

Corrupt Conduct Guideline

Version 3

This guideline explains how to make a complaint concerning the Queensland Competition Authority that may involve 'corrupt conduct', as defined in section 15 of the *Crime and Corruption Act 2001* (Qld) (CC Act).

1. Scope/application

This guideline applies to the QCA's Members, Chief Executive Officer (CEO), employees, consultants and contractors in relation to all of their dealings with, as well as for and on behalf of, the QCA.

2. What is corrupt conduct?

'Corrupt conduct' is defined in the [CC Act](#) as the conduct of a person (regardless of whether the person holds or held an appointment) that fulfils **each** of the following elements:

- adversely affects, or could adversely affect, directly or indirectly, the performance of functions, or the exercise of powers of a unit of public administration (UPA)¹ or a person holding an appointment in a UPA
- results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned above in a way that is not honest or is not impartial; or involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment
- would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

Corrupt conduct also means conduct of a person (regardless of whether the person holds or held an appointment) that fulfils each of the following elements:

1. impairs, or could impair, public confidence in public administration
2. involves, or could involve:
 - a. collusive tendering

¹ CC Act, s. 20. The QCA is a UPA (s. 229(a) of the *Queensland Competition Authority Act 1997* (Qld) (QCA Act)).

- b. fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of protecting health or safety of persons, protecting the environment or protecting or managing the use of the State's natural, cultural, mining or energy resources
 - c. dishonestly obtaining or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets
 - d. evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue
 - e. fraudulently obtaining or retaining an appointment
3. would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.²

Examples of corrupt conduct include:

- engaging in fraud and/or forgery to obtain a certain outcome, for example, manipulating timesheets to accumulate accrued hours not worked (that is, 'fraud')
- stealing from the organisation, such as office supplies, laptops or portable and attractive items without returning them to the department (that is, 'theft')
- accessing and/or disclosing official, confidential or personal information for one's own benefit, for a family member or for third parties (that is, 'unauthorised release of information')
- engaging in preferential treatment of certain suppliers of goods or services to the QCA in return for a monetary consideration or other benefit from the supplier to you and/or your family members (that is, 'obtaining a secret commission')
- hiring or promoting a family member or staff member to a role they are not qualified for, regardless of merit (that is, 'nepotism').

'Conduct' is defined in the CC Act³ to include neglect, failure and inaction; conspiracy to engage in conduct; and attempt to engage in conduct.

For the purpose of this guideline, a 'complaint' includes an allegation or information or matter.

3. Reasonable suspicion

Notification must be made to the Crime and Corruption Commission (CCC) if there is 'reasonable suspicion' of corrupt conduct.⁴ For a suspicion to be 'reasonable', there needs to be more than bare or idle speculation.

In essence, the evidence must be sufficient for a reasonable person to suspect corrupt conduct. For example, the available facts, evidence or other information must suggest that the allegation, if proven, would amount to corrupt conduct.

This 'reasonable suspicion' is the trigger point for how a suspected corrupt conduct matter is to be dealt with by the QCA, or referred to the CCC under section 38 of the CC Act.

² CC Act, s. 15(2).

³ CC Act, s. 14.

⁴ CC Act, s. 38.

4. Reporting corrupt conduct

All persons⁵ have an obligation to report any suspicions or allegations of corrupt conduct on the part of any Member of the QCA or person working for or on behalf of the QCA. There does not need to be a formal complaint from an aggrieved person to make a report.

You can report suspected corrupt conduct to:

- the CEO
- the QCA's CCC Liaison Officer⁶
- any QCA employee, who must immediately refer any complaint which may involve corrupt conduct to the Liaison Officer
- the CCC directly.⁷

Suspicions or allegations of corrupt conduct may also be made to the Queensland Police Service.

It is important to report any suspicions of corrupt conduct as early as possible, to enable the QCA to prevent escalation of corrupt conduct or greater harm to its finances, service delivery or reputation. Also, it enables the QCA to identify 'red flags' or early warning signs of any other corrupt conduct activity.

Examples of possible 'red flags' or early warning signs of corrupt conduct activity:

- Goods or services have been procured through the same supplier on a number of occasions, with no clear reasons or justification, especially if the individual involved in the procurement and the supplier are friends or family, or have had a previous professional relationship.
- Unusual trends start to appear in the spend pattern of a staff member with a corporate credit card, and there is no clear explanation for the spend (it may start with small-value items, but then the items being bought may increase in value over time).
- Staff members are 'bragging' to other staff or anybody outside the QCA about getting away with things.

Certain types of information may be useful in the reporting of a suspicion of corrupt conduct (see Appendix A), but the unavailability of this information should not preclude a staff member from reporting a suspicion.

Suspected corrupt conduct may be reported to the CEO and/or the Liaison Officer:

- through the online contact form on the QCA website at www.qca.org.au/contact/
- by mail, to GPO Box 2257, Brisbane, Qld, 4001.

5. The QCA's procedure for dealing with corrupt conduct

5.1 The QCA's role

Under the CC Act, the CEO of the QCA has responsibilities in relation to complaints about corrupt conduct. The CEO's responsibilities in this regard are delegated to the Liaison Officer, who must:

⁵ Persons means Members (s. 209 of the QCA Act) and employees of the QCA – whether permanent, temporary, full-time, part-time or casual – and any contractor, consultant, volunteer or anyone else who works in any other capacity for the QCA.

⁶ The Liaison Officer is currently the Director Corporate Services.

⁷ CCC, [Report corruption](#), CCC website, 2024.

- notify the CCC of a complaint which this director reasonably suspects involves, or may involve, corrupt conduct⁸
- deal with complaints which may involve corrupt conduct referred to the QCA by the CCC, in the way this director considers most appropriate, subject to directions given by the CCC⁹
- report to the CCC about QCA investigations involving corrupt conduct in the way and at the times the CCC directs.¹⁰

Where a decision is made not to refer alleged corrupt conduct to the CCC, a record of the decision must be made. The record must include the details of the complaint (or information or matter); the evidence that was relied on in making the decision and any other reasons for the decision.¹¹

The information recorded should be sufficient for a reasonable person to understand how and why the decision was made. The record of the decision should include:

- how the complaint was assessed against the definition of corrupt conduct
- why the complaint did not meet the definition or threshold for notification to the CCC
- the decision-maker's name, position and their endorsement of their assessment
- any conflict of interest issues, and steps taken to deal with any perceived or actual conflicts.¹²

5.2 Other guidance

The CCC's guide, [Corruption in focus](#),¹³ provides practical advice on meeting the QCA's obligations under the CC Act.

The QCA intranet provides information on all relevant policies and procedures, together with links to further information on external websites.

6. Complaints about the CEO

Refer to the QCA's *CEO Complaints Policy* in this regard.¹⁴

7. Public interest disclosure

When a public officer makes an allegation about the conduct of another person which would, if proved, be corrupt conduct, it may also be a public interest disclosure under the *Public Interest Disclosure Act 2010 (Qld)*,¹⁵ and the discloser will be entitled to certain protections. Refer to the QCA's *Public Interest Disclosure Procedure* in this regard.

⁸ CC Act, ss. 38 and 40.

⁹ CC Act, ss. 40, 43, 44, 46(2)(b) and (f), and 48(1)(c)(ii).

¹⁰ CC Act, ss. 40 and 48(1)(c).

¹¹ CC Act, s. 40A.

¹² CCC, [Assessing allegations of corrupt conduct: A guide to recordkeeping under section 40A](#), assessment guide, October 2020, p. 6.

¹³ CCC, [Corruption in focus](#), CCC website, 2024.

¹⁴ The QCA is a UPA under the CC Act. Under section 48A, the QCA is required to have a policy about how it will deal with a complaint that involves or may involve corrupt conduct of its CEO.

¹⁵ *Public Interest Disclosure Act 2010 (Qld)*, s. 13(1). Section 7 of that Act explains the meaning of public officer, which includes an employee, member or officer of the entity.

8. Recordkeeping

QCA Members, employees or officers and others (such as external investigators) involved in dealing with a complaint that may involve corrupt conduct must keep appropriate records concerning each complaint, which should include (as appropriate) the information set out in Appendix A.

9. Approval and review

The Liaison Officer is responsible for the preparation, review and maintenance of this guideline. It will be reviewed triennially, unless a review needs to be undertaken sooner to ensure that the contents accord with relevant legislation and standards.

10. Related documents

Human Resources Policies and Procedures Manual

Code of Conduct for Employees

CEO Complaints Policy

Public Interest Disclosure Procedure.

Appendix A: Complaints records

Records concerning each complaint which may involve corrupt conduct should include (as appropriate) the following information:

- name of the complainant and/or informant and/or whistleblower
- name of the alleged victim if he or she is not the complainant and/or informant and/or whistleblower
- age of the alleged victim
- name of the subject officer(s)
- position held by the subject officer(s)
- précis of the complaint, including, where applicable the date and location of the alleged incident, the value of any property and the value of any detriment or loss incurred
- action being taken by the QCA at the time of referral to the CCC or advice as to the outcome of the matter
- assessment and distillation of allegations
- relevant policies and procedures
- process used to deal with the matter
- terms of reference (if appropriate)
- evidence gathered including record of interviews, CCTV footage, photographs, documents, etc.
- correspondence/notifications to complainants, subject officers and witnesses
- investigation report or other document in which findings were made
- decisions made by a delegated officer regarding disciplinary outcomes
- outcome of any identified corruption risk activities
- correspondence advising the outcome of the complaint to relevant parties.

Release Notice

Version	Amendment details	Updated by	Date
1.0	New policy prepared	Ray Rapinette	27/07/2018
2.0	Updated to include changes to CC Act and minor administrative edits	Sharon Ibardolaza	25/06/2021
3.0	Transferred to new template with minor administrative edits	Sharon Ibardolaza	25/06/2024

Approved by:

Charles Millstead

Chief executive Officer

[Select date]

Approval and release date

25/07/2024

Planned review date

1/07/2027