



Media Release

Trivial and vexatious complaints from KI to ICAC must stop: ICAC Commissioner

Friday 13 May 2016

South Australian ICAC Commissioner Bruce Lander QC and SA Ombudsman Wayne Lines pulled no punches at last Monday's public meeting in the Kingscote Town Hall on 9 May. They were here to send a clear message: do not waste the time and resources of the ICAC/Office of Public Integrity (OPI) or the Ombudsman's Office with complaints and reports that are trivial, frivolous or vexatious, or not in relation to serious or systemic misconduct or maladministration.

Mr Lander explained that misconduct, under the ICAC Act, is a breach of the relevant Code of Conduct by an elected member or Council employee that could result in a disciplinary process and that maladministration is the misuse of a function by a public officer or an elected member that results in a cost to Council.

The Commissioner said, "My function is to investigate corruption (which in South Australia is criminal conduct) and serious and systemic misconduct and maladministration in public administration. I will not investigate anything less. I can ask the Ombudsman to investigate reports or complaints in relation to serious or systemic misconduct or maladministration, but it must be that – serious or systemic.

"If you do suspect corruption or serious or systemic misconduct or maladministration, and your suspicion is reasonable, you should report it to the OPI. But the right to complain also requires responsibility.

"My concern is that a number of offices are put to costly expense by complaints and reports that should never have been made."

The Commissioner went on to explain that many complaints and reports received from Kangaroo Island were of no substance and as a result the Council had incurred litigation expenses in the order of \$200 - \$300 thousand. "It is because of those figures that I felt it necessary to come here and explain what we do – and don't do."

Mr Lander said that Kangaroo Island Council is significantly over-represented in the number of complaints and reports submitted to the OPI with 50% of all complaints and reports coming from two people. Of the 26 complaints and reports received, 21 were assessed by the OPI as requiring no action at all, and the vast majority of those requiring no action were considered "trivial, frivolous or vexatious" or did not reflect "serious or systemic misconduct or maladministration". Only one matter has been investigated by ICAC as raising a potential issue of corruption - but that has not been substantiated.

The Commissioner said, "I invite those of you who think it necessary to make these complaints to desist so that my office can deal with the matters it should deal with, and Council can be left to focus on matters it needs to get on with."

SA Ombudsman Wayne Lines said, "There are occasions when we do need to carry out investigations into elected members and senior Council administration in relation to codes of conduct. You can be assured that if an investigation is carried out, it will be done thoroughly and appropriately, and the matters under investigation analysed and considered in fine detail."

Anyone interested in making a complaint about a breach of a code of conduct was advised to first make themselves familiar with the code – and the new codes when they are released – and to reference the relevant part of the code in the complaint.

"We do not have an issue with anyone making a complaint or report. However the vast majority of complaints are unsubstantiated and often simply a case of a squabble between people. That is not the proper use of the complaint process.

"What we are saying is: if your motivation is purely to make life difficult for someone, and is not really genuine about the nature of the conduct, then we ask you to think again because when you make that complaint, in just assessing it - even if we dismiss it as frivolous or trivial - it still uses up considerable time and taxpayers' money".

Ends

Background

The Ombudsman and Commissioner addressed the following issues:

- The integrity system in South Australia including the interaction of the Independent Commissioner Against Corruption (ICAC) and the Ombudsman;
- The matters which may be brought to the Office for Public Integrity (OPI) and ICAC and the manner in which those matters can be raised;
- Matters that should not be reported to the OPI/ICAC;
- Inappropriate use of the OPI/ICAC;
- The manner in which the OPI/ICAC may address complaints;
- The need for cooperation with the OPI/ICAC by complainants and reporters; and
- The effect on Councils of complaints and reports including the cost to Council.

The session was intended to provide context around the role and purpose of each of the Offices; guidance on appropriate and inappropriate topics for raising with them; some perspective on the cost of complaints; and their concern about what they perceive to be a growing divisive culture on the Island.

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