



**Office of the Independent  
Commissioner Against Corruption (NT)**  
Level 7, 9 Cavenagh Street  
DARWIN CITY NT 0800

The Honourable Natasha Fyles MLA  
Chief Minister of the Northern Territory

**Postal address**  
GPO Box 3750  
DARWIN NT 0801

**T** 08 8999 4015  
**E** [icac.nt@icac.nt.gov.au](mailto:icac.nt@icac.nt.gov.au)

**Sent via email: [chief.minister@nt.gov.au](mailto:chief.minister@nt.gov.au)**

Dear Chief Minister

*Independent Commissioner Against Corruption Act 2017 (ICAC Act) – recent criticism of the OICAC*

Over the last few days there has been public criticism of the appointment to my office of an individual who previously held a senior position within a political party. While the individual was very well qualified for the position, and the position is relatively junior in terms of the structure of my office, I understand and accept the criticism that has been made. Greater attention ought to have been paid to the applicant's prior political affiliations. As Commissioner I am responsible for all recruitment decisions and I accept responsibility for this decision. I intend to make a further public comment on the matter on Monday, but not until I have had the opportunity to speak to the individual involved. None of what I have said should be seen as a criticism of the individual involved, who I am advised is performing to a high standard. As I explained publicly, the individual is the subject of numerous controls to manage any actual or perceived conflicts of interests.

Nevertheless, the event creates an opportunity to suggest some further potential amendments to the ICAC Act. I appreciate that these suggestions have come after the consultation process has concluded, but I nevertheless ask that they be given due consideration.

### **Statutory bar to employment of individual with past political affiliation**

Section 126(3) of the ICAC Act provides that I may take into account certain matters to determine whether a person is suitable to be, or remain, a member of ICAC staff.

I think this could be strengthened. I propose the insertion of a statutory bar to the appointment of any person who has been a Member of the Legislative Assembly, or a member of a political party, in the past 5 years, unless both the Commissioner and the Independent Inspector are satisfied that the individual's political affiliations are sufficiently minor or remote as to not affect the individual's suitability for appointment. I further suggest that this determination can only be made by the Commissioner and the Inspector, and cannot be delegated to any other person.

### **Engagement of interstate or overseas resources**

It has been suggested by one media commentator that the Northern Territory is too small to have its own ICAC. As might be expected, I do not agree with that proposition. There is no substitute for locally based decision makers, particularly in respect of the many and varied functions performed by my office. Nevertheless, it must be accepted that there is an element of truth to the commentator's underlying argument. That is, the population of the Northern Territory is small and, as a consequence, the pool of suitably skilled and qualified applicants is miniscule. Where local applicants are selected, it is almost inevitable that conflicts of interest will arise that necessitate that staff member being excluded from certain matters or activities.

I would very much like to be in a position to attract individuals from outside of the Northern Territory to work in my office. Like me, those individuals would not be hampered by existing relationships, both social and professional, that might inhibit, or be seen to inhibit, objectivity. That would be balanced by the many

experienced and skilled local staff that I already have, and who bring a wealth of experience in respect of the unique aspects of Northern Territory public administration.

In September 2023 my deputy and I will travel to Auckland, New Zealand, to take part in an exhibition run by Migration NT. The exhibition is designed to attract interest amongst New Zealanders to apply for Northern Territory Government jobs. We are also exploring the opportunity, while in Auckland, to speak separately to interested persons within the law enforcement and legal sectors.

However, my office must be in a position to offer attractive remuneration to encourage persons to relocate to the Northern Territory and to remain.

### **Payment of allowance**

In order to explain this proposal it is necessary to provide some historical context.

In February 2022, I made a request for additional funding for the 2022-23 financial year and onwards. That submission was rejected.

In September 2022 I presented a business case to the Commissioner for Public Employment requesting a determination that would permit the payment of an allowance to investigators and legal officers. The purpose of seeking determination was to provide more competitive remuneration in order to attract highly skilled individuals. My intention was to manage the payment of that allowance within existing budget constraints.

In October 2022, I was advised that my request had been rejected.

In the same month I commenced work on a detailed budget submission for the 2023-24 financial year and beyond.

In November 2022 I was advised that consideration of any such submission would be deferred until the outcome of pending legislative amendment. Accordingly I abandoned the preparation of a budget submission.

I intend to make another submission later this year.

During that time we have conducted numerous recruitment processes where no suitable applicant was identified. The most recent example was yesterday. In some cases we have advertised on multiple occasions for the same role. The recruitment processes themselves are costly and resource intensive.

While there are likely many reasons for the difficulties we have, and are, experiencing in respect of the recruitment of suitable employees, it would be naïve to suggest that the capacity to offer an attractive remuneration package is not a significant barrier.

While I accept that my office is part of the Northern Territory Government, the reality is that the functions discharged, and the work undertaken, calls for a level of independence that is unique within government. That independence must extend to my ability to engage and retain suitable staff.

To that end, I recommend that the ICAC Act be amended to provide that I may authorise the payment of an attraction and retention allowance of an amount that I consider appropriate and reasonable, to a particular member of staff, or to a category of staff, in order to ensure I am in a position to attract and retain those individuals. Of course, the payment of any such allowance would be met within existing budgetary constraints.

### **Use of interstate agency resources**

In recent times Anti-Corruption Commissioner's from around the country have discussed the potential benefits of resource sharing arrangements. The benefits to my office of a resource sharing arrangement are obvious. An agreement to make use of interstate agency resources would be of great assistance, particularly in respect of investigations. To that end, I recommend that the ICAC Act be amended to permit for the Commissioner to enter into an arrangement with an interstate law enforcement agency, or an interstate agency that has functions similar to the ICAC, for the sharing of resources. Of course, any cost associated with such an arrangement would be borne from my existing budget.

I hope that the government will consider my proposals. For transparency I will provide a copy of this letter to all MLA's.

Yours sincerely



Michael Riches

**Independent Commissioner Against Corruption**

15 July 2023