

# Complaints about the public official: section 48A of the *Crime and Corruption Act 2001*

## 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](#). For further information please refer to the department's Human Rights intranet page.

## 1. Purpose

The Director-General is the public official of the Department of Energy and Public Works (the department).

The objective of this policy is to set out how the department will deal with a complaint (also information or matter)<sup>1</sup> that involves or may involve corrupt conduct<sup>2</sup> of its Director-General as defined in the [Crime and Corruption Act 2001](#) (CC Act).

## 2. Policy statement

The policy is designed to assist the department to:

1. comply with section 48A of the CC Act
2. promote public confidence in the way suspected corrupt conduct of the Director-General for the department is dealt with (section 34(c) CC Act)
3. promote accountability, integrity and transparency in the way the department deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Director-General.

## 3. Policy application

This policy applies:

- if there are grounds to suspect that a complaint may involve corrupt conduct of the Director-General of the department
- to all persons who hold an appointment in, or are employees of, the department.

For the purpose of this policy a complaint includes information or matter.<sup>3</sup>

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

<sup>2</sup> The CCC's corruption function encompasses both "corrupt conduct" and "police misconduct". For the purposes of the Queensland Police Service, wherever the term "corrupt conduct" is used in the policy, they would also have to consider police misconduct, as per section 37 of the CC Act.

<sup>3</sup> See section 48A(4) of the CC Act.

## 4. Nominated Person

Having regard to section 48A(2) and (3) of the CC Act, this policy nominates:

- the Deputy Director-General, Corporate
- the Chief Human Resources Officer, in the absence or unavailability of the Deputy Director-General, Corporate
- the Director, Integrity Services Unit, in the absence or unavailability of the Deputy Director-General, Corporate and the Chief Human Resources Officer

to notify<sup>4</sup> the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.<sup>5</sup>

The CC Act applies as if a reference about notifying or dealing with the complaint to the public official/CEO is a reference to the nominated person.<sup>6</sup>

## 5. Complaints about the Director-General

If a complaint may involve an allegation of corrupt conduct of the Director-General of the department, the complaint may be reported to:

- the nominated person, or
- a person to whom there is an obligation to report under an Act<sup>7</sup> (this does not include an obligation imposed by sections 37, 38 and 39(1) of the CC Act).

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 Director-General, they are to:

- a) notify the CCC of the complaint,<sup>8</sup> and
- b) deal with the complaint, subject to the CCC's monitoring role, when —
  - directions issued under section 40 of the CC Act apply to the complaint, or
  - pursuant to section 46 of the CC Act, the CCC refers the complaint to the nominated person to deal with.<sup>9</sup>

If the Director-General reasonably suspects that the complaint may involve corrupt conduct on their part, the Director-General must:

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<sup>4</sup> Under sections 37 or 38 of the CC Act.

<sup>5</sup> Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act.

<sup>6</sup> See section 48A(3) of the CC Act.

<sup>7</sup> See section 39(2) of the CC Act.

<sup>8</sup> Under sections 37 or 38, subject to section 40 of the CC Act.

<sup>9</sup> Under sections 41 and 42 and/or sections 43 and 44 of the CC Act.

- i. report the complaint to the nominated person as soon as practicable and may also notify the CCC, and
- ii. take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Minister responsible for the department (the Minister).

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

- i. the nominated person is to deal with the complaint, and
- ii. the Director-General is to take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Minister.

## 6. Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct of the Director-General is not required to be notified to the CCC under section 38 of the CC Act, the nominated person must make a record of the decision that complies with section 40A of the CC Act.

## 7. Resourcing the nominated person

If pursuant to sections 40 or 46 of the CC Act, the nominated person has responsibility to deal with the complaint:<sup>10</sup>

- i. the department will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately,<sup>11</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, at all times, use their best endeavours to act independently, impartially and fairly having regard to:
  - the purposes of the CC Act<sup>12</sup>
  - the importance of promoting public confidence in the way suspected corrupt conduct in the department is dealt with,<sup>13</sup> and
  - the department's statutory, policy and procedural framework.

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<sup>10</sup> Under sections 41 and 42 and/or sections 43 and 44 of the CC Act.

<sup>11</sup> See the CCC's corruption purposes and function set out in sections 4(1)(b), 33, 34, 35 of the CC Act and the department's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint.

<sup>12</sup> See section 57 of the CC Act and the CCC's corruption purposes and function set out in sections 4(1)(b), 33, 34, 35 of the CC Act.

<sup>13</sup> See section 34(c) of the CC Act.

If the nominated person has responsibility to deal with the complaint, they:

- are delegated the same authority, functions and powers as the Director-General to direct and control staff of the department as if the nominated person is the Director-General of the department for the purpose of dealing with the complaint only
- are delegated the same authority, functions and powers as the Director-General to enter into contracts on behalf of the department 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 either the Minister or the Director-General, to the nominated person.

## 8. Liaising with the CCC

The Director-General is to keep the CCC, and the nominated person informed of:

- the contact details for the public official/CEO and the nominated person, and
- any proposed changes to this policy.

## 9. Consultation with the CCC

The Director-General will consult with the CCC when preparing any policy about how the department will deal with a complaint that involves or may involve corrupt conduct of the public official/CEO.<sup>14</sup>

## 10. Delegations

Delegations have been established within the department to deal with suspected corrupt conduct.

## 11. Approval

Approved by:

Paul Martyn  
**Director-General**  
**Department of Energy and Public Works**

**Date:** 25 November 2021

**Attachment 1:** Contacts and References

**Attachment 2:** Definitions

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<sup>14</sup> Section 48A of the CC Act.

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## Version Control

Version	Date	Comments
1.0	25 November 2021	Policy approved by Director-General
2.0	25 January 2023	Updates to position titles and inclusion of information regarding human rights

## Attachment 1: Contacts and References

### Contacts

#### **Director-General**

Department of Energy and Public Works  
Level 36, 1 William Street, Brisbane Qld 4000  
GPO Box 2457, Brisbane Qld 4001  
Telephone (07) 3008 2936  
Facsimile (07) 3224 5616

#### **Deputy Director-General, Corporate and Portfolio Strategy (CCC Liaison Officer and nominated person)**

Department of Energy and Public Works  
Level 2, 60 Albert Street, Brisbane Qld 4000  
GPO Box 2457, Brisbane Qld 4001  
Telephone (07) 3008 2900

#### **Chief Human Resources Officer**

Department of Energy and Public Works  
Level 14, 41 George Street, Brisbane Qld 4000  
GPO Box 2457, Brisbane Qld 4001  
Telephone (07) 3008 3040  
Facsimile (07) 3225 8120

#### **Integrity Services Unit**

Department of Energy and Public Works  
Level 2, 60 Albert Street, Brisbane Qld 4000  
GPO Box 2457, Brisbane Qld 4001  
Telephone (07) 3008 2924  
Email [integrityservices@epw.qld.gov.au](mailto:integrityservices@epw.qld.gov.au)

#### **Crime and Corruption Commission**

Complaints Officer  
Level 2, North Tower Green Square  
515 St Pauls Terrace  
Fortitude Valley Q 4006  
GPO Box 3123  
Brisbane Qld 4001  
Telephone (07) 3360 6060  
Facsimile (07) 3360 6333  
Toll Free 1800 061 611 – outside Brisbane, within Queensland  
[www.ccc.qld.gov.au/corruption/report-corruption](http://www.ccc.qld.gov.au/corruption/report-corruption)

### References

*Crime and Corruption Act 2001*

## Attachment 2: 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 nominated person	See Attachment 1 of this policy
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="https://www.ccc.qld.gov.au/publications/corruption-focus">https://www.ccc.qld.gov.au/publications/corruption-focus</a> ; see chapter 2, page 2.6
Deal with	see Schedule 2 (Dictionary) of the CC Act
Nominated person	see Item 4 of this policy
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