National Anti-Corruption Commission

What can the NACC investigate?

The NACC investigates issues of serious or systemic corrupt conduct in the Australian Government public sector.

The terms serious and systemic are not defined under the NACC Act. The Commissioner determines whether a matter could involve serious or systemic corrupt conduct.

To investigate a corruption issue, the Commission must have information raising the possibility that a person has done or could do something that:

- involves, or could involve, a **public official**
- is, or could be, **corrupt conduct** under the NACC Act
- could involve **serious or systemic corrupt conduct**.

The NACC can only investigate **corrupt conduct** that involves a public official in some way. People who can be investigated by the NACC are 'in the NACC's jurisdiction'.

The NACC's jurisdiction

For the purposes of the NACC Act, the following are subject to the NACC's jurisdiction:

- public officials
- staff members of Commonwealth agencies
- contracted service providers
- parliamentarians and their staff.

Public officials

Most people who work for, exercise the powers of, or perform functions for, the Australian Government or the Australian Parliament are public officials under the NACC Act.

Specifically, the following people are public officials:

- members and senators of the Australian Parliament, including ministers, and the people who work for them
- staff members of Commonwealth agencies, including employees of and persons engaged in assisting Australian Government departments, Commonwealth companies and statutory bodies
- contracted service providers (such as consultants, independent contractors, and labour-hire contractors) under Commonwealth contracts administered by Commonwealth agencies
- staff members of the NACC.

The NACC can only investigate matters relating to Australian Government public officials. It is not able to investigate concerns relating to state, territory or local government officials. Each state and territory has a similar integrity or anticorruption commission that may be able to investigate those matters.

It is important to remember that the NACC can investigate **any person, even if they are not a public official**, if they do something that might cause a public official to carry out their official role other than honestly or impartially.

Staff members of Commonwealth agencies

If an organisation is a Commonwealth agency, then the head of the agency, its employees, contractors and consultants are public officials under the NACC Act. Examples of Commonwealth agencies are:

- departments of state and parliamentary departments – like the Attorney-General's Department or the Department of Parliamentary Services
- other entities prescribed under the *Public Governance, Performance and Accountability Act 2013* – like the Australian Taxation Office, the Australian Defence Force or the Australian Federal Police
- bodies corporate established under Commonwealth legislation – like the Commonwealth Scientific and Industrial Research Organisation (CSIRO) or land councils
- Commonwealth companies – like NBN Co – and their subsidiaries
- the High Court and other federal courts (but not judges of those Courts).

Under the NACC Act, the offices of parliamentarians are also Commonwealth agencies.

Most people who do work for a Commonwealth agency will be staff members of that agency for the purposes of the NACC's jurisdiction. Only very limited exceptions apply.

A person can be a staff member of a Commonwealth agency, and therefore a public official, even if they are not directly employed by that agency.

Staff members of Commonwealth agencies include:

- Agency heads
- Employees of Commonwealth departments, Commonwealth companies and other statutory bodies
- Persons engaged to assist Commonwealth departments, Commonwealth companies and other statutory bodies. This could include consultants, and even volunteers
- People who are responsible for delivering goods or services to or on behalf of a Commonwealth agency under a Commonwealth contract (known as contracted service providers)
- People who work for parliamentarians under the *Members of Parliament (Staff) Act 1984*, including consultants
- Secondees to Commonwealth agencies
- Officers and employees of the federal courts and the High Court, excluding judges
- Other people who exercise powers or perform functions under various Commonwealth laws.

Contracted service providers

People who are responsible for providing goods or services, or who carry out functions, under a Commonwealth contract, are public officials under the NACC Act. These people, or the organisations they work for, are known as contracted service providers.

They are treated as a staff member of the Commonwealth agency that is responsible for the contract. This includes:

- a party to the contract
- an employee of a contracted service provider who is responsible for doing something required by the Commonwealth contract
- a subcontractor to a contracted service provider who is responsible for doing something required by the Commonwealth contract.

Parliamentarians and their staff

Parliamentarians, including ministers, are public officials under section 10 of the NACC Act. Parliamentarians re-contesting elections will still be treated as parliamentarians during the election period (while the relevant House of Parliament is dissolved).

People who work for parliamentarians, including as consultants and volunteers, are also public officials, and the parliamentarian for whom they work is considered to be their 'agency head'.

Who is not a public official?

For the purposes of the NACC Act, the following are not public officials subject to the NACC's jurisdiction:

- judges
- the Governor-General and Deputy Governor-General
- a Royal Commissioner
- the Inspector of the NACC or a person assisting the Inspector
- foreign governments (including their contracted service providers).

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.

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