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s. 47F(1) Minute

To: Acting Secretary s. 47F(1)
Through: Chief Operating Office 12/01/24
Date: 11 January 2024
Ref: EC24-0000151

Notification of a corruption issue: I&PS case 2023/348

Timing

1. As soon as practicable – as required by legislation.

Purpose

2. To ask you to consider making a mandatory referral, pursuant to subsection 33(1) of the *National Anti-Corruption Commission Act 2022* (**NACC Act**) of a corruption allegation involving an Immigration and Border Protection worker.
3. To seek your agreement for the Integrity and Professional Standards Branch (**I&PS**) to submit the notification on your behalf.

Background

4. Subsection 33(1) of the NACC Act requires that an agency head who becomes aware of a corruption issue must refer the issue to the Commissioner if:
 - the issue concerns the conduct of a person who is, or was, a staff member of the agency while that person is, or was, a staff member; and
 - the agency head suspects that the issue could involve corrupt conduct that is serious or systemic.
5. Section 8 of the NACC Act states that corrupt conduct includes:
 - any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise or performance of any public official's powers, functions or duties as a public official, or
 - any conduct of a public official
 - that constitutes or involves a breach of public trust;
 - that constitutes, involves or is engaged in for the purpose of abuse of the person's office as a public official

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- that constitutes or involves the misuse of information or documents acquired in the person's capacity as a public official or former public official.
- 6. The terms 'serious' and 'systemic' are not defined in the NACC Act and it is up to the NACC Commissioner to decide whether a particular allegation of corrupt conduct is serious or systemic. However, guidance on what may constitute serious or systemic conduct is provided in the *National Anti-Corruption Commission Bill 2022 Explanatory Memorandum (EM)*.
- 7. Para 6.16 of the EM states that "[m]ultiple factors may contribute to the question of whether particular corrupt conduct could be 'serious', including both the substance of the conduct and its result."
- 8. Para 6.19 of the EM states "an instance of corrupt conduct would be systemic where, on its ordinary meaning, it occurs as part of a pattern of corrupt conduct, for example in one or more Commonwealth agencies."
- 9. All referrals (mandatory or voluntary) to the NACC must be made via the NACC website.
- 10. When an agency head refers an issue to the NACC under subsection 33(1) of the NACC Act, they must explain why they suspect the corruption issue could involve conduct that is serious or systemic. They must also provide the NACC with all of the information or documents in their possession or control that relate to the issue (subsection 38(2)) of the NACC Act.

Issues

- 11. On 19 December 2023, concerns were raised with the Integrity and Professional Standards Branch (I&PS) regarding the involvement of s. 47F(1), s. 47E(c) (then acting Assistant Secretary - Global Initiatives Branch) in the recruitment to the Department of s. 47F(1), s. 47E(c) s. 47F(1), s. 47E(c) between March and May 2023. Specifically that;
 - a) s. 47F(1), s. 47E(c) recruited s. 47F(1), s. 47E(c), who is the long-term partner of her s. 47E(c), s. 47F(1) sister, s. 47F(1), s. 47E(c)
 - b) s. 47F(1), s. 47E(c) had no obvious experience in the role he was recruited for, and
 - c) s. 47F(1), s. 47E(c) failed to disclose the conflict of interest and described s. 47F(1), s. 47E(c) to a Director who questioned the recruitment as 'a friend of a friend'.
- 12. s. 47F(1), s. 47E(c) is currently substantive Assistant Secretary (SES1) in the role of Chief of Staff to the Secretary of Home Affairs.
- 13. On 27 March 2023, s. 47F(1), s. 47E(c) sent an email to Director s. 47F(1), s. 47E(c) s. 47F(1), s. 47E(c).
- 14. The content of the email stated;
 - s. 47F(1), s. 47E(c) and I have been speaking about a possible role with Multilaterals. s. 47F(1), s. 47E(c) 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 s. 47F(1), s. 47E(c) can engage with s. 47F(1), s. 47E(c) in Geneva as well. s. 47F(1), s. 47E(c) 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 – s. 47F(1) let me know if you have any questions.

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15. On the same day s. 47F(1), s. 47E(c) responded to the email stating:
- *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. Also there is no information about levels...Is he an APS 5 or 6?*
16. Further on 27 March 2023, s. 47F(1), s. 47E(c) responded to s. 47F(1), s. 47E(c) email and stated:
- s. 47F(1) 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.
17. Enquiries reveal that s. 47F(1), s. 47E(c) is well known to s. 47F(1), s. 47E(c) being the partner of her s. 47F(1), s. 47E(c) sister s. 47F(1), s. 47E(c) since 2018.
18. s. 47F(1), s. 47E(c) is a former employee of the Clean Energy Regulator (CER) where he occupied the role of Freedom of Information officer. CER have advised that he was on a combination of unpaid and other forms of leave from 11 April 2022 to 4 June 2023 to accompany his partner on an overseas posting. s. 47F(1) CER have provided a letter confirming s. 47F(1), s. 47E(c) posting to Italy on behalf of the Australian Institute of Sport, in which s. 47F(1), s. 47E(c) is named as the trailing partner.
19. Movement records of s. 47F(1), s. 47E(c) and s. 47F(1), s. 47E(c) support that they travelled on the same flights out of Australia on 18 April 2022 returning to Australia on 8 May 2023.
20. Departmental systems indicate that on 3 April 2023, s. 47F(1), s. 47E(c) created a recruitment requisition number s. 47F(1), s. 47E(c) for a section 26 transfer at the APS6 level for an International Engagement Officer in the Multilaterals Section.
21. Further on 3 April 2023, s. 47F(1), s. 47E(c) approved the requisition as the delegate and sent the requisition to the recruitment team for review with the comments 'Please progress as a priority'.
22. On 3 May 2023, s. 47F(1), s. 47E(c) wrote to recruitment section and asked;
- s. 47F(1), s. 47E(c)**
23. Essential qualifications for employment with the Department include that a candidate must obtain and maintain an Employment Suitability Clearance (ESC) and a security clearance at the Negative Vetting 1 (NV1) level.
24. In his ESC application, s. 47F(1), s. 47E(c) advised his partner to be s. 47F(1), s. 47E(c) and their relationship commenced in August 2018. He also advised that his address at the time of the application was in s. 47F(1), s. 47E(c), Italy.
25. A requirement of the ESC is that the Department conduct a Police History Check before granting the qualification. This includes from foreign countries where a person had resided for a significant time or had recently resided. In s. 47F(1), s. 47E(c) circumstances, this included Italy where he had resided since commencement of the posting in 2022.

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26. On 11 May 2023, s. 47F(1), s. 47E(c) emailed the Pre-Employment team and stated;
- I spoke to s. 47F(1), s. 47E(c) overnight regarding the requirement to obtain an Italian Police check. Unfortunately the Italian bureaucratic system is not straight forward (who would have thought!) and the Italian Police will not issue police checks for non-citizens. Is there a work around in this situation? Can I complete a risk assessment or given that s. 47F(1), s. 47E(c) has only been living in Italy for just over a year can we waive this requirement?
27. On 13 May 2023, s. 47F(1), s. 47E(c) emailed the Pre-Employment and Security Clearances teams and asked;
- I understand s. 47F(1), s. 47E(c) 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 s. 47F(1), s. 47E(c) paperwork can be prioritised and whether we are able to submit a temporary waiver while we await the clearance backlog?
28. s. 47F(1), s. 47E(c) was required to hold an NV1 security clearance for the position he had been recruited for. A Temporary Access request form was submitted to the Department to allow s. 47F(1), s. 47E(c) to be onboarded to the Department prior to an NV1 being granted.
- Temporary Access allows the Department to provide a person without the relevant level security clearance to access security classified information based on a risk assessment. Current policy requires that such an application is supported by an officer at a minimum of SES Band 1 level.
29. On 19 May 2023, s. 47F(1), s. 47E(c) signed the Temporary Access application as the relevant SES Band 1.
30. A condition of Temporary Access is that the applicant s. 47F(1), s. 47E(c) was required to be supervised at all times during the term of the temporary access agreement.

s. 47E(c)

- s. 47F(1), s. 47E(c) movement records reflect he departed Australia on 3 June 2023 and remained overseas until 17 October 2023.
31. Recruitment section advised that s. 47F(1), s. 47E(c) was verbally offered an APS6 position on 11 April 2023.
32. s. 47F(1), s. 47E(c) ESC and Temporary Access were granted on 22 May 2023.
33. On 26 May 2023, a formal letter of offer was issued, which advised that his transfer from the CER would take effect on 5 June 2023 and attract an annual salary of \$101,264.00.
34. Departmental records indicate that s. 47F(1), s. 47E(c) commenced with the Department on 5 June 2023, though he attended the Department's offices on 1 June 2023 to collect a departmental laptop and test his login due to his remote work arrangement in Italy.
35. I&PS have no record of any conflict of interest being declared by s. 47F(1), s. 47E(c). Enquiries are continuing to determine if any such conflicts in this matter were raised with her line management.
36. The Department's Conflict of Interest Procedural Instruction states;
- 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, such as the following circumstances:

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- i. performance assessments
- ii. promotion
- iii. transfer
- iv. work tasking, and
- v. approval of any funds expenditure, including travel.

37. The NACC have indicated their interest in matters relating to recruitment involving SES staff.

38. Abuse of Public Office by a Commonwealth Public Official is an offence under subsection 142.2(1) of the *Criminal Code Act 1995 (Cth)* which carries a maximum penalty of 5 years imprisonment.

Basis for a NACC referral

39. The obligation under subsection 33(1) of the NACC Act is imposed on the Agency Head and you must form a subjective view that you suspect that the corruption issue could involve serious or systemic corrupt conduct.

40. Based on the information available, it would be open to you to:

- a) form the view that the matter involves 'corrupt conduct', being conduct:
 - a. by s. 47F(1), s. 47E(c) which could adversely affect the impartial performance of her recruitment function;
 - b. of a public official s. 47F(1), s. 47E(c) that constitutes or involves a breach of public trust or involves an abuse of her office as a public official; and
- b) suspect that the matter could involve corrupt conduct that is 'serious' considering:
 - a. s. 47F(1), s. 47E(c) direct recruitment of s. 47F(1), s. 47E(c) (being a known family member or associate) by creating a job requisition and approving same;
 - b. s. 47F(1), s. 47E(c) failure to declare a conflict of interest in connection with the recruitment of s. 47F(1), s. 47E(c)
 - c. the senior position held by s. 47F(1), s. 47E(c) within the Department at the relevant time (and still does), being Assistant Secretary level (SES Band 1);
 - d. s. 47F(1), s. 47E(c) email to s. 47F(1), s. 47E(c) on 27 March 2023, which may have involved deception in stating that s. 47F(1), s. 47E(c) 'is a friend of a friend', as opposed to being the partner of her sister; and
 - e. the benefit obtained by s. 47F(1), s. 47E(c) as a result of his transfer to the Department, by way of salary.

41. Should you agree to make a referral under subsection 33(1) of the NACC Act, the text at **Attachment A** will be submitted via the NACC website portal, on your behalf. This satisfies your obligation under subsection 38(1) of the NACC Act to provide all information relevant to the issue in your possession or control at the time of the referral.

42. The Department will continue to take action in relation to this corruption issue unless a stop action direction is issued by the NACC, in accordance with section 43 of the NACC Act.

Legal Group Advice

43. On 11 January 2024, Legal Group, including A/g GM Legal, finalised its review of this proposed referral and provided suggested amendments, which have been incorporated into this Minute.

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44. A/g GM Legal considers this matter may reach the relevant threshold for mandatory reporting to the NACC under the **NACC Act**. However, this is ultimately a question for the Acting Secretary, having regard to the relevant threshold contained in section 33 of the NACC Act.

Recommendation

It is recommended that you:

45. Consider whether to make a mandatory referral under section 33(1) of the NACC Act in relation to allegations and issues outlined in this Minute.

Agree to make the referral under section 33(1) of the NACC Act ☒ Please Discuss ☐

s. 47F(1)

Rheannon Nicholson
A/g First Assistant Secretary
Integrity, Security and Assurance

s. 22(1)(a)(ii)

11 January 2024

s. 47F(1)

Nathan Smyth
Acting Secretary
12 January 2024

Consultation: Internal: Group Manager Legal

Contact Officer: Mel Kay, AS Integrity and Professional Standards Branch

Division/branch: Integrity, Security and Assurance Division / Integrity and Professional Standards Branch

Phone: s. 22(1)(a)(ii)

Attachment A: Text for referral via NACC Portal

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Attachment A

Details to be submitted as part of the NACC referral via the website form

Note: The website form provides for submission of the form as a 'mandatory referral'. The below text will be provided in the free text field of the website form.

The Department of Home Affairs (the **Department**) is submitting this mandatory referral on behalf of Agency Head, Acting Secretary Nathan Smyth, pursuant to subsection 33(1) of the *National Anti-Corruption Commission Act 2022 (NACC Act)*.

On 19 December 2023, concerns were raised with the Integrity and Professional Standards Branch (I&PS) regarding the involvement of s. 47F(1), s. 47E(c) (then acting Assistant Secretary - Global Initiatives Branch) in the recruitment to the Department of s. 47F(1), s. 47E(c) between March and May 2023. Specifically that;

- a) s. 47F(1), s. 47E(c) recruited s. 47F(1), s. 47E(c) who is the long-term partner of her s. 47E(c), s. 47F(1) sister, s. 47F(1), s. 47E(c)
- b) s. 47F(1), s. 47E(c) had no obvious experience in the role he was recruited for, and
- c) s. 47F(1), s. 47E(c) failed to disclose the conflict of interest and described s. 47F(1), s. 47E(c) to a Director who questioned the recruitment as 'a friend of a friend'.

s. 47F(1), s. 47E(c) is currently substantive Assistant Secretary (SES1) in the role of Chief of Staff to the Secretary of Home Affairs.

On 27 March 2023, s. 47E(c), s. 47F(1) sent an email to Director s. 47F(1), s. 47E(c) s. 47F(1), s. 47E(c).

The content of the email stated;

s. 47F(1), s. 47E(c) and I have been speaking about a possible role with Multilaterals. s. 47F(1), s. 47E(c) 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 s. 47F(1), s. 47E(c) can engage with s. 47F(1), s. 47E(c) in Geneva as well. s. 47F(1), s. 47E(c) 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 – s. 47F(1), s. 47E(c) let me know if you have any questions.

On the same day, s. 47F(1), s. 47E(c) responded to the email stating;

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. Also there is no information about levels...Is he an APS 5 or 6?

Further on 27 March 2023, s. 47F(1), s. 47E(c) responded to s. 47F(1), s. 47E(c) email and stated;

s. 47F(1) 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.

Enquiries reveal that s. 47F(1), s. 47E(c) is well known to s. 47F(1), s. 47E(c) being the partner of her s. 47F(1), s. 47E(c) sister s. 47F(1), s. 47E(c) since 2018.

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s. 47E(c), s. 47F(1) is a former employee of the Clean Energy Regulator (CER) where he occupied the role of Freedom of Information officer. CER have advised that he was on a combination of unpaid and other forms of leave from 11 April 2022 to 4 June 2023 to accompany his partner on an overseas posting. His original request for unpaid leave was to 31 December 2024. CER have provided a letter confirming s. 47E(c), s. 47F(1) s. 47E(c), s. 47F(1) posting to Italy on behalf of the Australian Institute of Sport, in which s. 47E(c), s. 47F(1) is named as the trailing partner.

Movement records of s. 47E(c), s. 47F(1) and s. 47E(c), s. 47F(1) support that they travelled on the same flights out of Australia on 18 April 2022 returning to Australia on 8 May 2023.

Departmental systems indicate that on 3 April 2023, s. 47E(c), s. 47F(1) created a recruitment requisition number s. 47E(c), s. 47F(1) for a section 26 transfer at the APS6 level for an International Engagement Officer in the Multilaterals Section.

Further on 3 April 2023, s. 47E(c), s. 47F(1) approved the requisition as the delegate and sent the requisition to the recruitment team for review with the comments 'Please progress as a priority'.

On 3 May 2023, s. 47E(c), s. 47F(1) wrote to recruitment section and asked;

s. 47E(c), s. 47F(1)

Essential qualifications for employment with the Department include that a candidate must obtain and maintain an Employment Suitability Clearance (ESC) and a security clearance at the Negative Vetting 1 (NV1) level.

In his ESC application, s. 47E(c), s. 47F(1) advised his partner to be s. 47E(c), s. 47F(1) and their relationship commenced in August 2018. He also advised that his address at the time of the application was in s. 47E(c), s. 47F(1) Italy.

A requirement of the ESC is that the Department conduct a Police History Check before granting the qualification. This includes from foreign countries where a person had resided for a significant time or had recently resided. In s. 47E(c), s. 47F(1) circumstances, this included Italy where he had resided since commencement of the posting in 2022.

On 11 May 2023, s. 47E(c), s. 47F(1) emailed the Pre-Employment team and stated;

I spoke to s. 47E(c), s. 47F(1) overnight regarding the requirement to obtain an Italian Police check. Unfortunately the Italian bureaucratic system is not straight forward (who would have thought!) and the Italian Police will not issue police checks for non-citizens. Is there a work around in this situation? Can I complete a risk assessment or given that s. 47E(c), s. 47F(1) has only been living in Italy for just over a year can we waive this requirement?

On 13 May 2023, s. 47E(c), s. 47F(1) emailed the Pre-Employment and Security Clearances teams and asked;

I understand s. 47E(c), s. 47F(1) 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 s. 47E(c), s. 47F(1) paperwork can be prioritised and whether we are able to submit a temporary waiver while we await the clearance backlog?

s. 47E(c), s. 47F(1) was required to hold an NV1 security clearance for the position he had been recruited for. A Temporary Access request form was submitted to the Department to allow s. 47E(c), s. 47F(1) to be onboarded to the Department prior to an NV1 being granted.

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- a) Temporary Access allows the Department to provide a person without the relevant level security clearance to access security classified information based on a risk assessment. Current policy requires that such an application is supported by an officer at a minimum of SES Band 1 level.

On 19 May 2023, [s. 47F(1), s. 47E(c)] signed the Temporary Access application as the relevant SES Band 1.

A condition of Temporary Access is that the applicant [s. 47F(1), s. 47E(c)] was required to be supervised at all times during the term of the temporary access agreement.

- a) Supervised access is where the applicant can be observed by their peers and/or manager to ensure the applicants access to security classified information is appropriate. Noting the intent for [s. 47F(1), s. 47E(c)] to work remotely in Italy, this was clearly a condition that could not be met.
- b) [s. 47F(1), s. 47E(c)] movement records reflect he departed Australia on 3 June 2023 and remained overseas until 17 October 2023.

Recruitment section advised that [s. 47F(1), s. 47E(c)] was verbally offered an APS6 position on 11 April 2023.

[s. 47F(1), s. 47E(c)] ESC and Temporary Access were granted on 22 May 2023.

On 26 May 2023, a formal letter of offer was issued, which advised that his transfer from the CER would take effect on 5 June 2023 and attract an annual salary of \$101,264.00.

Departmental records indicate that [s. 47F(1), s. 47E(c)] commenced with the Department on 5 June 2023, though he attended the Department's offices on 1 June 2023 to collect a departmental laptop and test his login due to his remote work arrangement in Italy.

I&PS have no record of any conflict of interest being declared by [s. 47F(1), s. 47E(c)]. Enquiries are continuing to determine if any such conflicts in this matter were raised with her line management.

The Department's Conflict of Interest Procedural Instruction states;

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, such as the following circumstances:

- I. performance assessments
- II. promotion
- III. transfer
- IV. work tasking, and
- V. approval of any funds expenditure, including travel.

The NACC have indicated their interest in matters relating to recruitment involving SES staff.

Abuse of Public Office by a Commonwealth Public Official is an offence under subsection 142.2(1) of the *Criminal Code Act 1995 (Cth)* which carries a maximum penalty of 5 years imprisonment.

Basis for a NACC referral

The obligation under subsection 33(1) of the NACC Act is imposed on the Agency Head and you must form a subjective view that you suspect that the corruption issue could involve serious or systemic corrupt conduct.

Based on the information available, it would be open to you to:

form the view that the matter involves 'corrupt conduct', being conduct:

- a) by [s. 47F(1), s. 47E(c)] which could adversely affect the impartial performance of her recruitment function;

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- b) of a public official s. 47F(1), s. 47E(c) that constitutes or involves a breach of public trust or involves an abuse of her office as a public official; and

suspect that the matter could involve corrupt conduct that is 'serious' considering:

- a) s. 47F(1), s. 47E(c) direct recruitment of s. 47F(1), s. 47E(c) (being a known family member or associate) by creating a job requisition and approving same;
- b) s. 47F(1), s. 47E(c) failure to declare a conflict of interest in connection with the recruitment of s. 47F(1), s. 47E(c)
- c) the senior position held by s. 47F(1), s. 47E(c) within the Department at the relevant time (and still does), being Assistant Secretary level (SES Band 1);
- d) s. 47F(1), s. 47E(c) email to s. 47F(1), s. 47E(c) on 27 March 2023, which may have involved deception in stating that s. 47F(1), s. 47E(c) 'is a friend of a friend', as opposed to being the partner of her sister; and
- e) the benefit obtained by s. 47F(1), s. 47E(c) as a result of his transfer to the Department, by way of salary.

Having considered the information a threshold for mandatory referral to the NACC may have been met.

Released by Department of Home Affairs
under the Freedom of Information Act 1982



Australian Government
National Anti-Corruption Commission

Our reference: CASE202441

25 January 2024

Ms Stephanie Foster PSM
Secretary
Department of Home Affairs
Level 1, 4 National Circuit
BARTON ACT 2601

Dear Ms Foster

Referral of a corruption issue involving s. 47F(1), s. 47E(c) -
Operation Kingscliff

On 13 January 2024, the Commission received by email from your Director, Corruption Investigations, s. 22(1)(a)(ii) a mandatory referral, pursuant to s 33 of the *National Anti-Corruption Commission Act 2022* (Cth) (the Act), of a potential corruption issue concerning the recruitment by s. 47F(1), s. 47E(c) of s. 47F(1), s. 47E(c) as an International Engagement Officer (APS6) in the Multilaterals Section, in circumstances where: s. 47F(1), s. 47E(c) is the de facto partner of s. 47F(1), s. 47E(c) sister s. 47F(1), s. 47E(c), who is herself a public servant in the Australian Institute of Sport; he had no apparent qualifications for the role; and she did not disclose the relationship.

As requested, assessment of the referral has been expedited and it was considered by the Commission's Assessment Panel on 18 January 2024. I have concluded that the referral gives rise to a corruption issue for the purposes of s 9 of the Act, namely whether s. 47F(1), s. 47E(c) has engaged in corrupt conduct (being conduct that involves an abuse of office within s 8(1)(c)) in connection with the recruitment (and also whether s. 47F(1), s. 47E(c) and s. 47F(1), s. 47E(c) were involved in that conduct (s 8(1)(a), (9), (10)). Having regard to s. 47F(1), s. 47E(c), the potential deception of a junior officer, and the prevalence of concerns about "cronyism" in APS recruitment and promotions, I am of the opinion that the issue *could* involve conduct that is serious and systemic.

Again having regard in particular to the prevalence of concerns about "cronyism" in APS recruitment and promotions, I am satisfied that it is in the public interest for the Commission to investigate the corruption issue. I have therefore decided to deal with the corruption issue, by investigating it, under s 41(1)(a) of the Act.

Please note that in accordance with s 38(3) of the Act, any additional relevant information of which you become aware must be provided to the Commission as soon as reasonably practicable.

GPO Box 605
CANBERRA ACT 2601
ABN 47 446 409 542

P. s. 47F(1)
M. s. 47F(1)
E. s. 47F(1) @nacc.gov.au

nacc.gov.au

Released by Department of Home Affairs
under the Freedom of Information Act 1982

The fact that I have concluded that there is a corruption issue and that I have decided to investigate it does not involve and should not be understood as implying any finding or opinion that there has in fact been corrupt conduct. Ascertaining whether or not there has been such conduct is the purpose of the investigation.

As we have discussed, it would be most undesirable that there be parallel investigations into this matter, or that s. 47F(1), s. 47E(c) be alerted to the fact that she is under any form of investigation until we are in a position to interview her. We are expediting the investigation, and, as I have indicated, at this stage we expect to be in a position to interview her during the week commencing 5 February 2024, following which administrative action by your Department would be unlikely to prejudice our investigation. I thank you for your agreement not to take any action at this stage, without requiring me to make a formal direction to stop action (under s 43). Should you contemplate taking any action, I would be grateful if you would first consult me.

Although there is no legal restriction on your disclosing, if you wish to do so, that you have made the referral to the Commission, I would request that, in order to preserve the integrity of the investigation, neither that, nor my decision to investigate the matter, be disclosed, except to the limited extent necessary for your Department to co-operate with the investigation. However, I have no objection to your informing your Minister, if you wish to do so.

I understand that your point of contact is Ms Melissa Kay, Assistant Secretary, Integrity and Professional Standards branch. My point of contact is s. 47F(1), General Manager Operations, who may be contacted at s. 47F(1) [@nacc.gov.au](mailto:s.47F(1)@nacc.gov.au). However, please do not hesitate to contact me personally if you wish to discuss any aspect of this letter.

Yours sincerely,

s. 47F(1)

The Hon PLG Brereton AM RFD SC
Commissioner

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under the Freedom of Information Act 1982

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National Anti-Corruption Commission

Ref: 24/1333

15 April 2025

Ms Stephanie Foster PSM
Secretary
Department of Home Affairs
Level 1, 4 National Circuit
BARTON ACT 2601

Charlotte, Anthony
to discuss action
on recommendations.
15/4

Dear Secretary

Statement of possible findings, opinions and recommendations in Operation Kingscliff

I refer to Operation Kingscliff, which is a corruption investigation undertaken by the National Anti-Corruption Commission (the Commission), into the issue of whether s. 47F(1), s. 47E(c), s. 47F(1), s. 47E(c) and s. 47F(1), s. 47E(c), each being a public official, engaged in or were party to corrupt conduct in the nature of an abuse of office or a breach of public trust in connection with the appointment of s. 47F(1), s. 47E(c) to the position of International Engagement Officer at the APS6 level in the Global Initiatives Branch at the Department of Home Affairs (Home Affairs), in circumstances where s. 47F(1), s. 47E(c) was the acting Assistant Secretary of the Global Initiatives Branch with oversight of the appointment, s. 47F(1), s. 47E(c) was her sister, and s. 47F(1), s. 47E(c) was the domestic partner of s. 47F(1), s. 47E(c).

Reporting on corruption investigations

At the conclusion of a corruption investigation, I am required to make a report under Part 8 of the *National Anti-Corruption Commission Act 2022* (Cth) (the Act). In summary, under subsection 149(1) of the Act, after completing a corruption investigation, I must prepare an investigation report. Subsection 149(2) provides that the report must include:

- my findings or opinions on the corruption issue,

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P. 1300 489 844

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- a summary of the evidence and other material on which those findings or opinions are based,
- recommendations that I think fit to make, if any, and
- the reasons for those recommendations.

Under subsections 149(3) and (4) of the Act, if I form the opinion that a person whose conduct has been investigated has engaged in corrupt conduct of a serious or systemic nature, I must include a statement to that effect in the investigation report. Conversely, if I form the opinion that a person whose conduct has been investigated has not engaged in corrupt conduct, I must set out that opinion in the report.

Under section 154 of the Act, a copy of the investigation report must be provided to the Attorney-General, the Minister for Home Affairs and to you upon its completion.

Under section 156 of the Act, I may publish the whole or part of an investigation report if I am satisfied that it is in the public interest to do so.

Sensitive information

Pursuant to subsection 151(2), before including in the investigation report information that relates to Home Affairs, I must consult with you, as head of that agency, about whether the information is sensitive information. The phrase 'sensitive information' is defined in subsection 227(3) of the Act.

Procedural fairness

Under section 153 of the Act, before including any finding, opinion or recommendation that is critical (either expressly or impliedly) of a Commonwealth agency in an investigation report, I must give the head of that agency:

- a statement setting out the finding, opinion or recommendation, and
- a reasonable opportunity to respond to the finding, opinion or recommendation.

Further, I am considering whether or not to release a public version of the investigation report under section 156 of the Act, as it may be in the public interest to do so.

Sensitivity consultation and opportunity to make submissions

Enclosed as **Attachment A** is a statement of potential findings, recommendations and opinions that I am considering whether or not to make. That statement is provided to you under sections 151 and 153 and contains:

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- the findings, opinions and recommendations that I am considering whether or not to make, so far as they concern Home Affairs,
- a summary of the evidence, and
- observations about the evidence and issues which, if adopted, might incline me to make the potential findings.

You are invited to make submissions about whether Attachment A contains any sensitive information. Further, although I do not consider that Attachment A contains potential findings opinions or recommendations that are critical of Home Affairs as an agency, you are also invited to make submissions about the potential findings opinions and recommendations, and as to their publication, including as to any redactions that might be applied. In particular, I would welcome your views about the proposed recommendations contained in paragraph 199 of Attachment A. In connection with publication, the Commission is considering submissions from each of the persons of interest that they should not be identified in any public report.

Please provide your response to s. 22(1)(a)(ii) [@nacc.gov.au](mailto:s. 22(1)(a)(ii)@nacc.gov.au) by 2 May 2025.

Point of contact

If you have any questions concerning this letter, please contact the Commission's Legal Branch on s. 22(1)(a)(ii) [@nacc.gov.au](mailto:s. 22(1)(a)(ii)@nacc.gov.au). The contact officer in relation to this matter is s. 47F(1)

Yours sincerely

s. 47F(1)

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

OFFICIAL: SENSITIVE

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STATEMENT OF POTENTIAL FINDINGS, OPINIONS AND RECOMMENDATIONS

National Anti-Corruption Commission Act 2022 (Cth), section 149

Title Operation Kingscliff

Subtitle 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

Date draft circulated 15 April 2025

National Anti-Corruption Commission Act Investigation Reports

1. 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).¹
2. 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.
3. Section 149 of the NACC Act requires that, upon completion of a corruption investigation, the Commissioner make a report setting out:²
 - a. findings or opinions on the corruption issue

¹ *National Anti-Corruption Commission Act 2022 (Cth)* (NACC Act), ss 17, 20.

² NACC Act, subs 149(1)-(2).

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- 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.
4. Before making a finding of corrupt conduct, the Commissioner is required to be "reasonably satisfied", based on relevant facts, that the conduct occurred. Findings made about whether a person has engaged in corrupt conduct are made based on the balance of probabilities rather than the criminal standard of proof which is beyond a reasonable doubt. However, in considering whether or not the Commissioner is "reasonably satisfied" of relevant facts, the Commissioner applies the approach described in *Briginshaw v Briginshaw*, *Rejtek v McElroy* and *Re Day*.³
5. 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.⁴

s. 47F(1), s. 47E(c)



Australian Government
Department of Home Affairs

SECRETARY

OFFICIAL: Sensitive

NACC Ref: 24/1333

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

By email: [s.22\(1\)\(a\)@nacc.gov.au](mailto:s.22(1)(a)@nacc.gov.au)

Dear Commissioner

Thank you for your letter, dated 15 April 2025, attaching your proposed statement of potential findings, recommendations and opinions in relation to Operation Kingscliff.

In my view the statement does not contain any sensitive information as defined by subsection 227(3) of the *National Anti-Corruption Commission Act 2022*. With respect to your advice that you are considering whether or not to release a public version of the report, I note that the statement identifies several individuals other than the three protagonists who were involved in the Commission's investigation. There may be welfare considerations for those individuals should their names be released as part of any public report, and I would welcome the opportunity to work with your office on appropriate handling. Finally, I agree with the proposed recommendations in paragraph 199 of Attachment A to your letter, and can advise that the Department will seek to implement them as a priority.

Yours sincerely

S. 47F(1)

Stephanie Foster PSM

5 May 2025

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National Anti-Corruption Commission

Ref: 24/1333

23 June 2025

Ms Stephanie Foster PSM
Secretary

By email: s. 22(1)(a)(ii) [@homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

Dear Secretary

Investigation report – Operation Kingscliff

I write in relation to the completed corruption investigation known as Operation Kingscliff, which was undertaken by the National Anti-Corruption Commission (the Commission) pursuant to the *National Anti-Corruption Commission Act 2022* (Cth) (the Act). As you know, Operation Kingscliff was a corruption investigation into whether public officials, including 2 public officials employed within the Department of Home Affairs, engaged in or were party to corrupt conduct in connection with certain recruitment processes.

Under section 149 of the Act, after completing a corruption investigation, I am required to prepare a report on the investigation. Under subsection 152(2), before including information in an investigation report that relates to an agency, I must consult with the head of that agency about whether the information is 'sensitive information' as defined in the Act. On 15 April 2025, I wrote to you to consult on whether information that I proposed to include in the Operation Kingscliff investigation report relating to Home Affairs was 'sensitive information', to provide you with an opportunity to make submissions about possible findings, opinions, recommendations and opinions and to invite submissions about publication of the investigation report. On 5 May 2025, you provided me with your response.

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I have now completed my report on Operation Kingscliff (the investigation report). Under subsection 154(3) of the Act, I am required to provide you with a copy of the investigation report. A copy of the investigation report is **enclosed**.

Under subsections 154(1) and 154(3) of the Act, I am also required to provide copies of the investigation report to the Attorney-General and to the Minister for Home Affairs respectively. I advise that copies of the investigation report have been provided to those ministers today.

Further, I have decided to exercise my discretion under section 156 of the Act to publish a version of the investigation report on the Commission's website at www.nacc.gov.au. An embargoed copy of the public report is also **enclosed**. I have decided to apply pseudonyms to all persons involved in the investigation, including the persons whose conduct was investigated. I intend to publish this version of the report on **30 June 2025**.

In your letter of 5 May 2025, you identified that there may be welfare considerations for witnesses involved in the investigation should they be named in the public report. While this may be mitigated in part by my decision to use pseudonyms, I appreciate that they will still be identifiable by some other staff in your Department. If you would like to engage with the Commission on anything further to ensure appropriate handling of publication of this matter, or if you would like to discuss any aspect of this letter, please do not hesitate to contact me on s. 47F(1) s. 47F(1). Alternatively, your staff are welcome to contact s. 47F(1) s. 47F(1) or s. 22(1)(a) 1@nacc.gov.au.

I am very grateful for your Department's support and cooperation in the course of the investigation.

Yours sincerely

s. 47F(1)

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

Enclosures:

1. Copy of investigation report for Operation Kingscliff
2. Embargoed copy of public version of investigation report for Operation Kingscliff

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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

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under the *Freedom of Information Act 1982*

Acknowledgement of Country

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.

Further information

Enquiries about this report should be directed to the National Anti-Corruption Commission.

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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.

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.

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.

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

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; *Rejcek 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.

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 a version of this report having particular regard to the objects of corruption prevention and education under the NACC Act.

The public release version of 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 protagonists 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.

s. 47F(1), s. 47E(c)

s. 47F(1)

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

23/06/2025

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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

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National Anti-Corruption Commission

Operation Kingscliff - Investigation report

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Executive summary

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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.

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.

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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- 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

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; *Rejcek 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.

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 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.

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

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

nepotism and cronyism in recruitment in the Australian Public Service (APS). The Commissioner remained of that opinion throughout the investigation.

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 viticulture, 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.'

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.

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.

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's 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 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 (paragraph 8(1)(b)), abuse their public office (paragraph 8(1)(c)), or misuse official information (paragraph 8(1)(d)). 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 (paragraph 8(1)(a)).

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

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.

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

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.

¹¹ Ibid, para 2.40.

¹² Ibid, para 2.55.

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

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

3. In relation to specific Home Affairs policies:
 - a. 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
 - b. 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.

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

**National Anti-Corruption Commission**

Ref: DEC2025198 and IR202422

4 September 2025

Ms Stephanie Foster PSM
Secretary
Department of Home Affairs
Level 1, 4 National Circuit
BARTON ACT 2601

Dear Secretary,

Operation Kingscliff – Variation of directions to enable certain disclosures

I write in relation to directions made under section 100 of the *National Anti-Corruption Commission Act 2022* (Cth) (the Act) which prohibit disclosure of certain investigation material concerning Operation Kingscliff (the Directions). The general terms of the confidentiality directions are enclosed.

I understand you are seeking variations to the Directions to enable you to disclose information to the Australian Public Service Commission (APSC) to satisfy your consultation obligations in connection with proposed Code of Conduct action against a former SES officer, and to the Australian Government Security Vetting Agency (AGSVA) to assist its consideration of **S. 47F(1)** suitability to retain an Australian Government security clearance.

I appreciate the importance of informing AGSVA and consulting with the APSC in this instance, especially in relation to any potential employment or work with other Commonwealth agencies by **S. 47F(1)**. Accordingly, I have varied the Directions to permit the use and disclosure of investigation material to and from:

- Home Affairs and APSC staff members for the purpose of consulting in relation to and conducting a Code of Conduct investigation and taking actions consequent on any findings made.

GPO Box 605
CANBERRA ACT 2601
ABN 47 446 409 542

P. 1300 489 844

nacc.gov.au

- AGSVA staff members for the purpose of assessing S. 47F(1) suitability to retain an Australian Government security clearance.

In addition to the Department's proposed actions, I wish to advise the Commission's Operations Branch has produced an intelligence brief, *Corruption vulnerabilities identified in the Home Affairs section 26 transfer process*. The brief was produced with the principles of corruption prevention and APS stewardship in mind. It provides analysis of Operation Kingscliff and identifies opportunities to ameliorate potential vulnerabilities in the section 26 transfer process. I am disclosing this intelligence brief to you pursuant to subsection 229(2) of the Act as I am satisfied, having regard to your Department's functions, that it is appropriate to do so. A copy of the intelligence brief is enclosed.

I understand the Department's Integrity and Professional Standards (I&PS) branch provided valuable information and insights to the Commission officers who authored this brief, and I am grateful for the Department's support and cooperation in this regard.

As the intelligence brief contains some investigation material subject to the Directions, I have made variations to the Directions to permit your staff members to use and disclose the Intelligence Brief. The Intelligence Brief applies the same pseudonyms used in the public version of the investigation report, and I have included a carve out which continues to prevent disclosure of the names of the protagonists and witnesses in the context of the Intelligence Brief. A copy of the variations to the Directions are enclosed.

Noting the APSC's responsibility for section 26 transfer policy and its overarching role in APS workforce management policies, I have also disclosed the intelligence brief to the APS Commissioner.

If you would like to engage with the Commission on any further aspect, or if you would like to discuss any aspect of this letter, please do not hesitate to contact me on S. 47F(1).

Alternatively, your staff are welcome to contact S. 47F(1), General Counsel on S. 47F(1) or S. 22(1)(a)(ii) @nacc.gov.au.

Yours sincerely,

S. 47F(1)

The Hon PLG Brereton AM RFD SC
Commissioner

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Enclosure:

1. Intelligence Brief IR202422, *Corruption vulnerabilities identified in the Home Affairs section 26 transfer process*
2. General terms of confidentiality directions issued under section 100 of the Act
3. Variation to the confidentiality directions

General terms of confidentiality directions issued under section 100 of the **National Anti-Corruption Commission Act 2022** (Cth) in Operation Kingscliff

I, The Hon. Paul Brereton AM RFD SC, the National Anti-Corruption Commissioner, on [date], pursuant to section 62 of the National Anti-Corruption Commission 2022 (Cth) (the Act), held a hearing for the purpose of a corruption investigation known as Operation Kingscliff (the hearing).

Pursuant to sub-section 100(1) of the Act, I direct that the following ‘investigation material’:

- (a) any evidence given by [witness] before me at the hearing
- (b) any document or thing produced by [witness] to me at the hearing,
- (c) any particular information, or a document or thing, given to [witness] during the hearing,
- (d) any information that might enable [witness] to be identified as a person who has given evidence at the hearing,
- (e) the identity, or particular information that may reveal the identity, of a person about whom allegations were made at the hearing,
- (f) the identity, or particular information that may reveal the identity, of a person of interest to a corruption investigation, if the identity or information was revealed at the hearing, and
- (g) the fact that the hearing has been held in private.

may only be used by or disclosed to the following specified persons or on the following specified conditions:

- (a) any disclosure to or use by staff members of the National Anti-Corruption Commission,
- (b) for the purposes of, contemplating, commencing or conducting proceedings for offences under sections 69, 70, 71, 72, 81, 82, 98 and 101 of the Act,
- (c) for the purposes of my reporting under Part 8, Division 4 of Part 12 and Division 1 of Part 10 of the Act and/or the National Anti-Corruption Commission Regulations 2023 (Cth),
- (d) for the purpose of conducting a hearing for this investigation the under the Act,
- (e) for the purpose of transcribing this hearing.