

# Complaints about corrupt conduct against the Commission Chief Executive

## 1. Purpose

The objective of this policy is to set out how the Public Service Commission (PSC) will deal with an allegation against the Commission Chief Executive (CCE) (as the public official)<sup>1</sup> that involves, or may involve, corrupt conduct as defined in section 15 of the *Crime and Corruption Act 2001* (the CC Act).

### What is corrupt conduct?

**Corrupt conduct** as is defined in in the CC Act<sup>2</sup> as the conduct of a person (regardless of whether the person holds or held an appointment) that fulfils **each** of the following elements (i.e. A+B+C+D):

- [A] Adversely affects, or could adversely affect, directly or indirectly, the performance of functions, or the exercise of powers of a unit of public administration (UPA)<sup>3</sup> or a person holding an appointment in a UPA
- [B] Results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph [A] above in a way that is not honest or is not impartial; or involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment
- [C] Is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person
- [D] Would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

Without limiting the definition of **corrupt conduct** above, the CC Act provides that conduct that involves any of the following **could** be corrupt conduct:<sup>4</sup>

- abuse of public office
- bribery, including bribery relating to an election
- extortion
- obtaining or offering a secret commission
- fraud
- stealing
- forgery
- perverting the course of justice
- an offence relating to an electoral donation
- loss of revenue of the State
- sedition
- homicide
- serious assault or assault occasioning bodily harm or grievous bodily harm
- obtaining a financial benefit from procuring prostitution or from unlawful prostitution engaged in by another person
- illegal drug trafficking and illegal gambling.

**Conduct** is defined in the CC Act<sup>5</sup> to include neglect, failure and inaction; and conspiracy to engage in conduct; and attempt to engage in conduct.

For the purpose of this policy, a **complaint** includes an allegation or information or matter.<sup>6</sup>

<sup>1</sup> Schedule 2 of the CC Act defines the 'public official' to include 'the chief executive officer of a unit of public administration'.

<sup>2</sup> Section 15(1) see also sections 14, 16, 17 and 18.

<sup>3</sup> Section 20 of the CC Act. The PSC is a UPA.

<sup>4</sup> Section 15(2) of the CC Act.

<sup>5</sup> Section 14 of the CC Act.

<sup>6</sup> Section 48(4) of the CC Act.



## 2. Policy rationale

The policy is designed to assist the PSC to:

- comply with section 48A of the CC Act
- promote public confidence in the way suspected corrupt conduct of the Commission Chief Executive is dealt with<sup>7</sup>
- promote accountability, integrity and transparency in the way the PSC deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the CCE.

## 3. Definitions

Crime and Corruption Commission (CCC)	the Commission continued in existence under the <i>Crime and Corruption Act 2001</i>
CC Act	<i>Crime and Corruption Act 2001</i>
Complaint	includes information or matter. See definition provided by section 48A(4) of the <i>Crime and Corruption Act 2001</i>
Corruption	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Corrupt conduct	see section 15 of the <i>Crime and Corruption Act 2001</i> (refer item 1 of this policy)
<i>Corruption in Focus</i>	<a href="http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus">http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus</a> ; see chapter 2, page 2.5
Deal with	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Nominated person	see item 5 of this policy
Public Official	see Schedule 2 (Dictionary) and also section 48A of the <i>Crime and Corruption Act 2001</i>
Unit of public administration (UPA)	see section 20 of the <i>Crime and Corruption Act 2001</i> . The PSC is a UPA.

## 4. Policy application

This policy applies:

- if there are grounds to suspect that a complaint<sup>8</sup> may involve corrupt conduct of the CCE
- to all persons who hold an appointment in, or are employees of, the PSC.

## 5. Nominated person

The Deputy Commissioner is nominated under this policy, and the *PSC Corrupt Conduct Complaints Policy*, to act as the PSC's CCC Liaison Officer. Having regard to sections 48A(2) and (3) of the CC Act, this policy nominates the Deputy Commissioner as the nominated person to notify<sup>9</sup> the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.<sup>10</sup>

Once a person is nominated, the CC Act applies as if a reference about notifying or dealing with the complaint to the CCE (the public official within the meaning of the CC Act) is a reference to the nominated person.<sup>11</sup>

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<sup>7</sup> Section 34(c) of the CC Act.

<sup>8</sup> Complaint includes information or matter. Refer to section 48(4) of the CC Act.

<sup>9</sup> Under section 38 of the CC Act

<sup>10</sup> Under Chapter 2, Part 3, Division 4, Subdivision 2 of the CC Act.

<sup>11</sup> See section 48A(3) CC Act.

## 6. Complaints about the CCE

If a complaint may involve an allegation of corrupt conduct of the CCE, you can report the complaint to:

- the PSC's CCC Liaison Officer (also, the nominated person), either verbally (ph: 3003 2800) or in writing, as well as anonymously or through an authorised third party. Refer to the [PSC Website](#) on how to submit a complaint online. The complaint may also be provided in writing to:

PSC's CCC Liaison Officer or email: [commission.psc@psc.qld.gov.au](mailto:commission.psc@psc.qld.gov.au)  
PO BOX 15190, City East  
Brisbane, QLD 4002

**OR**

- directly to the Crime and Corruption Commission (CCC) see [www.ccc.qld.gov.au/corruption/report-corruption](http://www.ccc.qld.gov.au/corruption/report-corruption) for instructions.

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 CCE, they are to:

- notify the CCC of the complaint<sup>12</sup>, and
- deal with the complaint, subject to the CCC's monitoring role, when —
  - directions issued under section 40 apply to the complaint, if any, or
  - pursuant to section 46, the CCC refers the complaint to the nominated person to deal with<sup>13</sup>.

To **deal with** a complaint involving corruption, is defined under the CC Act<sup>14</sup> to include—

- investigate the complaint, information or matter
- gather evidence for prosecutions for offences or disciplinary proceedings
- refer the complaint, information or matter to an appropriate authority to start a prosecution or disciplinary proceeding
- start a disciplinary proceeding
- take other action, including managerial action, to address the complaint in an appropriate way.

PSC officers and others (such as external investigators) involved in dealing with a complaint which may involve corrupt conduct must keep appropriate records of the complaint and any steps taken to deal with the complaint.<sup>15</sup> This will support effective notification of complaints to the CCC and allow matters to be easily monitored and audited by the CCC.

When a public officer makes an allegation about the conduct of another person which would, if proved, be corrupt conduct, it may also be a public interest disclosure under the *Public Interest Disclosure Act 2010*<sup>16</sup> and the discloser will be entitled to certain protections. See the *Process for the Management of Public Interest Disclosures*.

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<sup>12</sup> Under section 38, subject to section 40 of the CC Act.

<sup>13</sup> Under sections 43 and 44 of the CC Act.

<sup>14</sup> Schedule 2 of the CC Act.

<sup>15</sup> See guidance on record keeping in *Corruption in Focus*.

<sup>16</sup> Section 13(1) of the *Public Interest Disclosure Act 2010*. See section 7 of the *Public Interest Disclosure Act 2010* for the meaning of public officer which include an employee, member or officer of the entity.

## 7. Resourcing the nominated person

If pursuant to sections 40 or 46, the nominated person has responsibility to deal with the complaint:<sup>17</sup>

1. the PSC will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately,<sup>18</sup> and
2. 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
3. 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>19</sup>
  - the importance of promoting public confidence in the way suspected corrupt conduct in the Office is dealt with,<sup>20</sup> and
  - the Office'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 CCE to direct and control officers as if the nominated person is the CCE for the purpose of dealing with the complaint only
- are delegated the same authority, functions and powers as the CCE to enter into contracts on behalf of the office 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 the CCE to the nominated person.

## 8. Liaising with the CCC

The nominated person's contact details are at item 6 of this policy.

## 9. Consultation with the CCC

The CCE will consult with the CCC when preparing any policy about how the PSC will deal with a complaint that involves, or may involve, corrupt conduct of the CCE.<sup>21</sup>

## 10. Statutory references

Unless otherwise stated, all statutory references are to the CC Act.

## 11. Reviews and updates

PSC's CCC Liaison Officer is responsible for reviewing this policy every two years. Any proposed changes to this policy will be made in consultation with the CCC.<sup>22</sup>

## 12. Approval

This policy is approved by the Commission Chief Executive on 18 October 2018 following consultation with the Chairperson of the CCC as required by section 48A(1).

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<sup>17</sup> Under sections 43 and 44 of the CC Act.

<sup>18</sup> See the CCC's corruption purposes and function set out in sections 4(1)(b), 33, 34, 35 and the Office's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint.

<sup>19</sup> See section 57 and the CCC's corruption purposes and function set out in sections 4(1)(b), 33, 34, 35 of the CC Act.

<sup>20</sup> See s34(c) CC Act.

<sup>21</sup> Section 48A of the CC Act.

<sup>22</sup> Section 48A of the CC Act.