

# Complaints about the Director-General:

## Section 48A of the *Crime and Corruption Act 2001*

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### 1 Purpose

The Director-General is the public official of the Department of Communities, Housing and Digital Economy (the department).

The objective of this policy is to set out how the department will deal with a complaint (also information or matter)<sup>1</sup> that involves or may involve corrupt conduct<sup>2</sup> of its Director-General as defined in the [Crime and Corruption Act 2001](#) (CC Act).

### 2 Policy rationale

The policy is designed to assist the department to:

1. comply with s. 48A of the CC Act
2. promote public confidence in the way suspected corrupt conduct of the Director-General is dealt with (s. 34(c) CC Act)
3. promote accountability, integrity and transparency in the way the department deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Director-General.

### 3 Policy application

This policy applies:

- if there are grounds to suspect that a complaint may involve corrupt conduct of the Director-General
- to all persons who hold an appointment in, or are employees of, the department<sup>3</sup>.

### 4 Nominated person

Having regard to s. 48A(2) and (3) of the CC Act, this policy nominates:

- the Deputy Director-General, Strategy and Corporate Services, and
- the Director, Integrity Services Unit, Strategy and Corporate Services

as the nominated persons to notify<sup>4</sup> the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act<sup>5</sup>.

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<sup>1</sup> See s. 48A of the CC Act and the definitions below.

<sup>2</sup> The CCC's corruption function encompasses both 'corrupt conduct' and 'police misconduct'. For the purposes of the Queensland Police Service, wherever the term 'corrupt conduct' is used in the policy, they would also have to consider police misconduct, as per s. 37 of the CC Act.

<sup>3</sup> See s. 48A(4) of the CC Act.

<sup>4</sup> Under ss. 37 or 38 of the CC Act.

<sup>5</sup> Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act.

The nominated persons will – with or without consulting the CCC or the Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts – decide who will be the nominated person for a particular complaint.

Where a nominated person decides to notify the CCC about a complaint, the nominated person for that particular complaint will inform the CCC and the Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts that they are the nominated person for the particular complaint.

The CC Act applies as if a reference about notifying or dealing with the complaint to the Director-General is a reference to the nominated person<sup>6</sup>.

## 5 Complaints about the Director-General

If a complaint may involve an allegation of corrupt conduct of the Director-General, the complaint may be reported to:

- the nominated person, or
- a person to whom there is an obligation to report under an Act<sup>7</sup> (this does not include an obligation imposed by ss. 37, 38 and 39(1) of the CC Act).

If there is uncertainty about whether or not a complaint should be reported, it is best to report it to the nominated person.

If the nominated person reasonably suspects the complaint may involve corrupt conduct of the Director-General, they are to:

- a) notify the CCC of the complaint<sup>8</sup>, and
- b) subject to the CCC's monitoring role and directions issued about the management of the complaint, refer the complaint to the Chairperson, Public Sector Governance Council to deal with.

If the Director-General reasonably suspects that the complaint may involve corrupt conduct on their part, the Director-General must:

- i. report the complaint to the nominated person as soon as practicable and may also notify the CCC; and
- ii. take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Chairperson, Public Sector Governance Council.

Where directions issued under s. 40 of the CC Act apply to the complaint:

- i. the nominated person is to refer the complaint to the Chairperson, Public Sector Governance Council, and
- ii. the Director-General is to take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Chairperson, Public Sector Governance Council.

## 6 Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct of the Director-General is not required to be notified to the CCC under s. 38 of the CC Act, the nominated person must make a record of the decision that complies with s. 40A of the CC Act.

<sup>6</sup> See s. 48A(3) of the CC Act.

<sup>7</sup> See s. 39(2) of the CC Act.

<sup>8</sup> Under ss. 37 or 38, subject to s. 40 of the CC Act.

## 7 Resourcing the nominated person

If pursuant to ss. 40 or 46 of the CC Act, the nominated person has responsibility to deal with the complaint<sup>9</sup>:

- i. the department will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately<sup>10</sup>, and
- ii. the nominated person is to ensure that consultations, if any, for the purpose of securing resources sufficient to deal with the complaint appropriately are confidential and are not disclosed, other than to the CCC, without:
  - authorisation under a law of the Commonwealth or the State, or
  - the consent of the nominated person responsible for dealing with the complaint.
- iii. the nominated person must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
  - purposes of the CC Act<sup>11</sup>
  - the importance of promoting public confidence in the way suspected corrupt conduct in the department is dealt with<sup>12</sup>, and
  - the department's statutory, policy and procedural framework.

If the nominated person has responsibility to deal with the complaint, they:

- are delegated the same authority, functions and powers as the Director-General to direct and control staff of the department as if the nominated person is the Director-General for the purpose of dealing with the complaint only
- are delegated the same authority, functions and powers as the Director-General to enter into contracts on behalf of the department for the purpose of dealing with the complaint
- do not have any authority, function or power that cannot – under the law of the Commonwealth or the State – be delegated by either the Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts or the Director-General, to the nominated person.

## 8 Liaising with the CCC

The Director-General is to keep the CCC and the nominated person informed of:

- the contact details for the public official/CEO and the nominated person; and
- any proposed changes to this policy.

## 9 Consultation with the CCC

The Director-General will consult with the CCC when preparing any policy about how the department will deal with a complaint that involves or may involve corrupt conduct of the public official/CEO<sup>13</sup>.

<sup>9</sup> Under ss. 41 and 42 and/or ss. 43 and 44 of the CC Act.

<sup>10</sup> See the CCC's corruption purposes and function set out in ss. 4(1)(b), 33, 34, 35 of the CC Act and the department's relevant statutory, policy and procedural framework which help inform decision-making about the appropriate way to deal with the complaint.

<sup>11</sup> See s. 57 of the CC Act and the CCC's corruption purposes and function set out in ss. 4(1)(b), 33, 34, 35 of the CC Act.

<sup>12</sup> See s. 34(c) of the CC Act.

<sup>13</sup> Section 48A of the CC Act.

## 10 Statutory references

Unless otherwise stated, all statutory references are to the [Crime and Corruption Act 2001](#).

## 11 Human Rights

The policy has been reviewed for compatibility with human rights under the [Human Rights Act 2019](#) (the Act). The policy was not found to engage any human rights under that Act. As such, it is reasonable to conclude the policy is compatible with human rights.

## 12 Approval

This policy was approved by the Director-General, and Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts on the 13 April 2023.

### Licence

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### Version Control

Version	Date	Comments
1.0	15 Oct 2021	Policy approved
2.0	13 April 2023	Policy approved

## Attachment 1: Contacts

### **Deputy Director-General**

Strategy and Corporate Services

Department of Communities, Housing and Digital Economy

Phone: 07 3097 8519

Email: [oddgstrategycorporateservices@chde.qld.gov.au](mailto:oddgstrategycorporateservices@chde.qld.gov.au)

### **Director**

Integrity Services Unit

Strategy and Corporate Services

Department of Communities, Housing and Digital Economy

Ph: 07 3109 4897

Email: [IntegrityServices@chde.qld.gov.au](mailto:IntegrityServices@chde.qld.gov.au)

## Attachment 2: References

The requirements set out in this document are based on, and are consistent with, relevant government legislation, regulations, directives, information standards and/or policies at the time of publication.

### **Legislation and regulations**

[Crime and Corruption Act 2001](#)

[Human Rights Act 2019](#)

### **Queensland Government documents**

[Corruption in Focus](#) (chapter 2, page 2.6)

## Attachment 3: Definitions

Term	Description
<b>Crime and Corruption Commission (CCC)</b>	the Commission continued in existence under the CC Act
<b>CC Act</b>	<a href="#">Crime and Corruption Act 2001</a>
<b>Complaint</b>	includes information or matter: see definition provided by s. 48A(4) of the CC Act
<b>Corruption</b>	see Schedule 2 (Dictionary) of the CC Act
<b>Corrupt conduct</b>	see s. 15 of the CC Act
<b>Deal with</b>	see Schedule 2 (Dictionary) of the CC Act
<b>Nominated person</b>	see <a href="#">section 4</a> of this policy
<b>Police misconduct</b>	see Schedule 2 (Dictionary) of the CC Act
<b>Public Official/CEO</b>	see Schedule 2 (Dictionary) and also s. 48A of the CC Act
<b>Unit of public administration (UPA)</b>	see s. 20 of the CC Act