

# STANDARD OPERATING PROCEDURE 1 PRODUCTION OF STATEMENT OF INFORMATION

VERSION	#6
DATE OF ISSUE	27 MAY 2020
REVIEW DATE	01 JUNE 2022
REVIEW RESPONSIBILITY ENQUIRIES TO	DIRECTOR INVESTIGATIONS
ASSOCIATED POLICY / PROCEDURE	INFORMATION SHEET – APPENDIX A

APPROVED

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COMMISSIONER

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## 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 Commissioner 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 TO ANSWER SPECIFIC QUESTIONS

Section 28 of the ICAC Act empowers the person (the Commissioner or an examiner) heading an investigation into corruption in public administration 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 specific period, and in a specified form. The person heading the investigation may also require that information be verified by statutory declaration.

### HEAD INVESTIGATOR'S RESPONSIBILITIES

The person heading the investigation who is 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 time within which they are to be provided. The notice will indicate whether the person heading the investigation requires the information or answers to be verified by statutory declaration.

### INVESTIGATOR RESPONSIBILITIES

#### **Serving the notice**

An ICAC approved '**NOTICE TO PRODUCE STATEMENT OF INFORMATION OR NOTICE TO ANSWER SPECIFIED QUESTIONS**' and accompanying letter of advice for the recipient is to be used in every case. These documents are available to investigators in the investigations template folder. A copy of the 'Information Sheet' that must be attached to the notice is attached as Appendix A to this SOP.

#### **Provision of notice**

The notice must be given to the inquiry agency, public authority or public officer by one of the methods prescribed in section 58 of the ICAC Act.

In all instances, the investigator responsible for giving the notice must, as soon as reasonably practicable, make an accurate note on a true copy of the notice that has been given setting out how, when and to whom the notice was given.

That copy of the notice must be retained in the investigation file.

## Record keeping

A digital copy of the notice must be retained on ICAC's Enterprise Content Management System.

An 'investigation task' must be raised in ICAC's Case Management System and used to record the application for the notice and the outcome of that application. This includes service details if applicable.

## REFERENCES

*Independent Commissioner Against Corruption Act 2012*

## DOCUMENT HISTORY

<b>DATE</b>	<b>ACTION</b>	<b>PREPARED BY</b>
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

## APPENDIX A – INFORMATION SHEET

### **Notice to produce statement of information or notice to answer specific 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 Commissioner 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) of the Act provides that:

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 by a person approved by the Commissioner 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 Commissioner 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
- (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.

**TAKE NOTICE** that section 56 of the Act provides that:

A person must not, except as authorised by the Commissioner or 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 Commissioner.

Maximum penalty:

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