National Anti-Corruption Commission

Investigation Report
Operation Kingscliff

An investigation into a senior public official's role in the recruitment of a close relative to a position in the Department of Home Affairs

nacc.gov.au

Further information

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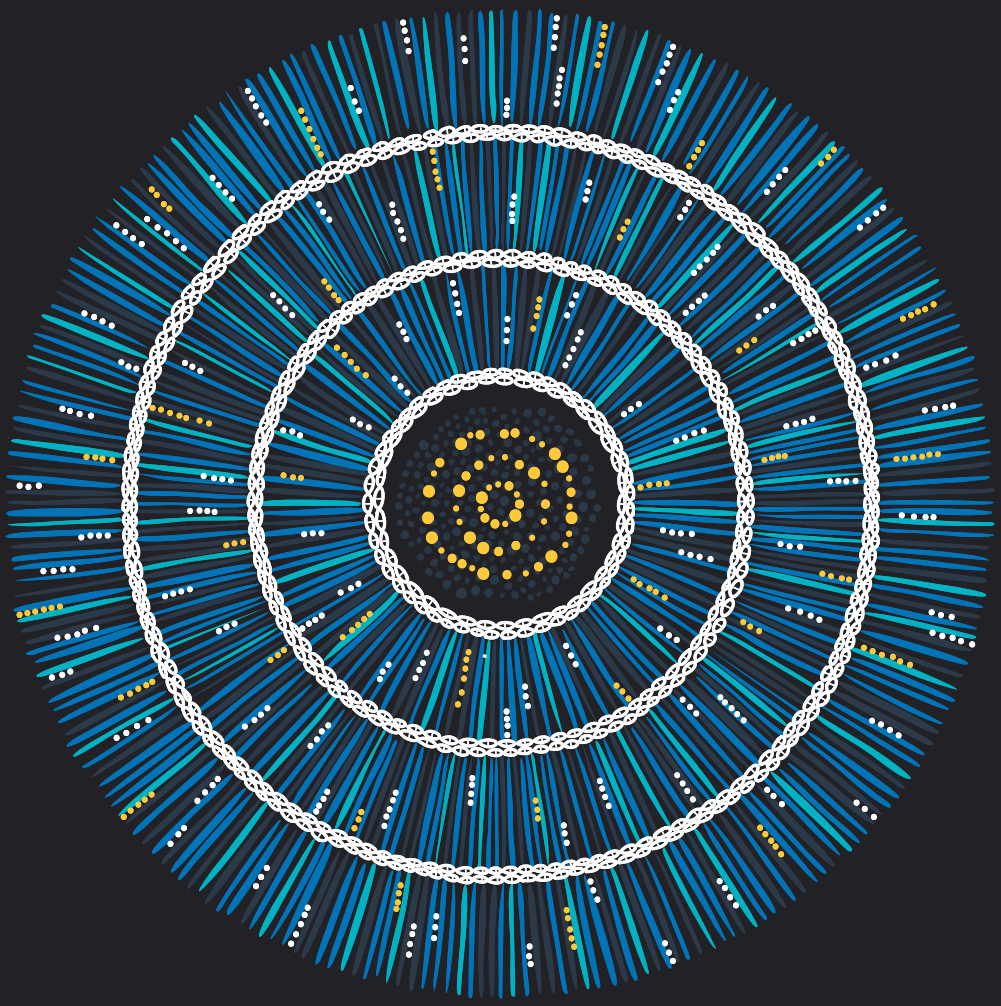
National Anti-Corruption Commission
Investigation Report – Operation Kingscliff

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In the spirit of reconciliation, the National Anti-Corruption Commission acknowledges the Traditional Custodians of Country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

This artwork tells the story of the National Anti-Corruption Commission's mission to enhance integrity within the Commonwealth public sector.

It is made up of many multicoloured strokes, depicting our team's many weaving histories. At the core of the artwork are three white patterned rings, representing detecting, deterring, and preventing corruption. Our approach is fearless but fair and we work towards our goals with integrity, determination, and courage. We are on a journey to build a culture of unity, inclusion, and trust as we grow.

Our people working together are represented by white dots between each of the lines. At the heart of the artwork is the central element, encapsulating our commitment to contributing to reconciliation as we work to create a culturally safe environment where First Nations staff and partners feel respected and included.

Integrity at Our Heart

The artwork concept and narrative were developed by Navada Currie. Navada is a Mununjali and Kabi Kabi artist at Gilimbaa.

Contents

Executive summary 5

National Anti-Corruption Commission Act investigation reports 6

Publication 6

Summary of the investigation 7

Referral from the Department of Home Affairs 7

Decision to investigate 7

Steps taken in the investigation 8

Referral 8

Additional request for information to Home Affairs 8

Personal and work phone extract 9

Hearings 9

Procedural fairness 9

Evidence 10

The protagonists 10

Section 26 transfers 10

Mr Elbert's transfer to Home Affairs 11

EL1 recruitments 21

Policies and procedures at Home Affairs 24

Consideration and findings 25

Abuse of office 25

Misuse of information 26

Joanne Simeson 26

Mark Elbert 28

Melissa Simeson 28

Corruption prevention observations 29

Recommendations 30

Executive summary

This is a report of the National Anti-Corruption Commission on a recently completed corruption investigation (Operation Kingscliff) into whether a Senior Executive Service staff member in the Department of Home Affairs had improperly used her position to influence the recruitment of her sister's fiancé into a position in that Department, and to assist her sister in another recruitment process. The investigation also examined the conduct of the sister and her fiancé.

Since the Commission's establishment, it has received many referrals relating to recruitment and promotion in the Australian Public Service. As has been noted by other Anti-Corruption agencies, the power to recruit someone to a public position is a power not to be underestimated, given the salary and other benefits the position confers.[1] Nepotism, cronyism and undeclared conflicts of interest in recruitment and promotion is an area of widespread concern. Nepotism in recruitment and promotion undermines the merit selection process and erodes morale. According to the Commission's 2024 Commonwealth Integrity Survey, nepotism and cronyism are the most commonly observed types of corrupt conduct.[2] This is a paradigm case, which illustrates the risks and vulnerabilities in these areas and the importance of corruption prevention measures.

The official's involvement in the recruitment of her sister's fiancé into the Department included that she proposed his transfer into the Department, promoted his candidacy and qualities to other staff, created the recruitment requisition, nominated herself as the delegate approver, and took steps to have the onboarding prioritised, including by forging a witness signature on an onboarding form.

At the same time, she concealed their familiar relationship from other staff members involved in the process.

> The Commission found that this was an abuse by the official of her public office: she used her position to procure the transfer of her sister's fiancé into the Department for the purpose of benefitting her sister's fiancé and her sister, knowing it to be improper.

In another recruitment process, in which her sister was an applicant, the official disclosed certain interview questions to her sibling. The Commission found that this was an abuse by the official of her public office and a misuse by her of official information: she provided official information in the form of interview questions, to which she had access because of her position, to her sister, to give her sister an advantage in the recruitment process, knowing it to be improper.

The findings that the official engaged in conduct which was an abuse of her office as a public official and a misuse of official information mean that she engaged in corrupt conduct which, having regard to her seniority, the deception involved, the multiple occasions, and the significance of the benefit conferred on her sister's fiancé, was serious; and which, having regard to the prevalence of complaints of nepotism, cronyism and undeclared conflicts of interest in recruitment in the Australian Public Service, was systemic.

The Commission did not find that the official's sister or her fiancé engaged in corrupt conduct.

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1 Office of the Independent Commissioner Against Corruption NT, Public statement – Operation Apollo – improper conduct in recruitment, ICAC NT website, 2025, accessed 23 June 2025.

2 National Anti-Corruption Commission, Commonwealth Integrity Survey 2024, NACC website, 2024, accessed 23 June 2025.

National Anti-Corruption Commission Act investigation reports

The *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act) established the office of the National Anti-Corruption Commissioner, supported by a statutory agency, the National Anti-Corruption Commission (Commission).[3]

The role of the Commission is to detect, investigate and report on serious or systemic corruption in the Commonwealth public sector. The Commission also educates the public sector and the public about corruption risks and prevention.

Section 149 of the NACC Act requires that, upon completion of a corruption investigation, the Commissioner make a report setting out:[4]

a. findings or opinions on the corruption issue
b. a summary of the evidence and other material on which those findings or opinions are based
c. any recommendations that the Commissioner thinks fit to make, and
d. if recommendations are made, the reasons for those recommendations.

To make a finding that a person has engaged in corrupt conduct, the Commissioner must be 'comfortably satisfied' on the balance of probabilities that that is so, having regard to the gravity of the matter.[5] Such a finding is not a finding of criminal guilt, and a court determining criminal guilt beyond reasonable doubt may not make the same finding.

A copy of the investigation report must be given to the Attorney-General and the head of the agency to which the corruption issue relates.[6]

Publication

Section 156 of the NACC Act provides that the Commission may publish the whole or part of an investigation report if satisfied that it is in the public interest to do so. In this instance, the public interest favours publishing this report having regard to the objects of corruption prevention and education under the NACC Act.

This report uses pseudonyms for the protagonists and for witnesses. Although the nature of the corrupt conduct detailed in this report – a paradigm example of nepotism – warrants public exposure, in the circumstances of this case:

a. publicly naming the person whose conduct was the subject of critical findings would make other protagonists and witnesses (whose conduct was not criticised) significantly more identifiable
b. the Commission has carefully and seriously considered submissions made about the consequences of publication on the wellbeing of all protagonists
c. the persons whose conduct was investigated did not occupy high profile positions that would ordinarily justify greater public accountability, and
d. the imperatives of accountability, transparency and education will still be achieved by publishing a detailed report that utilises pseudonyms.

To the extent that any witness or protagonist would still be identifiable, the Commission is satisfied that the references are necessary in the public interest to provide an understanding of the relevant facts and that the references will not cause undue damage to their reputation, safety or wellbeing.

3 *National Anti-Corruption Commission Act 2022* (Cth), ss 17, 20.

4 *National Anti-Corruption Commission Act 2022* (Cth), subs 149(1)-(2).

5 See *Briginshaw v Briginshaw* (1938) 60 CLR 336, 361–62; *Rejfek v McElroy* (1965) 112 CLR 517, 521; *Re Day* (2017) 91 ALJR 262, 268 [14]–[18].

6 *National Anti-Corruption Commission Act 2022* (Cth), s 154.

Summary of the investigation

Referral from the Department of Home Affairs

On 12 January 2024, the Secretary of the Department of Home Affairs (Home Affairs) made a mandatory referral to the Commissioner under subsection 33(1) of the NACC Act.

The referral related to the involvement of Joanne Simeson, who at the time of the conduct in question was the acting Assistant Secretary overseeing the Global Initiatives Branch, in the recruitment of her sister Melissa Simeson's long-term domestic partner, Mark Elbert, into that branch. For convenience, Joanne and Melissa are hereafter referred to by their first names.

Decision to investigate

On 18 January 2024, the Commissioner decided to investigate the referral pursuant to paragraph 41(1)(a) of the NACC Act. The investigation was designated 'Operation Kingscliff'.

In making this decision, the Commissioner was of the opinion that the referral:

- was within the Commission's jurisdiction, because it involved a public official, being a staff member of the Department of Home Affairs
- raised a corruption issue as defined by section 9 of the NACC Act, because it raised the possibility that a public official may have abused their office to facilitate the recruitment of a family member's partner
- could involve corrupt conduct that was serious (in the sense that it was significant and not negligible or trivial),[7] having regard to the seniority of the public official in question, the apparent deception involved, and the significant benefits which recruitment to a public position confers; and systemic, having regard to the prevalence of concerns about nepotism and cronyism in recruitment in the Australian Public Service (APS). The Commissioner remained of that opinion throughout the investigation.

7 See National Anti-Corruption Commission, Assessment of Corruption Issues Policy, NACC website, 2023, accessed 23 June 2025.

Steps taken in the investigation

Referral

Home Affairs became aware of the corruption issue on 19 December 2023, when its Integrity and Professional Standards Branch received an integrity referral relating to Joanne's involvement in Mr Elbert's transfer into the Global Initiatives Branch. The referral further stated that Joanne attempted to recruit Melissa to a position within Joanne's branch by arranging a meeting between Melissa and the relevant Director.

Following receipt of the referral, Home Affairs obtained:

- emails relating to Mr Elbert's transfer and onboarding
- Mr Elbert's recruitment paperwork, and
- documents relating to Melissa's posting to Italy (which is referred to below).

The information obtained included an email from Joanne to Helen Traner, Director (EL2) of the Multilaterals Section within the Global Initiatives Branch, in the course of the recruitment process, in which Joanne responded to a query as to how she had found Mr Elbert, by stating that he was a 'friend of a friend'.

These documents were provided to the Commission on 13 January 2024.

Additional request for information to Home Affairs

Between 24 January and 15 May 2024, the Commission obtained the following information from Home Affairs:

- relevant incoming and outgoing Home Affairs emails between 1 March and 31 December 2023
- relevant Skype and Microsoft Teams message exchanges from Home Affairs between 1 March and 31 December 2023
- Home Affairs' procedural instructions relating to recruitment, conflict of interest, salary and employment suitability clearance
- Human Resource (HR) requisition screenshots and call logs relating to Mr Elbert's transfer
- Home Affairs' internal organisational charts
- Australian Government Security Vetting Agency security clearance information relating to Mr Elbert, and
- information relating to the documented work output of Mr Elbert during the period of his employment while in Italy.

Personal and work phone extract

On 6 February 2024, investigators obtained Joanne's work and personal mobile phones, pursuant to a notice to produce under section 58 of the NACC Act.

The content of the work device and the personal device were extracted by digital forensics experts at Home Affairs and the Commission respectively, and then examined by Commission investigators.

From this, a series of WhatsApp messages between Joanne, Melissa and Mr Elbert relevant to the recruitment were identified.

Hearings

After reviewing the above evidence, on 26 and 27 March 2024, the Commissioner held private hearings pursuant to section 62 of the NACC Act at which Joanne, Melissa, Mr Elbert and Ms Traner were called to give evidence.

A further 2 employees within Home Affairs were also identified as holding relevant information in relation to the corruption issue:

- Mr Greg Haffin, Director (EL2) of the Minilaterals Section within the Global Initiatives Branch, and panel chair for an EL1 recruitment round for which Mr Elbert and Melissa applied
- Ms Linda Carforth, acting Director (EL2) of the team that Mr Elbert joined. Ms Carforth was Mr Elbert's supervisor.

On 10 May 2024, Mr Haffin and Ms Carforth were examined in private hearings before the Commissioner.

Unless otherwise stated, references in this report to evidence given by the protagonists and witnesses are to evidence given in those private hearings.

Procedural fairness

> Under section 153 of the NACC Act, before including any finding, opinion or recommendation that is expressly or impliedly critical of a person in a report on a corruption investigation, the Commission must give the person concerned a statement setting out the opinion, finding or recommendation, and a reasonable opportunity to respond.

The Commission provided statements setting out potential findings, opinions and recommendations to Joanne, Melissa and Mr Elbert. Responses were received from each of them between 25 and 27 February 2025, with further information provided by one of them on 3 June 2025. I have taken those responses into account in making my findings and recommendations and in deciding whether it is in the public interest to publish this report.

Evidence

The protagonists

Joanne Simeson

Joanne joined the APS in 2011. On 7 February 2019, she moved to Home Affairs as an Executive Level 1 (EL1). On 17 February 2021, Joanne was promoted to an Executive Level 2 (EL2). Between 12 July 2021 and 1 November 2022, Joanne intermittently acted in roles at an SES Band 1 level.

Between 1 November 2022 and 17 July 2023, Joanne was appointed to a long-term acting position as the Assistant Secretary, Global Initiatives Branch. On 17 July 2023, Joanne became the acting Assistant Secretary of the Immigration Executive Branch. On 21 August 2023, Joanne was promoted to a substantive SES Band 1 as the Assistant Secretary, Immigration Executive. On 13 December 2023, Joanne secured an SES Band 1 position as the Chief of Staff to the Secretary of Home Affairs.

Melissa Simeson

Joanne's sister Melissa was employed by the Australian Institute of Sport (AIS) as a Sports Coordinator.

On or around 3 February 2022, the AIS appointed Melissa as the Sports Coordinator of the AIS European Training Centre, for the period from April 2022 to December 2024. This involved Melissa being posted to Italy, where the training centre was located.

Melissa and Joanne have a close relationship and were in frequent contact with each other.

Mark Elbert

From 2010 to 2012, Mark Elbert was a Program Officer at the Department of Climate Change and Energy Efficiency in the Energy and Safety Programs Division, which was the former iteration of the Australian Government Clean Energy Regulatory (CER). Between 2012 to 2018, Mr Elbert performed various roles as a CER Regulatory Officer. Then he became a Freedom of Information (FOI) Contact Officer, until his transfer to Home Affairs. Mr Elbert was an APS6 at the CER from 2 November 2018.

Mr Elbert met Melissa in August 2018, at which time they began an intimate relationship. In April 2023, they became engaged to be married.

Mr Elbert accompanied Melissa on her posting with the AIS to Italy. During the posting, Mr Elbert, while still employed at the CER, took a combination of annual and long service leave at half pay, and then leave without pay.

Section 26 transfers

One key aspect of this investigation was the transfer of Mr Elbert from the CER to Home Affairs.

Section 26 of the *Public Service Act 1999* (Cth) facilitates the voluntary movement of staff between Commonwealth agencies. It enables the head of an agency (or delegate) to enter into a voluntary agreement in writing with an APS employee from another agency for the employee to move to the agency head's agency.

This is commonly referred to as a 'section 26 transfer'.

Mr Elbert's transfer to Home Affairs

Italy

Melissa and Mr Elbert travelled to Italy to take up Melissa's posting on 18 April 2022.

Mr Elbert gave evidence that he had initially asked the CER to work remotely from Italy, but this was not possible. Mr Elbert said he spent his time in Italy completing a course on viniculture, then commencing online studies to obtain a graduate certificate in business management. He also inquired with a few different wine-related organisations as to whether he could work remotely.

Melissa gave evidence that there were no financial stressors while she lived in Italy with Mr Elbert. She said she had her rent and car covered by the AIS, and Mr Elbert was on various forms of leave until around March 2023. She said that by the 'pointy end', she had a frank conversation with Mr Elbert about going from 2 salaries to one but did not pressure Mr Elbert to get a job.

FOI Officer position

On 21 December 2022, Joanne sent a text message to Melissa, in which she requested a copy of Mr Elbert's updated CV to pass on for Mr Elbert to be considered for a role in the FOI section within Home Affairs, to which Melissa responded, 'oh wow! Thank you [Joanne]!'

In this exchange, Joanne said the Assistant Secretary was keen to meet Mr Elbert, and then 'we'll talk [Mark] through the lie', to which Melissa responded, '... he's so bad at lying he's too honest.'

Joanne wrote 'well he's gonna have to do better or I'll get in trouble' and Melissa replied, 'Yes good say that and scare him haha.'' Joanne then responded, 'how bad does he want this job' to which Melissa replied, 'really appreciate you doing this thank you again.'

On 3 January 2023, Melissa forwarded a copy of Mr Elbert's CV to Joanne's Home Affairs email address. Joanne confirmed that she forwarded Mr Elbert's CV to the relevant Branch Head, but did not believe the opportunity progressed further.

Joanne gave evidence that her First Assistant Secretary (SES Band 2) had raised that the Legal Division had a real need for FOI officers and were willing to accept remote workers. Joanne said she knew Mr Elbert was an experienced FOI Officer, was on long service leave and was interested in other opportunities. She believed Mr Elbert may have been suitable for the role.

Joanne gave evidence that she spoke regularly with Melissa about finances as Melissa was on a single income and, at the back of Joanne's mind, she was aware that Mr Elbert working would assist their financial situation.

When asked what she meant by the phrase, 'Or I'll get in trouble', Joanne said that it was in relation to her conscious decision to not declare her relationship with Mr Elbert. Joanne said she had concerns that if a connection was known, then Mr Elbert would be shown patronage, whereas she wanted him to be assessed completely removed from her, and did not want anyone to make an assessment that she had somehow prejudiced or impacted Mr Elbert's onboarding.

When Melissa was asked about the same exchange of messages, she said she did not know why Joanne would get in trouble, but knew it related to Joanne's position rather than for Mr Elbert. Melissa said she appreciated Joanne was looking out for Mr Elbert and possibly putting herself on the line, because Mr Elbert was not going through a standard recruitment process, and it was more that his shoulder was tapped. Melissa said that Mr Elbert had been in Italy and not working for about 8 months by that stage, and that he 'definitely wanted to be doing something'.

Mr Elbert gave evidence that he ultimately did not consider the FOI Officer opportunity because he was studying at the time.

International Engagement Officer position

Both Mr Elbert and Melissa gave evidence that around February 2023 they felt homesick and started having conversations about returning to Australia early.

On 24 March 2023, Joanne sent a text message to Melissa, in which she asked whether Mr Elbert wanted to work or was still focused on his study. Melissa replied that Mr Elbert is 'focusing on study but depends on what the work is'. Joanne said she 'thought he [Mr Elbert] might like to join the Multilateral team and work on UN related stuff'. Melissa responded that this would be 'right up his alley'. In a later message, she wrote that Mr Elbert was excited by the prospect of the role.

Both Melissa and Mr Elbert gave evidence that the idea of transferring Mr Elbert to Home Affairs came from Joanne.

Joanne's evidence was that she suggested Mr Elbert for a role in the Global Initiatives Branch because it was experiencing significant vacancies and she believed Mr Elbert would be a suitable officer given he had a master's degree in international relations.

Melissa's evidence was that, given Mr Elbert's studies, he was 'obviously very interested in the area'. She remembered a conversation she had with Mr Elbert about the role in which he said it would be something he would love to do, especially because he was not working at the time.

When the Commission asked Mr Elbert whether he recalled being excited about the role, Mr Elbert said, 'yes and no.' He said that he was excited because it meant he could be of service to the government, but that it would get in the way of his studies. Mr Elbert said he did not express any interest in working at Home Affairs before March 2023.

Mr Elbert also recalled that he was encouraged to take the role by Melissa, and when he consulted with his family and friends about the opportunity, he was not advised about any conflict of interest issues. Mr Elbert said that if he had understood that the transfer was not in accordance with rules or perception, he would not have entertained the move.

On 27 March 2023, at 9:47 am, Joanne sent an email to Ms Traner, copying in Ms Carforth and Mr Elbert. It stated:

> [Mr Elbert] and I have been speaking about a possible role with Multilaterals. [Mr Elbert] is currently based in Italy accompanying his partner on a posting, but will be returning to Canberra later this year – I am happy to support remote work for this period noting that the time difference in Europe will be quite beneficial for the work of Multilaterals and [Mr Elbert] can engage with [a colleague] in Geneva as well. [Mr Elbert] will be back in Canberra in May so ideally it would be great if we could arrange onboarding etc. to coincide so he can come in and meet the team in person. Grateful if you could please arrange a time to chat about the team and possible options – [Mr Elbert] let me know if you have any questions.

Both Ms Traner and Ms Carforth gave evidence that, in their experience, it was uncommon for a candidate such as Mr Elbert to be copied into internal emails between staff members who were considering them for a position. Joanne's evidence was that she copied Mr Elbert into the email to introduce them virtually and this is something she had done for other candidates.

Just before midday on 27 March 2023, Ms Traner responded to Joanne's email:

> Thanks for this. Can I ask how this person happened on your radar? He seems to have compliance/regulatory-focused experience as well as FOI – but nothing that jumps out at me about what they would bring to an international engagement role … Is he an APS 5 or 6? Obviously you may know him – and that he has the aptitude and is the correct fit personality-wise for my team but just want to check as his CV alone does not make him an obvious choice.

Joanne replied:

> [Mr Elbert] is a friend of a friend – but comes with excellent recommendations and is extremely diligent and hardworking by all accounts, plus ability to pick up subjects extremely quickly and very competent in terms of reviewing documents and providing advice which I thought would be of assistance to your team. Currently an APS6.

When asked about this email exchange, Joanne said she referred to Mr Elbert as a 'friend of a friend' because she did not want the relationship to be known at work and described herself as an extremely private person. When asked how she was in a position to comment on Mr Elbert's work, Joanne said her assessment of Mr Elbert in the email was based on reading his work history, Melissa's observations and Mr Elbert's own observations that he was well regarded at the CER.

At around the time she sent the email referred to above, Joanne wrote to Melissa that she had copied Mr Elbert into an email, adding:

> I told them I knew [him] through a friend. Technically not not [sic] true he just needs to play along! Also I'm the boss so they will do whatever I say.

When asked about this message, Joanne said that it was a 'poor judgment call' and that it was a 'joke between two sisters'.

Melissa responded to Joanne's message and said Mr Elbert would be grateful. Then Joanne continued:

> He won't say you're my sister … Okay so make sure [he] sells his ability to write briefs. Pick up subjects quickly. Good team member. Loves international work. Able to work across time zones. You are not my sister. He cannot say our surname. Or where you work.

Melissa replied that Mr Elbert would be fine because he has all of those skills, adding, 'the lying is not his strong suit but we will just properly brief him. No [Simeson].'

When asked about this exchange of messages, Joanne said that she wanted Mr Elbert to be assessed on his own merits. Joanne said she did not consider a decision to transfer Mr Elbert had been made at this point, and if either Ms Traner or Ms Carforth said Mr Elbert was not the 'right fit', they would not have proceeded with the recruitment.

Melissa confirmed she relayed to Mr Elbert any messages from Joanne. However, Mr Elbert's evidence was that at the time of the recruitment, he was not aware there were messages between Joanne and Melissa to the effect that he was not to mention the name 'Simeson'.

Melissa told the Commission that she understood the need for Mr Elbert to 'play along' was due to the 'unspoken repercussions' if Mr Elbert disclosed his relationship with Joanne and the preferential treatment that comes from 'a bit of nepotism in the situation'. Melissa also said that she thought Joanne was very ambitious, and that it was more about how it would affect Joanne, rather than Mr Elbert.

On 28 March 2023, Melissa sent a message to Joanne, 'Thank you again for helping … I know you gain nothing from it and you are putting yourself on the line for him so it's truly appreciated xx.'

Joanne said she understood Melissa's message to mean she was putting her position on the line by not declaring at the outset that her relationship with Mr Elbert existed. Joanne admitted she knew at the time that she should have disclosed the relationship to senior management. Joanne also accepted in hindsight that Ms Traner, as the person Joanne believed was the independent decision-maker for the recruitment, should also have been informed about the relationship.

On 29 March 2023, at 5 pm, Mr Elbert attended a virtual meeting with Ms Traner via Microsoft Teams. Leading up to and during the meeting, Joanne and Melissa exchanged a series of text messages. During their conversation, Melissa queried whether Mr Elbert's meeting with Ms Traner was an interview. Joanne replied, 'No a chat. I told her to bring him onboard. Beauty of being a boss.'

When asked about that exchange of messages, Joanne characterised the messages as 'ill-judged' and maintained that she did not direct her staff to bring Mr Elbert onboard.

After Mr Elbert's meeting with Ms Traner, Joanne sent Melissa a text message inquiring how Mr Elbert felt. Melissa responded, 'He would love to do it its [his] dream job.' Joanne replied, 'Omg I'm so sorry I didn't think about it sooner.'

Shortly after the meeting, Ms Traner emailed Joanne and said she was interested in recruiting Mr Elbert. Ms Traner asked Joanne whether it would be possible for a Home Affairs staff member to work entirely remotely from overseas and how they would proceed in Mr Elbert's case.

The following day, Joanne replied to Ms Traner's email:

> That is wonderful news, glad it ended up being a good fit!
>
> In terms of a way forward, let's progress with a s26 in OurPeople, noting that the delays with ESC [Employment Suitability Clearance] and Clearance mean that it won't be immediate and may be a few months before we have any traction. Once/ if both are granted, I'll then sort out some temporary agreement … to enable [Mr Elbert] to work remotely until such a time as he returns to Australia permanently and can join us in person.
>
> Let me know if you need a hand with the OurPeople part!

Ms Traner gave evidence that from her meeting with Mr Elbert, she viewed Mr Elbert as a personable, normal and well-spoken individual, and that between her meeting with Mr Elbert and Joanne's assurances of Mr Elbert's ability to perform the job, the decision was made to recruit him via a section 26 transfer.

Ms Traner told the Commission that the process of recruiting Mr Elbert was unusual. She said Joanne would normally provide different CVs of candidates for Ms Traner to decide if they were suitable. While the decision to recruit Mr Elbert was technically between herself and Joanne, Ms Traner got the impression from Joanne's first email that Mr Elbert securing a position was 'a bit of a foregone conclusion'.

When asked what Ms Traner would have done had she been aware of the relationship between Joanne and Mr Elbert, she said that she would not have recruited Mr Elbert because it was a direct approach and not an open recruitment process. Ms Traner explained that there was no reason, particularly where the person does not have specific skills and experience that relate to the role, to choose somebody from your own family.

As to Mr Elbert's working arrangements, Ms Carforth gave evidence to the Commission that it was uncommon for staff in the Global Initiatives Branch to work remotely outside of Canberra:

> … no one really worked remotely overall in the division … it was just a feeling that it wasn't allowed. So, that's why when we had Italy, I was like 'how would we do that, how would that be possible, why would that make sense?'

On 3 April 2023, Joanne created a recruitment requisition for Mr Elbert's section 26 transfer into Home Affairs as an APS6 International Engagement Officer within the Multilaterals Section, Global Initiatives Branch.[8] The requisition identified Joanne as the approving delegate. When the requisition was 'work flowed' through to Home Affairs' Recruitment Team, Joanne attached a comment, 'Please progress as a priority.'

Mr Elbert's onboarding

According to records obtained from Home Affairs' HR systems, Mr Elbert was verbally offered the International Engagement Officer position within Home Affairs as an APS6 on 11 April 2023.

On Thursday 13 April 2023, Mr Haffin, who was acting in Joanne's position while she was on leave, sent a text message to Joanne to advise her that recruitment had been paused and a business case was required for any recruitment. Joanne responded that Mr Elbert had not heard anything and asked whether they needed to write a business case for him.

When shown this text exchange in the course of giving evidence, Mr Haffin remembered that he had been 'specifically asked to follow up on [Mr Elbert]'. Mr Haffin said he had a close relationship with Joanne.

On the following Monday, Ms Traner sent an email to Home Affairs' Recruitment Team to follow up Mr Elbert's recruitment. She received a response which advised that it was still in a queue. Ms Traner forwarded the response to Mr Haffin and wrote 'Yeesh. Still in a queue unallocated.'

When asked about this email chain, Ms Traner said that Mr Haffin was acting in Joanne's role at this time, which was likely why she was updating him on the progress of Mr Elbert's recruitment.

Mr Haffin could not recall following up on any other candidates at the time, or what recruitment activities were occurring concurrent to Mr Elbert being onboarded.

Home Affairs' records indicate there were multiple recruitment activities occurring with other candidates around this time in the Multilateral Section.

When Mr Haffin was asked why he followed up on Mr Elbert's recruitment specifically and not recruitment processes more broadly, Mr Haffin stated, 'because [Joanne] is my substantive boss and she has asked to follow up – she's asked a specific question about [Mr Elbert].'

On 3 May 2023, at 12:11 pm, Joanne sent an email to the Recruitment Team to follow up on Mr Elbert's recruitment requisition and requested they prioritise sending Mr Elbert his onboarding paperwork, due to significant vacancies in the Multilaterals Section.

At 2:06 pm, the Recruitment Team sent an email to Mr Elbert with links to the Home Affairs online recruitment system and an 'invitation to apply' for the section 26 transfer.

At 2:14 pm, the Recruitment Team replied to Joanne's email, advising that Mr Elbert had been sent a link to apply to the job requisition.

At 5:36 pm, Mr Elbert completed the application.

8 In this context, a 'recruitment requisition' is a formal request that hiring managers fill out for an agency's HR department to create a new position or to fill an existing vacancy.

On 4 May 2023, at 10:10 am, the Recruitment Team emailed the HR Team at the CER to request Mr Elbert's employment status and salary.

At 10:16 am, the Recruitment Team emailed Joanne to advise that the Employment Suitability Clearance (ESC) process for Mr Elbert had been initiated.

At 11:05 am, Joanne forwarded the Recruitment Team's email to Melissa. Melissa responded, 'Look at how friendly you are when you need something! Thank you so much again, we both really appreciate it.'

Between 12:42 pm and 1:46 pm, Joanne and Melissa exchanged text messages about Mr Elbert's recruitment. Joanne confirmed with Melissa that Mr Elbert had submitted all the paperwork relevant to this transfer. Melissa asked Joanne about timeframes, and Joanne responded:

> I've got someone from recruitment prioritising it. I'll still get him to come in and meet the team next week if he wants to. Just gotta make sure I don't tell people my sister is visiting from Italy at the same time haha.

Melissa replied, 'And we'll need to make sure he doesn't say the same thing.'

On 5 May 2023, the CER's HR Team advised the Home Affairs' Recruitment Team that Mr Elbert's salary at the CER was $101,264.

On 8 May 2023, Melissa and Mr Elbert temporarily returned to Australia from Italy.

On 10 May 2023, Mr Elbert submitted his ESC paperwork. In Mr Elbert's ESC Questionnaire, he declared that Melissa (whose full name he cited in the form) was his partner and they shared the same address in Italy.

At 3:19 pm, Joanne emailed the Pre-Employment and Security Clearances teams, stating:

> I understand [Mr Elbert] has submitted his ESC Pack and all necessary paperwork. This onboarding is a priority as we are carrying significant vacancies in this team and have a number of Ministerial deliverables in the coming months including the Global Refugee Forum. Can you please advise if [Mr Elbert's] paperwork can be prioritised and whether we are able to submit a temporary waiver while we await the clearance backlog?

Joanne, Ms Traner and Ms Carforth each gave evidence that as at around May 2023 and in the period leading up to it, the Multilaterals Section was experiencing a high workload and vacancies.

At 4:06 pm on 10 May 2023, the Pre-Employment Screening Team emailed Mr Elbert requesting additional documentation, including an Italian Police Check to commence the ESC process.

On 11 May 2023, at 12:03 am, Melissa forwarded this email to Joanne and commented that obtaining an Italian Police Check would be impossible. She asked Joanne to 'chase the necessity of the Italian Police Check requirements'.

At 7:31 am, Joanne sent an email to the Pre-Employment Screening Team and asked for a workaround for Mr Elbert's Italian Police Check. Joanne queried whether she could complete a risk assessment, or if the requirement could be waived because Mr Elbert had only lived in Italy for just over a year.

On 15 and 16 May 2023, according to internal emails within the Pre-Employment Screening Team, after an Australian Police History Check was obtained for Mr Elbert, Mr Elbert's ESC was processed as a priority and assessed as zero risk.

At 8:20 am on 16 May 2023, the Pre-Employment Screening Team sent Ms Traner and Joanne an email advising them that while Mr Elbert's ESC had been finalised, an ESC could only be granted to individuals holding the security clearance required for their role. As Mr Elbert was still in the process of obtaining the necessary security clearance, the Pre-Employment Screening Team suggested onboarding Mr Elbert on a temporary access arrangement. A link to the Temporary Access Arrangement Form was enclosed in the email.

At 12:36 pm, Joanne sent Mr Elbert an email in which she advised that his ESC had been fast-tracked and Ms Carforth would send through forms for a temporary access request. Joanne noted that Mr Elbert would be in Canberra towards the end of May and referred Mr Elbert to Ms Carforth to arrange a time to attend the office.

At 5:20 pm, Ms Carforth began an email exchange with Mr Elbert to make the necessary arrangements.

On 17 May 2023, at 2:09 pm, Joanne replied to one of Ms Carforth' emails to Mr Elbert. She asked whether she needed to sign any temporary access forms.

At 4:20 pm, Ms Carforth sent an email to Mr Elbert requesting personal details for the temporary access request.

On 18 May 2023, Mr Elbert responded with his details. During this email exchange, Ms Carforth and Mr Elbert agreed to work towards 30 May 2023 as the date for Mr Elbert to attend the office.

At 8:12 am, separate to Mr Elbert's conversation with Ms Carforth, Joanne sent Mr Elbert an email attaching a Temporary Access Request Form and said, 'Did [Ms Carforth] send you this yet? If not do you mind filling out your personal details and signing the last form and I'll complete the rest.' At 4:21 pm, Mr Elbert replied attaching the Temporary Access Request Form and said he had filled in the details and signed the last page.

The partially completed version of the Temporary Access Request Form attached to Mr Elbert's reply was largely blank, apart from the 'Confidentiality/Non-disclosure Agreement' section where Mr Elbert's details had been completed in typescript, and his signature appeared under the portion of the form titled 'Applicant Signature'. This part of the form required Mr Elbert to make an undertaking to comply with his confidentiality and secrecy obligations to Home Affairs and acknowledge that non-compliance may amount to a criminal offence. The form required Mr Elbert's signature and for it to be witnessed. The form was otherwise undated and the portion of the form designated for witness details and signature remained blank.

Joanne completed the other parts of the Temporary Access Form for Mr Elbert, including by writing the name 'James Smith' and '18 May 2023' in the witness name and date fields and making markings in the witness signature field. In her evidence, she admitted to fabricating those aspects of the Temporary Access Form. Joanne said she had never done that before, nor since.

The level of temporary access required stated on the form was 'PROTECTED'. When addressing the physical supervision of accessing classified resources, the following answer was typed:

> [Mr Elbert] will work between [a Home Affairs site in Canberra] and remote work. [Mr Elbert] will be supervised at all times and work will be limited to OFFICIAL. The overwhelming majority of all work duties will be at the OFFICIAL level. [Mr Elbert] will undertake classified document handling training on commencement.

Under the 'Risk Register' in the Temporary Access Arrangement Form, the relevant risks were addressed as follows:

Risk	Response
Applicant will gain physical access to an area or asset that exceeds their Temporary Access provision	This is highly unlikely. The Division's SCIF is access controlled and not located near [Mr Elbert]'s desk. He will have no business requirement to enter Zone 4 areas and will be supervised at all times
Applicant will compromise the personnel and the integrity of their work area	I have not observed anything to indicate that [Mr Elbert] presents a security risk to the Department. All staff in [Mr Elbert]'s immediate work area have undertaken mandatory security training and will notify security if they have concerns after [Mr Elbert]'s commencement. [Mr Elbert] will undertake mandatory security training to guard against grooming/influence

On 19 May 2023, at 12:20 pm, Joanne sent the Temporary Access Form to the Security Clearances Team. She asked the Security Team to process the form as a priority due to the Multilaterals Section being understaffed.

After Joanne provided the Temporary Access Arrangement Form to the Security Clearances Team, Ms Carforth sent a message to Mr Haffin on Microsoft Teams:

> I find it a bit unusual that [Joanne] is personally pursuing requirements for this dude in Italy. He only responded to my email yday and I haven't had a chance to look at it yet, and she is personally hand written the forms. Do you know anything I should? / Can you let me know if she thinks I am underperforming.

Mr Haffin responded, 'You know the reason behind all this,' to which Ms Carforth replied, 'Do I have a right for that reason to be disclosed to me for my awareness? Integrity 101. This type of stuff stresses me out.'

In his evidence, Mr Haffin said that he was unable to recall what Ms Carforth was referring to in the above message exchange, but believed it was in response to the relationship between Joanne and Mr Elbert.

At 1:03 pm, Ms Carforth responded to Joanne's email to the Security Clearances Team with the final Temporary Access Form and asked whether they should be including in the form that Mr Elbert will initially be Italy-based and will not be able to physically supervise him for that period.

Ms Carforth told the Commission she had concerns that she was not going to be able to meet the supervision obligations in the Temporary Access Arrangement Form if Mr Elbert was based in Italy, due to the time difference. Ms Carforth did not believe she received a response from Joanne to her email, but the issue was eventually addressed by crossing Mr Elbert's hours over with Ms Carforth's.

Ms Carforth confirmed that Mr Elbert was provided information classified beyond 'OFFICIAL' in performing his role. Ms Carforth noted the Multilaterals Section also used an inbox that contained information classified as 'PROTECTED', which Mr Elbert may have had to access from time to time. Ms Carforth said this was the reason she had concerns with Joanne completing Mr Elbert's Temporary Access Request form in this way. Ms Carforth said Joanne would have known that the Multilaterals Section does not work at an 'OFFICIAL' level.

Ms Carforth said that in her experience, Joanne did not often help progress recruitment by completing forms herself.

Joanne's evidence was that she was aware of the restrictions on staff working under a Temporary Access Arrangement. She said that she and Ms Carforth 'had discussions about restricting Mr Elbert's access to information that was of – or not of a higher level, so I don't believe that he would be accessing protected information'.

On 26 May 2023, a formal letter of offer was issued to Mr Elbert which stated that Mr Elbert's transfer from the CER would take effect on 5 June 2023. Mr Elbert's salary on commencement was $101,264.

Joanne sent a text message to Melissa. In it, she confirmed that Mr Elbert received his letter of offer from Home Affairs. Melissa noted that Mr Elbert's salary would be at level with what he was earning at the CER and that 'he was concerned he'd go back to the bottom of the grade'. Joanne replied, 'No, I made sure to match. Is it enough? to which Melissa said, 'its perfect you're the best. Truly this is a game changer.'

Joanne gave evidence that despite her above message, she did not have any actual involvement in Mr Elbert's remuneration. Joanne explained that a business case is put forward by the relevant recruitment branch for why a person should be paid at a higher salary. Joanne was not aware of any Home Affairs' policies that relate to salaries, but her understanding was that employee movements via section 26 transfers cannot result in a negative financial impact and they can apply for a higher salary if there is a business case.

When asked about this conversation, Melissa said her messages were about Mr Elbert getting some of his independence back. Melissa explained that they were not in a financially stressed position, but that Mr Elbert was dependent on Melissa and getting to a stage where he could no longer contribute.

Mr Elbert said that he did not expect Home Affairs to match his salary at the CER and was unsure how the salary matching came to be. The Commission also asked Mr Elbert whether he regarded the role as a 'gamechanger'. Mr Elbert said it was in terms of his quality of life in Italy because he would be able to provide more to his family, work in an area that he is passionate about and be of more service to the APS.

On 29 May 2023, Mr Elbert accepted the offer.

On 30 May 2023, Ms Carforth received an email from Home Affairs' Connected Services Support with an approval request for a laptop for Mr Elbert. Ms Carforth forwarded the email to Joanne's executive assistant and wrote, 'I remember [Joanne] said a security request would go through to confirm nil issues with [Mark] taking a laptop to work remotely in Italy. Has this come back yet?' The executive assistant replied, 'Joanne has advised that he shouldn't need to.'

Ms Carforth gave evidence that the purpose of the email was to check that Mr Elbert would be able to take his hardware to Italy as the standard practice for travelling was Home Affairs employees would be subject to different security conditions, have a different laptop and be required to complete a security check. Ms Carforth explained that the security check involved seeking the Security Team's permission to work remotely overseas. Ms Carforth was under the impression Joanne was going to progress the security check. Ms Carforth understood the response from Joanne's executive assistant to mean that there were no security issues.

However, Ms Carforth recalled being contacted by a team in Home Affairs who were developing a policy for working abroad several months after Mr Elbert commenced and asked about Mr Elbert. Ms Carforth advised the team that Mr Elbert was in Italy and the forms should have been forwarded to them. The team said they did not receive any forms. This prompted Ms Carforth to believe that the First Assistant Secretary may not have been aware that the Multilaterals Section had a process going for a staff member in Italy.

On 1 June 2023, Mr Elbert attended the Home Affairs office to collect his laptop and test his login.

Melissa and Joanne exchanged text messages discussing the pressure Mr Elbert felt to 'be good' for Joanne. Joanne also said 'HAHAHAHAHA I JUST WENT TO HUG HIM THANK GOD HE STUCK HIS HAND OUT [FIRST]' to which Melissa replied 'GAHAHAHAH … What a good boy he's such a good boy.'

When asked whether he recalled this visit to the office, Mr Elbert's evidence was that he was escorted by Ms Carforth around the floor and into Joanne's office. Mr Elbert said he greeted Joanne by shaking her hand. Mr Elbert recalled Ms Carforth asking him if he knew Joanne, to which he replied, 'Yes,' but he did not elaborate further.

Mr Elbert gave evidence that he did not disclose his connection with Joanne because Joanne advised him, through Melissa, that it would be best not to as there would be a perception that Mr Elbert was given preferential treatment. Mr Elbert said he personally found this difficult. Mr Elbert could not recall when Joanne provided him with this advice, but it was likely in May 2023.

On 3 June 2023, Mr Elbert departed Australia and on 5 June 2023, began working for Home Affairs remotely until 17 October 2023, when he returned to Australia with Melissa.

In her evidence to the Commission, Joanne conceded that her involvement in Mr Elbert's onboarding, namely, submitting Mr Elbert's waiver paperwork, inquiring about the status of Mr Elbert's onboarding, discussing Mr Elbert's Italian residency issues, procuring devices and forwarding information about the process to Melissa was inappropriate.

Joanne further conceded that she ought to have removed herself from the situation, but explained that she was a proactive and hands-on acting Assistant Secretary and it was not uncommon for her to follow up with recruitment as the process is slow and Joanne was keen to onboard people as soon as possible.

When Mr Elbert was asked about his onboarding process, Mr Elbert said he was not aware Melissa was seeking Joanne's help to answer queries about the Italian Police Check, but was aware that Melissa may have reached out to Joanne for assistance to speed up the onboarding. While Mr Elbert was uncertain as to whether this aligned with Home Affairs' policy, he was grateful for Joanne's actions. Mr Elbert acknowledged that while he understood at the time that Joanne was taking a risk on his behalf, it was not in terms of process. Rather, Mr Elbert felt Joanne may be 'sticking her neck out' for him in terms of his ability to perform the role, as they had not previously worked together.

EL1 recruitments

Following Mr Elbert's commencement at Home Affairs, Joanne assisted attempts by both Melissa and Mr Elbert to obtain EL1 positions within Home Affairs.

FCM logistics role

The first instance occurred on 4 July 2023, when Joanne arranged for Melissa to meet with Mr Haffin regarding a job opportunity in an 'FCM Logistics' role. Mr Haffin gave evidence that he remembered meeting with Melissa for a coffee and an introduction.

Following the meeting, Melissa forwarded an email to Joanne which contained information about a merit listing Melissa had achieved through another recruitment round with the Office of the Official Secretary to the Governor General. Joanne replied, advising Melissa to forward the email to Mr Haffin and say, 'Great to meet, really excited about the opportunity, please find advice below advice for the EL1 Manager merit list.' Joanne then said Mr Haffin 'can go from there'. Melissa sent Mr Haffin the email shortly after.

On 19 July 2023, Mr Haffin sent an email to Melissa advising that he was unable to access the EL1 merit list to recruit Melissa. Mr Haffin added that he would explore transferring Melissa to Home Affairs at-level with the ability to act as an EL1.

On 24 July 2023, Mr Haffin again wrote to Melissa to advise that he was unable to transfer her because she was engaged by the AIS through a non-ongoing contract. Mr Haffin wrote that if Melissa returned to Australia earlier than October 2023, he could explore offering her a non-ongoing contract. Mr Haffin informed Melissa there was an EL1 recruitment round 'going live' on 7 August 2023 and encouraged her to apply.

When asked about Joanne's involvement, Mr Haffin said that he had discussions with Joanne about recruiting Melissa. However, Mr Haffin denied that Joanne had pressured him to hire Melissa. Mr Haffin described Melissa's CV and her experience and capability to lead events as reasons he was interested in recruiting her to Home Affairs.

International Engagement Division bulk recruitment

On 6 August 2023, Joanne emailed Melissa a link to the APS Jobs website for a bulk EL1 recruitment round for the International Engagement Division, within which the Global Initiatives Branch (EL1 recruitment round). At this time, Joanne was acting as Assistant Secretary of another branch within Home Affairs. She was not the decision-making delegate nor a member of the recruitment panel.

Between 17 and 18 August 2023, Joanne assisted Melissa with her application. She provided feedback and suggested changes. When asked about this, Joanne said that this was a standard offer she made to everyone she knew.

Mr Elbert also confirmed that he had sent his application for the EL1 recruitment round to Joanne for review, due to her 'successful track record of recruitment rounds across government'

On 30 August 2023, Mr Haffin sent an email to Melissa. In it, he confirmed that her interview for the EL1 recruitment round was scheduled for 14 September 2023 at 3:15 pm.

On 3 September 2023, Joanne asked Melissa, via a text message, when Mr Elbert and her interviews were. Joanne told Melissa she thought the first question would be about why she wanted to work at Home Affairs and the last question would be a scenario-based question about the Pacific. Joanne then gave specific advice to Melissa on how she should answer them.

The interview questions that were used for that recruitment exercise were recorded in a document known as the Scoring Matrix. The Scoring Matrix recorded the questions that candidates were asked. One was a general question about their interest in working at Home Affairs (question 1) and one was scenario-based question about the Pacific (question 2).

Mr Haffin gave evidence that he was the chair of the EL1 recruitment round. He confirmed that the interview questions recorded in the Scoring Matrix reflected the questions that were asked of candidates in interviews, including Melissa. Mr Haffin said the questions were framed by the panel and based on questions used in previous recruitment exercises. Mr Haffin said that only the panel and the delegate would have had access to the questions. Mr Haffin agreed that it would not have been in accordance with appropriate procedures for candidates to have been aware of the questions days before the interview.

Mr Haffin then gave the following answers to the Commissioner's questions about this topic:

> **Commissioner**: The Commission is aware that some days before Melissa's interview that she received from Joanne not quite verbatim but a very close description of question 2. I think also question 1, but certainly question 2. How would Joanne have had access to that?
>
> **Mr Haffin**: Not sure.
>
> **Commissioner**: Is there any way she could have got access to that?
>
> **Mr Haffin**: Not to my knowledge.
>
> **Commissioner**: Could anyone on the panel have provided it to her?
>
> **Mr Haffin**: I wouldn't think so.

When the Commissioner asked Joanne, she said she was provided the information about the interview process by someone in Home Affairs. Joanne did not believe that this was information to which other applicants for the position would have had access. When asked if this had meant that Joanne was providing confidential information to her sister to assist her with the interview, Joanne answered, 'Yes.'

Ultimately, Melissa was found suitable for the EL1 position during the recruitment process and was placed on a merit list. Mr Elbert was unsuccessful.

Discovery of Mr Elbert's relationship with Melissa and Joanne

Ms Carforth said that when Mr Elbert commenced in Home Affairs, he did not refer to Melissa by name. Ms Carforth recalled that when Mr Haffin was conducting the EL1 recruitment round in August to October 2023, he told Ms Carforth that he had spoken to Mr Elbert and asked if Melissa was there, as a joke. Mr Elbert then 'went red', and Mr Haffin said to Mr Elbert, 'You guys both have the same address in Italy.' Ms Carforth said that at that moment, it was clear that Melissa was Mr Elbert's partner.

Mr Haffin recalled noticing Mr Elbert and Melissa had input the same address in Italy during the EL1 recruitment round but could not recall the above interaction. Mr Haffin was also unable to recall when he found out about Mr Elbert's relationship with Joanne, but believed it was before the EL1 Recruitment Round.

Ms Traner recounted that when Mr Elbert began working at the office in October 2023, Ms Traner heard rumours that Mr Elbert was Melissa's fiancé. Ms Traner believed people who spoke to her did not think it was right. This prompted Ms Traner to ask Mr Elbert directly about his connection with Joanne, to which Mr Elbert responded, without hesitation, 'I'm engaged to her sister.'

Ms Carforth said the relationship was then confirmed at her team's Christmas party in December 2023 when Melissa attended with Mr Elbert and everyone knew that Melissa was Joanne's sister.

In his written submissions, Mr Elbert accepted that while he could have been more forthcoming with respect to his relationship with Joanne, he believed he was upfront about his relationship with Melissa. He added that:

- while working remotely, he spoke to colleagues about Melissa's overseas posting (and offered the name of a colleague whom the Commission had not called as a witness in its enquiries)
- he referred to Melissa by her nickname, an abbreviation of her actual name, and
- information about his relationship was readily available on social media, including LinkedIn.

Policies and procedures at Home Affairs

Recruitment and conflicts of interest

Under the Home Affairs' Consolidated List of Human Resource Delegations, the decision to conduct a section 26 transfer is delegated to staff members at the EL2 and SES Band 1 level. Decisions to determine a salary higher than the minimum salary on commencement within the relevant classification salary range are delegated to various staff members, including SES Band 1 officers, EL1s and EL2s from Payroll Services and EL1s and APS6s in Recruitment.

Home Affairs' Recruitment Procedural Instruction (HR-2171) relevantly states, with respect to transfers of an ongoing employee at level:

> The Delegate must take into account the need for employment decisions to be based on an assessment of an employee's work-related qualities required to effectively perform the duties. The employee must possess all the mandatory qualifications required to undertake the duties of the role.

Home Affairs' Salary Procedural Instruction (HR-4758) provides that where an employee moves from another APS agency to Home Affairs through a transfer at level:

a. Salary on commencement will be the minimum of the salary range for the relevant classification, or a higher salary, where determined by the Secretary.
b. Maintenance of salary of an employee transferring from another APS agency will require confirmation of the substantive salary from the agency the employee is transferring from.
c. The Assistant Secretary (SES Band 1) of the relevant branch has delegation to approve the maintenance of a transferring employee's current salary within or above salary range.

Home Affairs' Conflict of Interest Procedural Instruction (SM-1556) provides that:

a. Immigration and Border Protection (IBP) workers (covers all APS employees at Home Affairs) should regularly assess their personal circumstances to identify whether any matter may give rise to a real or perceived conflict of interest and should include consideration of family.
b. IBP workers should not be in an intimate or familial relationship with someone they supervise, or with someone where they can make decisions in regard to their circumstances including transfers.
c. IBP workers must disclose any real, potential or perceived conflicts of interest to their supervisors as soon as they arise.

Ms Traner gave evidence that while Home Affairs included information relating to recruitment and conflict of interest policies in induction packages for new starters, Home Affairs did not further train staff on these policies.

Joanne also informed the Commission that as an SES Band 1 officer, she did not receive any training on recruitment. In terms of conflict of interest, Joanne completed an online course but had not been invited to attend any ongoing training.

Resignation from Home Affairs

Joanne was, as noted above, promoted to her first substantive SES position in August 2023. By February 2024, she had been stood down pending the outcome of this investigation. In June 2024, she resigned from Home Affairs.

In her submissions, Joanne explained that she had made the decision to resign from the public service (and take up a more junior position in the private sector), which has resulted in financial loss, including of benefits, and also in the non-fulfilment of her longstanding aspiration to serve her entire career in the public service. In addition, her mental health has suffered significantly, and her family members have also suffered as a result of her actions.

Consideration and findings

Under the NACC Act, a public official engages in corrupt conduct if they breach the public trust, abuse their public office, or misuse official information. In addition, any person – not confined to a public official – engages in corrupt conduct if they do something to cause a public official to behave other than honestly and impartially in performing their public duties.

Abuse of office

Paragraph 8(1)(c) of the NACC Act refers to conduct of a public official that constitutes, involves, or is engaged in for the purpose of abuse of the person's office as a public official. 'Abuse of office' is not defined in the NACC Act, but it is informed by the common law notions of misconduct in public office. It is a concept which, in the context of the criminal law, generally involves using a public office to dishonestly benefit oneself or another, or to dishonestly cause detriment to another.[9]

While the issue here concerns corruption and not criminality, these notions from the criminal law inform the concept of 'abuse of office' in the present context. The Revised Explanatory Memorandum to the National Anti-Corruption Commission Bill 2022 (Revised Explanatory Memorandum) provides the following guidance in relation to the meaning of the phrase:[10]

> Paragraph 8(1)(c) would provide that conduct of a public official that constitutes, involves, or is engaged in for the purpose of abusing the person's office as a public official would constitute corrupt conduct. The concept of an abuse of office by a public official involves the official engaging in improper acts or omissions in their official capacity, that the public official knows to be improper, with the intention of gaining a benefit for themselves or another person or causing a detriment to another person. However, conduct may still constitute corrupt conduct even if it were not for the personal benefit of the public official or other persons involved in the conduct …

Accordingly, it will be an abuse of office for a public official to use their powers or office improperly to obtain a benefit for themselves or to inflict a detriment on someone else. The features of abuse of office as outlined in the Revised Explanatory Memorandum require the public official to engage in improper acts or omissions in an official capacity knowing that the conduct is improper.

An abuse of office can be committed through the exercise of influence arising from the person's office, or the use of information obtained in their capacity as a public official.[11]

Subsection 8(8) of the NACC Act and paragraphs 2.54 and 2.55 of the Revised Explanatory Memorandum suggest that a relevant benefit may be intangible, or several steps removed from the persons involved in the conduct. One example given by the Revised Explanatory Memorandum is a benefit to a relative of a public official.[12]

9 See e.g. Criminal Code (Cth), subs 142.2(1).

10 Revised Explanatory Memorandum to the National Anti-Corruption Commission Bill 2022, para 2.39.

11 Ibid, para 2.40.

12 Ibid, para 2.55.

Misuse of information

Paragraph 8(1)(d) of the NACC Act refers to any conduct of a public official (or a former public official) that constitutes or involves the misuse of information or documents acquired in the person's capacity as a public official.

Joanne Simeson

Procurement of Mr Elbert's appointment to the position of APS6 International Engagement Officer

At the time of these events, Joanne was an Acting SES Band 1 officer with responsibility for the Global Initiatives Branch, and Mr Elbert was her sister's intimate partner. At no point during her extensive involvement in Mr Elbert's recruitment and onboarding did Joanne disclose this relationship, and in fact she deliberately concealed it, contrary to Home Affairs Conflict of Interest Procedural Instruction.

Joanne procured Mr Elbert's transfer through several acts, including:

- raising the job opportunity with Melissa and then Ms Traner, the Director of the Multilaterals team
- promoting Mr Elbert's candidacy and qualities to Ms Traner, without disclosing the relationship between them and thereby denying Ms Traner the ability to make a judgment informed by knowledge of the relationship
- creating the recruitment requisition for Mr Elbert's transfer and nominating herself as the delegate approver
- liaising with Mr Elbert in relation to completion of a Temporary Access Form and fabricating a witness signature that accompanied Mr Elbert's undertaking that he would abide by Departmental secrecy and confidentiality requirements, and
- taking steps to have Mr Elbert's onboarding prioritised.

Those acts represented a use of Joanne's office as an Acting SES Band 1 officer with responsibility for the Global Initiatives Branch and the power, privilege and influence that office carried, to procure Mr Elbert's appointment to a position at Home Affairs.

Joanne did so in order to confer benefits, both tangible and intangible, on Mr Elbert and her sister Melissa. The appointment provided a financial benefit to Melissa and Mr Elbert, and a professional and personal benefit as it (a) provided an opportunity for Mr Elbert to be engaged in remunerative full-time work in an area in which he was interested at a time when he was on leave without pay, and (b) although there might not yet have been financial pressures, their circumstances in Italy were such that this outcome represented a 'game-changer' for them.

In submissions made on Joanne's behalf in response to a statement of potential findings, it was said that Joanne:

- had not received any workplace training on recruitment
- had completed an online training course in relation to conflict of interest but had not been invited to attend any ongoing training
- did not give proper and due consideration to her decision not to disclose the familial relationship
- accepts the proposed findings and is very remorseful, and
- did not obtain any direct personal advantage from the outcome.

While Ms Carforth and Ms Traner also gave evidence that the Global Initiatives branch was understaffed at the time, there is ample evidence that Joanne knew that her conduct was improper. This includes the text message exchanges with Melissa, her insistence that the relationship not be disclosed, the self-evident impropriety of the fabricated attestation of the Temporary Access Request Form, and ultimately her admission in evidence to the

Commission that she knew at the time that she should have disclosed the relationship to senior management.

I am unable to accept Joanne's explanation that she concealed the association so that Mr Elbert would not receive favourable treatment. This explanation is inconsistent with the evidence of both Melissa and Mr Elbert, each of whom understood that Joanne was taking a risk for them; and her own message to Melissa that Mr Elbert needed to lie about the association: 'well he's gonna have to do better or I'll get in trouble.' The risk was that Joanne would get into trouble, not that Mr Elbert would receive preferential treatment.

> I am comfortably satisfied, therefore, that in procuring Mr Elbert's transfer from CER to the Global Initiatives Branch in Home Affairs as an APS6 International Engagement Officer, Joanne engaged in conduct in her official capacity, that was to her knowledge improper, with the intention of gaining a benefit for Melissa and her intimate partner Mr Elbert.
>
> Joanne thereby engaged in conduct which constitutes an abuse of her office as a public official within paragraph 8(1)(c) of the NACC Act.

Obtaining of EL1 interview questions by Joanne

Joanne admitted that she obtained the interview questions, that the questions were confidential and that she provided them to Melissa.

Although the evidence does not permit a finding as to precisely how or from whom Joanne obtained the questions, she had access to them only because of her public office as a SES official, and so her accessing and dissemination of the questions represented a use of her public office.

She did so in order to confer a benefit on Melissa, namely an advantage in her interview in the EL1 recruitment round. She knew this was improper, as she knew that the questions were confidential and that other applicants for the position would not have had access to them. Moreover, Joanne was no longer the acting Assistant Secretary of the Global Initiatives Branch at the time and had no legitimate role in the recruitment exercise.

> I am comfortably satisfied, therefore, that in accessing interview questions for an EL1 recruitment round in the International Engagement Division and providing these questions to Melissa prior to her interview, Joanne engaged in conduct in her official capacity, that was to her knowledge improper, with the intention of gaining a benefit for Melissa.
>
> Joanne thereby engaged in conduct which constitutes an abuse of her office as a public official within paragraph 8(1)(c) of the NACC Act. Further, that conduct involves a misuse of information obtained in Joanne's capacity as a public official, within paragraph 8(1)(d) of the NACC Act.

Conclusion – corrupt conduct

The above conclusions that Joanne engaged in conduct which was an abuse of her office as a public official and a misuse of official information, mean that she thereby engaged in corrupt conduct which, having regard to her seniority, the deception involved, the multiple occasions, and the significance of the benefit conferred on Mr Elbert, was not negligible or trivial, but significant and therefore serious; and which, having regard to the prevalence of complaints of nepotism, cronyism and undeclared conflicts of interest in recruitment in the APS, is systemic.

Mark Elbert

Mr Elbert was instructed by Joanne, through Melissa, not to disclose his relationship with Melissa or Joanne, and he complied. Although Mr Elbert did not volunteer information about the relationship, there is no evidence to suggest that he lied about it. When Mr Elbert completed his ESC paperwork, he declared that Melissa was his partner, and they shared the same address in Italy. Mr Elbert also attended the Home Affairs' Christmas party with Melissa.

There is no evidence that Mr Elbert asked Joanne to assist him get a position in Home Affairs or to take any of the steps she took to effect his transfer. The process was initiated and conducted by Joanne. Mr Elbert made no use of his position, nor exercised any public power or function, in obtaining the appointment.

> I therefore do not find that Mr Elbert engaged in corrupt conduct.

Melissa Simeson

Although Melissa was involved in Mr Elbert's transfer, to the extent that she relayed messages sent by Joanne instructing Mr Elbert to conceal his relationship with Joanne, as was the case with Mr Elbert, Melissa did not request Joanne to find him a position or ask her to perform any acts to effect Mr Elbert's transfer.

Moreover, while Melissa was a public official at the time, her involvement was in a personal capacity, as Mr Elbert's partner, and not in any official capacity. She made no use of her position, nor exercised any public power or function.

> I therefore do not find that Melissa engaged in corrupt conduct.

Corruption prevention observations

Since the Commission's establishment, it has received many referrals relating to recruitment and promotion in the APS. As has been noted by other anti-corruption agencies, the power to recruit someone to a public position is a power not to be underestimated, given the salary and other benefits the position confers.[13]

Nepotism, cronyism and undeclared conflicts of interest in recruitment is an area of widespread concern. Nepotism in recruitment and promotion undermines the merit selection process and erodes morale. According to the Commission's 2024 Commonwealth Integrity Survey, nepotism and cronyism are the most commonly observed types of corrupt conduct.[14] This is a paradigm case, which illustrates the risks and vulnerabilities in these areas and the importance of corruption prevention measures.

Where there is a single person approval process and the delegated decision-maker is also the proposer of the decision or action requiring approval, there is an increased risk of nepotism and cronyism.

> The corrupt conduct in this case came to light as a result of a staff member's decision to raise concerns that they held through reporting channels within Home Affairs. This is an illustration of a positive reporting culture, with a staff member making appropriate use of internal reporting frameworks to receptive leadership willing to pursue the matter. It is important to encourage these practices within agencies.

Finally, this is not the first occasion on which the Commission has encountered the suggestion that job applicants have been assisted by the provision of inside information about interview questions. In the Commission's experience, information about interview questions can be sourced for extraneous purposes from panel members, through access to panel documentation and also through access to records of earlier similar recruitment processes.

13 Office of the Independent Commissioner Against Corruption NT, Public statement – Operation Apollo – improper conduct in recruitment, ICAC NT website, 2025, accessed 23 June 2025.

14 National Anti-Corruption Commission, Commonwealth Integrity Survey 2024, NACC website, 2024, accessed 23 June 2025.

Recommendations

Based on the above corruption prevention observations, I make the following recommendations to reduce the risk of similar misconduct, deter future occurrences and increase the likelihood of timely detection:

1

Reduce the risk of undisclosed conflicts of interest in recruitment (whether by deliberate intent, error or oversight) by:

- in line with the Australian Public Service Commission's Factsheet: Managing conflict of interest in recruitment,[15] requiring persons involved in managing recruitment and appointment processes to declare any relationship or association with any job applicant, including where the appointment is through a section 26 transfer or a temporary employment register, and
- providing training for employees engaged in internal recruitment processes on how to identify, declare and manage conflict of interest, with a focus on training SES officers who are often delegates in recruitment processes.

2

Mitigate the risk of improper disclosure of interview questions by:

- ensuring that panel members are aware of the imperative to limit access to interview questions to those with a legitimate need to know, and
- restricting online access to questions, including in relation to completed recruitment processes, to those with a legitimate need to know.

3

In relation to specific Home Affairs policies:

- amend the Conflict of Interest Procedural Instruction (SM-1556) to make specific provision for identifying declaring and managing conflicts of interest in section 26 transfer processes, and
- review the Recruitment Procedural Instruction (HR-2171) to explicitly include a requirement to declare and manage conflicts of interest in section 26 transfers, similar to those already explicitly in place for other recruitment processes.

15 Australian Public Service Commission, Factsheet: Managing conflict of interest in recruitment, APSC Website, 2024, accessed 23 June 2025.

As an SES Band 1 officer, Joanne was obliged to promote the APS Values, APS Employment Principles and APS Code of Conduct by personal example. The APS Ethical Value is to demonstrate leadership, be trustworthy and act with integrity. The conduct demonstrated by the above findings is antithetical to those values.

> Had Joanne remained an APS employee, I would have made a recommendation, for the purposes of subsection 15(2) of the Public Service Regulations 2023 (Cth), to terminate her employment.

As she has resigned from the APS, this would now be superfluous. The loss, as result of the exposure of her corrupt conduct, of her APS appointment and career, and the associated financial loss of salary and other benefits, and the adverse impact of her conduct on her mental health and her consciousness of its impact on her family members are significant repercussions of her conduct.



The Hon Paul Brereton AM RFD SC
National Anti-Corruption Commissioner

30 June 2025



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