



# Mandatory referrals: a guide

This guide explains when and how agency heads and public interest disclosure (PID) officers must refer (or report) corruption issues to the National Anti-Corruption Commission (the Commission).

Under the [National Anti-Corruption Commission Act 2022](#) (Cth) (NACC Act), agency heads and public interest disclosure (PID) officers of Commonwealth agencies and intelligence agencies must refer suspected [serious or systemic](#) corrupt conduct in their agency to the Commission as soon as reasonably practicable, unless they believe on reasonable grounds that the Commission is already aware of it.

## Agency heads

The head of a Commonwealth agency must refer a corruption issue of which they become aware to the Commission if:

- it concerns the conduct of a current or former staff member while they were a staff member of the agency, and
- they suspect the issue could involve serious or systemic corrupt conduct.

**Parliamentarians are agency heads** of their parliamentary offices and are subject to mandatory referral requirements in relation to staff of their office. See [Parliamentarians and their staff: What the NACC means for you](#).

## PID officers

PID officers are staff members of Commonwealth agencies who have responsibilities or carry out certain functions under the [Public Interest Disclosure Act 2013](#) (Cth) (PID Act).

If a PID officer becomes aware of a corruption issue in the course of performing their functions under the PID Act, they must refer it to the Commission if:

- it concerns the conduct of a current or former staff member while they were a staff member of the agency, and
- they suspect the issue could involve serious or systemic corrupt conduct.

## Intelligence agencies

Slightly different arrangements apply for agency heads and PID officers of the following Commonwealth intelligence agencies:

- Australian Geospatial-Intelligence Organisation (AGO)
- Defence Intelligence Organisation (DIO)
- Australian Secret Intelligence Service (ASIS)
- Australian Signals Directorate (ASD)
- Australian Security Intelligence Organisation (ASIO)
- Office of National Intelligence (ONI).

## Agency heads

The head of an intelligence agency must refer a corruption issue of which they become aware to the Commission or the Inspector-General of Intelligence and Security (IGIS) if:

- it concerns the conduct of a current or former staff member while they were a staff member of the agency, and
- they suspect the issue could involve serious or systemic corrupt conduct.

## PID officers

A PID officer in an intelligence agency must refer a corruption issue of which they become aware to the Commission or the IGIS. A PID officer who refers a corruption issue in an intelligence agency to the Commission must also notify the IGIS. If the PID officer refers the corruption issue to the IGIS, and the IGIS is satisfied the corruption issue is likely to involve corrupt conduct that is serious or systemic, the IGIS must refer the issue to the Commission.

For more information about the Commission's jurisdiction, see:

[What can the NACC investigate?](#)

[What is corrupt conduct?](#)

[What is serious or systemic corrupt conduct?](#)

## What is the timeframe for making a mandatory referral?

An agency head or PID officer must make a mandatory referral **as soon as reasonably practicable** after they become aware of a corruption issue they reasonably suspect might involve serious or systemic corrupt conduct, or within such later time as the Commission allows.

Agency heads and PID officers should not defer making a referral until they have completed their own investigation.

The Commission understands that agency heads and PID officers may need time to obtain relevant information, consult with relevant stakeholders and obtain advice as to whether the issue could involve corrupt conduct that is serious or systemic. However, it is important to make the referral to the Commission as quickly as possible, so the Commission can take any necessary investigative steps to capture relevant evidence.

Referring a corruption issue to the Commission does not prevent an agency from taking other action (for example, starting or continuing an internal investigation). However, the agency must stop that action **if the Commissioner issues a stop action direction** under section 43 of the NACC Act. If an agency has obligations to handle a corruption issue under any other law, it is still required to meet those obligations.

## What is a stop action direction?

After consulting the agency head, the Commissioner can direct a Commonwealth agency to stop taking specific action in relation to a corruption issue, but only if it is necessary to ensure the effectiveness of any Commission actions (for example, to avoid prejudicing a Commission investigation). This is called a stop action direction.

The Commissioner must revoke the direction when it is no longer required.

## What information must be provided in a referral?

An agency head or PID officer who makes a mandatory referral must state in the referral the reasons they suspect that the issue could involve corrupt conduct that is serious or systemic.

All mandatory referrals must include **all information relevant to the issue** that is in the referrer's possession or control. This may include, but is not limited to:

- the names of any public official who is suspected to have engaged in serious or systemic corrupt conduct
- the names of any private individual or entities involved
- a description of the conduct
- the dates and timeframes when the suspected corrupt conduct occurred or may occur
- how and when the agency head or PID officer became aware of the issues
- the identity of any potential witnesses
- any supporting documents, evidence or other relevant information
- what action the agency has taken or proposes to take
- records of any internal investigation.

**This is an ongoing obligation.** The referrer must provide any further information they subsequently become aware of that is relevant to the issue as soon as reasonably practicable after becoming aware of it.

## Exception: where Commission is already aware

A mandatory referrer is not required to provide information to the Commission if they have reasonable grounds to believe that the Commission is already aware of it, or if the Commission has advised it does not require the information.

## What you can and cannot say about a referral

The Commission generally does not disclose what matters have been referred to it or who referred them.

Unless there is a non-disclosure notation or confidentiality notice in place, there is no legal restriction preventing a mandatory referrer from telling others about their contact with the Commission. A mandatory referrer can inform the relevant Minister, and the Minister can inform the Prime Minister.

However, please think carefully before more widely publicising a referral to the Commission. Publicity can compromise the Commission's ability to carry out investigations and can also cause unfair reputational damage.

If there is a non-disclosure notation or direction, the agency head **must comply** with it.

For further information on what you can and cannot say, please see [Interacting with the Commission](#).

## Protection for referrers

Anyone who makes a referral, provides information or gives evidence to the Commission about a corruption issue is protected from civil, criminal or administrative liability (including disciplinary action) for doing so, and no contractual right or remedy can be taken against them.

It is a criminal offence punishable by imprisonment for anyone to take any reprisal action against a person for making a referral, providing information or giving evidence to the Commission.

However, a person who has engaged in misconduct cannot gain protection from liability for their own conduct by disclosing it to the Commission. For example, a public servant who abuses their office to advance a personal interest and then refers their own conduct to the Commission in the hope of avoiding liability for that conduct does not obtain protection.

A person who knowingly makes a false or misleading disclosure to the Commission is not protected from liability for false or misleading statements.

For further information on protections that exist under the NACC Act, please see [Protections for whistleblowers and witnesses](#).

If you are concerned about your own rights, before reporting to the Commission, seek independent legal advice on the protections available to you and the best avenue to report.

## Contact us

Please use our [webform](#) to make a report of corrupt conduct. If in doubt about whether to refer a matter to the Commission, [contact us](#).