

STANDARD OPERATING PROCEDURE 1 PRODUCTION OF STATEMENT OF INFORMATION

VERSION	#7
DATE OF ISSUE	23 MAY 2023
REVIEW DATE	17 APRIL 2025
REVIEW RESPONSIBILITY ENQUIRIES TO	DIRECTOR INVESTIGATIONS
ASSOCIATED POLICY / PROCEDURE	INFORMATION SHEET – APPENDIX A

APPROVED


.....
COMMISSIONER

23, 5, 2023
...../...../.....

CONTENTS

PURPOSE.....	3
SCOPE	3
PRODUCTION OF STATEMENT OF INFORMATION OR ANSWER SPECIFIED QUESTIONS.....	3
HEAD INVESTIGATOR'S RESPONSIBILITIES.....	3
INVESTIGATOR'S RESPONSIBILITIES.....	3
REFERENCES	4
DOCUMENT HISTORY	4
APPENDIX A – INFORMATION SHEET	5

PURPOSE

The purpose of this Standard Operating Procedure (SOP) is to provide direction to investigators when exercising the powers under section 28 of the *Independent Commission Against Corruption Act 2012* (the ICAC Act) and provide appropriate information about the rights, obligations and liabilities of persons in relation to whom powers under that section are exercised.

SCOPE

This SOP applies to all investigators seconded or appointed under section 14 of the ICAC Act.

PRODUCTION OF STATEMENT OF INFORMATION OR ANSWER SPECIFIED QUESTIONS

Section 28 of the ICAC Act empowers the person heading an investigation into corruption in public administration (the Commissioner, Deputy Commissioner or an examiner) to require, by way of written notice, an inquiry agency, a public authority or public officer to produce a written statement of information about a specified matter, or to answer specified questions, within a specified period, and in a specified form. The person heading the investigation may also require that the information be verified by statutory declaration.

HEAD INVESTIGATOR'S RESPONSIBILITIES

The person exercising this power will provide a written notice that details the information required or the questions to be answered, the format in which the information or answers are to be provided, and the period within which they are to be provided. The notice will indicate whether the person requires the information or answers to be verified by statutory declaration.

INVESTIGATOR'S RESPONSIBILITIES

An investigator who asks the person heading an investigation to exercise the power must present to the Commissioner a memorandum and draft notice in the approved form.

A Commission approved pro forma 'NOTICE TO PRODUCE STATEMENT OF INFORMATION OR NOTICE TO ANSWER SPECIFIC QUESTIONS' is to be used. The pro forma is available to investigators in the investigations template folder.

The notice is to be accompanied by an information sheet which outlines the obligations imposed on the recipient. A copy is attached as Appendix A to this SOP.

HOW SERVICE IS TO BE EFFECTED

Service is to be effected in accordance with section 58 of the ICAC Act.

The person effecting service must, as soon as reasonably practicable, make an accurate note on a true copy of the notice that has been served setting out how, when and upon whom the notice was served.

That copy of the notice must be retained in the investigation file, and an electronic copy retained on the Commission's Enterprise Content Management System.

The application for and issue of the notice must be recorded as 'investigation tasks' in the Commission's case management system (Resolve).

REFERENCES

Independent Commission Against Corruption Act 2012

DOCUMENT HISTORY

DATE	ACTION	PREPARED BY
04 Jul 2013	SOP created	Director Operations
28 Aug 2014	SOP reviewed	Director Operations
24 Dec 2015	SOP reviewed and amended	Director Operations
18 Oct 2016	SOP reviewed and amended	Director Investigations
16 Aug 2017	SOP reviewed and amended	Director Investigations
20 Mar 2018	SOP name reviewed	Director Investigations
27 May 2020	SOP reviewed and amended	Director Investigations
08 Oct 2021	SOP reviewed and amended	Director Investigations
16 Feb 2023	SOP reviewed and amended	Deputy Commissioner

APPENDIX A – INFORMATION SHEET

Notice to produce statement of information or notice to answer specified questions

What is this document?

The attached notice is issued by the head of an investigation into corruption in public administration, pursuant to section 28 of the *Independent Commission Against Corruption Act 2012* (SA) ("the Act").

Section 28 of the Act provides that:

For the purposes of an investigation into corruption in public administration, the person heading the investigation may, by written notice, require an inquiry agency, a public authority or public officer to produce a written statement of information about a specified matter, or to answer specified questions, within a specified period and in a specified form, verified if the person so requires by statutory declaration.

You are obliged to comply with the requirements of this notice.

TAKE NOTICE that section 33(1) of the Act provides that:

A person must not—

- (a) refuse or fail to provide a statement of information as required by the person heading an investigation; or
- (b) include information in a statement of information knowing that it is false or misleading in a material particular; or
- (c) without lawful excuse, refuse or fail to comply with a requirement or direction of an investigator under this Act; or
- (d) alter, destroy, conceal or fabricate a document or other thing knowing that it is or is likely to be required by an investigator performing functions under this Act; or
- (e) otherwise hinder or obstruct an investigator, or a person assisting an investigator, in the performance of his or her functions.

Maximum penalty: \$10 000 or imprisonment for 2 years.

TAKE NOTICE that Section 54(3) – (6) of the Act provides that:

- (3) A person who receives information knowing that the information is connected with a matter that forms or is the subject of a complaint, report, assessment, investigation, referral or evaluation under this Act must not disclose that information unless—
 - (a) the person is authorised in writing by the Commissioner or the Director of OPI, or by a person approved by the Commissioner or the Director of OPI under this section to give an authorisation; or
 - (b) the disclosure of that information is for the purpose of—
 - (i) dealing with a matter referred under this Act by the Commission or the Office; or
 - (ii) a criminal proceeding, a proceeding for the imposition of a penalty or disciplinary action; or
 - (iii) a person obtaining legal advice or legal representation or for the purposes of determining whether a person is entitled to an indemnity for legal costs; or

- (iv) a person obtaining medical or psychological assistance from a medical practitioner or psychologist; or
- (v) a person advising their employer; or
- (vi) a person advising their business partners or others with whom a relevant fiduciary relationship exists; or
- (vii) the management of a workers compensation claim; or
- (c) the information relates to the person and is disclosed by the person to a close family member of the person.

Maximum penalty: \$2 500 or imprisonment for 6 months.

- (3a) An authorisation to disclose information must be granted under subsection (3)(a) on application by a person—

(a) if—

- (i) the information relates to the applicant; and
- (ii) the person determining the application is satisfied that disclosure of the information would not reasonably be expected to prejudice any further action in respect of the matter; or

(b) if—

- (i) the information was disclosed to the applicant by a close family member; and
- (ii) the information relates to the close family member; and
- (iii) the close family member is deceased or is otherwise no longer able to apply for authorisation to disclose the information; and
- (iv) the person determining the application is satisfied that disclosure of the information would not reasonably be expected to prejudice any further action in respect of the matter.

- (4) For the purposes of subsection (3)(c), a person is a close family member of another person if—

- (a) 1 is a spouse of the other or is in a close personal relationship with the other; or
- (b) 1 is a parent or grandparent of the other (whether by blood or by marriage); or
- (c) 1 is a brother or sister of the other (whether by blood or by marriage); or
- (d) 1 is a guardian or carer of the other.

- (5) A person must not, except as authorised in writing by the Commissioner or the Director of OPI, or by a person approved by the Commissioner or the Director of OPI under this section to give an authorisation, or by a court hearing proceedings for an offence against this Act, publish, or cause to be published—

- (a) information tending to suggest that a particular person is, has been, may be, or may have been, the subject of a complaint, report, assessment, investigation or referral under this Act; or
- (b) information that might enable a person who has made a complaint or report under this Act to be identified or located; or
- (c) the fact that a person has made or may be about to make a complaint or report under this Act; or

- (d) information that might enable a person who has given or may be about to give information or other evidence under this Act to be identified or located; or
- (e) the fact that a person has given or may be about to give information or other evidence under this Act; or
- (f) any other information or evidence publication of which is prohibited by the Commission.

Maximum penalty:

- (a) in the case of a body corporate—\$150 000;
- (b) in the case of a natural person—\$30 000.

(6) A person does not however commit an offence against this section by publishing—

- (a) any information the disclosure of which has been authorised under subsection (3)(a); or
- (b) a report of anything said in any proceedings to which parliamentary privilege applies.