

Complaints about the Commissioner (*Crime and Corruption Act 2001, s 48A*) Policy

Objective

This policy sets out how the QBCC will **deal with a complaint** that involves, or may involve, **corrupt conduct**, by the Commissioner, as required by s 48A of the *Crime and Corruption Act 2001* (CC Act).

The Commissioner is the **public official** of the Queensland Building and Construction Commission (QBCC) for the purposes of the CC Act. As QBCC's public official, the Commissioner has obligations under the CC Act to deal with complaints about QBCC employees that involve, or may involve, corrupt conduct.

This policy provides an alternative mechanism for dealing with such complaints about the Commissioner him or herself.

Policy rationale

The policy is designed to:

1. comply with s 48A of the CC Act, and
2. promote public confidence in the way that the QBCC will deal with a reasonable suspicion of corrupt conduct of the Commissioner (s 34(c) CC Act).

Definitions

CCC	Means the Crime and Corruption Commission.
Chairperson	Means the person appointed as the Chairperson of QBCC Board under s 16 of the <i>Queensland Building and Construction Commission Act 1991</i> .
Commissioner	Means the person appointed as Commissioner pursuant to s 20D of the <i>Queensland Building and Construction Commission Act 1991</i> .
Complaint	Includes any direct expression of dissatisfaction with or concern about the Commissioner's conduct, and any information or matter from which dissatisfaction or concern with the Commissioner's conduct can be discerned or inferred.
Corruption	Means corrupt conduct.
Corrupt Conduct	As defined by s 15 of the CC Act, means conduct that: <ul style="list-style-type: none"> • adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of QBCC or the Commissioner, and • results, or could result, directly or indirectly, in the performance of functions or exercise of powers in a way <ul style="list-style-type: none"> ○ that is not honest or impartial, or ○ involves a breach of the public trust, or ○ involves a misuse of information, and • would, if proved, be a criminal offence or a disciplinary breach providing grounds for termination.

	<p>It also means conduct that:</p> <ul style="list-style-type: none"> • impairs, or could impair, public confidence in public administration, and involves, or could involve, any of the following: <ul style="list-style-type: none"> o collusive tendering; o fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of - <ul style="list-style-type: none"> (A) protecting health or safety of persons; (B) protecting the environment; (C) protecting or managing the use of the State's natural, cultural, mining or energy resources; o dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets o evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue, or o fraudulently obtaining or retaining an appointment; and • would, if proved, be a criminal offence or a disciplinary breach providing grounds for termination.
Deal with	<p>Means taking action with respect to a complaint, including:</p> <ul style="list-style-type: none"> • communicating with the person who made the complaint • assessing the complaint • deciding to take no action on the complaint in accordance with s 44 of the CC Act • taking managerial action to address the complaint • investigating the complaint • instituting disciplinary proceedings in relation the conduct complained of • referring the complaint to another appropriate authority to deal with it, and • taking other action to address the complaint in an appropriate way.
Deputy Chairperson	<p>The person appointed as the Deputy Chairperson of QBC Board under s 17 of the <i>Queensland Building and Construction Commission Act 1991</i>.</p>
Nominated person	<p>The persons nominated in this Policy, in accordance with s 48A of the CC Act, to deal with complaints about corrupt conduct by the Commissioner.</p>
Public Officer	<p>Defined in the CC Act to be 'the chief executive officer of a unit of public administration' - in this case the QBC Commissioner.</p>

Policy application

This policy applies to complaints from any person, including QBCC employees and contractors, and members of the public.

It applies:

- if a person makes a complaint to the QBCC that gives rise to a reasonable suspicion that the complaint involves, or may involve, corrupt conduct of the Commissioner, and
- if a person makes a complaint to the CCC that gives rise to a reasonable suspicion that the complaint involves, or may involve, corrupt conduct of the Commissioner, and the CCC refers the complaint to the QBCC to deal with in accordance with the CC Act.

The following non-exhaustive list are indicators of the types of conduct which may form a reasonable basis to suspect corrupt conduct:

- Fraud and theft
- Extortion
- Unauthorised release of information
- Obtaining or offering a secret commission

- Nepotism
- Collusive tendering.

Nominated persons

The following persons are nominated for the purposes of s 48A(2) and (3) of the CC Act:

- The **Chairperson**, and
- The **Deputy Chairperson**.

Complaints about the Commissioner

Any person who wishes to make a complaint that involves, or may involve, corrupt conduct by the Commissioner, may complain directly to the CCC.

Alternatively, the complaint may be made to a nominated person in accordance this policy via email: integrity@qbcc.qld.gov.au.

The CC Act then applies as if references to the public official being notified of and dealing with the complaint were references to the nominated person instead.

If the Commissioner directly receives a complaint about him or herself, which involves or may involve an allegation of corrupt conduct, the Commissioner must:

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

If the nominated person reasonably suspects that any complaint they receive involves or may involve corrupt conduct by the Commissioner, they must:

- notify the CCC of the complaint (s 38 CC Act), and
- deal with the complaint, subject to the CCC's monitoring role, in accordance with s 44 of the CC Act.

In dealing with the complaint, the nominated person may seek the assistance of the Director, Integrity and Complaints, and/or external legal counsel.

If the nominated person decides that the complaint does not give rise to a reasonable suspicion of corrupt conduct by the Commissioner, they must make a record of the decision in accordance with s 40A of the CC Act. The record must include:

- the details of the complaint or information or matter
- the evidence on which the nominated person relied in making the decision,
- any other reasons for the decision.

If there is no reasonable suspicion of corrupt conduct by the Commissioner, the nominated person will then refer the complaint to the Director of Integrity and Complaints to be managed in accordance with the:

- Public Interest Disclosure Policy and Procedure
- Managing Employee Complaints Policy, and/or
- Customer Feedback Policy.

Resourcing the nominated person

If the nominated person has responsibility to deal with the complaint in accordance with the CC Act:

- (i) the QBCC will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately, and
- (ii) the nominated person is to ensure that any consultations for the purpose of securing resources sufficient to deal with the complaint are confidential, and not disclosed except to the Director, Integrity and Complaints and the CCC.

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 QBCC is dealt with, and
- QBCC’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 QBCC as if the nominated person is the Commissioner of QBCC for the purpose of dealing with the complaint only
- are delegated the same authority, functions and powers as the Commissioner to enter into contracts on behalf of the QBCC for the purpose of dealing with the complaint, and
- do not have any authority, function, or power that cannot legally be delegated by either the Chairperson or the Commissioner, to the nominated person.

Liaising with the CCC about this policy

The Commissioner will consult with the CCC when preparing any policy about how QBCC will deal with a complaint that involves or may involve a reasonable suspicion of corrupt conduct of the Commissioner. The Commissioner is to keep the CCC and the nominated person/s informed of:

- the contact details for the Commissioner and the nominated person/s; and
- any proposed changes to this policy.

Approval Authority	QBC Board Chair & Deputy Chair, as authorised delegates of the QBC Board: Adopted by the QBCC
Date	28 October 2019
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Related Documents	Public Interest Disclosure Policy and Procedure Managing Employee Complaints Policy Customer Feedback Policy