can obtain access to these documents, and any arrangements for members of the public to participate in the policy formulation or administration of the agency.

This annual report explains the organisation and major functions of the Integrity Commissioner and ACLEI. This statement supplements that general information to meet the requirements of section 8 of the FOI Act. It is correct at 30 June 2009.

To assist members of the public, this information also appears on the ACLEI website which is updated as relevant information changes.

What is ACLEI?

The *Law Enforcement Integrity Commissioner Act 2006* (the LEIC Act) establishes the office of Integrity Commissioner. The Integrity Commissioner is supported by a statutory agency, the Australian Commission for Law Enforcement Integrity (ACLEI).

The Integrity Commissioner is the head of ACLEI. ACLEI consists of investigative, legal, policy and corporate personnel. The Integrity Commissioner and ACLEI are based in Canberra.

The Integrity Commissioner is a statutory officer appointed under the LEIC Act. ACLEI staff members are employed under the *Public Service Act 1999*.

Functions and decision-making powers

The Integrity Commissioner's role is to detect, investigate and prevent corruption in law enforcement agencies. Presently, those agencies subject to the scrutiny of the Integrity Commissioner under the LEIC Act are the Australian Crime Commission, the Australian Federal Police and the former National Crime Authority. Others agencies may be added from time to time by Regulation.

The Integrity Commissioner also has a role to maintain and improve the integrity of staff members of law enforcement agencies, and to process intelligence on corruption in law enforcement.

The Integrity Commissioner may investigate a ‘corruption issue’ relating to a present or former staff member of a law enforcement agency. The Commissioner may do so on notification of a corruption issue by the head of a law enforcement agency, or referral by the Minister, the Commonwealth Ombudsman, or another government agency (Commonwealth, State or Territory). The Commissioner can also investigate information raising a corruption issue referred by a member of the public, or commence an investigation on his or her own initiative.

The Integrity Commissioner may decide not to investigate or act on referrals or notifications.

The Act confers coercive information-gathering powers on the Integrity Commissioner, such as the power to compel an individual or agency to produce documents, or to examine witnesses under oath or affirmation.

Through the *Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006*, various other intrusive powers available to the Integrity Commissioner.

The Integrity Commissioner can investigate in private and may also hold public hearings.

Investigations may result in recommendations for prosecution being referred to competent agencies. The Integrity Commissioner may also make public reports, and in some cases is compelled to do so by the LEIC Act.

The Integrity Commissioner can also make recommendations to the Minister on legislative and administrative action that may be needed or desirable to prevent corruption and preserve integrity in law enforcement agencies.

Information held by ACLEI

The Integrity Commissioner holds information related to:

- investigations and inquiries, including information about corruption issues; correspondence and records of consultations with people providing information, with agencies and other information sources; records related to ACLEI’s use or proposed use of coercive, covert and intrusive powers for investigative purposes; background material; records of conversations; analysis and advice; and reports;
- legal matters, including legal documents, opinions, advice and representations;
- policy matters, including minutes of meetings, research, administrative and operational guidelines;
- administrative matters, including the Integrity Commissioner’s role as the head of an Australian Government agency with a particular set of responsibilities, and in terms of the development or implementation of administrative process, policy or legislation; and
- corporate and management matters, including staffing, contracting and financial records, and information about asset management.

A list of ACLEI's files, prepared in accordance with an Order of the Senate, can be found on the ACLEI website, www.aclei.gov.au.

FOI requests

General process

Enquiries about information held by ACLEI may be made to ACLEI in writing, by telephone or by email.

In accordance with the LEIC Act, the Integrity Commissioner has agreed that ACLEI 'authorised officers' may provide information to a person if requested by, or on behalf of, that person in respect to information which the person has previously referred to ACLEI. Such information might include documents previously and lawfully provided by or to the person by ACLEI or someone else, or records of telephone conversations between the person and ACLEI staff.

All other requests for access to documents are dealt with by ACLEI's FOI Co-ordinator.

Exemptions

The FOI Act recognises that it may not be in the public interest to release all information held by a government agency. Therefore, the FOI Act provides a number of exclusions to the general requirement to release documents. For this reason, it is possible that not every request for release of information can be fully, or even partially, met.

Consultation with others

Many of the documents held by ACLEI will have come either from members of the public or from a person or agency subject to investigation, and may be speculative in nature or carry an expectation that the document will remain confidential. Some documents may be internal working documents that contain expressions of opinion that may change or that should not be disclosed publicly.

For these reasons, it may be necessary to give affected people or agencies an opportunity to comment on some FOI requests, or to transfer some or all of an FOI request to an affected agency. This practice is common in many Australian Government agencies, and is consistent with the principles of procedural fairness, privacy and the FOI Act. The practice also recognises that there may be cases where another agency is better placed to make an informed decision about a document's content and context.

Viewing documents on site

Given the restricted-access environment in which ACLEI operates, a person wishing to view documents held by ACLEI must first contact ACLEI's FOI Co-ordinator.

Making a formal FOI application

The application must:

- be made in writing;
- provide enough information for ACLEI to identify the documents sought;
- specify a name and an address within Australia for notices to be sent; and
- be accompanied by a \$30 application fee, unless a remission of fee is applied for.

FOI applications should be sent to:

The FOI Co-ordinator
Australian Commission for Law Enforcement Integrity
GPO Box 305
CANBERRA ACT 2601

Tel: (02) 6229 9300

Fax: (02) 6230 7341

Email: contact@aclei.gov.au

Fees and charges

An application fee of \$30 applies to all requests made under the FOI Act and there may be further charges for processing applications. There is a separate fee of \$40 for applications for an internal review of an FOI decision.

Further information concerning additional charges, payment and information relating to exemptions and remissions are contained within the 'Section 8 FOI Statement' on ACLEI's website, www.aclei.gov.au.

Review of decisions

The FOI Act provides three forms of review for a person who is dissatisfied with the response to his or her application:

- internal review by the agency to which the FOI application was made;
- complaint to the Commonwealth Ombudsman about a decision, a delay in providing information, or any other aspect of the agency's handling of the FOI request; and
- appeal to the Administrative Appeals Tribunal about an adverse internal review decision made by the agency.

If you seek a review of an FOI decision that ACLEI has made, ACLEI recommends that, in the first instance, you discuss your needs with the FOI Co-ordinator.

APPENDIX 5

CONSULTANCY SERVICES

ACLEI engages consultants on an *ad hoc* basis to provide professional and specialist services when necessary. Consultancies are generally short term in nature and relatively low in value.

The *Commonwealth Procurement Guidelines* provide that consultants are selected by advertisement, panel arrangements or selective tendering. ACLEI's security requirements and the specialist nature of the consultancy work often means that consultants must be sourced directly. When the work is more general in nature ACLEI will, where possible, access consultants through an open tender or panel selection process.

During 2008–09, ACLEI entered into two new consultancy contracts involving total actual expenditure of \$19,925.00 (including GST). Only one consultancy contract exceeded \$10,000 in value (GST inclusive) in 2008–09 and is reported below accordingly.

As is apparent, ACLEI awarded no consultancy contracts of a value of \$100,000 or more.

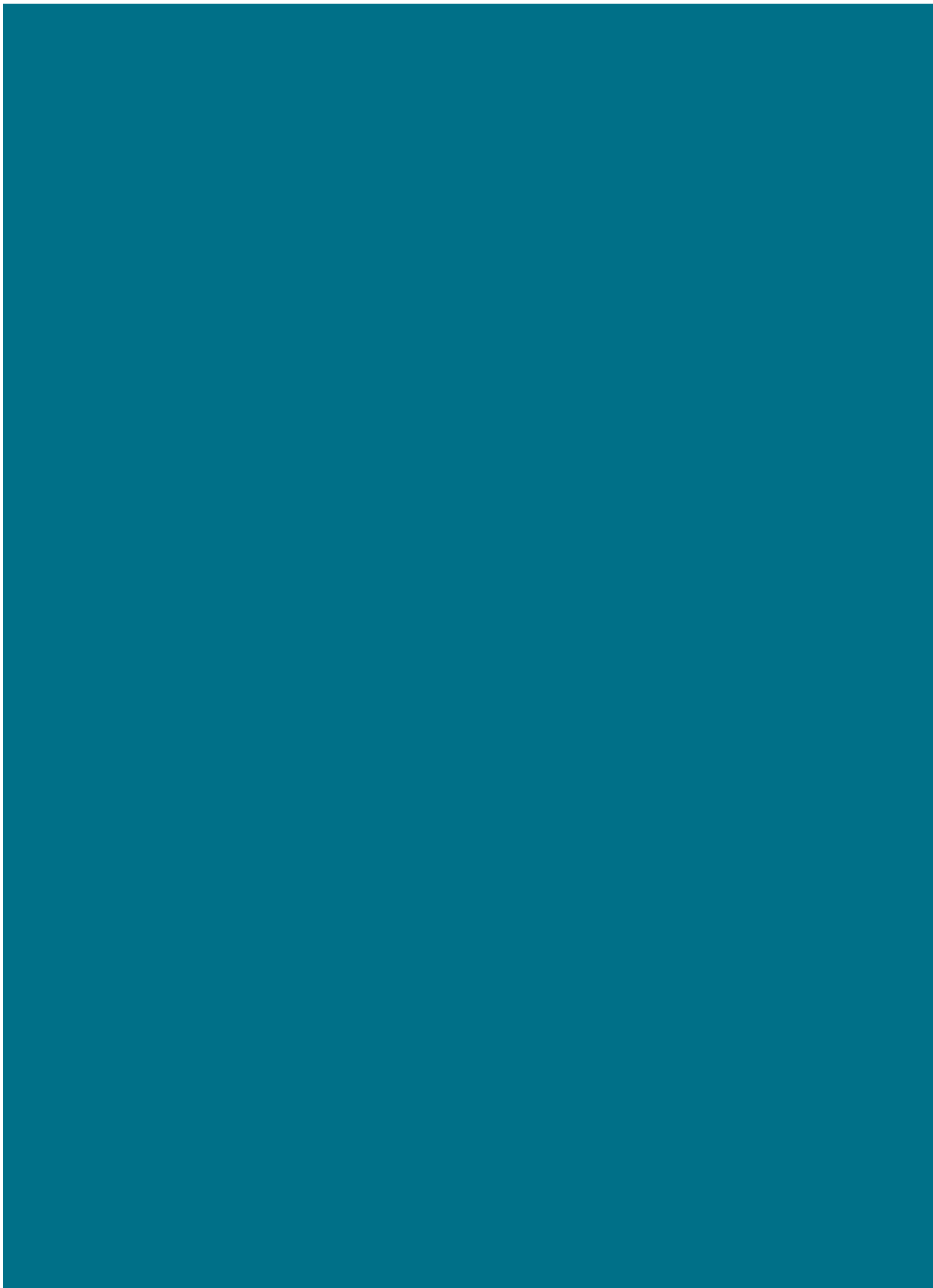
CONSULTANT NAME	DESCRIPTION	CONTRACT PRICE (GST INCLUSIVE)	SELECTION PROCESS ⁽¹⁾	JUSTIFICATION ⁽²⁾
A S Blunn	Independent review of an ACLEI investigation	\$18,000.00	Direct sourcing	C

(1) Explanation of selection process terms drawn from the *Commonwealth Procurement Guidelines* (December 2008):

- Open Tender:** A procurement procedure in which a request for tender is published inviting all businesses that satisfy the conditions for participation to submit tenders. Public tenders are generally sought from the Australian Government AusTender internet site.
- Select Tender:** A procurement procedure in which the procuring agency selects which potential suppliers are invited to submit tenders. This procurement process may only be used under certain defined circumstances.
- Direct Sourcing:** A form of restricted tendering, available only under certain defined circumstances, with a single potential supplier or suppliers being invited to bid because of their unique expertise and/or their special ability to supply the goods and/or services sought.
- Panel:** An arrangement under which a number of suppliers, initially selected through an open tender process, may each supply property or services to an agency as specified in the panel arrangements. Quotes are sought from suppliers that have pre-qualified on the agency panels to supply to the government. This category includes standing offers and supplier panels where the supply of goods and services may be provided for a pre-determined length of time, usually at a pre-arranged price.

(2) Justification for decision to use consultancy:

- A – skills currently unavailable within agency
 B – need for specialised or professional skills
 C – need for independent research or assessment



PART SIX

AIDS TO ACCESS

ACRONYMS USED IN THIS REPORT

COMPLIANCE INDEX

ALPHABETICAL INDEX

ACRONYMS USED IN THIS REPORT

ACC	Australian Crime Commission
ACLEI	Australian Commission for Law Enforcement Integrity
ACT	Australian Capital Territory
AD(JR) Act	<i>Administrative Decisions (Judicial Review) Act 1977</i>
AFP	Australian Federal Police
ALRC	Australian Law Reform Commission
ANAO	Australian National Audit Office
APS	Australian Public Service
APSACC	Australian Public Sector Anti-Corruption Conference
AWA	Australian Workplace Agreement
CEIs	Chief Executive's Instructions
CEO	Chief Executive Officer
CPGs	Commonwealth Procurement Guidelines
EDMS	Electronic Document Management System
FMA Act	<i>Financial Management and Accountability Act 1997</i>
FOI	Freedom of Information (as in, FOI Act)
GST	Goods and Services Tax
ICAC	Independent Commission Against Corruption
ICT	Information and Communication Technology
LEIC Act	<i>Law Enforcement Integrity Commissioner Act 2006</i>
LEIC Regulations	<i>Law Enforcement Integrity Commissioner Regulations 2006</i>
NCA	National Crime Authority
OH&S	Occupational Health and Safety (as in, OH&S Act)
SES	Senior Executive Service

COMPLIANCE INDEX

This guide relates to the report's compliance with the *Law Enforcement Integrity Commissioner Act 2006*, the *2006 Law Enforcement Integrity Commissioner Regulations 2006* and the *Requirements for Annual Reports* as provided by the Joint Committee of Public Accounts and Audit (June 2009).

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