

Corrupt conduct prevention procedure

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Version Control

Version	Date	Comments
1.0	20 December 2021	Policy approved by Deputy Director-General, Corporate
2.0	22 March 2023	Updates to hyperlinks and policy references and inclusion of information regarding human rights

Human Rights

Decision makers must act and make decisions in a way that is compatible with human rights and give proper consideration to a human right relevant to a decision as required by section 58 of the [Human Rights Act 2019](#). The human rights that may be relevant to a decision will depend on the factual circumstances. An act or decision is compatible with human rights if the act or decision does not limit a human right; or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

To assist in complying with the *Human Rights Act 2019*, a human rights compatibility assessment should be completed prior to proceeding with an act or decision and records of the assessment should be retained.

For information on how to conduct a human rights compatibility assessment please refer to the department's Human Rights intranet page. For complex matters, Legal Services may be consulted to provide legal advice on the *Human Rights Act 2019*.

1. Associated policy

This procedure should be read in conjunction with the [Corrupt conduct prevention policy](#) (CCP policy). For key definitions refer to Attachment 2 of the CCP policy.

Note: this procedure does not apply to complaints about suspected corrupt conduct involving the Director-General. For information relating to such complaints, please refer to the department's [Section 48A policy](#).

2. Scope

This procedure applies to:

- all employees working for the department regardless of whether they are permanent, temporary, full-time, part-time or casual employees, and persons on secondment from other departments/agencies, and
- other persons who perform work for the department including contractors, students gaining work experience and volunteers. For the purposes of this procedure, the term 'contractor' includes on-hired temporary labour services (agency staff).

3. Procedure

3.1 What is corrupt conduct?

Corrupt conduct has a specific meaning in section 15 of the [Crime and Corruption Act 2001](#) (CC Act). For a full legal definition, see Attachment 2 of the CCP policy.

Corrupt conduct is suspected until proven.

There are two types of corrupt conduct.¹

¹ See: [What is corrupt conduct? | CCC - Crime and Corruption Commission Queensland](#).

“**Type A**” corrupt conduct involves conduct that affects, or could affect a person (such as, an employee or agency staff) so that the performance of their functions or the exercise of their powers:

- is not honest or impartial, or
- knowingly or recklessly breaches public trust, or
- involves the misuse of agency-related information or material.

Common examples of Type A corrupt conduct include fraud and theft, extortion, unauthorised release of information, obtaining or offering a secret commission and nepotism.

“**Type B**” corrupt conduct involves specific types of conduct that impairs, or could impair, public confidence in public administration. This may include:

- collusive tendering, or
- fraud relating to an application for a licence, permit or other authority relating to public health or safety; the environment; or the State's natural, cultural, mining or energy resources, or
- dishonestly obtaining public funds or State assets, or
- evading a State tax, levy or duty or fraudulently causing a loss of State revenue, or
- fraudulently obtaining or retaining an appointment.

An example of Type B conduct includes two contractors agreeing as to who should be the successful tenderer in a departmental tender process.

Both Type A and Type B corrupt conduct **must** be either a criminal offence or serious enough to warrant dismissal.

Corrupt conduct can be attributed to any person, regardless of whether or not they are employed in the department, including:

- employees
- agency staff
- people who used to but no longer work in/for the department
- people who subsequently take up an appointment in the department
- people who are suppliers or providers to the department
- other private individuals or organisations
- people outside Queensland where there is a direct link between the conduct and its adverse effect on the department.²

Examples of allegations which may be assessed as suspected corrupt conduct are set out in Attachment 3 of the CCP policy.

3.2 Reporting suspected corrupt conduct

A suspicion of corrupt conduct can arise as a result of a complaint, information, or as a result of other processes, such as the review of management reports, internal audits or in the course of other investigations.

In reporting suspected corrupt conduct, a person does not need to have sufficient evidence to prove the allegations. However, the available facts, evidence or other information **must** suggest that the allegations, if proven, would amount to corrupt conduct.

If there is some reasonable suspicion of corrupt conduct, this should be reported **immediately**. If guidance or support is required, contact the department's Integrity Services Unit as soon as possible.

² “Corruption in focus: A guide to dealing with corrupt conduct in the Queensland public sector”, CCC, January 2020, page 1.3.

3.3 Where to report suspected corrupt conduct

Suspected corrupt conduct involving the department, employees or person performing work for the department can be reported directly to any one of the following:

- the Integrity Services Unit
- the Crime and Corruption Commission Liaison Officer (CCC Liaison Officer), being the Deputy Director-General, Corporate
- the Chief Human Resources Officer
- Human Resources
- a supervisor/manager in the department
- the Director-General
- the Crime and Corruption Commission (CCC), or
- to whom such a report may otherwise lawfully be made (for example, if suspected corrupt conduct involves a criminal offence, it may be reported to the Queensland Police Service).

Relevant contact information for reporting suspected corrupt conduct can be found in Attachment 1 of the CCP policy.

3.4 What information to provide when reporting suspected corrupt conduct

A person can report suspected corrupt conduct in any way, including anonymously, either verbally or in writing. To assist in the assessment, and any subsequent investigation, persons are encouraged to:

- provide contact details (this could be an email address that is created for the purpose of making the complaint or a telephone number)
- provide as much information as possible about the suspected corrupt conduct, including:
 - who was involved
 - what happened
 - when it happened
 - where it happened
 - whether there were any witnesses and, if so, who they are
 - any evidence that supports the suspected corrupt conduct, and where the evidence is located
 - any further information that could help the investigation of the suspected corrupt conduct
- provide this information in writing.

Where necessary, the department will provide reasonable assistance to a person who wishes to report suspected corrupt conduct. Such assistance may include:

- providing an interpreter if a person has language difficulties or is hearing or vision impaired, or
- advising a person where they can get further help and information.

The costs of arranging reasonable assistance will be borne by the division to which the suspected corrupt conduct relates.

3.5 False or misleading information

Pursuant to sections 217 and 218 of the CC Act, it is an offence for a person to provide information to the CCC that the person knows is false or misleading.

It is also an offence to provide false or misleading information to another entity (such as the department) who is obliged to provide that information to the CCC, whether or not the person who provided the information intended that it be provided to the CCC.

Subject to natural justice and human rights considerations, employees may be subject to disciplinary action for intentionally providing false or misleading information to the department. In addition, the provision of false or misleading information by persons performing work for the department (for example, contractors or agency staff) may result in termination of their contracts/engagements with the department.

3.6 Unreasonable conduct

Unreasonable conduct is behaviour by a person making a complaint (complainant) which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the parties to a complaint, for example:

- unreasonable persistence
- unreasonable demands
- unreasonable lack of cooperation
- unreasonable arguments, or
- unreasonable behaviours.

Where there is any risk to the safety and/or welfare of persons involved in complaints management (for example, a complainant threatens a person they have complained about or the person investigating their complaint) this should be immediately brought to the attention of the relevant manager so appropriate action can be taken.

Possible actions to deal with unreasonable conduct may include:

- requesting the complainant refrains from the conduct and advising of the consequences if that does not occur
- having another employee deal with the complaint
- limiting or ceasing personal contact with the complainant, for example communicating in writing
- requiring all communications to occur through the complainant's personal representative
- ceasing to deal with the complainant or the complaint further
- directing that the complainant and associated parties, if relevant, are not to present on departmental property
- referral of the conduct to the Queensland Police Service.

Except in exceptional circumstances, a complainant's issues should be acknowledged and appropriately responded to by the department as per this procedure prior to a complainant being assessed as an unreasonable complainant.

3.7 Receiving a complaint or information

If a manager or a supervisor receives a complaint or information of suspected corrupt conduct, they **must immediately**, and without commencing any enquiries, refer the complaint or information – marked Strictly Confidential – to either:

- the [Integrity Services Unit](#), or
- the CCC Liaison Officer.

The complaint or information should be treated as strictly confidential.

Subject to disclosures required or authorised by or under law (including the law of natural justice), the following should be kept confidential:

- the fact that a complaint has been made or that a person has disclosed information raising a suspicion of corrupt conduct
- the identity of a person who has made the complaint or disclosed the information, and
- the identity of the subject officer.

It is incumbent upon the manager/supervisor to immediately take all necessary and appropriate steps to protect the person making the complaint or providing information (if risk is identified), while preserving the confidentiality of the complaint or information to the maximum extent possible in the circumstances.

3.9 Assessing a complaint or information

To determine whether a complaint or information gives rise to suspected corrupt conduct, the department will undertake an assessment.

Assessments are undertaken by the department’s Corrupt Conduct Intake and Assessment Committee, comprised of the department’s CCC Liaison Officer, and representatives from the Integrity Services Unit, Legal Services and Human Resources.

The specific responsibilities of the department’s CCC Liaison Officer and the Corrupt Conduct Intake and Assessment Committee are outlined in sections 3.3 and 3.5 of the CCP policy.

3.10 Notifying the Crime and Corruption Commission

The Director-General (or delegate, such as the CCC Liaison Officer) is obliged to notify the CCC if they reasonably suspect that corrupt conduct may have occurred.

For clarity, not all complaints or information of suspected corrupt conduct must be referred to the CCC. The requirement to notify the CCC is subject to directions issued by the CCC pursuant to section 40 of the CC Act (otherwise known as section 40 Directions).

3.11 Action by the Crime and Corruption Commission

In the event a complaint or information is referred to the CCC by the department or the CCC directly receives a complaint or information relating to the department, typically one of the following will occur:

CCC action	Departmental action
The CCC assesses a complaint or information as suspected corrupt conduct and decides to investigate the matter.	If the CCC requires assistance from the department, liaison will occur as necessary between the CCC and the CCC Liaison Officer or the Integrity Services Unit.
The CCC assesses a complaint or information as suspected corrupt conduct and refers the matter to the department to deal with and report back to the CCC as a ‘Public Interest Review’.	In most circumstances the Integrity Services Unit will undertake or manage any enquiries/investigation if this is the appropriate manner to deal with the matter and provide a report to the CCC <u>before</u> the department takes any action on the report.

CCC action	Departmental action
The CCC assesses a complaint or information as suspected corrupt conduct and refers the matter to the department to deal with and report to the CCC at the completion of all processes as a 'Merit and Compliance Review'.	In most circumstances the Integrity Services Unit will undertake or manage any enquiries/investigation if this is the appropriate manner to deal with the matter. The relevant decision-maker (such as the Director-General or the delegate) will be provided with an investigation report to consider and determine appropriate action. A copy of the investigation report and information about any action taken is provided to the CCC <u>after</u> the department takes the action.
The CCC assesses a complaint or information as suspected corrupt conduct and refers the matter to the department to deal with (with no requirement to report back to the CCC). These matters may be subject to the CCC's auditing program.	Should it be determined that an investigation is required to deal with the matter, the Integrity Services Unit will undertake or manage the investigation and provide an investigation report to the relevant decision-maker (such as the Director-General or the delegate) for consideration and any relevant action.
The CCC forms the view that suspected corrupt conduct is not involved and refers the complaint or information back to the department.	The department will assess and determine how to deal with the complaint or information, having regard to any relevant departmental policy.

3.12 Dealing with suspected corrupt conduct

The manner in which complaints or information relating to suspected corrupt conduct are dealt with by the department will depend on all the relevant circumstances and may involve:

- a review of existing information (for example, files, emails or other records)
- informal enquiries, or
- a formal investigation, including recorded interviews.

Any enquiries and/or investigation will be done in accordance with the principles of natural justice, human rights considerations, obligations under the CC Act, other legislative requirements and any directions/guidelines issued by the CCC.

In addition to examining the alleged conduct of the subject officer, where appropriate, the following will also be considered:

- the role of the manager, including whether there was adequate supervision of the subject officer
- whether appropriate internal controls were in place, and
- whether there were any systemic issues that gave rise to the complaint or were identified during any enquiries/investigation.

In most cases, a report will be compiled detailing the outcome or findings of the enquiries/investigation. The report (including any relevant evidence gathered during the enquiries/investigation) will be provided to the Director-General (or delegate) for independent consideration and determination of what, if any, actions are needed in response.

3.13 Taking no action

Pursuant to section 44(3) of the CC Act, the department may take no action or discontinue action taken to deal with the complaint or information, if the Director-General (or delegate) is satisfied that:

- a complaint or information is frivolous or vexatious or lacks substance or credibility, or
- dealing with a complaint or information would be an unjustifiable use of resources.

3.14 Providing outcome advice

Both the complainant and the subject officer (in circumstances where they have been informed about the complaint and/or were required to respond to allegations) will be notified of the outcome of the matter, subject to the below considerations:

- any outcome advice will be provided once the Director-General (or delegate) considers the relevant evidence and determines the matter, and
- an outcome advice will be provided in accordance with the CC Act, information privacy laws and any other legislative requirements. In particular, an outcome advice will not include whether any action has been taken against any individual/s as a result of the complaint or information received by the department.
- The complainant need not be given a response if:
 - the complainant has not given their name and address or does not require a response, or
 - the response would disclose information that would be contrary to the public interest.

Where practicable, any witnesses will also be notified once the matter has been finalised.

3.15 Rights of subject officers

A subject officer is entitled to:

- the presumption of innocence
- the right to advice (for example, through their union or legal representative), and
- the right to support (for example, through a support person and (where applicable) the Employee Assistance Service).

Complaints or information of suspected corrupt conduct will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice and human rights considerations.

The department will ensure that any allegations against a subject officer will be handled confidentially (where possible) and in accordance with information privacy laws.

4. Approval

Approved by:

Robyn Turbit
Deputy Director-General, Corporate

Date: 20 December 2021