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INDEPENDENT COMMISSION  
AGAINST CORRUPTION

NEW SOUTH WALES

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**Fact sheet**

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**Blowing the whistle**

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## 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.

## What is corruption?

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. Corrupt conduct can take many forms. Here are some examples:

- A public official improperly uses their knowledge, power or resources to help themselves or others.
- A public official dishonestly exercises their official functions, breaches public trust or misuses information or material acquired as a result of their position.
- A member of the public influences a public official to use their position in a way that is dishonest or partial.
- A public official or a member of the public engages in conduct that impairs public confidence in public administration and which could involve collusive tendering, fraud in relation to applications for certain licences, using public funds for private advantage, defrauding the public revenue or fraudulently gaining or retaining employment as a public official.

To fall within the ICAC Act, it has to be serious enough:

- to involve a criminal or disciplinary offence
- to be grounds for dismissal, or,
- in the case of members of Parliament, to involve a substantial breach of their code of conduct.

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The ICAC appreciates the courage that can be involved in a public official, or someone contracted to a public authority, “blowing the whistle” on public sector corruption. The ICAC readily acknowledges the importance of whistleblowers to our work in exposing and preventing corrupt conduct.

## **What is a public interest disclosure?**

The information you have provided has been classified as a public interest disclosure under the *Public Interest Disclosures Act 1994* (“the PID Act”). This means we accept you honestly believe on reasonable grounds that the conduct you have reported involves certain conduct covered by the PID Act. The type of conduct includes:

- corrupt conduct
- maladministration
- serious and substantial waste
- government information contravention
- pecuniary interest breach.

## **What does the ICAC do?**

We aim 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. We work to educate the public sector and the community about corrupt conduct and its effects. Even if we do not commence an investigation based on your information, information we receive can inform our corruption prevention work. We can take preventative action, where warranted, to prevent a person taking reprisal action against you for having made a public interest disclosure.

## **What the ICAC cannot do**

It is not our function to resolve employment disputes. We do not act as a conciliator or mediator.

## **What information should I provide?**

If you have not already provided it, the type of information we need to make a full assessment includes:

- your employer and your position title
- the name/s of any public officials whom you believe have engaged in corrupt conduct and their roles

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- the dates and timeframes of conduct which you believe is corrupt
  - the names of any private individuals or private entities involved
  - why you believe the conduct is corrupt
  - how you became aware of the matter
  - whether you have raised the issues with another person or agency and what their response was
  - whether there are any people or any documents tending to support your information.

## **Do I need proof?**

You are not required to provide evidence to prove what you are alleging. However, any information you do have will assist us in making a decision about what action we may take. While you are not expected to know the truth of the matter you are reporting, please note that it is an offence under the ICAC Act to deliberately provide false and misleading information to us.

## **Will the ICAC investigate the information I have provided?**

This depends upon a number of factors. Under the ICAC Act, we are required to focus our attention on conduct that is serious or systemic and therefore even if a matter involves possible corrupt conduct, we have a discretion with regard to whether or not we will investigate it. We are unlikely to investigate a matter that is very old and where evidence would be hard to obtain or a matter that we believe could be dealt with adequately by another agency.

Your information will now be referred to our Assessment Panel, made up of senior ICAC officers. That panel is responsible for deciding what action the ICAC will take in relation to all matters received. We may seek further information from you prior to making a decision or seek information from another agency, but before doing so we will seek your consent.

## **Referring your information elsewhere**

If our decision is not to investigate the matter but to refer it to another agency, so long as the information continues

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to satisfy the requirements of the PID Act, your matter remains a public interest disclosure, even after referral.

Other agencies that handle public interest disclosures and to which we may refer appropriate matters include:

- NSW Ombudsman (maladministration)
- Information Commissioner (a failure to comply with the *Government Information (Public Access) Act 2009*)
- Audit Office of NSW (serious and substantial waste of public money)
- Office of Local Government (breaches of pecuniary interest obligations).

## **Our obligations to you**

As we are treating the information as a public interest disclosure, we are required to notify you within six months of our decision in relation to the information we have received from you. We will deal with your information impartially and objectively and, at all times, we will treat you fairly and with courtesy.

## **Protections under the *Public Interest Disclosures Act 1994***

It is an offence under the PID Act for someone to take reprisal action against you because you made a disclosure. This can include any adverse managerial actions such as terminating employment or a contract, demotion, or any form of threat. In certain circumstances, agencies such as the ICAC can seek a court order to prevent any threatened action from occurring. If you believe reprisal action has been or may be taken against you, you need to advise the ICAC immediately.

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## **Confidentiality**

We will seek your consent before we make any enquiries with an agency that may tend to identify you as the source of allegations. If we believe the public interest requires taking action that may have a tendency to identify you, we will discuss this with you.

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## Guidance or assistance

You will be notified who your contact officer is. In the first instance, this will be the assessment officer who has been allocated the information you provided us. You can contact that ICAC officer to provide further information or to seek an update or advice. Please keep in mind that we are not able to provide legal advice to you.

Should you wish to discuss general concerns about workplace or welfare issues you are welcome to speak to a member of our Public Interest Disclosures Committee, which comprises senior ICAC staff. You can contact a committee member by calling 02 8281 5999 or 1800 463 909 to discuss your concerns.

## Need more information?

You can go to our website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) or call either 02 8281 5999 or 1800 463 909 and ask to speak to either your nominated ICAC officer or to the duty officer in the Assessments Section.

# ICAC

INDEPENDENT COMMISSION  
AGAINST CORRUPTION

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