



Australian Government

National Anti-Corruption Commission

# Information for persons interacting with the Commission

This fact sheet provides information for people who have contact with the Commission about corruption issues – for example by making a referral, being asked to provide information or attend an interview or hearing, or by becoming aware that the Commission is conducting an investigation that could affect their interests. It is about their rights and obligations under the *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act).



## Who can I tell?

The Commission will generally not disclose what matters have been referred to it and by whom they have been referred. However, generally, *unless there is a non-disclosure notation under s 95 of the NACC Act or direction under s 100(1)*, there is no restriction on communicating to others your contact with the Commission.

In particular, there is no prohibition on telling anyone, if you wish, that you have made a referral to the Commission, or have been asked to attend an interview, or received a request for information.

Generally, you can tell your employer about a hearing summons if you need to arrange time off to comply with their summons.



## What if there is a non-disclosure notation under s 95 of the NACC Act?

If a notice to produce or private hearing summons includes a *non-disclosure notation*, you must comply with its requirements. Any such notice or summons will be accompanied by a statement setting out your rights and obligations under s 98 of the NACC Act (offence—failure to comply with non-disclosure notations). You should carefully read this document.

Broadly, if there is a non-disclosure notation, you cannot tell anyone anything about the notice or summons (including anything about a preliminary investigation or corruption investigation), except:

- in the circumstances, if any, permitted by the notation; or
- to a legal practitioner, for the purpose of obtaining legal advice or representation; or
- to a *legal aid officer*, for the purpose of seeking assistance; or
- to a medical practitioner or psychologist, for the purpose of obtaining medical or psychiatric care, treatment or counselling (including psychological counselling); or
- if you are a body corporate, to an officer or agent of the body corporate, for the purpose of ensuring compliance with the notice or summons; or
- if you are a legal practitioner, for the purpose of giving legal advice to, or making representations on behalf of, the recipient of the notice; or
- if the information has already been lawfully published.



## What if a non-disclosure or use direction in relation to investigation material has been made under s 100(1) of the NACC Act?

If you are notified of a non-disclosure or use direction under s 100(1) of the Act you must comply with its requirements. Any such direction will be accompanied by a statement setting out your rights and obligations under

s 101 of the NACC Act (Offence—use or disclosure of investigation material). You should carefully read this document.

Broadly, if there is a direction under s 100(1), disclosure is permitted, as an exception to the direction, in the following circumstances:

- to a legal practitioner, for the purpose of obtaining legal advice or representation; or
- to a *legal aid officer*, for the purpose of seeking assistance; or
- to a medical practitioner or psychologist, for the purpose of obtaining medical or psychiatric care, treatment or counselling (including psychological counselling).



## Engaging with the Commission

As appears from the exceptions, even where there is a non-disclosure requirement, you can:

- tell a lawyer about it, for the purpose of obtaining legal advice or assistance;
- tell a health worker about it, for the purpose of obtaining medical or psychological assistance, including counselling.

If you think you need to tell your employer, for example in order to obtain leave to enable you to comply with the notice or summons, then you should contact the Commission. We may be able to vary the notation to permit limited disclosure for that purpose, or we may be able to re-arrange the time for compliance in order to avoid any difficulties.

In addition, if you have a disability or vulnerability that could affect your ability to comply with a direction you should also contact the Commission.

The notice, summons or direction will be accompanied by contact details of a Commission officer you can speak to.



## For agency heads

Where it can be done without compromising the integrity of the investigation, the Commission will often, as a matter of courtesy and to mitigate any risk in the agency, inform agency heads if there is an investigation affecting their agency. However, this is not a requirement, nor an invariable practice, and depends on operational considerations.

If an agency head is informed of a NACC investigation (including a preliminary investigation), then there is no prohibition on the Agency Head informing the relevant Minister, or the Minister informing the Prime Minister – unless there is a non-disclosure notation or non-disclosure direction. *If there is a non-disclosure notation or direction*, then the agency head must comply with it, as explained above.



## Accessing allowances for witness expenses and legal financial assistance

### Witness expenses

Where a witness is required to appear at a hearing, some or all of the travel, accommodation and/or meal arrangements and expenses may be arranged and paid for by the Commission. Where no expenses are arranged and met by the Commission, a witness appearing at a hearing is entitled to be paid an allowance for travel, accommodation and meals. Details of these entitlements can be found in s 93 of the NACC Act and regs 6, 7 and 8 of the National Anti-Corruption Commission Regulations 2023 (Regulations).

### Legal financial assistance

Under reg 13 of the Regulations, a person who is summoned to attend a hearing may apply to the Attorney-General for financial assistance in respect of the person's representation at the hearing by a legal practitioner; and a person who is not giving evidence at a hearing but is being represented at the hearing by a legal practitioner with the consent

of the Commissioner, may apply to the Attorney-General for financial assistance in respect of that representation.

The Attorney-General may authorise financial assistance, as and subject to conditions determined by the Attorney-General, if satisfied that refusing the application would result in serious financial difficulty for the person; or the circumstances of the case are of such a special nature that the application should be granted.

Further information is available on the Attorney-General's Department website at [Commonwealth legal financial assistance | Attorney-General's Department \(ag.gov.au\)](#). You can contact:

1800 117 995

02 6141 4770

Outside Australia: +61 2 6141 4770

[finass@ag.gov.au](mailto:finass@ag.gov.au)



## Medical or mental health support

There are no special provisions for seeking health support, including mental health support, but you can access your organisation's ordinary support arrangements, including Employee Assistance Plan. As indicated above, a non-disclosure notation or direction does not prohibit disclosure to a health worker for the purpose of obtaining medical or psychological assistance, including counselling.



## Further information

*National Anti-Corruption Commission Act 2022 (Cth)*, ss 93, 95, 98, 100, 101.

National Anti-Corruption Commission Regulations 2023, ss 6, 7, 8, 13, 14, 15.