



Australian Government
**Australian Commission for
Law Enforcement Integrity**

Information about the Australian Commission for Law Enforcement Integrity

The Law Enforcement Integrity Commissioner Act 2006

The *Law Enforcement Integrity Commissioner Act 2006* commenced operation on 30 December 2006. The Act established a new office of Integrity Commissioner, supported by a statutory agency, the Australian Commission for Law Enforcement Integrity (ACLEI). The ACLEI Act is administered by the Attorney-General.

The role of the Integrity Commissioner and ACLEI

The role of the Integrity Commissioner and ACLEI is to detect, investigate and prevent corruption in the Australian Crime Commission and the Australian Federal Police. Other Australian Government agencies with law enforcement functions can be prescribed by regulation as coming within the jurisdiction of ACLEI.

'Corruption' is defined in the ACLEI Act as applying to three categories of activity by a law enforcement officer: an abuse of office; conduct that perverts the course of justice; or corruption of any other kind. The Integrity Commissioner is to give priority to dealing with serious corruption and systemic corruption.

ACLEI also has a role to maintain and improve the integrity of staff members of law enforcement agencies. The Integrity Commissioner can report to the Minister for Justice on reforms that may be needed to prevent corruption and preserve integrity in law enforcement agencies.

The Act provides for the creation of a Parliamentary Joint Committee on the Australian Commission for Law Integrity. The Joint Committee will receive reports from the Integrity Commissioner, monitor and review the work of ACLEI, and examine trends and changes in corruption in law enforcement agencies.

Investigating corruption issues

A corruption investigation by ACLEI can commence in different ways.

- The head of a law enforcement agency within ACLEI's jurisdiction must notify the Integrity Commissioner of any corruption issue that relates to the agency, and provide all relevant information and documents if it is a significant corruption issue.
- The Minister for Justice can refer a corruption issue to the Integrity Commissioner, or request the Commissioner to conduct a public inquiry into corruption or integrity in law enforcement agencies.
- Any person or government agency (eg, the Commonwealth Ombudsman) can refer to ACLEI an allegation or information raising a corruption issue. A referral can be anonymous, or on behalf of another person. A person in custody can make a referral by a secure communication channel.
- The Integrity Commissioner can commence an investigation on his or her initiative.

Subject to narrow exceptions (eg, frivolous allegation), every corruption issue notified by a law enforcement agency to the Integrity Commissioner is to be investigated by ACLEI or the agency. The Commissioner can decide if ACLEI will conduct the investigation, and can manage or oversee an investigation by a law enforcement agency. The Commissioner decides whether a corruption issue notified by the Minister or other person is to be investigated by ACLEI or a law enforcement agency, or if an investigation is not warranted. An allegation against a law enforcement officer seconded from a State force can be referred to the relevant State integrity agency for investigation, or for joint investigation with ACLEI.

ABN: 78796734093

GPO Box 305 Canberra City ACT 2601 Telephone: 6229 9300 Fax: 6230 7341 Web Site: www.aclei.gov.au E-mail: contact@aclei.gov.au

Reporting on investigations

A report is to be prepared on every corruption investigation undertaken by ACLEI or a law enforcement agency. The Integrity Commissioner is under a duty to keep the Minister, law enforcement agencies, and persons who refer allegations to ACLEI, informed of how those corruption allegations were dealt with.

A report by the Integrity Commissioner on a corruption investigation can recommend that a law enforcement officer be counselled, disciplined or dismissed. Evidence obtained by ACLEI which points to a breach of Commonwealth, State or Territory criminal law is to be referred to the relevant prosecution authority; so too is evidence that could lead to the recovery of the proceeds of crime. The Commissioner can make recommendations to remedy deficiencies in the policies and practices of law enforcement agencies, so as to prevent and detect corrupt conduct.

If the Integrity Commissioner is not satisfied with the response of a law enforcement agency to a report on a corruption investigation, the Commissioner can report to the Minister or both houses of the Parliament. The Commissioner can, at any time, make a public statement on any investigation or inquiry, or report to the Parliament.

The Minister is to be informed if evidence obtained by ACLEI indicates that a person may have been wrongly convicted.

Investigation powers and procedures

The Integrity Commissioner has powers similar to a Royal Commission, to conduct public or private hearings, and summon any person or government agency to produce documents or things or attend a hearing to give evidence under oath and be cross-examined. ACLEI investigators can access coercive and other powers used in law enforcement, such as telephone interception, electronic surveillance, undercover and controlled operations, search warrants, and passport confiscation. Special ACLEI powers include: the power to enter the premises of a law enforcement agency without prior warning to carry on an investigation and seize articles; and the power to apply to a judge for the arrest of a person refusing or attempting to evade giving evidence.

Information can be shared between ACLEI and other Commonwealth, State and Territory agencies for the purpose of investigating corruption allegations.

There are procedural safeguards in the ACLEI Act for persons and agencies that are under investigation. A report on an investigation, and any public statement or report by the Integrity Commissioner, is not to include an opinion or finding that is expressly or impliedly critical of a government agency or person unless they have first been given the opportunity to be heard. The head of a law enforcement agency is to be kept informed by the Integrity Commissioner of the progress of investigations, and to be consulted before an investigation report is finalised or published, or evidence indicating criminal guilt by a staff member is referred to a prosecution authority.

Maintaining the integrity of ACLEI

The ACLEI Act contains measures to safeguard the integrity of ACLEI. The Integrity Commissioner is to notify the Minister for Justice of any corruption issue concerning an ACLEI staff member; staff are under a like obligation to report corruption by other staff or the Commissioner. It is an offence not to discharge this duty to notify the Minister. Any member of the public may also refer to the Minister an allegation or information raising an ACLEI corruption issue. The Minister can establish a special inquiry into any such corruption issue, utilising the same investigation and reporting powers that would be available to ACLEI.

Another integrity guarantee is that the Integrity Commissioner cannot be appointed for more than five years. After the first three years of operation, an independent review of the ACLEI Act is to be undertaken by the Joint Parliamentary Committee, or otherwise be arranged by the Minister.