



Public Health Association
AUSTRALIA

**Public Health Association of Australia
submission on the Independent
Commissioner Against Corruption Bill 2017
(Northern Territory)**

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Introduction

The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public's health in Australia. The PHAA works to ensure that the public's health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people's health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

Preamble

PHAA welcomes the opportunity to provide input to the Inquiry into the Independent Commissioner Against Corruption Bill 2017 in the Northern Territory.

Corruption is a contributor to injustice and inequity, and the reduction of social and health inequities should be an over-arching goal of national and State/Territory policy. Inequity is recognised as a key measure of our progress as a society. All Australian Governments, including the Northern Territory should outline a comprehensive national cross-government framework on promoting a healthy ecosystem and reducing social and health inequities. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally. Thus, work against corruption, including consideration of an Independent Commissioner Against Corruption has important health, social and environmental implications.

PHAA Response to the Bill

Purpose of the Bill

The Bill creates an Independent Commissioner Against Corruption in the Northern Territory, with a wide remit but focusing on the most serious corruption in the public sector. The Bill arises from recommendations of the Report by Commissioner Martin AO QC as a result of the Anti-Corruption, Integrity and Misconduct Inquiry – the Martin Report.

The Bill establishes the role of the Commissioner with staff; give them power to investigate improper conduct in the broader public sector including Agencies, statutory authorities, local government, contract service providers and recipients of Northern Territory Government funding. Some conduct and offences which are inherently detrimental to the operations of the public sector can also be investigated, along with Northern Territory and local government elections. The ICAC would be able to conduct audits, investigations, joint investigations, and referrals; make recommendations for change; and provide briefs of evidence for prosecution or disciplinary action. The ICAC is given broad discretion to determine how a matter is deal with and whether any action is required and is protected from external interference. The Bill is retrospective in that the ICAC can investigate matters which occurred before it was established. The ICAC is given comprehensive investigative powers including to enter public sector premises without a warrant, and private sector premises with a warrant. The ICAC has the power to create a mandatory reporting scheme and to impose requirements for mandatory reporting. The Bill repeals the Public Interest Disclosure Act but maintains and strengthens the whistleblower protections that were provided under that Act, and the ICAC takes over any outstanding investigations and disclosures. Finally, the bill provides for the appointment of an Inspector tasked with overseeing the ICAC and able to receive and investigate complaints about the ICAC.

PHAA response to the Bill

The Bill appears to follow in principle 50 of the 52 recommendations of the Martin Report. The two recommendations not followed relate to the South Australian ICAC being appointed as the first Northern Territory ICAC. These recommendations are not followed because there is a stated preference for a selection process similar to judicial appointments, and allowing for a Commissioner who is based full time in the Northern Territory.

Limited tenure of the Independent Commissioner

Good governance is a key public health issue as set out in World Federation of Public Health Associations' *A Global Charter for the Public's Health* (https://www.wfpha.org/images/Charter_WFPHA.pdf) An ICAC is designed to ensure good governance and to discourage corruption. However, there is a danger that an ICAC becomes too strong a power in itself as it could have the ability to over-ride democratically elected members of parliament. The most effective way to prevent an inappropriate use of power by an individual (the Commissioner) is to provide for a limited term. The bill follows the recommendation in the Martin report, of a Commissioner appointed for a five-year term with the option of one further term. The PHAA suggests that the tenure of all the ICAC staff, including the Commissioner, should be for five years only.

At that point it is appropriate for the Northern Territory Parliament to then establish another ICAC.

Recommendation:

An ICAC be established with a limited 5 year tenure. At the end of the 5 years a new ICAC including a new Commissioner be commenced.

Conclusion

PHAA supports the establishment of an Independent Commissioner Against Corruption in the Northern Territory, in line with the recommendations of the Martin Report. This is in line with our concerns for public health, and development of healthy environments for all Australians.

The PHAA appreciates the opportunity to make this submission. Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.



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