

# Reporting corrupt conduct procedure

## Purpose

This procedure details the process for reporting matters that may involve ‘corrupt conduct’ as defined in section 15 of the **Crime and Corruption Act 2001** (CC Act).

This procedure should be read in conjunction with the **Complaints management policy**, the **Fraud and corruption prevention policy**, the **Public interest disclosure procedure** and **Complaints about the Director-General and the Coordinator-General procedure**.

## Scope

This procedure applies to all employees of the department and non-employees including contractors, consultants, volunteers and any other person or entity who provides the department with services on a paid or voluntary basis.

## Definitions

See **Appendix A** for definitions of key terms referred to in this procedure.

## Responsibilities and accountabilities

Role	Responsibilities
<b>All employees and non-employees</b>	<ul style="list-style-type: none"> <li>Refer suspicions of corrupt conduct to the Crime and Corruption Commission (CCC) liaison officer (Director, Ethics) or other appropriate authority.</li> <li>Cooperate with investigations into suspected corrupt conduct.</li> <li>Maintain the confidentiality of suspected corrupt conduct matters.</li> <li>Familiarise themselves with and comply with this procedure.</li> </ul>
<b>Managers and supervisors</b>	<ul style="list-style-type: none"> <li>Create a supportive reporting environment and provide appropriate support to employees who report suspected wrongdoing.</li> <li>Maintain confidentiality of suspected corrupt conduct matters upon receiving and after appropriately reporting those matters.</li> <li>Ensure their areas of responsibility comply with this procedure, related policies and procedures and the CC Act.</li> </ul>
<b>Ethics</b>	<ul style="list-style-type: none"> <li>Assess complaints and matters received in the department to determine whether they constitute corrupt conduct pursuant to section 15 of the CC Act.</li> <li>Lead or manage any investigations into suspected corrupt conduct.</li> <li>Adhere to the CCC’s notification and reporting requirements in accordance to section 38 (subject to section 40) and section 40A of the CC Act.</li> <li>Maintain the confidentiality of suspected corrupt conduct matters.</li> </ul>
<b>Director, Ethics</b>	<ul style="list-style-type: none"> <li>Notify the CCC of all matters involving allegations of corrupt conduct.</li> <li>Make a record of alleged corrupt conduct not notified to the CCC, in accordance with section 40A of the CC Act.</li> </ul>
<b>Executive Director, People and Performance</b>	<ul style="list-style-type: none"> <li>Can notify the CCC of any matters involving allegations of corrupt conduct.</li> </ul>

Role	Responsibilities
<b>Deputy Director-General, Business, Commercial and Performance</b>	<ul style="list-style-type: none"> <li>Can notify the CCC of any matters involving allegations of corrupt conduct concerning the Director-General or the Coordinator-General.</li> </ul>
<b>Director-General (DG) (Accountable officer)</b>	<ul style="list-style-type: none"> <li>Set the ethical culture of the department including a commitment to upholding corporate integrity.</li> </ul>

## Procedure

### What is corrupt conduct?

Under section 15 of the CC Act, there are two alternative definitions of corrupt conduct.

Corrupt conduct is conduct by any person, regardless of whether or the person holds (or held) a public service appointment, that meets all the criteria of one of the definitions below.

Corrupt Conduct - Section 15(1)
<p>A. <b>Effect of the conduct:</b> Does the conduct adversely affect, or could adversely affect, how a public agency or public official carries out their duties or exercises their powers? <b>AND</b></p>
<p>B. <b>Result of the conduct:</b> Has the conduct resulted, or could it result, in the performance of duties or exercise of powers in a way that:</p> <ul style="list-style-type: none"> <li>is not honest or impartial, or</li> <li>involves a breach of the trust placed in a person holding an appointment in a public agency, either knowingly or recklessly, or</li> <li>involves a misuse of information or other material related to the performance of powers or exercise of functions of a person holding an appointment in a public agency?</li> </ul> <p><b>AND</b></p>
<p>C. <b>Criminal offence or disciplinary breach:</b> If proved, would the conduct be a criminal offence, or a disciplinary breach providing reasonable grounds for dismissal, if the person is or were the holder of an appointment?</p>

OR

Corrupt Conduct - Section 15(2)
<p>A. <b>Effect of the conduct:</b> does the conduct impair, or have the potential to impair, public confidence in public administration? <b>AND</b></p>
<p>B. <b>Result of the conduct:</b> has the conduct resulted, or could it result, in the performance of duties or exercise of powers in a way that is:</p> <ul style="list-style-type: none"> <li>collusive tendering, or</li> <li>fraud relating to an application for a licence, permit or other authority for protecting people's health or safety, protecting the environment, or protecting or managing the use of the State's natural, cultural, mining or energy resources, or</li> <li>dishonestly obtaining or helping to obtain a benefit from the payment or application of public funds or the disposition of State assets, or</li> <li>evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue, or</li> <li>fraudulently obtaining or retaining an appointment?</li> </ul> <p><b>AND</b></p>

- C. **Criminal offence or disciplinary breach:** If proved, would the conduct be a criminal offence, or a disciplinary breach providing reasonable grounds for dismissal, if the person is or were the holder of an appointment?

Conduct that occurs outside Queensland may be corrupt (section 17).

## Corrupt conduct vs Misconduct

Corrupt conduct under the CC Act is not the same as misconduct under the **Public Service Act 2008** (PS Act), Section 187 of the PS Act defines misconduct as:

- inappropriate or improper conduct in an official capacity; or
- inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the public service.

Subject to disciplinary action, misconduct may not warrant dismissal or criminal charges and has a lower threshold than corrupt conduct. For example, if an employee insults a client, the conduct would not be considered corrupt as it is neither a criminal offence nor serious enough to warrant dismissal but is inappropriate and reflects adversely on the department. However, if an employee were to physically assault a client (criminal offence) or escalates the situation by passing confidential information about the client to a third party (grounds for dismissal), the matter may be considered corrupt conduct.

## Public interest disclosure

When reporting a matter which could, if proved, be corrupt conduct, it may also be a public interest disclosure under the **Public Interest Disclosure Act 2010**. Refer to the **Public interest disclosure procedure** for further information.

## Reporting obligations

All employees are obliged to report any suspicion or allegation of corrupt conduct to the appropriate authority. There does not need to be a formal complaint from an aggrieved person to make a report.

Under the CC Act, the DG has a duty to report a 'reasonable suspicion' of corrupt conduct to the CCC subject to section 40A of that Act. In addition to the DG, following officers are authorised under this procedure to refer a matter to the CCC:

- Deputy Director-General, Business, Commercial and Performance
- Executive Director, People and Performance
- Director, Ethics.

If an employee suspects corrupt conduct, they must not alert the employee(s) involved in the alleged conduct. Corrupt conduct can be reported to any of the following:

- one of the authorised positions outlined above
- CCC directly (<http://www.ccc.qld.gov.au/corruption/report-corruption/how-to-report-corruption>)
- Queensland Police Service
- Queensland Audit Office, or
- the relevant Minister.

Ethics will assess any information provided against the definition of corrupt conduct as well as other relevant legislation or departmental policy.

If the matter falls within the definition of corrupt conduct under the CC Act, it will be referred to the CCC for assessment and possible action by either the CCC or the department.

For matters that do not fall within the definition, refer to the section in this procedure regarding record-keeping requirements. The matter will then be dealt with through the relevant process, such as customer complaints, employee complaints, misconduct or employee conduct matters.

## Investigating corrupt conduct

All employees are required to assist in any investigation, whether by Ethics, the CCC, or an external service provider in relation to allegations of corrupt conduct or misconduct. Complaints involving corrupt conduct are handled in accordance with the CCC's guideline *Corruption in Focus*.

Once the investigation is completed, the CCC liaison officer will notify relevant parties, including the CCC and the complainant, subject to privacy/confidentiality requirements, about the outcome of the matter. This may include action/s taken to manage the complaint and the outcome/s; reasons for the decision/outcome; and proposed actions to be taken if any.

## Record-keeping requirements

If the DG, CCC liaison officer or other authorised officer decides that a complaint, information or matter about suspected corrupt conduct is not required to be notified to the CCC under section 38 of the CC Act, a record of this decision must be made (section 40A of the CC Act).

To comply with legislative obligations under the CC Act, the record must include:

- the details of the complaint or information or matter
- the evidence on which the nominated person relied in making the decision
- any other reasons for the decision.

The recorded information should be sufficient for a reasonable person to understand the logic behind the decision, including how the decision was assessed pursuant to section 15 of the CC Act and why it did not meet the threshold.

## Reference documents

- [Crime and Corruption Act 2001](#)
- [Information Privacy Act 2009](#)
- [Judicial Review Act 1991](#)
- [Public Interest Disclosure Act 2010](#)
- [Public Sector Ethics Act 1994](#)
- [Public Service Act 2008](#)
- [Code of Conduct for the Queensland Public Service](#)
- [Corruption in Focus \(CCC\)](#)
- [Managing employee complaints Directive \(Public Service Commission\)](#)

## Related documents

- [Complaints management policy](#)
- [Fraud and corruption prevention policy](#)
- [Public interest disclosure procedure](#)
- [Managing employee complaints procedure](#)
- [Reporting corrupt conduct procedure](#)
- [Human resources delegations](#)
- [Workplace investigations factsheet](#)

## Document control

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1.0	28/08/2017	New procedure	Senior Complaints Officer Ethics and Governance	A/Executive Director, Corporate, DILGP
	07/09/2017			Deputy Director-General, Business Solutions and Partnerships, DSD
1.1	09/07/2018	Minor update following Machinery of Government changes	Senior Project Officer, Ethics and Governance	Executive Director, Corporate Services, DSDMIP
1.2	26/08/2019	Update - changes in the CC Act (corrupt conduct definition, new reporting requirements) and new branding.	Senior Project Officer, HR and Ethics	Deputy Director-General, Business Commercial and Performance

## Appendix A – Definitions

The key terms referred to in this procedure are as follows:

Term	Definition
<b>Complaint</b>	<p>Expression of dissatisfaction, orally or in writing, about the products, policies, services or actions of the department and/or the associated conduct of officers, or representatives of the department.</p> <p>For the purposes of this procedure, a corrupt conduct complaint includes information or matter involving corrupt conduct (refer to section 48(4) of the Act and the definition of corrupt conduct below).</p>
<b>Corrupt conduct</b>	<p>Corrupt conduct is a conduct of any person, regardless of whether the person holds or held an appointment, which meets the three elements outlined in section 15(1) or 15(2) of the CC Act. Refer to section 15 of the Crime and Corruption Act 2001</p> <p>Refer to section 15 of the <b><u>Crime and Corruption Act 2001</u></b> (the Act) for the definition of corrupt conduct</p>
<b>Corruption</b>	<p>A breach of trust in the performance of official duties and includes conduct which does or could adversely affect the honest or impartial exercise of official functions by an employee, whether or not for the benefit of the person. It also includes conduct by an employee involving dishonesty or failure to impartially exercise an official function.</p>
<b>Public interest disclosure</b>	<p>An appropriate disclosure of public interest information (such as a report of corrupt conduct, reprisal, maladministration that affects a person's interests in a substantial and specific way, substantial misuse of public resources, substantial and specific danger to public health and safety to the environment) made to a proper authority.</p> <p>Refer to Chapter 2 of the <b><u>Public Interest Disclosure Act 2010</u></b> for the full legal definition of a public interest disclosure</p>