



The Public Trustee

Reporting Corrupt Conduct Policy

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Document Information

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1. Purpose

The purpose of this policy is to:

- a. stipulate what to do if you want to make a complaint which you think may involve 'corrupt conduct' as defined in s.15 of the *Crime and Corruption Act 2001* (CC Act); and
- b. set out how the Public Trust Office will deal with a complaint¹ or allegation that may involve 'corrupt conduct'.

2. Application

This policy applies to all employees of the Public Trust Office whether full-time, part time, casual, temporary, a contractor or consultant. It also applies to members of the public who wish to make a complaint which may involve 'corrupt conduct' as defined in s.15 of the CC Act.

This policy does not cover a complaint involving corrupt conduct against the Public Trustee of Queensland (i.e. the individual)².

3. Policy Statement

The Public Trust Office recognises that the management of corruption, including complaint reporting, is an integral part of good governance and management practice.

The Public Trust Office maintains a culture of honesty and integrity within the organisation and has in place processes that ensure the effective prevention, detection and management of corruption. To that end, the Public Trust Office has adopted a zero-tolerance approach on corruption in all operational activities, which is consistent with the Code of Conduct for the Queensland Public Service and the law.

4. Legislative Basis

- *Crime and Corruption Act 2001*
- *Public Service Act 2008*
- *Public Sector Ethics Act 1994*
- *Public Interest Disclosure Act 2010*
- *Criminal Code Act 1899*

Related Internal Policies and Codes

- *Code of Conduct for the Queensland Public Service (Code of Conduct)*
- *Public Interest Disclosure Policy*
- *Fraud and Corruption Control Policy*
- *Fraud and Corruption Control Procedure*
- *Fraud and Corruption Control Plan*
- *Complaints about the Public Official Policy*

5. Provisions

The following provisions underlie the implementation of this policy and guide our behaviour and decision-making with regard to giving effect to this policy. The application of this policy must be consistent with the following provisions.

¹ For the purpose of this policy a **complaint** includes an allegation or information or matter. Refer to 8. Definitions.

² Pursuant to the CC Act the Public Trustee of Queensland (the individual) is a Public Official. For details about how to make a complaint about corrupt conduct involving the Public Official refer to the Public Trust Office's *Complaints about the Public Official Policy Reporting Corrupt Conduct Policy*

5.1 Reporting corrupt conduct

Corrupt conduct can be reported to:

- any Public Trust Office employee, who must immediately refer any complaint which may involve corrupt conduct to the Crime & Corruption Commission (CCC) nominated officers (CCC nominated officers) who are:
 - the Deputy Public Trustee and Official Solicitor Legal Services; and
 - the Senior Director Governance and Risk.
- directly to the CCC – see www.ccc.qld.gov.au/corruption/report-corruption

5.2 Procedure for dealing with corrupt conduct

The Public Trustee of Queensland (the Public Official) must notify the CCC if it is reasonably suspected that corrupt conduct has occurred, in accordance with section 38 of the CC Act. There does not need to be a formal complaint from an aggrieved person — other information or matter may give rise to a reasonable suspicion.

Under the CC Act, the Public Trustee of Queensland (the Public Official) has responsibilities in relation to complaints about corrupt conduct to:

- **notify** the CCC of a complaint which the CCC nominated officers **reasonably suspect** involves, or may involve, corrupt conduct.³
- **deal with** complaints which may involve corrupt conduct referred to the Public Trust Office by the CCC, in the way the CCC nominated officers consider most appropriate, subject to directions given by the CCC.⁴
- **report** to the CCC about investigations involving corrupt conduct in the way and at the times the CCC directs.⁵

The responsibility to notify and report to the CCC may be delegated to the CCC nominated officers.

5.3 Other guidance

When handling a complaint which may involve corrupt conduct, guidance is available in the CCC's guide, *Corruption in Focus: a guide to dealing with corrupt conduct in the Queensland public sector*,⁶ which provides practical advice on meeting the Public Trust Office's obligations under the CC Act.

³ Sections 38 and 40 of the CC Act.

⁴ Sections 40, 43, 44, 46(2) (b) and (f) and 48(1) (c) (ii) of the CC Act.

⁵ Section 40 of the CC Act.

⁶ See www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus
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6. Roles and Responsibilities

Role	Responsibility
The Public Trustee of Queensland	<ul style="list-style-type: none"> Ensures the Public Trust Office is compliant with the CC Act. Informs the CCC of the delegation of their obligation to an appropriate officer/s to report corruption and relevant contact details of the officer/s.
(CCC Nominated Officers) Deputy Public Trustee and Official Solicitor Legal Services Senior Director Governance and Risk	<ul style="list-style-type: none"> Reporting of corruption and complaints about corrupt conduct to CCC. Dealing with complaints referred back from CCC.
Executive Directors	Ensure their areas of responsibility comply with this policy, related policies and the CC Act.
Employees	Report corruption, familiarise themselves with and comply with this policy.

7. Policy review and evaluation

The Senior Director Governance and Risk is responsible for the preparation, review and maintenance of this document. It will be reviewed annually or with a change to relevant legislation.

8. Definitions

Term	Definition
Complaint	Complaint means not only a formal complaint, but also— “information” that might be received through such means as routine agency audits, media articles, Crime Stoppers or the CCC’s intelligence activities or sources; “matter” that might be received through such means as court proceedings, or referrals from the Coroner or a public inquiry.
Conduct	is defined in the CC Act ⁷ to include— neglect, failure and inaction; and conspiracy to engage in conduct; and attempt to engage in conduct.
Corrupt conduct	See section 15 of the CC Act.
Deal with	To deal with a complaint involving corruption, is defined under the CC Act to include— <ul style="list-style-type: none"> investigate the complaint, information or matter; gather evidence for prosecutions for offences or disciplinary proceedings; refer the complaint, information or matter to an appropriate authority to start a prosecution or disciplinary proceeding; start a disciplinary proceeding; and take other action, including managerial action, to address the complaint

⁷ Section 14 of the CC Act.
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	appropriately.
Fraud	<p>Fraud is normally characterised by some form of deliberate deception in order to obtain a benefit. The official definition is contained in Australian Standard - AS8001-2008: Fraud and Corruption Control.</p> <p>Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position.</p>
Investigation	<p>A formal investigation process involves the appointment of an Investigator by the Public Trustee of Queensland, or CCC nominated officers.</p> <p>The final product of a formal investigation is an investigation report. The Investigator must prepare and provide a report to the appointer.</p> <p>After considering the report, the Public Trustee of Queensland, or CCC nominated officers, may take the action they consider appropriate in relation to the matters identified in the report.</p>
Maladministration	<p>The <i>Public Interest Disclosure Act 2010</i> defines maladministration as administrative action that was taken contrary to law, or was unreasonable, unjust, oppressive, or improperly discriminatory; or was taken for an improper purpose; or on irrelevant grounds; or having regard to irrelevant considerations; or was an action for which reasons should have been given, but were not given; or was based wholly or partly on a mistake of law or fact; or was wrong.</p>
Professional Misconduct	<p>Professional misconduct is misconduct connected with exercising the skill of a professional or engaging in the performance of the specified duties or activities of a position.</p> <p>Professional misconduct can also be corrupt conduct if it meets the four elements under section 15 of the CC Act (see definition of 'corrupt conduct' above).</p> <p>While professional misconduct only rarely amounts to corrupt conduct, it can do so even when there is no criminal offence involved.</p> <p>In such cases, the conduct must involve repeated behaviour (including neglect, failure and inaction) that undermines the trust placed in the person by virtue of their position; or be a single incident of behaviour indicating a callous or reckless disregard for, or indifference to, the skills required for the proper discharge of the duties of the position.</p>

9. Reference

Australian Standard - AS8001-2008: Fraud and Corruption Control

Crime & Corruption Commission. *Corruption in focus: a guide to dealing with corrupt conduct in the Queensland public sector*. 2014