

# The ICAC and Local Government

## FACT SHEET

The Territory Government is creating an Independent Commissioner Against Corruption (ICAC) to investigate government corruption, and restore integrity and transparency to Government. Legislation has been drafted and will be introduced into the Legislative Assembly this year. The Government is currently seeking feedback on the draft Bill, which is available at [www.justice.nt.gov.au](http://www.justice.nt.gov.au). This fact sheet is intended to assist you to provide an informed response.

### What is the ICAC?

The ICAC is a specialist investigator with a focus on government corruption. It investigates certain kinds of criminal offences that relate to government corruption, but also can investigate serious breaches of public trust that are not technically offences. In addition to the kinds of powers Police have, the ICAC has powers to enter government premises without warrants, and to compel any person to attend and give evidence. The ICAC will also administer a whistleblower protection scheme, which will allow it to protect important sources of information.

### The ICAC can look at Local Government organisations

The ICAC can investigate public officers and public bodies. A 'local government council' is a kind of public body, and a member, officer, or employee of a public body is a public officer. In addition, if a local council contracts a person or organisation to deliver services or makes a grant of public money, the ICAC will be able to look at corruption by the contractor or grant recipient in relation to delivering government services or spending government money.

### The ICAC looks primarily at corrupt conduct

Corrupt conduct means very serious improper conduct, such as committing an offence that carries two or more years imprisonment or which warrants termination of service. Whether conduct is an offence or warrants termination of service will depend on other laws such as the *Local Government Act*, relevant codes of conduct, and terms of employment contracts. It is intended that consequential amendments will amend certain offences in the *Criminal Code* which currently apply to persons 'employed in the public service' so that they apply to public officers generally, including members and employees of local government organisations.

### Local government bodies will have obligations under the ICAC Bill

The scheme in Part 6 of the Bill replaces the whistleblower protection scheme in the *Public Interest Disclosure Act*. While they are similar, the new Bill places more specific obligations on public bodies receiving disclosures to keep records and provide certain information to whistleblowers. It will be in the public body's interest to have good policies, training, and record-keeping with respect to handling whistleblower allegations, as this will minimise risks of criminal and civil liability if a whistleblower suffers an act of reprisal.

The ICAC also has the power to issue guidelines and directions which require public officers to report improper conduct directly to the ICAC. The exact content of these guidelines and the manner in which they apply to local government bodies will be a matter for the ICAC.

## **The ICAC may refer investigations concerning local government bodies**

The ICAC will not necessarily investigate a matter itself if it can refer the matter to another appropriate body. The ICAC could, for example, refer an investigation or part of an investigation to the Department of Housing and Community Services, to the Local Government Association of the Northern Territory (LGANT), to Police, to the Ombudsman, or to the Council in which the improper conduct was alleged, if the ICAC was of the view the referral body has the jurisdiction and capacity to carry out the investigation. The ICAC does not replace these existing organisations, and will also be able to enter into arrangements to handle investigations jointly with them, if the organisations are amenable. If an investigation is referred to a Council, the ICAC may oversee the investigation and issue directions about certain steps that must be taken.

## **The ICAC will provide guidelines**

The ICAC has a broad educative function, and also a specific function of providing guidelines and training to public bodies on matters such as best practice whistleblower protection, and recommended processes for reporting and dealing with corruption. The ICAC is able to audit and review public bodies in relation to these issues and make reports on the findings.