



I·C·A·C

INDEPENDENT COMMISSION
AGAINST CORRUPTION

NEW SOUTH WALES

Fact sheet

**Acknowledging your
section 11 report**

The ICAC's role

The NSW Independent Commission Against Corruption (ICAC) was established in 1988 to investigate and minimise corruption in and affecting the NSW public sector.

You have referred a matter to the ICAC because, as a principal officer, you suspected on reasonable grounds that corrupt conduct has occurred or may occur.

Corrupt conduct is defined in the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"). It involves deliberate or intentional wrongdoing involving (or affecting) a public official or public authority in NSW.

For conduct to be considered corrupt under the ICAC Act definition, it has to be serious enough to involve a criminal or disciplinary offence, be grounds for dismissal or, in the case of members of Parliament, involve a substantial breach of their code of conduct.

How does the ICAC use the information I provide?

The ICAC aims to protect the public interest, prevent breaches of public trust, promote the integrity and good repute of public administration, and guide the conduct of public officials.

The ICAC does not attempt to investigate every matter it receives and could not do so with its available resources. However, even if the resources were available, the ICAC considers that such a strategy would be counter-productive because principal officers and their organisations are primarily

the ones responsible for preventing, detecting and responding to corruption. The ICAC's role is to deal with those matters with which the public sector cannot or should not deal.

This approach means that only a very small number of reports made by public authorities result in full investigations or become the subject of public inquiries. Nevertheless, the reporting requirement benefits your organisation and the broader public sector in a number of ways, as detailed below.

What the ICAC cannot do

The ICAC's powers centre on *investigating and exposing* corrupt conduct. The ICAC cannot overturn government decisions, and has no power to review decisions or terminate the employment of a NSW public official.

Information received by the ICAC is treated as a source of material about possible corrupt conduct that the ICAC may or may not investigate.

What information does the ICAC need?

It will assist us if you provide us with the following details, if they were not included with your original referral:

- a complete description of the allegations
- the names of the public officials (if known) and their positions
- the names of any private citizens involved
- the date or timeframe involved
- the names of any witnesses or anybody else who could provide supporting information
- how you became aware of the matter
- whether the conduct appears to be a one-off or part of a wider scheme or pattern
- the monetary value involved
- what action you have taken
- what action you propose to take

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- information about where there may be evidence to support your allegations
 - any relevant documents
 - who the relevant contact officer is
 - whether you are treating the matter as a public interest disclosure under the *Public Interest Disclosures Act 1994*
 - any other information you believe is relevant to your referral.

Can I disclose publicly that I have made a referral to the ICAC?

There is no general prohibition in the ICAC Act against making public a referral to the ICAC.

However, the ICAC generally prefers that you do not do so as it may prejudice any action we take.

Furthermore, a failure to handle reports to the ICAC confidentially may cause unnecessary damage or embarrassment to individuals.

Do I need proof?

You are not required or expected to provide evidence to prove the allegations you are referring.

Section 11 requires that a principal officer *suspects on reasonable grounds* that corrupt conduct has occurred or may occur. A reasonable suspicion is more than an idle wondering and less than a belief.

What is required to trigger the obligation to report is a real possibility that corrupt conduct is involved.

Does the ICAC investigate all matters reported to it?

The ICAC Act states that, as far as is practicable, the ICAC should focus its attention on serious and systemic corrupt conduct. Not all matters reported to the ICAC are the subject of investigation or further action.

The ICAC is also unlikely to investigate a very old matter where evidence would be hard to obtain or a matter that the ICAC believes has been, or could be, adequately dealt with by your organisation or another agency.

How does the ICAC decide what to do with information?

All reports and complaints within the ICAC's jurisdiction are considered by an internal committee, comprising senior ICAC officers, called the Assessment Panel. The Assessment Panel is responsible for deciding what action the ICAC will take in relation to each new matter received, including whether the matter should be investigated or whether other action should be taken.

Your referral may be the subject of enquiries we conduct with your agency or we may refer the matter to your (or another) agency to follow up or investigate. Your referral may result in an ICAC investigation. Although the ICAC investigates only a very small number of the matters reported to it, the information will be retained and may assist with other matters of current or future interest to the ICAC. The information may help inform a corruption prevention project, an education program or a combination of these approaches.

What happens next?

The ICAC will assess the information you have provided. We may contact you for more information.

In the meantime, you should discuss with the ICAC any proposed steps you wish to take before you take them. It can prejudice any action we may take if you have commenced an investigation.

We will write to you to advise you of our assessment of the information you have referred, and what action, if any, we will be taking. We will provide you with reasons for our decision.

If, after reading this fact sheet, you believe you have more relevant information to provide to

us, you should contact us as soon as possible so the information can be considered. We may not contact you again until after we have assessed your information.

Need more information or assistance?

You can go to our website at www.icac.nsw.gov.au or contact the Manager Assessments on (02) 8281 5786.



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