




Elected Members Morning Tea



Patricia Christie
Chief Executive Officer
Independent Commissioner Against Corruption




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ICAC
Independent Commissioner
Against Corruption
SOUTH AUSTRALIA


The Hon. Bruce Lander QC
Independent Commissioner Against Corruption

The ICAC Act - 1 September 2013



OPI
Office for
Public Integrity
SOUTH AUSTRALIA

- Receive and assess complaints and reports
- Recommend whether, and by whom, a complaint or report should be investigated
- Responsible to the Commissioner for the performance of functions



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- Identify and investigate corruption in public administration
- Assist agencies / authorities to deal with misconduct and maladministration in public administration
- Evaluate policies and practices
- Education

Conduct & Practices

PUBLIC ADMINISTRATION

Public Officer Public Authority



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Conduct of Interest

The ICAC Act is concerned with 3 types of behaviour and practices

- Corruption
- Misconduct
- Maladministration



Public Officers

Schedule 1 of the *Independent Commissioner Against Corruption Act 2012* lists **public officers** as including:

- Members of Parliament
- members of the judiciary
- police officers
- elected member/employee of local government
- public service employees
- any other public sector employee
- person who is, in accordance with the Act, assisting a public officer in the enforcement of the Act
- a person performing contract work for a public authority or the Crown



Corruption

Corruption is a generic term for a suite of offenses mentioned in the definition.

Section 5 of the ICAC Act provides the full definition.
In essence, corruption is conduct that is:

- an offence relating to Public Officers under the *Criminal Law Consolidation Act 1935*.
- an offence against the *Public Sector Honesty and Accountability Act 1995*, or
- the *Public Corporations Act 1993*, or
- any other offence committed by a Public Officer acting in his or her capacity as a Public Officer.



Misconduct

Misconduct is:

- a **contravention** of a code of conduct by a Public Officer whilst acting in his or her capacity as a Public Officer that **constitutes ground for disciplinary action**; or
- **other misconduct** committed by a Public Officer while acting in his or her capacity as a Public Officer.



Maladministration

- **Conduct** of a public officer, or a **practice, policy, or procedure of a public authority** that results in an **irregular and unauthorised use of public money** or **substantial mismanagement of public resources**;
- **Conduct** of a public officer involving **substantial mismanagement** in or in relation to the performance of official functions...

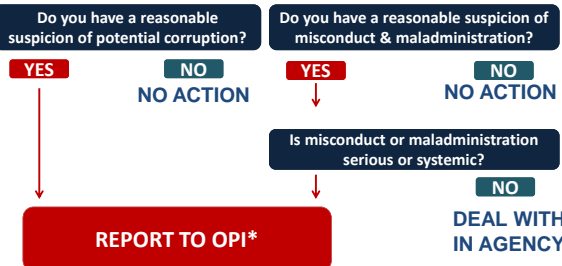
Includes conduct resulting from:

- Impropriety
- Incompetence
- Negligence



Reporting Obligations

DO YOU REPORT?



*Unless previously reported (corruption - to the OPI or misconduct, or maladministration - to an inquiry agency or the OPI)

Forming a Reasonable Suspicion

You **must** report to the OPI as soon as practicable from the moment you have formed a reasonable suspicion.

**A suspicion is a subjective state of mind,
less than knowledge or belief**

**To be reasonable, a suspicion must have a rational
basis**

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Serious or Systemic

Is it serious or systemic?

- Nature and circumstances of the allegations (e.g. steps to cover up conduct)
- Status of the person(s) involved
- Resulting harm /potential harm to an individual or government
- Widespread, involves more than one Authority and occurs frequently

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What happens next?

**OPI receives all complaints and reports of corruption,
misconduct and maladministration.**

- all complaints and reports are assessed by the OPI
- OPI makes a recommendation to the Commissioner
- corruption will be investigated by ICAC, SAPoL or Police Ombudsman
- misconduct or maladministration will be referred for investigation by either the public authority, Police Ombudsman or Commissioner for Public Sector employment

Commissioner may exercise the power of an inquiry agency and investigate the matter himself.

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Privacy Matters

Section 56 of the ICAC Act prevents you from publishing or causing to be published any information relating to a matter reported to the OPI.



What is a Council?

A Council is a body corporate which consists of members who are appointed or elected to it

Council has a legal capacity



Functions of a Council

- Provision of services and facilities for benefit of community
- Welfare, wellbeing and interests of individuals and groups
- Provide infrastructure and development



Council Principles

- Provide open, responsive, accountable government
- Respond to needs, interests and aspirations within the community
- Setting public policy
- Achieving regional, state and national objectives
- Facilitate sustainable development



Council Administration

A Council must have a CEO

Functions of the CEO include:

- Implementation of policies and decisions
- Day to day operations
- Assisting Council to assess its performance
- Management of assets and resources



Duties and obligations

- Act honestly
- Act with care and diligence
- Do not misuse information
- Do not seek to obtain personal gain at the detriment of the Council



Code of Conduct

- Part 1 Principles
- Part 2 Behavioural Code
- Part 3 Misconduct



Summary

ICAC

- Investigate corruption
- Oversee handling of misconduct and maladministration
- **Do Not** investigate trivial matters

Elected Members

- Represent electors' interests
- Community leadership
- **Do Not** deal with day to day administration of Council





Thank you
Questions?
