

OSOM EVDS

Oversize and/or Overmass
Escort Vehicle Drivers
Scheme



Transport
Roads & Maritime
Services

What it means to be a public official

Information for
Accredited Providers and
Authorised Escort Vehicle Drivers

March 2016

This document provides information about the responsibilities of public officials for OSOM EVDS Accredited Providers and Authorised Escort Vehicle Drivers.

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Disclaimer

This publication may include some of your obligations under various applicable pieces of legislation. To ensure you comply with your obligations you must refer to the appropriate legislation. Information on the latest legislation can be obtained on the NSW legislation website (www.legislation.nsw.gov.au). This publication does not represent a comprehensive statement of the law as it applies to particular problems or individuals or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

What is the Independent Commission Against Corruption?

The Independent Commission Against Corruption (ICAC) is responsible for investigating and exposing corrupt conduct in the NSW public sector.

ICAC's jurisdiction extends to all NSW public service agencies (except the NSW Police Force) and its employees, government departments and those performing public official functions. The ICAC also investigates matters of corruption relating to local councils, Members of Parliament, Ministers, the Judiciary and the Governor.

ICAC has powers to do this through the *Independent Commission Against Corruption Act 1988 (the Act)*.

Who performs public official functions?

ICAC defines those who perform public official functions as individuals who are acting on behalf of a public authority (for example, Roads and Maritime Services) or who exercise a statutory function.

ICAC considers persons who conduct official functions or duties on behalf of the Roads and Maritime or who exercise statutory functions to be public officials.

As authorised escort vehicle drivers (**Authorised Escort Vehicle Drivers**) exercise statutory functions, they are considered to be public officials.

Authorised Escort Vehicle Drivers are subject to the investigatory and prosecution powers under the Act should ICAC commence investigations into alleged corrupt conduct.

Under the Accreditation Agreement, Accredited Providers are required to act at all times in accordance with the standards of conduct required of a public official under the Act, as if they were a public official under the Act.

What is corrupt conduct?

The law defines corrupt conduct as any conduct:

- of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
- of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
- of a public official or former public official that constitutes or involves a breach of public trust, or
- of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.

A good example of corrupt conduct is where a heavy haulage operator requests an Authorised Escort Vehicle Driver overlook a vehicle with a load wider than provided for in the

permit in return for a gift or favour and the Authorised Escort Vehicle Driver agrees to escort the movement as a result.

What powers do ICAC have?

ICAC has a number of powers under law to investigate and gather information in matters of alleged corruption. These include the power to:

- compel persons to produce documents or other things
- compel a public authority or a public official to provide information
- enter property occupied by a public authority or public official to inspect documents
- obtain warrants to search properties
- use surveillance devices and intercept phone calls
- compel witnesses to answer questions at compulsory examinations and public hearings.

What penalties can the ICAC impose?

Failure to comply with requests from ICAC can lead to significant penalties against persons who perform public functions including imprisonment for up to:

- twelve months or 50 penalty units for obstructing the Commission, Inspector or officer of the Commission
- five years or 200 penalty units or both for providing false or misleading evidence to the Commission at a compulsory examination or public hearing.

What does this mean for me?

The ICAC has made it clear that public officials are those individuals who are engaged by or act on behalf of a public authority or who exercise a statutory function.

As Authorised Escort Vehicle Drivers under OSOM EVDS exercise a statutory function, they are therefore considered to be public officials.

ICAC has the power to investigate and initiate proceedings against Authorised Escort Vehicle Drivers if there is evidence to suggest that they have been engaged in corrupt conduct.

Accredited Providers are required to comply with the OSOM EVDS Code of Conduct for OSOM Accredited Providers and Authorised Escort Vehicle Drivers under their Accreditation Agreement with Roads and Maritime Services.

Under the Accreditation Agreement, Accredited Providers are required to act at all times in accordance with the standards of conduct required of a public official under the Act, as if they were a public official under the Act.

Under the Accreditation Agreement, Accredited Providers are also required to ensure that its Authorised Escort Vehicle Drivers comply with all laws including the Act.

Where can I get more information?

The ICAC website has a range of information in preventing corruption, identifying corruption risks and responding to corrupt conduct.

For more information, please visit www.icac.nsw.gov.au.