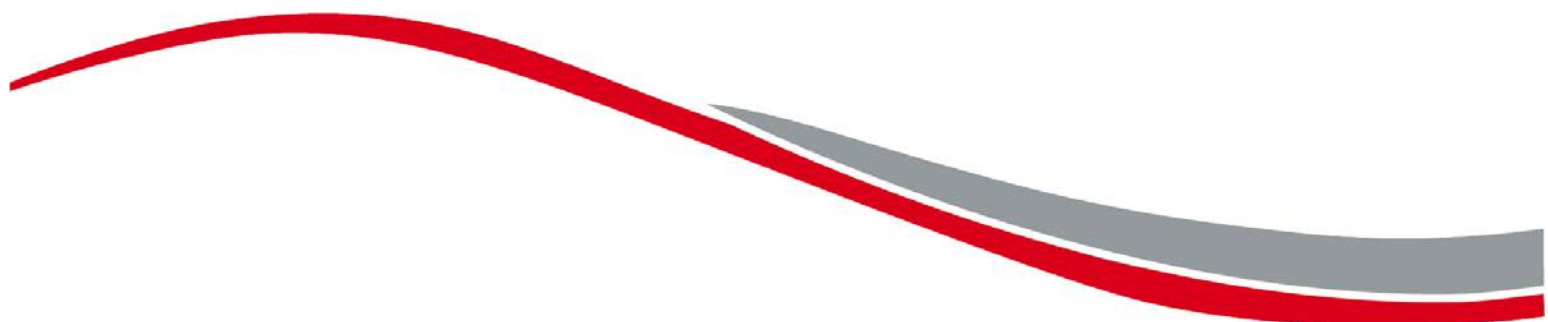




**The Public Trustee**

## **Complaints about the Public Official**

**December 2016**



## Document Information

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## 1. Purpose

The Public Trustee of Queensland (the Public Trustee) is the public official of the Public Trust Office.

The purpose of this policy is to set out how the Public Trust Office will deal with a complaint (also information or matter) that involves or may involve corrupt conduct of the Public Trustee as defined in the *Crime and Corruption Act 2001* (CC Act).

## 2. Application

This policy applies:

- if there are grounds to suspect that a complaint may involve corrupt conduct of the Public Trustee; and
- to all persons who hold an appointment in, or are employees of, the Public Trust Office.

For the purpose of this policy a complaint includes information or matter.

## 3. Policy Statement

The policy is designed to assist the Public Trust Office:

- comply with s48A of the CC Act;
- promote public confidence in the way suspected corrupt conduct of the Public Trustee for the Public Trust Office is dealt with (s34(c) CC Act); and
- promote accountability, integrity and transparency in the way the Public Trust Office deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Public Trustee.

## 4. Legislative Basis

- *Crime & Corruption Act 2001*

## 5. Nominated person

Having regard to s48A(2) and (3) of the CC Act, this policy nominates:

- The Deputy Public Trustee and Official Solicitor Legal Services and the Senior Director Governance and Risk as the nominated person; and
- to notify the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.

Where there is more than one nominated person:

- the nominated persons will — with or without consulting the CCC or the Attorney-General and Minister for Justice — decide who will be the nominated person for a particular complaint; and
- the nominated person for that particular complaint will inform the CCC and the Attorney-General and Minister for Justice that they are the nominated person for the particular complaint.

Once the Public Trust Office nominates a person, the CC Act applies as if a reference about notifying or dealing with the complaint to the Public Trustee is a reference to the nominated person.

## **6. Complaints about the Public Trustee**

### ***Complaint involving a reasonable suspicion of corrupt conduct***

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

- the nominated person, or
- a person to whom there is an obligation to report under an Act (this does not include an obligation imposed by ss37, 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 Public Trustee, they are to:

- a) notify the CCC of the complaint, and
- b) deal with the complaint, subject to the CCC's monitoring role, when -
  - directions issued under s40 apply to the complaint, if any, or
  - pursuant to s46, the CCC refers the complaint to the Deputy Public Trustee and Official Solicitor Legal Services or the Senior Director Governance & Risk to deal with.

If the Public Trustee reasonably suspects that the complaint may involve corrupt conduct on their part, and there are nominated persons, the Public Trustee must:

- report the complaint to the nominated persons 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 in consultation with the Attorney-General and Minister for Justice.

Where there is a nominated person, and if directions issued under s40 apply to the complaint:

- the nominated person is to deal with the complaint, and
- the Public Trustee is to take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Attorney-General and Minister for Justice.

The CCC requires as much detail as possible to be reported to help assess the complaint.

## **7. Resourcing the Public Trustee and nominated persons**

If pursuant to ss40 or 46, the nominated persons have responsibility to deal with the complaint:

1. the Public Trust Office will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately, and
2. 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 or nominated person responsible for dealing with the complaint.

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,
- the importance of promoting public confidence in the way suspected corrupt conduct in the Public Trust Office is dealt with, and
- the Public Trust Office 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 Public Trustee to direct and control staff of the Public Trust Office as if the nominated person is the Public Trustee for the purpose of dealing with the complaint only;
- are delegated the same authority, functions and powers as the Public Trustee to enter into contracts on behalf of the Public Trust Office for the purpose of dealing with the complaint; and
- do not have any authority, function or power that cannot — under the law of the Commonwealth or the State — be delegated by either the Attorney-General and Minister for Justice or the Public Trustee to the nominated person.

## 8. Liaising with the Crime & Corruption Commission

The Public Trustee is to keep the CCC and the nominated person informed of:

- the contact details for the Public Trustee and the nominated persons
- any proposed changes to this policy.

## 9. Consulting with the Crime & Corruption Commission

The Public Trustee will consult with the CCC when preparing any policy about how the Public Trust Office will deal with a complaint that involves or may involve corrupt conduct of the Public Trustee.

## 10. Policy review and evaluation

This policy will be reviewed annually or with a change to relevant legislation.

## 11. Definitions

Term	Definition
Crime and Corruption Commission (CCC)	the Commission continued in existence under the <i>Crime and Corruption Act 2001</i>
CC Act	<i>Crime and Corruption Act 2001</i>
Complaint	includes information or matter. See definition provided by s48A(4) of the CC Act
Corruption	see Schedule 2 (Dictionary) of the CC Act
Corrupt conduct	see s15 of the CC Act
<i>Corruption in Focus</i>	<a href="http://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</a> ; see chapter 2, page 2.5
Deal with	see Schedule 2 (Dictionary) of the CC Act
Nominated person	see item 5 of this policy
Police misconduct	see Schedule 2 (Dictionary) of the CC Act
Public Official/CEO	see Schedule 2 (Dictionary) and also s48A of the CC Act
Unit of public administration (UPA)	see s20 of the CC Act

## **12. References**

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