

REFERRED COMPLAINTS



WHY IS THE INTEGRITY COMMISSION REFERRING THIS COMPLAINT TO ANOTHER ORGANISATION TO DEAL WITH?

We have referred the information you have provided to an appropriate person under section 35(1)(c) of the *Integrity Commission Act 2009* (the Act). On receipt of the referral, that person is required to take action. That person is typically the principal officer of the agency complained about (for example the secretary of a state service department or the general manager or mayor of a council). The Integrity Commission expects that the person will make sufficient inquiries to satisfy themselves as to whether any act of misconduct has occurred and, if so, ensure that the misconduct is dealt with in an appropriate way.

Under the Act the Commission is required to focus its attention on allegations of serious misconduct or misconduct by designated public officers (usually senior executive officers, members of Parliament, commissioned police officers or statutory office holders). It is also required to assist public authorities to deal with misconduct themselves. Because of this, not all allegations of misconduct will become the subject of a Commission investigation.

Furthermore, the Act requires the Commission to have regard to the responsibility and role public authorities have in preventing misconduct themselves. This means that, in certain instances, potential misconduct will be referred to an agency which is the subject of the allegations. If the investigation identifies shortcomings in policies and procedures, or other misconduct risks, the agency will be well placed to take steps to prevent similar conduct recurring.

HOW CAN I BE SURE THIS MATTER WILL BE INVESTIGATED PROPERLY?

Sometimes people who report matters to the Commission are concerned that the public authority they are complaining about is the very agency conducting an investigation into their complaint. In other words, the agency is investigating itself. In reality, most public authorities have internal investigative capacity, such as an internal audit or corporate governance area. This means that the personnel carrying out the investigation may not be those who have day-to-day contact with staff about whom a complaint has been made. If an agency believes that there may be some conflict, it can discuss that with the Commission and find ways to deal with the conflict. Sometimes that may mean an external investigator will be used.

Depending on the stage that a referral is made, the Commission has procedures in place to monitor the progress of referred matters. This can include requiring progress reports, monitoring the investigation or auditing the investigation after it has been completed.

The Commission does not conduct an audit on all complaints that it refers. However, where it does conduct an audit, if the Commission is not satisfied with the way the investigation was carried out, we will express our concerns to the agency and give them an opportunity to respond. If the Commission remains concerned, it can submit a report to the Joint Standing Committee on Integrity, but this is reserved for the most serious matters.

WHOSE INVESTIGATION IS IT?

The investigation and any report or other material about the investigation is the property of that agency. The Commission, even if it obtains a copy of the agency's investigation report, does not generally release the report to a complainant or anyone else involved. That is a matter which is left to the investigating agency.

WHAT HAPPENS AFTER THE REFERRAL?

As a matter of good practice, the agency should contact the complainant (unless the complaint is anonymous) as soon as reasonably possible, and advise them of the complaint process. On resolution the agency should also advise the complainant of the outcome.

The Commission will not generally contact the complainant again, after referral, unless there are special circumstances.

CONTACT US

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