

Corrupt Conduct Complaints involving the Electoral Commissioner

Version 2.0

Approval



Pat Vidgen

Electoral Commissioner

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Version history

Version	Notes	Author	Date of Change
1.0A	Draft	Acting Director, Strategy, Policy and Governance	April 2019
1.0	Issued for use	Electoral Commissioner	May 2019
1.1	Reviewed and updated	Principal Policy Officer, Strategy and Governance	October 2023
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2.0	Issued for use	Electoral Commissioner	

Review

This policy will be reviewed **every four years** from the approval date, or if the relevant regulatory frameworks change in a way that means this policy is no longer contemporary.

Purpose

This policy sets out how the Electoral Commission of Queensland (ECQ) will deal with complaints (which includes information or matters) about the Electoral Commissioner (the Commissioner) involving allegations of suspected corrupt conduct, as defined in the *Crime and Corruption Act 2001* (the CC Act).

Rationale

This policy is designed to assist the ECQ to:

1. Comply with section 48A of the CC Act, which requires the ECQ to prepare a policy about how it will deal with complaints that involve or may involve corrupt conduct by the Commissioner.
2. Promote public confidence in the way suspected corrupt conduct of the Commissioner is dealt with under section 34(c) of the CC Act. Units of public administration such as the ECQ are primarily responsible for undertaking action to prevent and deal with cases of corrupt conduct.
3. Promote accountability, integrity and transparency in the way the ECQ deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Commissioner.

Guiding Principles

1. The ECQ has responsibility for dealing with inappropriate behaviour of staff at all levels and implementing policies that minimise the risk of corrupt conduct in the workplace.
2. The ECQ will deal with matters impartially and apply the principles of natural justice (procedural fairness) to all matters of suspected corrupt conduct.
3. Confidentiality is fundamental for reporting and dealing with corrupt conduct complaints.
4. All matters of suspected corrupt conduct, as defined by the CC Act, must be notified to the Crime and Corruption Commission (CCC) by the responsible person in accordance with this policy.
5. All ECQ staff should be aware of the ECQ's integrity framework and other processes for managing complaints including the *Code of Conduct*, as well as the ECQ's *Fraud and Corruption Control Policy* and *Fraud and Corruption Control Plan*.

Policy

This policy applies if there are reasonable grounds to suspect a complaint may involve corrupt conduct by the Commissioner. All persons who hold an appointment, or are an employee of the ECQ, must adhere to the requirements set out in this policy.

1. Nominated person

Having regard to section 48A(2) and (3) of the CC Act, this policy nominates the Director-General, Department of Justice and Attorney-General as the nominated person to notify the CCC of complaints that may involve corrupt conduct of the Commissioner and to deal with such complaints under the CC Act.

Complaints that may involve corrupt conduct by the Commissioner should be directed to:

The Office of the Director-General,
The Department of Justice and Attorney-General
GPO Box 149
Brisbane, QLD, 4001
Email: DGs.office@justice.qld.gov.au
Telephone: (07) 3028 7708

The CC Act applies to the nominated person as if a reference about notifying or dealing with a complaint to the Commissioner is a reference to the nominated person.

2. Complaints about the Commissioner

If a complaint may involve an allegation of corrupt conduct of the Commissioner, the complaint may be reported:

- to the nominated person
- to a person to whom there is an obligation to report under another Act (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 Commissioner, they are to:

- a) notify the CCC of the complaint¹, and
- b) deal with the complaint, subject to the CCC's monitoring role, if pursuant to section 46 of the CC Act, the CCC refers the complaint to the nominated person to deal with².

If the Commissioner receives a complaint and reasonably suspects that the complaint may involve corrupt conduct on their own part, the Commissioner must:

- a) report the complaint to the nominated person as soon as practicable and may also notify the CCC, and
- b) take no further action to deal with the complaint unless requested to do so by the nominated person.

¹Under section 38, subject to section 40 of the CC Act

²Under sections 43 and 44 of the CC Act

3. Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct of the Commissioner 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.

4. Resourcing the nominated person

If pursuant to section 46 of the CC Act, the nominated person has responsibility to deal with the complaint, the ECQ will ensure sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately³. The nominated person is to contact the Assistant Electoral Commissioner for the purposes of negotiating access to resources.

The nominated person is to ensure that any consultations for the purpose of securing resources to deal with the complaint are confidential and limited to the CCC and only those staff that can assist in the allocation of those resources.

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 Act⁴
- the importance of promoting public confidence in the way suspected corrupt conduct in the ECQ is dealt with⁵
- the ECQ's 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 Commissioner to direct and control staff of the ECQ as if the nominated person is the Commissioner for the purpose of dealing with the complaint only
- are delegated the same authority, functions and powers as the Commissioner to enter into contracts by the ECQ 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 the Commissioner, to the nominated person.

³ See the CCC's corruption purposes and function set out in sections 4(1)(b), 33, 34, 35 and the ECQ's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint

⁴See sections 57 and the CCC's corruption purposes and function set out in sections 4(1)(b), 33, 34, 35 of the CC Act

⁵See section 34(c) CC Act

5. Liaising with the CCC

The Commissioner is to keep the CCC and the nominated person informed of the contact details of the Commissioner and the nominated person as well as any proposed changes to this policy.

6. Consultation with the CCC

The Commissioner will consult with the CCC when preparing any policy about how the ECQ will deal with a complaint that involves or may involve corrupt conduct by the Commissioner.

Delegations

1. The Commissioner delegates the responsibility to notify the CCC of suspected corrupt conduct to the nominated person where the allegations relate directly to the conduct of the Commissioner.
2. The Assistant Electoral Commissioner is to provide necessary support to the nominated person as required.

Appendix 1 — Definitions

Definitions

Term	Definition	Reference (if applic.)
CC Act	<i>Crime and Corruption Act 2001</i>	
CCC	Crime and Corruption Commission	
Complaint	Complaint involving or that may involve corruption, including information or matter that is relevant to the complaint.	section 48A(4) of the <i>Crime and Corruption Act 2001</i>
Corruption	Corrupt conduct or police misconduct	Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Corrupt conduct	See section 15 of the <i>Crime and Corruption Act 2001</i> . For more information see the CCC's guide Corruption in Focus Chapter 1	section 15 of the <i>Crime and Corruption Act 2001</i>
Deal with	<p>deal with, a complaint about corruption or information or matter involving corruption, includes—</p> <p>(a) investigate the complaint, information or matter; and</p> <p>(b) gather evidence for—</p> <p style="padding-left: 40px;">(i) prosecutions for offences; or</p> <p style="padding-left: 40px;">(ii) disciplinary proceedings; and</p> <p>(c) refer the complaint, information or matter to an appropriate authority to start a prosecution or disciplinary proceeding; and</p> <p>(d) start a disciplinary proceeding; and</p> <p>(e) take other action, including managerial action, to address the complaint in an appropriate way.</p>	Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Nominated person	<p>In instances where complaints involving or may involve corruption of a public official another person may be nominated to notify the CCC and deal with the complaint.</p> <p>In carrying out their duties under the CC Act, they have all the same powers and responsibilities in dealing with complaints as the public official.</p> <p>As per section 1 of this policy, the ECQ's nominated person is the Director-General, Department of Justice and Attorney-General.</p>	s48A of the <i>Crime and Corruption Act 2001</i>

Term	Definition	Reference (if applic.)
Public official	<p>public official means—</p> <ul style="list-style-type: none"> (a) the ombudsman; or (b) the chief executive officer of a unit of public administration, including the commissioner of police; or (c) a person who constitutes a corporate entity that is a unit of public administration; or (d) the inspector of detention services under the <i>Inspector of Detention Services Act 2022</i>. <p>The public official for the ECQ is the Electoral Commissioner.</p>	Schedule 2 (Dictionary) and s48A of the <i>Crime and Corruption Act 2001</i>
Unit of public administration (UPA)	<p>Each of the following is a unit of public administration—</p> <ul style="list-style-type: none"> (a) the Legislative Assembly, and the parliamentary service; (b) the Executive Council; (c) a department; (d) the police service; (da) a local government; (e) a corporate entity established by an Act or that is of a description of a corporate entity provided for by an Act which, in either case, collects revenues or raises funds under the authority of an Act; (f) a noncorporate entity, established or maintained under an Act, that— <ul style="list-style-type: none"> (i) is funded to any extent with State moneys; or (ii) is financially assisted by the State; (g) a State court, of whatever jurisdiction, and its registry and other administrative offices; (h) another entity prescribed under a regulation. <p>For the purposes of the CC Act the ECQ is a unit of public administration.</p>	s20(1)(f) of the <i>Crime and Corruption Act 2001</i>

Appendix 2 — Regulatory Framework

Legislative framework

- *Electoral Act 1992*
- *Crime and Corruption Act 2001*
- *Criminal Code Act 1899*
- *Public Interest Disclosure Act 2010*
- *Public Sector Act 2022*
- *Local Government Electoral Act 2011*
- *Referendums Act 1997*

ECQ policy framework •

- Corrupt Conduct Complaints Policy (applying to ECQ staff)
- Complaints Management Policy
- Employee Complaints Policy
- Fraud and Corruption Control Policy
- Fraud and Corruption Control Plan
- Public Interest Disclosure Policy
- Queensland Public Service Code of Conduct

Further information

- *Assessing complaints of corrupt conduct: a guide for assessors and decision makers, Crime and Corruption Commission*
- *Corruption in Focus: A guide to dealing with corrupt conduct in the Queensland public sector, Crime and Corruption Commission*
- *Fraud and Corruption Control: Best Practice Guide, Crime and Corruption Commission*
- *Public Interest Disclosure standards, Queensland Ombudsman*