

S 22

From: [REDACTED] <[REDACTED]@nacc.gov.au>

Sent: Thursday, January 25, 2024 4:39 PM

To: 'S 47F(1)' <[REDACTED]@homeaffairs.gov.au>

Subject: CASE202441 [SEC=PROTECTED]

Importance: High

PROTECTED

Dear Assistant Secretary Kay,

Please find attached correspondence from Commissioner Brereton in relation to this matter.

Regards,

S 47F(1)

Executive Assistant

The Hon PLG Brereton, AM, RFD, SC

Commissioner | National Anti-Corruption Commission

Level 3, Robert Garran Offices, 3-5 National Circuit, Barton

PO Box 605, Canberra, ACT 2601

Phone: S 47F(1) | Email: S 47F(1)@nacc.gov.au



nacc.gov.au



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 § 47F(1), § 46(b)) -
Operation Kingscliff**

On 13 January 2024, the Commission received by email from your Director, Corruption Investigations, § 47F(1) 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 § 47F(1), § 46(b) of § 47F(1), § 46(b) as an International Engagement Officer (APS6) in the Multilaterals Section, in circumstances where: § 47F(1), § 46(b) is the de facto partner of § 47F(1), § 46(b) sister § 47F(1), § 46(b), 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 § 47F(1), § 46(b) 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 § 47F(1), § 46(b) and § 47F(1), § 46(b) were involved in that conduct (s 8(1)(a), (9), (10)). Having regard to § 47F(1), § 46(b), 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. +§ 47E(d), § 47F(1)
M. +§ 47E(d), § 47F(1)
E. § 47E(d), § 47F(1)@nacc.gov.au

nacc.gov.au

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) 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 s 47F(1) 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. 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

