

Corrupt conduct prevention procedure

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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.

For information regarding complaints about suspected corrupt conduct involving the Director-General, 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;
- 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 the full statutory definition, see Attachment 2 of the CCP policy.

Corrupt conduct is suspected until proven.

There are two types of corrupt conduct.

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.

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.

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, 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.

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 (being the Director, Integrity Services Unit) (CCC Liaison Officer)
- the Chief Human Resources Officer
- Human Resources
- a supervisor/manager in the department
- the Director-General
- the Crime and Corruption Commission (CCC)
- 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 requested 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 state anything or to provide documents 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 the 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, that person must immediately, and without commencing any enquiries, refer the complaint or information – marked ‘Strictly Confidential’ to the Integrity Services Unit.

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.

3.8 Assessing a complaint or information

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

The specific responsibilities of the department’s Integrity Service Unit is outlined in section 3.5 of the CCP policy.

3.9 Notifying the Crime and Corruptions Commission

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 pursuant to section 40 of the CC Act (Section 40 Directions).

3.10 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 Liaison Officer and/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 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.
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 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.

CCC action	Departmental action
<p>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).</p> <p>These matters may be subject to the CCC's auditing program.</p>	<p>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 division for independent consideration and any relevant action.</p>
<p>The CCC forms the view that suspected corrupt conduct is not involved and refers the complaint or information back to the department.</p>	<p>The department will assess and determine how to deal with the complaint or information, having regard to any relevant departmental policy.</p>

3.11 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 include (but is not limited to) any of the following:

- a review of existing information (for example, files, emails or other records)
- informal enquiries,
- devolving the matter to the relevant business area for appropriate action, or
- a formal investigation, including recorded interviews.

Any enquiries and/or investigation will be done in accordance with the principles of natural justice, 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 these 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.

3.12 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.

3.13 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.

- Further, 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.

3.14 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.

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

3.15 Human rights considerations

Under the [Human Rights Act 2019](#), public entities (which includes the department and public service employees such as the Director-General (or delegate)) must act and make decisions in a way that is compatible with human rights, including by giving proper consideration to human rights when dealing with complaints or information of suspected corrupt conduct. The human rights that may potentially be affected by a decision relating to a complaint or information of suspected corrupt conduct will depend on the relevant circumstances.

4 Human rights

The procedure has been reviewed for compatibility with human rights under the [Human Rights Act 2019](#) (the Act). The procedure has been found to limit human rights only to the extent that is lawful, reasonable, and demonstrably justifiable in accordance with section 13 of the Act therefore, it is reasonable to conclude that the policy is compatible with human rights.

5 Approval

This procedure was approved by the Director-General.

Version Control

Version	Date	Comments
1	18 August 2022	Procedure approved

Attachment 1: Contact

For further information, please contact:

Integrity Services Unit

Strategy and Corporate Services

Department of Communities, Housing and Digital Economy

Telephone: (07) 3109 4896

Email: integrityservices@chde.qld.gov.au

To report corrupt conduct, email: integrityservices@chde.qld.gov.au