



Standard Operating Procedure

Version 2

File Ref 23#26324DOC

Contents

| | |
|--|-----------|
| Internal Review of National Anti-Corruption Commission Assessment Decisions | 1 |
| Standard Operating Procedure | 1 |
| 1. Introduction | 2 |
| Application | 2 |
| Purpose | 2 |
| 2. Roles and responsibilities | 2 |
| Actioning Requests for Review | 2 |
| 3. Procedures | 3 |
| 4. Authority | 8 |
| 5. Definitions | 8 |
| 6. Links | 9 |
| 7. Templates | 9 |
| 8. Version history | 9 |
| 9. Approval | 10 |

1. Introduction

Application

- 1.1 On occasion, people who have referred alleged corruption issues to the National Anti-Corruption Commission (the Commission) will be dissatisfied with the outcomes of assessments and decisions made as to whether and how to deal with the issue.
- 1.2 While there is no legislative provision or requirement for internal reviews of Commission decisions, the implementation of a procedure enabling internal review of assessment decisions is good administrative practice, and provides the opportunity to correct errors, make better decisions, and continuously improve work practices.

Purpose

- 1.3 The purpose of this standard operating procedure (SOP) is to provide guidance for Commission staff about how to consider and respond to complaints by referrers regarding outcomes and decisions made in the intake and triage and assessment process (assessment decisions).

2. Roles and responsibilities

Dealing with Review Requests

- 2.1 *Intake and Triage Section (I&T) section* – is responsible for:
 - a. receiving communications from referrers who are dissatisfied with and/or seek a review of an assessment decision (review request);
 - b. providing information about the internal review process and assisting referrers to request a review. This will ordinarily be limited to directing them to online resources;¹
 - c. forwarding review requests to the Assessment Section (utilising Argus workflow).
- 2.2 *Assistant Directors Assessments (ADA)* – are responsible for the initial consideration of review requests forwarded by the I&T section and the development of recommendations for the General Manager Corruption Prevention, Education and Evaluation. Recommendations may include:
 - a. additional engagement with the referrer to further explain a decision,
 - b. the acceptance or refusal of a review request,
 - c. the initiation of an own-motion review, or
 - d. to take no further action.
- 2.3 *General Manager Corruption Prevention, Education and Evaluation (GMCPEE)* – is responsible for considering a review request (including all relevant information and the recommendation from the ADA) and deciding whether a review is required,

¹ I&T officers will adhere to standard Commission processes consistent with the Commission's Response Guidelines for Contact Handling Standard Operating Procedure, 23#25295DOC.

deciding whether the request should be accepted; if so, engaging the Review Officer, and if not, informing the ADA to enable communication with the referrer.

- 2.4 *Review Officers (RO)* – are responsible for conducting a review of a decision. An RO will be allocated following consultation at the General Manager level, with selection dependent upon the subject and complexity of the matter. Following allocation of a review, the RO will contact the referrer to provide information about the review process, timeframes, and possible outcomes. The RO may request additional information to clarify issues raised by the referrer. The RO may also seek to clarify any matters with relevant members of the Assessment Section, or Delegate, if required. An RO may undertake a review of a decision made by a more senior staff member.

Training and Review of this Standard Operating Procedure

- 2.4 The Director Assessments and ADA are responsible for the provision of training and information sessions for relevant staff members engaged in the review of assessment decisions.
- 2.5 This SOP will be reviewed every two years, or more regularly as needed to ensure consistency with legislation, government policy, organisational changes within the Commission and change of working environment.

3. Procedures

Requesting a Review

- 3.1 Referrers can make a review request using the online review request form. I&T staff members should direct referrers to that resource in the first instance, but should also consider accessibility factors. Sometimes it may be more appropriate to accept information from a referrer in email form, or in rare circumstances verbally.

Time frame for requesting a Review

- 3.2 Referrers should request a review within three months of the date of the original decision. The Commission will ordinarily refuse review requests made outside this timeframe, although late requests may be accepted if justified by special circumstances.

Recommendation where additional engagement with referrer may resolve

- 3.3 Not all referrer dissatisfaction stems from a disagreement with the facts or merits of a decision. In some circumstances, it may result from a misunderstanding, lack of understanding or insufficient information. As such, ADA's officers considering review requests should carefully consider whether a referrer's dissatisfaction may be resolved by the provision of additional explanation for the original decision.
- 3.4 Key points to be considered are:
- whether there appears to be a misunderstanding or lack of understanding about the Commission's role, jurisdiction, or the outcomes it can achieve,
 - whether there appears to be a misunderstanding or lack of understanding about the reasons for the decision,

- whether more information could be provided to clarify or better explain the decision, or decision-making process, and
 - whether the referrer appears to have been unable to access or understand the decision due to disability, language, or literacy.
- 3.5 If an ADA officer considers that dissatisfaction with a decision may be resolved or mitigated by the provision of a different or more detailed explanation to a referrer, this should be recommended to the GMCPEE for consideration.
- 3.6 The decision to engage further with a referrer at this stage will be made and recorded by the GMCPEE. If further contact is approved, a further explanation and reasons for the original decision will ordinarily be provided in writing. However, in certain circumstances, a different or more detailed explanation might be more effective when provided orally.

Recommendations where additional engagement with referrer unlikely to resolve

- 3.7 On the other hand, factors might indicate that the referrer's dissatisfaction is unlikely to be resolved by an additional explanation. In this regard, key considerations for ADA's are:
- whether the referrer identifies a potential error in the decision or decision-making process, and
 - whether the referrer has provided new information or referred to information not previously considered.
- 3.8 Mere dissatisfaction with a decision is insufficient to justify a review. Ordinarily, acceptance of a review request should be recommended only if there is reason to think that the original decision might be incorrect or unreasonable (which could include that the decision could be wrong in the light of new information not previously provided).

Determining review requests

- 3.9 The GMCPEE may accept or refuse a review request. Reviews will ordinarily not be accepted if:
- the request was made more than three months after the date when the original decision was notified to the referrer, unless there are special circumstances,
 - the request does not articulate an identifiable error in the original decision or decision-making process, or does not provide new information which might result in a different decision,
 - the referrer is seeking an outcome that cannot be delivered by the Commission,
 - the original referral was closed due to the referrer's lack of cooperation or refusal to provide information in response to a reasonable request by the Commission,
 - the issues raised are better dealt with as a new referral, and/or
 - the issues raised are better dealt with as a service delivery complaint.

3.10 As per 2.3 and 2.4:

- if a review request is accepted, the GMCPEE will engage with the designated RO and make available all relevant material; if a review request is refused, the decision-maker will communicate the decision and reasons for it to the referrer as soon as practicable in writing.

Allocation of Reviews

3.11 As per 2.3 and 2.4, once a decision has been made to accept a review request, the RO will be provided with all relevant material. This RO must be a staff member who has had no prior involvement in the matter. The GMCPEE will provide guidance as necessary to the RO including the focus of the review. Neither this guidance, nor the review request, limits the scope of the review – particularly if the RO identifies new or additional issues.

Conducting Reviews

3.12 As per 2.3, once allocated the responsibility for a review, the RO will contact the referrer to provide information about the review process, timeframes and possible outcomes.

The RO will then commence a re-assessment of the matter. Standard Commission processes will be adhered to in accordance with the Assessment of Corruption Issues Policy² and Management of Corruption Referrals SOP³.

As part of the review process, the RO will consider whether the decision was the correct and most appropriate decision. The RO will examine the decision and the decision-making process and considering, for example, whether the original assessment:

- addressed all the key issues in the referral,
- provided an opportunity for the referrer to be heard (i.e. provide relevant information/material),
- gathered and/or considered all the relevant information, sufficiently responded to the key issues, including analysing those issues in sufficient depth,
- made a decision that was correct (i.e. in accordance with the *National Anti-Corruption Commission Act 2022* (the NACC Act) and relevant policies), and
- resulted in a decision that was the one the Commission should have made – it is the correct and most appropriate decision (e.g. the decision is the most appropriate one in the sense that, if there are a range of decisions that are correct in law, the decision settled upon is the best that could have been made on the basis of the relevant facts).

² NACC Assessment of Corruption Issues Policy – CM 23#22972DOC.

³ NACC Management of Corruption Issue Referrals Standard Operating Procedure – CM 23#25945DOC.

- 3.13 Finally, the RO should consider whether the original decision was properly explained to the referrer or if the Commission made statements that were ambiguous or could be interpreted differently by the referrer.
- 3.14 If the referrer contacts the Commission whilst the RO is considering the matter, they should be referred to that RO.
- 3.15 At the conclusion of the review, the RO will submit a brief to the GMCPEE recommending a proposed outcome. The decision minute should include the following:
- a brief history of the referral and relevant decisions,
 - consistent with 2.12 of the Assessment of Corruption Issue Policy⁴, a recommendation in relation to the proposed next actions by the Commission which may include that;
 - i. significant additional work is required to finalise an assessment and the case should progress to Preliminary Investigation to inform a decision,
 - ii. the information does not raise a corruption issue and to take no further action (in these circumstances, the information can be referred to another agency for attention as necessary),
 - iii. the information raises a corruption issue, but not one that could be serious or systemic, is not a priority for the Commission, and should be referred to another agency or agencies, for consideration;
 - iv. the information raises a corruption issue, which could be serious and/or systemic, but is not an investigational priority for the Commission and should be referred to another agency or agencies, for investigation (can be with oversight or the Commissioner can give directions about the planning and conduct of the investigation),
 - v. the alleged conduct raises a corruption issue, which could be serious or systemic, and should be considered an investigational priority to be investigated by the Commission - either solely or joint with another agency or agencies, or
 - vi. although the alleged conduct raises a corruption issue, which could be serious or systemic, to take no action,
 - vii. issues identified in the review regarding the original assessment, and
 - areas warranting separate action such as poor service.

Review Outcomes

- 3.16 A review can result in one of two outcomes:
- a recommendation that a different decision be made in respect of the assessment, or
 - a recommendation that no further action be taken.

⁴ NACC Assessment of Corruption Issues Policy – CM 23#22972DOC, p 4 and 5.

- 3.17 Even where a RO recommends no further action, they must consider whether an additional explanation for the decision can and should be provided to the referrer in the review decision.
- 3.18 If the GMCPEE decides that a different decision should be substituted in relation to the assessment, then the decision of the GMCPEE will replace and have effect in place of the original assessment decision.
- 3.19 The RO is responsible for informing the referrer of the outcome of the review and the reasons for the decision on the review. This may include additional explanation of the original decision and should explain why any substantial argument advanced by the referrer was not accepted. This will always be done in writing but may also be done orally in special circumstances.

Contact from Referrers after the Finalisation of a Review

- 3.20 Dissatisfied referrers may contact the Commission after a review has been refused, a review has been finalised with no further action, or a re-opened assessment following a review has been completed.
- 3.21 In the first instance and consistent with standard Commission processes, such contact will be managed by the I&T officers and forwarded to the ADA's for consideration and recommendation to the GMCPEE.
- 3.22 Sometimes, such an approach may provide relevant new information or reveal an error in previous decisions. In such a case, the GMCPEE will engage with the RO to confirm how to respond to the material. This may result in the commencement of a new assessment, or the re-opening of a previous assessment.
- 3.23 Otherwise, the ADA's will record that the referrer has not shown reason for reconsidering the previous decision, and either acknowledge and respond accordingly, or otherwise note that no further action will be taken in response to that correspondence (particularly if the Commission has previously indicated to the referrer that this is the course it will take).

Timeliness Expectations

- 3.24 Noting the time required to action requests for review and reviews themselves must be commensurate with the complexity of the matter, the Commission uses the following measures to guide the timely resolution of review requests:

| Action | Timing |
|--|---|
| Decision to accept or decline a review request by the GMCPEE | 90% of review requests are decided within 30 business days. |
| Review Finalisation | 90% of reviews are finalised within 60 business days. |

- 3.25 If a referrer contacts the Commission after making a review request but before the GMCPEE has decided whether to accept the request, the referrer should be advised of the aim to make a decision on the request within 30 working days, but that if it is accepted, consideration of the review may take another 60 days.

4. Authority

National Anti-Corruption Commission Act 2022 (the NACC Act).

- 4.1 The NACC Act establishes the Commission, the office of the Commissioner and details the Commission's functions. It sets out the Commission's priorities to prevent, detect, investigate and report on serious or systemic corruption in the Commonwealth public sector.

National Anti-Corruption Assessment of Corruption Issues Policy

- 4.2 The purpose of the Assessment of Corruption Issues Policy is to provide authoritative guidance to staff members performing functions as a delegate of the Commissioner as to the manner in which relevant decisions are to be made, in order to facilitate the timely and consistent assessment of corruption issues. The Commission uses an assessment process to evaluate the information it receives. The purpose of the assessment process is to determine whether the information gives rise to a corruption issue and if so whether and how to deal with it.
- 4.3 The Commission applies the following three-step process when assessing information referred alleging corrupt conduct:
- at the first stage, determining whether there is a corruption issue,
 - at the second stage, deciding whether or not to deal with the corruption issue, and
 - at the third stage, deciding how to deal with the corruption issue.⁵

5. Definitions

- 5.1 For ease of reference, this SOP uses a number of NACC Act terms interchangeably.

- 5.2 In this policy:

- "the Commission" means the Commissioner and staff of the Commission,
- "Referrers" means people who have made referrals to the Commission of alleged corruption issues,
- Review Officers (RO) are designated staff members who are responsible for conducting a review of a decision and who were not involved in the original assessment,
- "Referral" means a referral to the Commission of an alleged corruption issue,
- "Argus" means the Argus Case Management System, and
- "CM" means Content Manager – one of the Commission's primary information holdings.

⁵ NACC Assessment of Corruption Issues Policy, CM23#22972DOC p 2.

6. Links

| Title | Type | File Ref | Author |
|---|------------------------------|-------------|---|
| NACC Assessment of Corruption Allegations | Policy | 23#22972DOC | Section 47F(1) - Personal privacy Director Assessments |
| NACC Management of Corruption Issue Referrals | Standard Operating Procedure | 23#29185DOC | Section 47F(1) - Personal privacy Director Assessments |
| NACC Response Guidelines for Contact Handling | Standard Operating Procedure | 23#25295DOC | Section 47F(1) - Personal privacy an Intake Triage |

7. Templates

| Title | File Ref | Author |
|---|----------|--------|
| Request to Review NACC Assessment Decision Form | TBC | TBC |
| | | |

8. Version history

| Version | Authorised by | Revision date | Author | Description of change |
|---------|---|---------------|---|--|
| 1 | The Honourable Justice Paul Brereton AM RFD SC Commissioner | | Section 47F(1) - Personal privacy Director Assessments | Initial Version |
| 2 | Angus Burnett General Manager Corruption Prevention, Education and Evaluation. | 06 July 2023 | Section 47F(1) - Personal privacy Director Assessments | Final draft following engagement with the Commissioner and CEO |
| | | | | |
| | | | | |
| | | | | |

9. Approval

This Standard Operating Procedure is approved.

Section 47F(1) - Personal privacy

Gus Burnett
General Manager Corruption Prevention, Education and Evaluation
6/07/2023



Australian Government
National Anti-Corruption Commission

**Response guidelines for
contact handling**

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

- 3.6 Where contacts seek a review or make a complaint about the handling of their contact, internal records will be used to easily identify relevant team members.

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

- 6.6 Contacts can request a review of a Commission Assessment decision, including Tier 1 Triage decisions and Tier 2 Assessment decisions. Requests for review of a decision will be handled as follows:
- a. Ask the reporter to email the Triage email address Section 47E(d) - Certain operations of agencies and include their webform ID and details, noting that they are requesting a review.
 - b. Advise the reporter that their request will be escalated for review.

- c. Tier 1 Triage reviews will be sent to Director Intake and Triage for sign-off, and Tier 2 reviews will be signed off by Director Assessments.

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter

Section 22 - Irrelevant matter