

## COMPLAINTS ABOUT THE INTEGRITY COMMISSIONER: Section 48A of the *Crime and Corruption Act 2001*

### 1. Objectives

The Queensland Integrity Commissioner (the Integrity Commissioner) is the public official of the Office of the Queensland Integrity Commissioner (the Integrity Office). The objective of this policy is to set out how the Integrity Office will deal with a complaint (also information or matter)<sup>1</sup> that involves or may involve alleged corrupt conduct of its Integrity Commissioner as defined in the *Crime and Corruption Act 2001* (CC Act).

It should be read in conjunction with the Integrity Office Complaints management policy, Public interest disclosure procedure and the Reporting corrupt conduct procedure.

### 2. Policy rationale

The policy is designed to assist the Integrity Office to:

1. Comply with s.48A of the CC Act
2. Promote public confidence in the way suspected corrupt conduct of the Integrity Commissioner is dealt with (s.34(c) CC Act)
3. Promote accountability, integrity and transparency in the way the Integrity Office deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Integrity Commissioner.

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

## Definitions

Crime and Corruption Commission (CCC)	the Commission continued in existence under the CC Act
CC Act	<i>Crime and Corruption Act 2001</i>
Complaint	includes information or matter: see definition provided by s.48A(4) of the CC Act
Contact details for CCC Liaison Officer	Manager, Corporate Services <b>Phone: 07 3003 2812</b> <b>Email: Krystal.Petersen@integrity.qld.gov.au</b>
Contact details for nominated person	Deputy Integrity Commissioner <b>Phone: 07 3003 2886</b> <b>Email: Lesley.Symons@integrity.qld.gov.au</b>
Corruption	See Schedule 2 (Dictionary) of the CC Act
Corrupt conduct	See s.15 of the CC Act
<i>Corruption in Focus</i>	<a href="#">Corruption in focus   CCC - Crime and Corruption Commission Queensland</a> ; see chapter 2, page 26
Deal with	See schedule 2 (Dictionary) of the CC Act
Police misconduct	See Schedule 2 (Dictionary) of the CC Act
Public Official/CEO	See Schedule 2 (Dictionary) and also s.48A of the CC Act
Unit of public administration (UPA)	See. S.20 of the CC Act

### 3. Policy application

This policy applies:

- if there are grounds to suspect that a complaint may involve corrupt conduct of the Integrity Commissioner
- to all persons who hold an appointment in, or are employees of, the Integrity Office and who may have received information or a complaint concerning the Integrity Commissioner.

For this policy, a complaint includes information or matter about the Integrity Commissioner.<sup>2</sup>

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<sup>2</sup> See s.48A(4) of the CC Act.

## 5. Nominated Persons

Having regard to s.48A(2) and (3) of the CC Act this policy nominates the Deputy Integrity Commissioner as the nominated person who will notify<sup>3</sup> the Crime and Corruption Commission (CCC) of the complaint and who will deal with the complaint under the CC Act.<sup>4</sup>

The CCC monitors, and the CC Act<sup>5</sup> provides guidance, on how the Integrity Office should handle complaints. These responsibilities extend to a person or party nominated to deal with the complaint where that person is an external party.

The Deputy Integrity Commissioner may decide to nominate another person to manage the complaint instead of themselves. In that circumstance, if the nominated person decides to notify the CCC about a complaint, they will inform the CCC that they are the nominated person for the particular complaint.

## 6. Complaints about the Integrity Commissioner

If a complaint may involve an allegation of corrupt conduct of the Integrity Commissioner, the complaint may be reported to:

- the nominated person, or
- the CCC Liaison Officer (Manager, Corporate Services), or
- a person on whom there is an obligation to report under an Act<sup>6</sup> (this does not include an obligation imposed by ss37, 38 and 39(1) of the CC Act).

If there is uncertainty about whether 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 Integrity Commissioner, they are to:

- (a) notify the CCC of the complaint<sup>7</sup> and
- (b) deal with the complaint, subject to the CCC's monitoring role when –
  - directions issued under s.40 of the CC Act apply to the complaint, or
  - pursuant to s.46 of the CC Act, the CCC refers the complaint to the Deputy Integrity Commissioner or the CCC Liaison Officer to deal with.<sup>8</sup>

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<sup>3</sup> Under ss.37 or 38 of the CC Act

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

<sup>5</sup> See s.48A(3) of the CC Act

<sup>6</sup> See s.39(2) of the CC Act

<sup>7</sup> Under ss.37 or 38, subject to s.40 of the CC Act

<sup>8</sup> Under ss. 41 and 42 and/or ss.43 and 44 of the CC Act

If the Integrity Commissioner receives a complaint, and reasonably suspects that the complaint may involve corrupt conduct on their part, they must:

- report the complaint to the nominated person as soon as practicable and may also notify the CCC; and
- take no further action to deal with the complaint unless requested to do so by the nominated person

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

- (i) the nominated person is to deal with the complaint, and
- (ii) the Integrity Commissioner is to take no further action to deal with the complaint unless requested to do so by the nominated person.

## 7. Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct of the Integrity Commissioner 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.

Section 40A CC Act provides that the record must include:

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

The recorded information should be sufficient for a reasonable person to understand how and why the decision was made.

At a minimum the nominated person should:

- Accurately record the details of the complaint and how the complaint was assessed against the definition of corrupt conduct
- The evidence on which the nominated person has relied in making the decision
- Specify why the conduct did not meet the definition of corrupt conduct or the threshold for notification to the CCC
- Record the nominated person's name, position and endorsement
- Identify any conflict of interest issues and steps taken to deal with them.

When a complaint is received, the nominated person will create a restricted folder within the Records Management System, giving access only to the nominated person and any other employee as authorised by the nominated person.

## 8. 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 **Integrity Office** 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, always, 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 Integrity Commission is dealt with<sup>12</sup>, and
  - the Integrity 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 Integrity Commissioner to direct and control staff of the Integrity Office as if the nominated person is the Integrity Commissioner of the Integrity Office for the purpose of dealing with the complaint only
- are delegated the same authority, functions and powers as the Integrity Commissioner to enter into contracts on behalf of the Integrity 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 Integrity Commissioner, to the nominated person.

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<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 Integrity Commissions relevant statutory, policy, and procedural framework which will 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.

## 9. Liaising with the CCC

The Integrity Commissioner is to keep the CCC and the nominated person informed of:

- the contact details for the Integrity Commissioner and the nominated person; and
- any proposed changes to this policy.

## 10. Consultation with the CCC

The Integrity Commissioner will consult with the CCC when preparing any policy about how the Integrity Office will deal with a complaint that involves, or may involve, corrupt conduct of the Integrity Commissioner.<sup>13</sup>

## 11. Human Rights compatibility

The Integrity Office is committed to respecting, protecting and promoting human rights.

Under the *Human Rights Act 2019* (the HR Act), the Integrity Office has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

For further information the HR Act see: [www.qhrc.qld.gov.au](http://www.qhrc.qld.gov.au)

## 11. Statutory references

Unless otherwise stated, all statutory references are to the *Crime and Corruption Act 2001*.

## 12. Further information

For further information or clarification, please contact the Manager Corporate Services, Integrity office.

## 13. Storage of Information

All information should be managed in accordance with the Queensland Government Information Management Framework, which includes the *Public Records Act 2002*, Information Standard 31: Retention and disposal of public records (IS31) and Information Standard 40: Recordkeeping (IS40). In addition, personal information should be managed in accordance with the *Information Privacy Act 2009* and the *Integrity Act 2009*.

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

## Document Control

<b>Document Owner</b>	Manager Corporate Services			
<b>Contact details</b>	Krystal Petersen – Krystal.Petersen@integrity.qld.gov.au			
<b>New Review</b>	Annually on the anniversary the policy is approved, or sooner if required under a change of relevant legislation, directive, or policy			
<b>Supersedes</b>	Not applicable			
<b>Version</b>	<b>Reason</b>	<b>Author</b>	<b>Date Approved</b>	<b>Approver</b>
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