

Protection for Reporters

Protection under the *Integrity Commission Act 2018*

People who report suspected corrupt conduct to the Commission are protected under the *Integrity Commission Act 2018*.

A person who makes a corruption report is protected from liability, defamation, and detrimental action. However, a person's liability for their own conduct is not affected by their disclosure of that conduct under the *Integrity Commission Act 2018*.



If a person reports suspected corrupt conduct to the Commission, the making of the complaint is not a breach of confidence, a breach of professional etiquette or ethics, or a breach of a rule of professional conduct.

Reporters are protected from civil or criminal liability only because of the making of the complaint, and for a reporter who is a public official or a member of staff of an MLA—the complainant is not liable to administrative action (including disciplinary action or dismissal) only because of the making of the complaint.

PEOPLE WHO REPORT TO THE COMMISSION ARE PROTECTED BY LAW. IT IS AN OFFENCE TO ENGAGE IN RELIATION OR REPRISAL AGAINST A PERSON WHO MAKES A REPORT.

Defence against defamation

A person making a report (the reporter) has the defence of absolute privilege

against defamation action. However, this defence is not available if the reporter publishes information contained in the report before the information is published by the Commission or the Inspector of the ACT Integrity Commissioner in accordance with the *Integrity Commission Act 2018*.

Detrimental Action

It is an offence for a person (the retaliator) to take detrimental action against someone else because:



- that person has made, or intends to make, a report;
- the retaliator believes that person has made, or intends to make, a report;
- the Commission or the Inspector has conducted, is conducting or intends to conduct, an own initiative investigation; or,
- the retaliator believes that the Commission or the Inspector has conducted, is conducting or intends to conduct, an own initiative investigation.

Detrimental action means action that involves:

- discriminating against a person by treating, or proposing to treat, the person unfavourably in relation to the person's reputation, career, profession, employment, or trade;
- harassing or intimidating a person; • injuring a person; and,
- damaging a person's property.

THE MAXIMUM PENALTY FOR A PERSON CONVICTED OF TAKING DETRIMENTAL ACTION IS A \$16,000 FINE, IMPRISONMENT FOR ONE YEAR, OR BOTH. A PERSON WHO TAKES DETRIMENTAL ACTION AGAINST SOMEONE ELSE IS ALSO LIABLE FOR CIVIL DAMAGES TO ANYONE WHO SUFFERS DETRIMENT AS A RESULT.

Loss of protection (false or vexatious complaints)

If a person makes a report and a court finds that the person knew that the information in it was false, or misleading or vexatious, the protections under the *Integrity Commission Act 2018* are lost.

Protection under the *Public Interest Disclosure Act 2012*

Where a person reports 'disclosable conduct', and the Commission determines that the report is a public interest disclosure, protection is provided to the person(s) who made the report under the *Public Interest Disclosure Act 2012*.

Protection is also given to witnesses who give information, produce a document, or answers a question in relation to a public interest disclosure.

These people receive protection from liability, defamation action and detrimental action.

It is an offence under the *Public Interest Disclosure Act 2012* for a person to take detrimental action because of a public interest disclosure. A person who takes detrimental action against someone else because of a public interest disclosure is also liable in damages to anyone who suffers detriment as a result



The image features a background with a light grey gradient at the top, a white central area, and a teal gradient at the bottom. A large, stylized number '7' is formed by overlapping white and grey shapes. The ACT Integrity Commission logo is centered in the white area.

ACT INTEGRITY
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For more information
integrity.act.gov.au