



I·C·A·C

INDEPENDENT COMMISSION
AGAINST CORRUPTION

NEW SOUTH WALES

Fact sheet

Blowing the whistle

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.

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 2022* (“the PID Act”). This means we accept you honestly believe on reasonable grounds that the conduct you have reported involves serious wrongdoing covered by the PID Act.

This type of conduct includes:

- corrupt conduct
- government information contravention
- local government pecuniary interest contravention
- serious maladministration
- privacy contravention
- serious and substantial waste of public money.

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

We do not resolve employment disputes or 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 serious wrongdoing, specifically corrupt conduct, and their roles
- the dates and timeframes of conduct which you believe is corrupt

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- 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?

While proof is not required, the ICAC is unlikely to take any action if your allegations are based on speculation. It does assist the ICAC if you can provide information to support your allegations. 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.

A disclosure will not be a public interest disclosure if you willfully make a false statement to, or mislead, or attempt to mislead, the ICAC in relation to the disclosure.

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.

What will happen to my matter?

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.

All reports and complaints received that are within the ICAC's jurisdiction are considered by an internal committee made up of senior officers, the Assessment Panel. This panel decides on the action the ICAC will take, which could include:

- referring the matter to another agency or take no action
- requesting an investigation and report-back by another agency

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- conducting assessment enquiries
 - providing corruption prevention analysis and/or advice
 - undertaking an investigation.

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 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 (local government pecuniary interest contraventions).

Our obligations to you

As we are treating the information as a public interest disclosure, we are required to notify you 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 2022*

It is an offence under the PID Act for someone to take detrimental 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, you or agencies such as the ICAC can seek a court order to prevent any threatened action from occurring. If you believe detrimental action has been or may be taken against you, you need to advise the ICAC immediately.

Confidentiality

We will seek your consent before we make any enquiries with or referrals to 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.

Guidance or assistance

You will be notified who your contact officer is. In the first instance, this will be the senior 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.

Need more information?

You can go to our website at 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.



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