



21 July 2017

Mr Robert Bradshaw PSM
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Dear Mr Bradshaw

SUBMISSION ON ICAC CONSULTATION BILL

Thank you for the opportunity to make a submission on the Exposure Draft of the Independent Commissioner Against Corruption (ICAC) Bill 2017.

The powers and remit of the Commissioner are extremely wide and obviously a significant potential area of ICAC investigation is Government's dealings with the private sector. Indeed one type of 'corrupt conduct' is conduct engaged in by a person (whether or not a public officer or public body) that could impair public confidence in public administration.

It is noted that 'corrupt conduct' is the highest form of 'improper conduct' in the ICAC Bill.

Section 29(3) is indicative of the wide investigatory remit of ICAC - "If the ICAC has, or is aware of, information that, if true, would not itself amount to improper conduct but may be directly or indirectly connected with improper conduct, or be part of a course of activity involving improper conduct, the ICAC may commence an investigation based on the information". The question follows that if the information proves to be untrue, what costs recompense should the private person or business be entitled to.

The only mention of costs in the ICAC Bill relates to action taken against 'protected persons' or 'victims'. There is no provision in the ICAC Bill for a private sector business or private individual who has been found to have acted appropriately in an investigation to be awarded the costs of defending themselves.

This would seem to be a reasonable inclusion in the legislation given the wide powers of ICAC and the significant expense that a business or private individual can incur in defending themselves in the ICAC environs.

It is strongly recommended that the ICAC Bill be amended to include provision for a business or private individual to be awarded the costs of defending themselves if an investigation finds they have not engaged in 'improper conduct'.

Yours sincerely

IAN KEW
Chairman