

Misconduct Mapping – Trends in the Twenteens

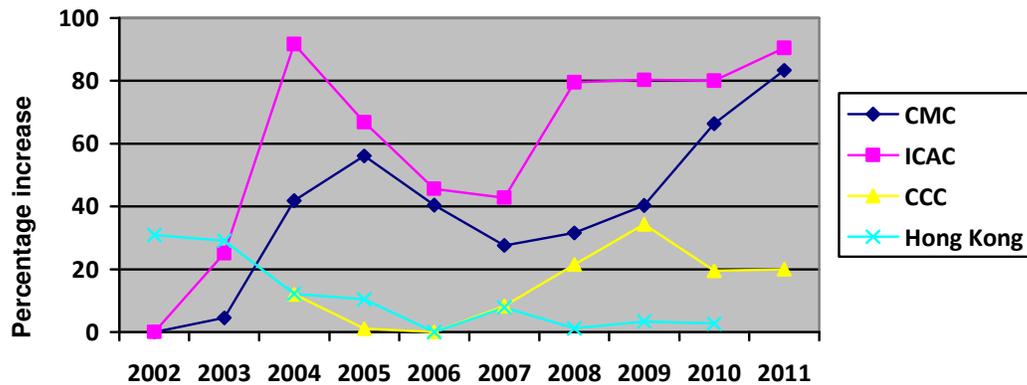
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Opinions expressed in this paper are those of the writer and do not necessarily represent the official position or opinions of the Crime and Misconduct Commission.

1. COMPLAINT TRENDS

1.1 Complaints to corruption watchdogs

Today, we’re going to look at some of the trends in misconduct in the past decade, and raise some questions as to what this may mean for the decade ahead. I’ll begin with complaints and allegations of misconduct received by the three established integrity agencies across the last decade.



Baseline = lowest recording, % variations above this.

Figure 1. Complaints to Integrity Agencies 2002-2011

SOURCE: CMC and ICAC *Annual Reports* 2002-2011; CCC *Annual Reports* 2004-2011; Hong Kong ICAC *Annual Reports* 2002-2010

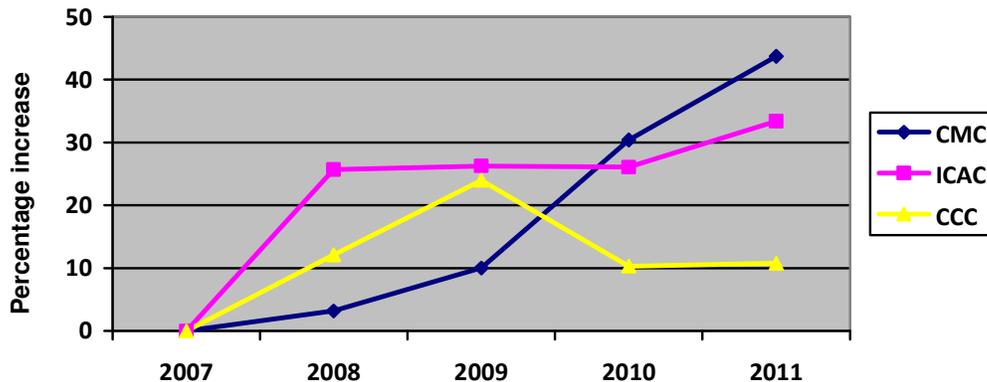
Figure #1 shows the complaints received by these three agencies between 2002 and 2011. As a point of comparison, it also shows the most nearly parallel overseas agency, the Hong Kong ICAC. The graph shows percentage variations for each agency, using its lowest recording as a baseline.

New South Wales and Queensland climb rapidly in the early part of the decade, decline (but not nearly down to their starting point) in the middle of the decade, and then climb again. By 2011, both ICAC and the CMC are receiving complaints at levels more than 80% higher than they were in 2002.

Western Australia, only commencing operations in 2004, experienced an initial flurry of activity and then steadied in the middle of the decade. The increase from 2007 to 2009 is significant, but by no means as steep as for Queensland and New South Wales, and then steadies off in the last two years.

For all these agencies, the number of complaints received show dips in the middle of the decade, with the lowest levels in 2006 or 2007. Then they start to climb again. The comparison with Hong Kong is interesting here. The dip in 2006 is comparable, but Hong Kong has not experienced the sharp rise in complaints that has been a feature for the three Australian agencies.

Let's look a little more closely at this rise in complaints.



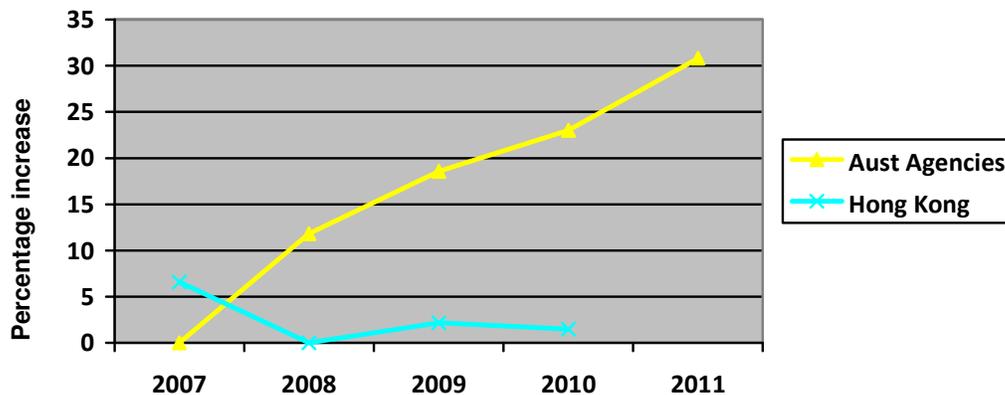
Baseline = 2007; % variations above this.

Figure 2. Complaints received 2007-2011

SOURCE: CMC , CCC and ICAC *Annual Reports* 2007-2011

Figure #2 shows the climb in the three Australian agencies from the low point of 2007, again as a percentage increase from this baseline, to iron out the differences in the sizes of the agencies. New South Wales and Western Australia climbed fast and then levelled off, but the climb in Queensland starts more slowly and then accelerates.

While it might be interesting to speculate about the reasons for this, there is no way to specifically attribute the trends to any specific cause. The up and down movements might be tenuously linked to the electoral cycles in the states or at a Commonwealth level, but there is no way to establish a causal relationship. The only external factor which might be seen as common to all states would be the Global Financial Crisis from 2008. Given that the three agencies' complaints figures behaved differently at this time, it is again difficult to presume any causal link.



Baseline = lowest recording, % variations above this.

Figure 3. Consolidated complaints received 2007-2011

SOURCE: CMC , CCC and ICAC *Annual Reports* 2007-2011; Hong Kong ICAC *Annual Reports* 2007-2010

Figure #3 simplifies the upward trend, by simply aggregating complaints across the three agencies. The number of complaints climbs 12% in 2008 and round half that in each successive year. Across Australia, misconduct complaints are around 30% higher in 2011 than they were 5 years ago.

Again, the Hong Kong figures are shown for comparison. Their complaints have held more or less steady since 2008, around 5% below their 2007 level, and nearly 20% below the 2002 levels shown on the earlier graph (Figure 1).

The question to consider from these figures is obvious enough: Why is it that Australia – at least that part of it covered by integrity agencies – is 30% up on 2007 complaint levels, and 80% up on 2002 levels?

We have three equally obvious answers to consider.

- Has misconduct increased to a similar extent?
- Has there been any shift in the types of misconduct which are occurring?
- Is there an increased tendency to make complaints?

1.2 Incidence of misconduct

Figures about actual misconduct are difficult to find, and difficult to apply reliably. This is partly because some official bodies seem to be reluctant to publish details about the extent of internal misbehaviour, partly because of time-lags between complaints and disciplinary and other outcomes, and partly because the actions resulting from complaints are so decentralised that many outcomes (especially reprimands, counselling and managerial guidance) are not always recorded or collated.

The most complete figures available are from the Australian Public Service (APS)

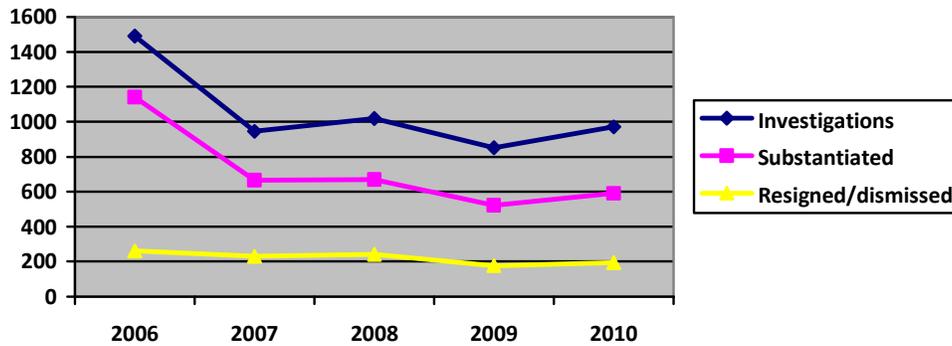


Figure 4. APS investigations and outcomes

SOURCE: APS State of the Service Reports, 2006-2010

Figure #4 shows the number of federal public servants who were formally investigated in the five years to 2009-10 (the most recent figures available) together with how many of those investigations found that misconduct had occurred, and how many employees either resigned or were dismissed in the course of the investigations. The lines stay pretty much in step, especially since 2007, and the trend is downwards.

The number of substantiated misconduct allegations in the APS is, overall, declining over the last 5 years. Even adding anecdotal evidence from various government departments, I have been unable to find any reason to believe that misconduct is actually increasing.

Media perceptions sometimes suggest otherwise, but they are perhaps open to challenge. For example, British Prime Minister David Cameron (speaking of the recent London summer riots) described Britain as being in a “*slow motion moral collapse*”^[1]. There is no evidence to support this claim. There have been summer riots in England and many other places before this year, and life in those countries and in those communities continued quite normally afterwards. Catastrophising and generalising from single instances are risky, and should be viewed with great caution. It may, of course, be true that civilisation is going to the dogs, but we perhaps need some more substantial evidence.

Another perception frequently put forward in the media is that Generation Y (or young people in general) are less responsible and less principled than their elders, and will be an increasing source of misconduct. However, a recent Queensland Police Service study shows that younger police take less sick-leave, are less likely to be suspended or disciplined, and are less likely to drop out of training^[2]. The reality is that the belief that younger people are degenerate and disrespectful has been a constant in society at least since the time of Socrates. Perhaps we might consider the possibility that the fault is not in the young, but in the old who fear them.

So, perceptions aside, the trend in actual misconduct appears to be downward or, at worst, steady. Given the continuing growth of the population and the workforce, this is encouraging.

So we need to look elsewhere for the reasons behind the increase in complaint-numbers.

1.3 Types of misconduct

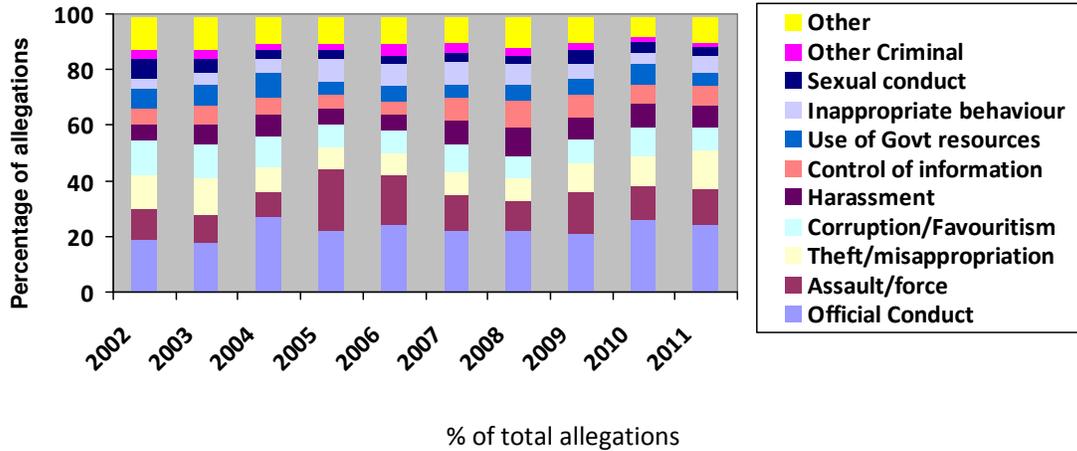


Figure 5. Allegations to CMC – Public sector 2002-2011

SOURCE: CMC Annual Reports 2002-2011

Figure #5 shows the break-down of allegations made to the CMC across the decade, as percentages of all complaints. The largest items are *Official conduct* (which includes abuse of office, conflicts of interest and the like), *Assault*, *Theft/Misappropriation*, and *Corruption*.

There are no major hot-spots. There was a small spike in assaults in 2005 and 2006, and it remains a volatile category. The only steady trend apparent is in misappropriation and theft, which remained at 8% of all allegations for four years from 2005 to 2008 and have risen each year since to be 14% of the allegations in 2011. This may, at least in part, be attributed to the cold reality – noted some 60 years ago by John Kenneth Galbraith – that in good times money is plentiful and people are trusting, and a lot of fraud goes undiscovered. In bad times, scrutiny is suddenly much tighter and *“Commercial morality is enormously improved ... One of the uses of depression is the exposure of what auditors failed to find”*^[3].

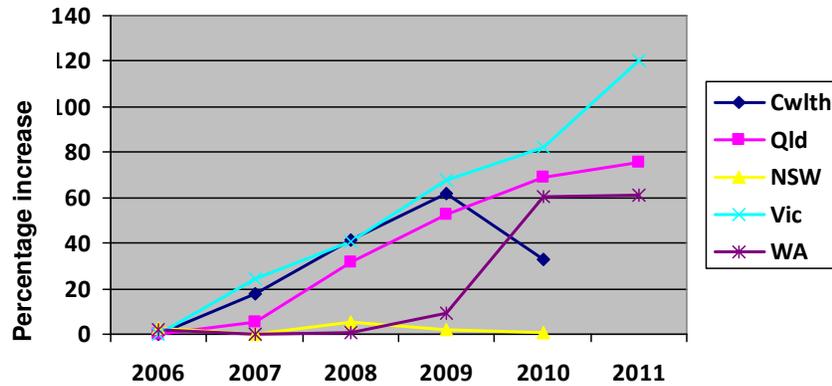
In fact, KPMG’s 2010 Fraud and Misconduct survey identified greed as the motive for 92% of fraud, with personal financial pressure (3%) and gambling (2%) as the other significant motives. Although many people – including anyone with money in a superannuation fund – lost heavily during the crash and its aftermath, it seems that not many have taken to fraud to recoup their losses^[4].

Apart from this one area, the mix remains fairly constant, and the balance is quite strikingly stable.

There is nothing to suggest that any particular type of misconduct has either surged or ebbed in the decade.

1.4 Willingness to complain

We also need to consider the possibility that people – whether in the public sector or in the community at large – may be more inclined to complain now that they were a decade ago. There is some evidence to support this.



Baseline = lowest recording, % variations above this

Figure 6. Ombudsmen – Thousands of contacts

SOURCE: *Annual Reports 2006-2010 Australian and NSW Ombudsmen; Annual Reports 2006-2011 Queensland, Victorian and Western Australian Ombudsmen.*

It is interesting to note that Ombudsmen also report significant increases in enquiries in this period.

Figure #6 uses the same scale of percentage increases over the baseline figure of the lowest reporting year, and it shows that of the 5 Ombudsmen for whom relevant figures were available, only NSW remains steady at around 2006 levels. The other jurisdictions shown have increases ranging from 30% to 120% in the period, with Victoria way ahead of the field.

Ombudsmen, of course, are not principally concerned with misconduct. Their field, in very broadest terms, is *dis*-satisfaction. People who go to the ombudsmen feel that the government systems they deal with have treated them unfairly, or without due consideration. Perhaps this might provide a clue to the rising rate of misconduct complaints.

2. DISSATISFACTION

A recent national study by the Australian National University found that satisfaction with democracy in Australia is lower in 2010 and 2011 than in the earlier part of the decade^[5].

There has been plenty of public discussion in recent times about the sources of public dissatisfaction. One of the most prominent at the moment is the prevalence of ‘spin’ in public discourse. Commentator Laurie Oakes recently predicted that “spin will become even more pervasive and powerful”^[6]. The connection with dissatisfaction and disenchantment is self-evident, but it is not so easy to see how this translates into more complaints. Cynicism, apathy and disengagement would seem to be more probable results.

It is an extension of this that leadership is also seen as a source of dissatisfaction. ‘Tone at the top’ has long been a mantra both at business schools and in ethics units, and it is a truism that the behaviour modelled by the leaders will be the prevailing standard for the organisation. There is a perception in Australian public life at the moment that the top is mostly a spinning top, and it is probable that this contributes to the level of dissatisfaction in the community.

Pessimism – or the ‘glass-half-empty’ view of society may also be a factor. Political science academic Thomas E Patterson wrote in 2001 that “the real bias of the press today is not a partisan one but a pronounced tendency to report what is wrong with politics and politicians rather than what is right”^[14]. It is not unreasonable to suspect that, so long as media and mutual enemies focus only on cataloguing the negative, rather than reporting aspirations or hopes or a vision for the future, the public in general are likely to assume the worst about the people they deal with, especially the people in power. This kind of negative attitude may well make a contribution to the rising number of complaints.

One particular type of complaint is worth singling out here, as it relates to spin, poor leadership and cynicism all at the same time. In Queensland, we have elections coming in the next few months, for both State and Local Governments. At each election, the CMC issues advisories against making political capital out of allegations of misconduct.^[7]

Some of these complaints are never actually made or, if made, are found to be baseless. Politicians are reminded that there can be personal and political consequences to setting out to damage the reputation of an opponent. The media and the public are reminded to be cautious about any candidate who publicises the fact that they have referred an allegation to the watchdog. On the positive side, sometimes real corruption is unveiled in this way, and that makes it worthwhile.

3. GROWING AWARENESS

The rise in complaints might also be attributed to an increase in the community’s awareness of public sector misconduct as an issue affecting them as citizens.

3.1 Better standards

A key factor in this increased awareness is a general movement by governments both here and overseas to put more demanding standards in place. Some of the more obvious examples are:

- Britain’s 2010 *Bribery Act* and the US *Foreign Corrupt Practices Act* are strong and positive steps towards making business and government cleaner.
- Tasmania now has an integrity watchdog, Victoria’s is in the works and not far away, and South Australia (following a change of Premier) has recently announced that it will join the others. By this time next year, every state will have a corruption watchdog. A decade ago, it was just Queensland and New South Wales.
- We still don’t have Commonwealth whistleblower protection, but at least it is on the to-do list.
- Queensland’s *Integrity Reform* agenda has introduced sweeping changes in the last two years including constraints on the conduct of Ministerial Staff, on lobbying and on donations to political parties and election expenditure.

Here we can see a positive side of leadership: if governments care sufficiently about right and wrong to put watchdogs in place to scrutinise their own conduct, there is a clear message to the community. When members of the ruling group are exposed and punished through these mechanisms – such as former Cabinet Minister Gordon Nuttall, jailed for 12 years in Queensland this year – it becomes difficult for even the most sceptical onlooker to challenge the sincerity of the reforms.

3.2 Other expressions of awareness

Events such as the October *Occupy Wall Street* demonstrations have been replicated across Australia and Europe, and have given substantial publicity to a level of discontent with the functioning of western democracies. While there have been similar social movements across the decade, such as the OPEC, G8 and G20 demonstrations of earlier years, it would appear that the current wave is both

more broadly based and better communicated, thanks to the powerful enabling role of social media (Facebook, Twitter and smart phones).

Similarly, the 'Arab Spring' popular movements in Egypt, Syria, Libya, Yemen and Tunisia have been represented as being largely driven by the use and unstoppable of social media. These clearly have a central role in the community's awareness both of misconduct and of ways in which misconduct can be challenged and addressed.

4. IMPLICATIONS

If, as these events imply, both governments and communities are more aware of misconduct, and actively engaged in dealing with it, then there are some likely implications for the coming years.

- The number of complaints is likely to continue to rise in the short term. While there is likely to be some cyclic variation, the trend will continue upwards so long as the community continues to care about honesty, fairness and integrity. This can only be healthy for everyone.
- The number of complaints is likely reduce only if the community loses faith in the likelihood of a meaningful response. This places a considerable responsibility on all of us in the integrity sector – and perhaps especially the newcomers in the southern states – to ensure that we maintain that faith.
- There will be resource implications. As our workloads increase, we will have to work smarter and faster to keep up, without sacrificing our standards. This is never going to be easy.
- Misconduct itself will never cease as it is unlikely that we will ever eradicate selfishness, greed and self-interest. The struggle to balance instinctive selfishness with the equally instinctive need to integrate with our surrounding group goes on every day, in every human mind. The social strategies for the next decade need to be aimed at tipping that balance just a little towards collective rather than individual enrichment.
- Nevertheless, actual misconduct may well reduce, at least marginally, over time. There are already plenty of examples of workplaces and group cultures where human frailty is very effectively controlled and channelled. We can only hope that these good examples continue to flourish and infect the less good.
- The only types of misconduct which are likely to increase are fraud, theft and official corruption, the 'hidden' offences. Public misconduct, such as nepotism, sexual harassment and bullying are likely to decline in the face of livelier public awareness and disapproval.
- There may well be an increase in moral courage. Perhaps because of Australian libel laws, public discussion is sometimes perceived as reluctant to make public judgements about right and wrong. Conduct such as disinformation campaigns by groups with strong personal and financial interests in some public proposal are labelled as self-interested but seldom as morally *wrong* or questionably honest. Former Commonwealth Ombudsman Alan Asher recently deplored "moral cowardice" in both government and the media^[8]. One of the greatest challenges for the next decade will be to convince society that its base values are honesty and integrity. Despite the distortions of sensational media, corruption needs to be seen as deviant, not as the norm, and the integrity watchdogs have a clearly defined role to play in this.
- The effects of the Global Financial Crisis will no doubt continue to be felt. The bungee market appears likely to continue for some time (not least because many traders have worked out ways to generate profits from the fluctuations), and the instability appears likely continue well into the decade ahead, and may conceivably become a permanent fixture.

- Times of instability and extreme change are well recognised as times of high risk, creating fertile ground for scams and frauds. They also create stresses and anxieties which make people in general more likely to act selfishly and less likely to act in the public interest, especially where it involves forgoing possible benefits for themselves.

5. CONCLUSION

In 1825, the German philosopher Hegel wrote: *“What experience and history teach us is this – that people and governments have never learned anything from history, or acted on principles deduced from it”*^[9].

We are here today in the shared hope that he was wrong. But we can be sure of one thing: there are interesting times ahead.

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6. REFERENCES

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