

# Corrupt Conduct Guideline

## PURPOSE

This guideline explains how to make a complaint concerning the Queensland Competition Authority that you think may involve 'corrupt conduct', as defined in section 15 of the *Crime and Corruption Act 2001 (Qld) (CC Act)*.

## 1 SCOPE/APPLICATION

This guideline applies to the QCA's Members, Chief Executive Officer (CEO), employees, consultants and contractors in relation to all of their dealings with, as well as for and on behalf of, the Queensland Competition Authority (QCA).

## 2 WHAT IS CORRUPT CONDUCT?

**Corrupt conduct** is defined in the *CC Act*<sup>1</sup> as the conduct of a person (regardless of whether the person holds or held an appointment) that fulfils **each** of the following elements:

- (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>2</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) 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) 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.

**Corrupt conduct** also means conduct of a person (regardless of whether the person holds or held an appointment) that fulfils each of the following elements:

- (a) impairs, or could impair, public confidence in public administration
- (b) involves, or could involve:
  - (i) collusive tendering
  - (ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of protecting health or safety of persons, protecting the environment or protecting or managing the use of the State's natural, cultural, mining or energy resources
  - (iii) dishonestly obtaining or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets

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<sup>1</sup> Section 15(1). See also ss. 14, 16, 17, 18.

<sup>2</sup> Section 20 of the CC Act. QCA is a UPA (s. 229(a) of the *Queensland Competition Authority Act 1997 (Qld) (QCA Act)*).

- (iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue
  - (v) fraudulently obtaining or retaining an appointment
- (c) 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.<sup>3</sup>

Common examples of corrupt conduct could include:

- engaging in fraud and/or forgery to obtain a certain outcome, for example, manipulating timesheets to accumulate accrued hours not worked (that is, 'fraud')
- stealing from the organisation, such as office supplies, laptops or portable and attractive items without returning them to the department (that is, 'theft')
- accessing and/or disclosing official, confidential or personal information for one's own benefit, for a family member or for third parties (that is, 'unauthorised release of information')
- engaging in preferential treatment of certain suppliers of goods or services to the QCA in return for a monetary consideration or other benefit from the supplier to you and/or your family members (that is, 'obtaining a secret commission')
- hiring or promoting a family member or staff member to a role they are not qualified for, regardless of merit (that is, 'nepotism').

**Conduct** is defined in the CC Act<sup>4</sup> to include: neglect, failure and inaction; conspiracy to engage in conduct; and attempt to engage in conduct.

For the purpose of this guideline, a **complaint** includes an allegation or information or matter.

### 3 REASONABLE SUSPICION

In accordance with section 38 of the CC Act, notification must be made to the Crime and Corruption Commission (CCC) if there is 'reasonable suspicion' of corrupt conduct. For a suspicion to be 'reasonable', there needs to be more than bare or idle speculation.

In essence, the evidence must be sufficient for a reasonable person to suspect corrupt conduct. For example, the available facts, evidence or other information must suggest that the allegation, if proven, would amount to corrupt conduct.

This 'reasonable suspicion' is the trigger point for how a suspected corrupt conduct matter is to be dealt with by the QCA, or referred to the CCC pursuant to section 38 of the CC Act.

### 4 REPORTING CORRUPT CONDUCT

All persons<sup>5</sup> have an obligation to report any suspicions or allegations of corrupt conduct on the part of any Member of the QCA or persons working for or on behalf of the QCA. There does not need to be a formal complaint from an aggrieved person to make a report.

You can report suspected corrupt conduct to:

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<sup>3</sup> Section 15(2) of the CC Act.

<sup>4</sup> Section 14 of the CC Act.

<sup>5</sup> Persons means Members (as per s. 209 of the QCA Act) and employees of the QCA—whether permanent, temporary, full-time, part-time or casual—and any contractor, consultant, volunteer or anyone else who works in any other capacity for the QCA.

- the CEO\*
- the Director Corporate Services\* (as the QCA's CCC Liaison Officer)
- any QCA employee, who must immediately refer any complaint which may involve corrupt conduct to QCA's CCC Liaison Officer
- the CCC directly—see [www.ccc.qld.gov.au/corruption/report-corruption](http://www.ccc.qld.gov.au/corruption/report-corruption).

Suspicious or allegations of corrupt conduct may also be made to the Queensland Police Service.

It is important to report any suspicions of corrupt conduct as early as possible, to enable the QCA to prevent escalation of corrupt conduct or greater harm to its finances, service delivery or reputation. Also, it enables the QCA to identify 'red flags' or early warning signs of any other corrupt conduct activity.

Examples of possible 'red flags' or early warning signs of corrupt conduct activity:

- Goods or services have been procured through the same supplier on a number of occasions, with no clear reasons or justification, especially if the individual involved in the procurement and the supplier are friends or family, or have had a previous professional relationship.
- Unusual trends start to appear in the spend pattern of a staff member with a corporate credit card, and there is no clear explanation for the spend (it may start with small-value items, but then the items being bought may increase in value over time).
- Staff members are 'bragging' to other staff or anybody outside the QCA about getting away with things.

Certain types of information may be useful in the reporting of a suspicion of corrupt conduct (see **Appendix A**), but the unavailability of this information should not preclude a staff member from reporting a suspicion.

\*Suspected corrupt conduct may be reported by (1) our online contact form - via the QCA website at <https://www.qca.org.au/contact/> or (2) post - to GPO Box 2257, Brisbane Q 4001.

## 5 QCA'S PROCEDURE FOR DEALING WITH CORRUPT CONDUCT

### 5.1 The QCA's role

Under the CC Act, the CEO of the QCA has responsibilities in relation to complaints about corrupt conduct. The CEO's responsibilities in this regard are delegated to the Director Corporate Services (as the QCA's CCC Liaison Officer), who must:

- **notify** the CCC of a complaint which this director reasonably suspects involves, or may involve, corrupt conduct<sup>6</sup>
- **deal with** complaints which may involve corrupt conduct referred to the QCA by the CCC, in the way this director considers most appropriate, subject to directions given by the CCC<sup>7</sup>
- **report to the CCC** about QCA investigations involving corrupt conduct in the way and at the times the CCC directs.<sup>8</sup>

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<sup>6</sup> Sections 38 and 40 of the CC Act.

<sup>7</sup> Sections 40, 43, 44, 46(2)(b) and (f), and 48(1)(c)(ii) of the CC Act.

<sup>8</sup> Sections 40 and 48(1)(c) of the CC Act.

Where a decision is made **not to refer** alleged corrupt conduct to the CCC, a record of the decision must be made. The record must include the details of the complaint (or information or matter); the evidence that was relied on in making the decision and any other reasons for the decision.<sup>9</sup>

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

- how the complaint was assessed against the definition of corrupt conduct
- why the complaint did not meet the definition or threshold for notification to the CCC
- the decision-maker's name, position and their endorsement of their assessment
- any conflict of interest issues, and steps taken to deal with any perceived or actual conflicts.<sup>10</sup>

## 5.2 Other guidance

The CCC's guide, *Corruption in Focus*<sup>11</sup>, provides practical advice on meeting the QCA's obligations under the CC Act.

The QCA intranet provides information on all relevant policies and procedures, together with links to further information on external websites.

## 6 COMPLAINTS ABOUT THE CEO

Please refer to the QCA's *CEO Complaints Policy* in this regard.<sup>12</sup>

## 7 PUBLIC INTEREST DISCLOSURE

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* (Qld)<sup>13</sup> and the discloser will be entitled to certain protections. Please also refer to the QCA's *Public Interest Disclosure Procedure* in this regard.

## 8 RECORD-KEEPING

QCA Members, employees or officers and others (such as external investigators) involved in dealing with a complaint which may involve corrupt conduct must keep appropriate records concerning each complaint, which should include (as appropriate) the information set out in **Appendix A**.

## 9 APPROVAL AND REVIEW

The QCA's CCC Liaison Officer is responsible for the preparation, review and maintenance of this document. It will be reviewed triennially, unless a review needs to be undertaken sooner to ensure that the contents accord with relevant legislation and standards.

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<sup>9</sup> Section 40A of the CC Act.

<sup>10</sup> See CCC, *Assessing allegations of corrupt conduct: A guide to recordkeeping under section 40A*, assessment guide, October 2020, p. 6.

<sup>11</sup> See [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).

<sup>12</sup> The QCA is a unit of public administration under the CC Act. Under section 48A, the QCA is required to have a policy about how it will deal with a complaint that involves or may involve corrupt conduct of its CEO.

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

## 10 RELATED DOCUMENTS

- *Human Resources Policies and Procedures Manual*
- *Code of Conduct for Employees*
- *CEO Complaints Policy*
- *Public Interest Disclosure Procedure*

## APPENDIX A: COMPLAINTS RECORDS

Records concerning each complaint which may involve corrupt conduct should include (as appropriate) the following information:

- (a) The name of the complainant and/or informant and/or whistleblower
- (b) The name of the alleged victim if he or she is not the complainant and/or informant and/or whistleblower
- (c) The age of the alleged victim
- (d) The name of the subject officer(s)
- (e) The position held by the subject officer(s)
- (f) A précis of the complaint, including, where applicable the date and location of the alleged incident, the value of any property and the value of any detriment or loss incurred
- (g) The action being taken by the QCA at the time of referral to the CCC or advice as to the outcome of the matter
- (h) The assessment and distillation of allegations
- (i) Relevant policies and procedures
- (j) The process used to deal with the matter
- (k) Terms of reference (if appropriate)
- (l) Evidence gathered including record of interviews, CCTV footage, photographs, documents etc.
- (m) Correspondence/notifications to complainants, subject officers and witnesses
- (n) Investigation report or other document in which findings were made
- (o) Decisions made by a delegated officer regarding disciplinary outcomes
- (p) The outcome of any identified corruption risk activities
- (q) Outcome advice correspondence to relevant parties.

**RELEASE NOTICE**

<i>Version</i>	<i>Amendment details</i>	<i>Updated by</i>	<i>Date</i>
1.0	New policy prepared	Director Corporate Services	27/07/2018
2.0	Updated to include changes to CC Act and minor administrative edits	Director Corporate Services	25/06/2021

**Approved by:**

**Name:** Charles Millstead

**Title:** Chief Executive Officer

**Signature:**

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