



National Anti-Corruption Commission

# The National Anti-Corruption Commission

Corruption Prevention Network Queensland  
Marnie Kennealy, Director Operations

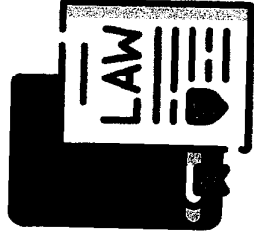
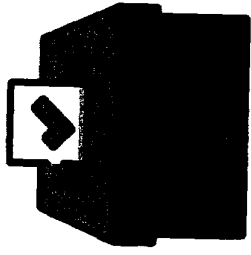
23 April 2024

[nacc.gov.au](http://nacc.gov.au)

# Topics for today

- **Overview of the Commission**
  - Origins and establishment
  - Mission and organisation
  - Jurisdiction
  - Referrals and protections
  - Assessment, investigation and reports
  - Oversight
- **The first few months**
  - Some statistics
  - Emerging themes
  - Corruption prevention and education
- **Integrity in public administration**

# Origins and context



## Integrity

A key election issue  
clearly expressed by  
the Australian people

## Mandate

A government acting  
on that expressed  
desire

## Leadership

APS leadership  
embedding a  
pro-integrity culture  
at all levels



## **Mission**

To enhance integrity in the Commonwealth public sector, by **detering, detecting and preventing** corrupt conduct involving Commonwealth public officials, through **education, monitoring, investigation, reporting and referral**.

## **Jurisdiction: Corruption issue**

The touchstone of the Commission's jurisdiction is a "corruption issue".

That is a question of whether a person has engaged, is engaging, or will engage in, corrupt conduct.

# What is corrupt conduct?

Breach by public  
official of  
public trust

Abuse of office  
by public official

Misuse of official  
information

Conduct by any  
person to cause  
a public official  
to behave other  
than honestly  
and impartially

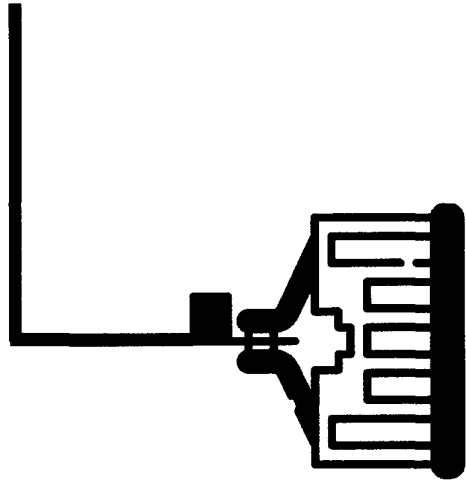
---

Not mere maladministration or mistakes

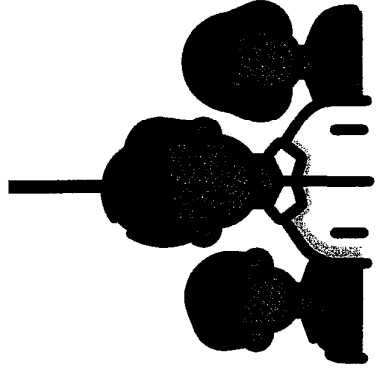
---

# Jurisdiction of the NACC

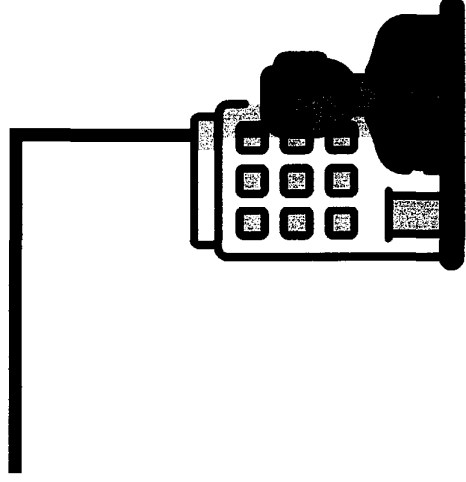
## Commonwealth public officials



Parliamentarians



Staff members of  
Commonwealth  
agencies



Contractors and  
contracted service  
providers

## **Staff members**

Staff members of an agency include:

- an official (within the meaning of the PGPA Act) of the entity
- an individual who is employed by, or engaged in assisting the agency or a staff member of the agency on behalf of the agency or the Commonwealth (which could include consultants)
- an individual involved in providing services to or for the agency under a Commonwealth contract.

## **Exclusions**

Paragraph 8(1)(a) (conduct of any person) does not apply in relation to conduct of the following, and they are not staff members of any agency:

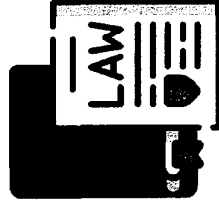
- a) the Governor-General
- b) a Deputy Governor-General
- c) a Justice of the High Court or a judge of a court created by the Parliament
- d) a judge of a court of a State or Territory
- e) a member of a Royal Commission
- f) the Inspector, or a person assisting the Inspector.

# Referrals to the NACC



## Voluntary

Anyone can submit a corruption report to the Commission or provide information about a corruption issue



## Mandatory

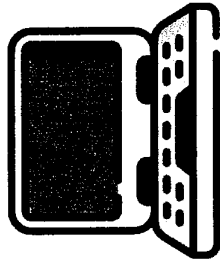
If an agency head or Public Interest Disclosure Officers suspects serious or systemic corruption involving a staff member, they must report it to the Commission



## Own motion

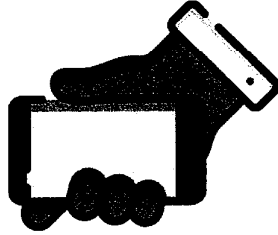
The Commission can investigate a corruption issue it becomes aware of on its own motion without a referral

# Making a referral



**Online**

[nacc.gov.au](http://nacc.gov.au)



**Phone**

1300 489 844



**Post**

GPO Box 605  
Canberra ACT 2601

## **Whistleblower protections**

**Protection:** Not subject to civil, criminal, or administrative liability (including disciplinary action) for making disclosure

**Contractual rights:** No contractual or other right or remedy can be enforced against whistleblowers

**Legal supremacy:** These protections override all other Commonwealth laws

**Reprisal action:** It is a criminal offence to take reprisals against whistleblowers

**Exception:** Action can be taken for making false or misleading statements to the NACC

# Assessment of referrals

## Triage (Tier 1)

- Does the referral concern a Commonwealth public official?
- Does the referral raise a corruption issue?

## Assessment (Tier 2)

- Could it be *serious* or *systemic*?
- Should the Commission deal with the issue and if so, how?
  - Investigate solely, or jointly with another agency, if serious or systemic
  - Refer to another agency for investigation or consideration
  - Take no further action
- Preliminary investigation?

# Serious or systemic

## **Serious**

- is corrupt conduct that is significant, more than negligible or trivial
- does not have to be severe or grave.

## **Systemic**

- is corrupt conduct that involves more than an isolated case, involves a pattern of behaviour, or affects or is embedded in a system
- can occur in one or multiple agencies, and can involve one or multiple individuals
- does not have to be coordinated.

# Evaluation of referrals

Prospects

Scale and gravity

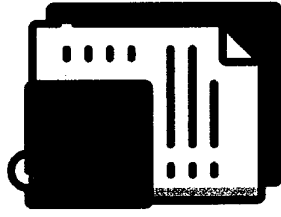
Systemic

Public interest

Will a NACC  
investigation add value?

Will an inquiry 'clear  
the air'?

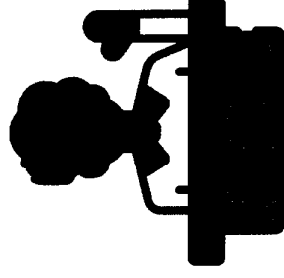
# Investigatory powers



Require the production of documents and information



Search premises, people, intercept communications and use surveillance devices under warrant



Summon witnesses for examination at hearings

## Investigation conclusion and reporting

- **Commission's role:** At the conclusion of an investigation, the Commission provides a report to the Attorney-General
- **Findings:** The report may include a finding that a person has engaged in 'corrupt conduct'. This is an administrative finding, not a finding of criminal guilt
- **Recommendations:** The Commission can also make recommendations, including to terminate the employment of an APS employee, under section 15(2) of the *Public Service Regulations 2023*

# Oversight

- Inspector
  - NACC corruption issues
  - Agency maladministration
  - Officer misconduct
- Parliamentary Joint Committee
  - Appointments
  - Monitor and review performance
  - Review and report on budget and finances

## Statistics

**2,767**  
referrals

**15**  
new corruption  
investigations

**7**  
investigations  
from ACLEI

**19**  
preliminary  
investigations

More than  
**90**  
engagements

Around  
**90%**  
of referrals not  
publicised in media

# Emerging themes in public sector corruption

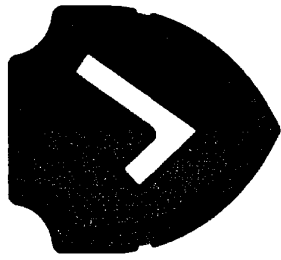
## Procurement

Preferring family,  
friends and  
associates

## Recruitment and promotion

Use of insider  
information

# Prevention is better than cure



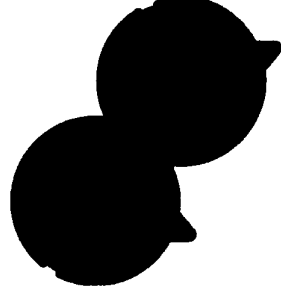
Recognise  
and resist



Report  
corrupt  
conduct

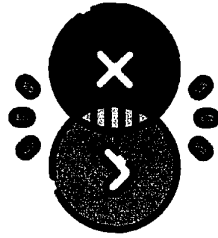


Build  
awareness

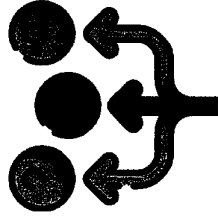


Conduct  
public  
inquiries

# Corruption prevention priorities



Conflicts  
of interest



Ethical  
decision  
making



Electoral  
process

## **Aligning with the NACC Act**

Agencies in jurisdiction of the Commission may want consider undertaking the following steps to ensure they are aligned with the Act:

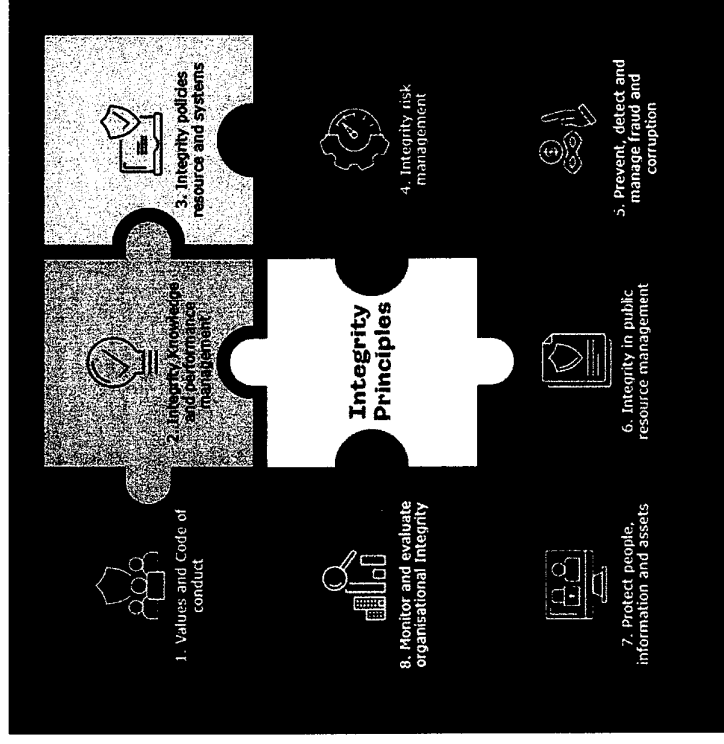
- Review policies and processes
- Consider delegations
- Prepare targeted guidance
- Circulate information to staff
- Incorporate information into existing education material
- Review internal risk frameworks

# Commonwealth Integrity Maturity Framework

A tool for Commonwealth entities to:

- self-assess integrity maturity
- plan to upscale the maturity of your integrity systems
- acknowledge the Commission's commencement and other integrity reforms across the Commonwealth

There is a **self-assessment guide** for your agency to evaluate its maturity in relation to each of the **8 Integrity Principles**.



# **The broader Australian public integrity landscape**

- APS Reform: An APS that embodies integrity in everything it does
- Stewardship as a new APS value
- Supplier Code of Conduct
- Commonwealth Fraud and Corruption Control Framework
- Public Interest Disclosure Act 2013 reform
- APSACC Darwin 29-31 July 2024



National Anti-Corruption Commission

# The National Anti-Corruption Commission

[nacc.gov.au](http://nacc.gov.au)