



**The Public Trustee**

## **Reporting Corrupt Conduct Policy**

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## Document Information

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### Revision History

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1.0	Dec 2015	The Public Trustee of Queensland	Approved policy
1.1	Nov 2016	A/Senior Director, Governance & Risk	Annual review
1.2	Nov 2017	Senior Advisor, Governance	Annual review incorporating EMT feedback
1.3	Mar 2019	Senior Advisor, Governance	Revised to reflect legislative amendments concerning the definition of corrupt conduct
2020.1	02/06/2020	Manager, Ethics and Integrity	General update and policy owner changed to Human Resource Services. Reviewed in consideration of the <i>Human Rights Act 2019 (Qld)</i> .
2020.2	25/06/2020	Manager, Ethics and Integrity	Updated to reflect feedback provided by CCC.
2022.1	13/01/2022	Senior Advisor, Customer Advocacy Ethics and Integrity	Annual policy review. Updated to reflect structural movement of the Ethics and Integrity function from HR Services to Independent Services.

### Contact

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## 1. Purpose

The policy sets out the process for reporting suspected corrupt conduct as defined in section 15 of the [Crime and Corruption Act 2001](#) (CC Act) and how the Public Trustee (PT) deals with suspected corrupt conduct.

## 2. Application

This policy applies to all workplace participants including employees, volunteers, contractors and consultants. Members of the public who want to make a complaint of alleged corrupt conduct may also use this policy.

This policy does not cover a complaint about suspected corrupt conduct by the Public Official (that is, The Public Trustee of Queensland). See the [Complaints about the Public Official Policy](#) for more information.

## 3. Policy statement

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

The PT 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 PT 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 and policy basis

- [Code of Conduct for the Queensland Public Service](#) (Code of Conduct)
- [Complaints about the Public Official Policy](#)
- [Crime and Corruption Act 2001](#)
- [Crime and Corruption Commission Corruption in focus: a guide to dealing with corrupt conduct in the Queensland public sector](#)
- [Criminal Code Act 1899](#)
- [Fraud and Corruption Control Plan](#)
- [Fraud and Corruption Control Policy and Procedure](#)
- [Public Interest Disclosure Act 2010](#)
- [Public Interest Disclosure Policy](#)
- [Public Sector Ethics Act 1994](#)
- [Public Service Act 2008](#)

## 5. Principles

The first principle of the [Code of Conduct](#) is 'Integrity and Impartiality', which requires all employees to meet their obligations to report suspected wrongdoing, including conduct not consistent with the Code of Conduct.

The Code of Conduct defines employees as:

- any Queensland public service agency employee whether permanent, temporary, full time, part time or casual; and
- any volunteer, student, contractor, consultant or anyone who works in any other capacity for a Queensland public service agency.

Where an employee becomes aware of or suspects wrongdoing, they must immediately report it to an appropriate authority. Disciplinary action may be taken against an employee who fails to report acts or suspicions of corrupt conduct. A failure to report suspected corrupt conduct can in itself be corrupt conduct.

## 5.1 Reporting corrupt conduct

An employee who suspects another employee of engaging in corrupt conduct has a duty to immediately report the matter to their manager. Volunteers and others who are not employees are to report such matters to the person who supervises their work.

Managers are required to immediately notify the Director, Independent Services and the Customer Advocate.

If the matter concerns the Director, Independent Services and the Customer Advocate then managers are required to immediately notify the Public Trustee of Queensland and CEO.

An employee may report matters of suspected corrupt conduct to another senior officer where the disclosure involves allegations in relation to the conduct of their immediate manager.

Alternatively, employees may report matters of suspected corrupt conduct directly to the Crime and Corruption Commission (CCC), following any process established by the CCC for making corrupt conduct complaints.

To report suspected corrupt conduct, there does not need to be a formal complaint from an aggrieved person. Suspected corrupt conduct may arise from other information or matter such as the findings of an audit report or in the course of resolving a grievance.

Suspected corrupt conduct does not have to be serious corrupt conduct and you do not require proof that it has actually occurred when reporting suspected corrupt conduct. Some complaints may appear minor yet turn out to be quite serious, or an aggregation of minor issues can indicate a systemic problem.

Any employee who reports or receives information about suspected corrupt conduct must be careful from the outset to maintain confidentiality, as a public interest disclosure may be involved (see the [Public Interest Disclosure Policy and Procedure](#)) and it preserves the integrity of any review or other process to deal with the alleged conduct.

## 5.2 Dealing with suspected corrupt conduct

Section 38 of the CC Act places an obligation on the public official (that is, The Public Trustee of Queensland) to notify the CCC where there is reasonable suspicion that a complaint, information or matter involves, or may involve, corrupt conduct.

The Public Trustee of Queensland has delegated the responsibility to the Director, Independent Services and the Customer Advocate and any officer of the Independent Services Unit acting under the Director's instruction and guidance to notify the CCC of a complaint and to deal with the complaint under the Act (on occasions where the CCC refers the complaint to a nominated person to deal with).

Where a complaint, information or matter concerns the Director, Independent Services and the Customer Advocate or an officer of the Independent Services Unit then The Public Trustee of Queensland and CEO will deal with the complaint, information or matter.

For all other matters, a nominated person will assess the information and make the necessary referrals to the CCC for endorsement and authorisation to proceed with the management of the complaint, information or matter. This includes determining whether the conduct amounts to corrupt conduct under the CC Act (see [Appendix 1](#) for more information).

In accordance with section 44 of the CC Act, nominated person may choose to take no action or discontinue action taken to deal with the complaint. Alternatively, they may ask the CCC to assist in dealing with the complaint.

If a person makes a complaint that is dealt with by the PT, the PT must give a response stating:

- if no action is taken, or action is discontinued – the reason for that decision
- if action is taken – the action taken, the reason the PT considers the action appropriate in the circumstances and any results of the action known at the time of the response.

The PT is not required to give a response to the person if the person has not given their name and address, or does not require a response, or if disclosing information would be contrary to the public interest.

Where criminal conduct is alleged, a report to the Queensland Police Service may be necessary before any action is taken by the PT.

## 6. Recordkeeping requirements

If the nominated person decides that a complaint, or information or matter, about alleged corrupt conduct is not required to be notified to the CCC under s38 of the CCC Act, the nominated person must make a record of the decision. The record must include:

- a. the details of the complaint or information or matter; and
- b. the evidence on which the nominated person relied in making the decision; and
- c. any other reasons for the decision.

The information recorded should be sufficient for a reasonable person to understand how and why the decision was made, including how it was assessed against the definition of corrupt conduct and why it did not meet the threshold for notification to the CCC. Any conflict of interest issues should be identified and recorded, including detailing the steps taken to deal with any perceived or actual conflicts.

## 7. Roles and responsibilities

Role	Responsibility
<p><b>The public official</b> The Public Trustee of Queensland and CEO</p>	<ul style="list-style-type: none"> <li>• Ensure the PT is compliant with the CC Act.</li> <li>• Inform the CCC of nominations made in accordance with sections 48A(2) and 48A(3) of the CC Act.</li> <li>• Make a record of alleged corrupt conduct not notified to the CCC, in accordance with section 40A of the CC Act (where the public official is the decision-maker).</li> </ul>
<p><b>Nominated persons to notify the CCC of a complaint and to deal with the complaint</b></p> <ol style="list-style-type: none"> <li>1. Director, Independent Services and the Customer Advocate</li> <li>2. An officer of the Independent Services Unit acting under the instruction and guidance of the Director, Independent Services and the Customer Advocate</li> </ol>	<ul style="list-style-type: none"> <li>• Report corruption and complaints about corrupt conduct to CCC.</li> <li>• Make a record of alleged corrupt conduct not notified to the CCC, in accordance with section 40A of the CC Act (where the nominated person is the decision-maker).</li> <li>• Deal with complaints referred from the CCC.</li> </ul>
<p><b>Senior and Executive Directors</b></p>	<p>Ensure their areas of responsibility comply with this policy, related policies and the CC Act.</p>
<p><b>Employees</b></p>	<p>Report corruption, and familiarise themselves with and comply with this policy.</p>

## 8. Policy review and evaluation

The Director, Independent Services and the Customer Advocate will review this policy annually and upon any change to relevant legislation.

## 9. Definitions

Term	Definition
<b>Complaint</b>	<p>Complaint means not only a formal complaint, but also—</p> <p>“<b>information</b>” that might be received through such means as routine agency audits, media articles, Crime Stoppers or the CCC’s intelligence activities or sources;</p> <p>“<b>matter</b>” that might be received through such means as court proceedings, or referrals from the Coroner or a public inquiry.</p>
<b>Conduct</b>	<p>As defined in section 14 of the CC Act. It includes neglect, failure and inaction, conspiracy to engage in conduct and attempts to engage in conduct.</p>
<b>Corrupt conduct</b>	<p>As defined in section 15 of the CC Act. Under the Act, there are two different types of corrupt conduct.</p> <p>“<b>Type A</b>” corrupt conduct involves conduct that affects, or could affect, a public officer (an employee of a public sector agency such as the PT) so that the performance of their functions or the exercise of their powers:</p> <ul style="list-style-type: none"><li>• is not honest or impartial, or</li><li>• knowingly or recklessly breaches public trust, or</li><li>• involves the misuse of agency-related information or material.</li></ul> <p>Common examples of Type A corrupt conduct include fraud and theft, extortion, unauthorised release of information, obtaining or offering a secret commission and nepotism.</p> <p>“<b>Type B</b>” corrupt conduct involves specific types of conduct that impair, or could impair, public confidence in public administration. This may include:</p> <ul style="list-style-type: none"><li>• collusive tendering, or</li><li>• fraud relating to an application for a licence, permit or other authority relating to public health or safety; the environment; or the State's natural, cultural, mining or energy resources, or</li><li>• dishonestly obtaining public funds or State assets, or</li><li>• evading a State tax, levy or duty or fraudulently causing a loss of State revenue, or</li><li>• fraudulently obtaining or retaining an appointment.</li></ul> <p>Both Type A and Type B corrupt conduct must be either a criminal offence or serious enough to warrant dismissal. See <a href="#">Appendix 1</a> for more information.</p>

Term	Definition
<b>Deal with</b>	<p>Dealing with a complaint, information or matter includes:</p> <ul style="list-style-type: none"> <li>• investigating</li> <li>• gathering evidence for prosecutions for offences or disciplinary proceedings</li> <li>• referring the complaint, information or matter to an appropriate authority to start a prosecution or disciplinary proceeding;</li> <li>• starting a disciplinary proceeding; and</li> <li>• taking other action, including managerial action, to address the complaint appropriately.</li> </ul>
<b>Fraud</b>	<p>Fraud is normally characterised by some form of deliberate deception in order to obtain a benefit. The official definition is contained in <a href="#">Australian Standard - AS8001-2008: Fraud and Corruption Control</a>).</p> <p>Fraud is 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.</p> <p>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>
<b>Investigation</b>	<p>A formal investigation process involves the appointment of an investigator by The Public Trustee of Queensland and CEO, or a nominated person.</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 and CEO or nominated person may take any action they consider appropriate in relation to the matters identified in the report.</p>



# Appendix 1

## How to determine what is corrupt conduct

Each type of corrupt conduct has three essential elements, which are listed in the tables below. To be corrupt conduct, the answer to the all three questions for either Type A or Type B must be 'Yes'. If not, it is unlikely that the conduct would amount to corrupt conduct under the CC Act.

Key questions for determining corrupt conduct - Type A	Response
<p><b>1. Effect of the conduct:</b> does the conduct adversely affect, or have the potential to adversely affect, how a public agency or public official carries out their duties or exercises their powers?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>2. Result of the conduct:</b> has the conduct resulted, or could it result, in the performance of duties or exercise of powers in a way that:</p> <ul style="list-style-type: none"> <li>• is not honest or impartial, or</li> <li>• involves a breach of the trust placed in a person holding an appointment in a public agency, either knowingly or recklessly, or</li> <li>• involves a misuse of information or other material related to the performance of powers or exercise of functions of a person holding an appointment in a public agency?</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>3. Criminal offence or serious disciplinary breach:</b> if proved, would the conduct be a criminal offence, or a disciplinary breach providing reasonable grounds for dismissal, if the person is or were the holder of an appointment?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Key questions for determining corrupt conduct - Type B	Response
<p><b>1. Effect of the conduct:</b> does the conduct impair, or have the potential to impair, public confidence in public administration?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>2. Type of conduct:</b> has the conduct resulted, or could it result, in the performance of duties or exercise of powers in a way that is:</p> <ul style="list-style-type: none"> <li>• collusive tendering, or</li> <li>• fraud relating to an application for a licence, permit or other authority for protecting people's health or safety, protecting the environment, or protecting or managing the use of the State's natural, cultural, mining or energy resources, or</li> <li>• dishonestly obtaining or helping to obtain a benefit from the payment or application of public funds or the disposition of State assets, or</li> <li>• evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue, or</li> <li>• fraudulently obtaining or retaining an appointment?</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>3. Seriousness of the conduct:</b> if proved, would the conduct be a criminal offence, or a disciplinary breach providing reasonable grounds for dismissal, if the person is or were the holder of an appointment in a public agency?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

Source: *Crime and Corruption Commission*