

DEALING WITH COMPLAINTS INVOLVING THE DIRECTOR-GENERAL

Reference number	HR.11	Policy owner	Head of Corporate Services
Contact officer	Workplace Relations and Integrity	Contact details	ethics@desbt.qld.gov.au
Version	2.0	Approved by	Director-General
Effective date	09 April 2024	Next review date	01 April 2026

1. Policy Statement

The Department of Employment, Small Business and Training (**Department**) is committed to managing complaints involving the public official in a manner which maintains transparency and integrity, whilst promoting public confidence in the Department. This includes managing complaints of this nature ethically and in accordance with obligations under section 48A of the *Crime and Corruption Act 2001* (CC Act).

2. Purpose

This policy sets out how the Department will deal with a complaint, including information or matter¹ involving the Director-General as the Department's public official, that involves or may involve corrupt conduct as defined in the *Crime and Corruption Act 2001* (CC Act)².

The Director-General is the public official of the Department for the purposes of the CC Act.

The Public Sector Commission has published a "*Framework for oversight of senior public service employee complaints devolved by the CCC*" (the Framework), which applies to complaints about the Director-General of the Department. A copy of the Framework is attached as **Appendix A**.

The policy is to assist the Department to:

1. Comply with section 48A of the CC Act and the Framework.
2. Promote public confidence in the way suspected corrupt conduct of the Director-General of the Department is dealt with (section 34(c) of the CC Act)
3. Promote accountability, integrity and transparency in the way the Department deals with a complaint that is suspected to involve or may involve, corrupt conduct of the Director-General.

¹ See s. 48A(4) of the CC Act.

² See s. 15 of the CC Act.



3. Definitions

Crime and Corruption Commission (CCC)	The Commission continued in existence under the CC Act
CC Act	Crime and Corruption Act 2001
Complaint	includes information or matter: see definition provided by s. 48A(4) of the CC Act
Contact details for Nominated person	Head of Corporate Services Department of Employment, Small Business and Training Mobile: 0416 848 184 Email: CCCLiaisonOfficer@desbt.qld.gov.au Postal Address: PO Box 15483 CITY EAST Brisbane Qld 4002.
Corrupt conduct	see s.15 of the CC Act
<i>Corruption in Focus</i>	https://www.ccc.qld.gov.au/publications/corruption-focus ; see chapter 2, page 26
Deal with	see Schedule 2 (Dictionary) of the CC Act
Framework	Means the “ <i>Framework for oversight of senior public service employee complaints devolved by the CCC</i> ” that has been published by the PSC (as varied from time to time) – see Attachment 1
Nominated person	see item 5 of this policy
Public Official/CEO	see Schedule 2 (Dictionary) and also s. 48A of the CC Act
PSC	Public Sector Commission

4. Policy application

This policy applies if there are grounds to suspect that a complaint may involve corrupt conduct of the Director-General of the Department and shall apply to all employees who hold an appointment in, or are an employee of the Department.

For the purpose of this policy a complaint includes information or matter.³

This policy should be read in conjunction with the Department’s Public Interest Disclosure Policy and Procedure.

³ See s. 48A(4) of the CC Act.

5. Nominated person

Having regard to section 48A(2) and (3) of the CC Act, this policy nominates the Department's Head of Corporate Services as the responsible person to notify⁴ the CCC of the complaint and, subject to the Framework, to deal with the complaint under the CC Act⁵.

The provisions of the CC Act that regulate how the Director-General as the public official of the Department is to notify or deal with a complaint also apply to the nominated person⁶.

6. Complaints about the Director-General

If a complaint or concern may involve an allegation of corrupt conduct of the Director-General of the Department, the complaint may be reported to:

- the nominated person, or
- a person to whom there is an obligation to report under an Act.⁷ (this does not include an obligation imposed by sections 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 involves or may involve corrupt conduct of the Director-General, they are to notify the CCC of the complaint⁸.

Where, pursuant to section 46 of the CC Act, the CCC refers a complaint back to the nominated person to deal with⁹, or pursuant to directions issued under section 40 of the CC Act, the nominated person is entitled to commence dealing with a complaint, the nominated person shall:

- *not* commence investigating the complaint
- advise the Director-General of the Department of the Premier and Cabinet about the referral and/or complaint so a delegation from the Premier to deal with the complaint can be sought; and
- cooperate with any requests for assistance made by another agency that is investigating or managing the investigation of the complaint.

If the Director-General of the Department receives a complaint that may involve corrupt conduct on their part, they 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 or another agency that is investigating or managing the investigation of the complaint.

⁴ Under s. 38 of the CC Act.

⁵ Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act.

⁶ See s. 48A(3) of CC Act.

⁷ See s. 39(2) of the CC Act.

⁸ Under s. 38, subject to s. 40 of the CC Act.

⁹ Under ss. 43 and 44 of the CC Act.

7. Recordkeeping requirements

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

8. Resourcing the nominated person

If pursuant to section 46 of the CC Act, the CCC refers a complaint back to the nominated person to deal with, or pursuant to directions issued under section 40 of the CC Act, the nominated person is entitled to commence dealing with the complaint:

- the Department will ensure that sufficient resources are available to the nominated person to enable them to perform their obligations under clause 6 of this policy; and
- the nominated person is delegated the same authority, functions, and powers as the Director-General to direct and control staff of the Department as if the nominated person is the Director-General of the Department for the purpose of dealing with the complaint only.

9. Liaising with the CCC

The Director-General is to keep the CCC and the nominated person informed of:

- The contact details for the Director-General and the nominated person, and
- Any proposed changes to this policy.

10. Consultation with the CCC

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

11. Human Rights

The Department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the Department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

When making a decision under the provisions of this policy, decision-makers must comply with this obligation.

12. Statutory references

Unless otherwise stated, all statutory references are to the *Crime and Corruption Act 2001*.

13. Related documents

- [Code of Conduct for the Queensland Public Service](#)
- [Corruption in focus – A guide to dealing with corrupt conduct in the Queensland Public Sector](#)
- [Public Interest Disclosure Policy](#)
- [Public Interest Disclosure Procedure](#)
- [Records governance policy.](#)

14. Further information

For further information or clarification, please contact:

- Workforce Relations and Integrity at Ethics@desbt.qld.gov.au

15. Storage of information

All information should be managed in accordance with the *Public Records Act 2002*, and the whole-of-Government [Records Governance policy](#). In addition, personal information should be managed in accordance with the [Information Privacy Act 2009](#).

16. Document control

Version	Release Date	Action	Description	Reviewing officer	Authorised by
1.0		Original release			
1.1	09/09/2021	Two yearly review and update of policy	Minor updates and inclusion of the QSBCas public official		
2.0	09/04/2024	Major review	Updated in accordance with CCC amended section 48A policy template	M Verrenkamp, Principal HR Advisor.	Stephen Koch Acting Director-General (refer to MECS01062/24)

Attachment 1

Framework for oversight of senior public service employee complaints devolved by the Crime and Corruption Commission

Effective 1 March 2023, this framework supports complaints devolved by the Crime and Corruption Commission (CCC), including complaints about former employees, for all public service Senior Executive Service (SES) 3, or equivalent and higher.

Subject of complaint	Decision maker	Instrument required	Public Sector Commission (PSC) role	Entity role
Directors-General (excluding Director-General, Department Premier and Cabinet (DPC), Commissioner of Police and Commissioner of Fire and Emergency Services)	Director-General, DPC	Requires instrument of delegation from the Premier to Chair of Public Sector Governance Council under s281 of the <i>Public Sector Act 2022</i> .	<ul style="list-style-type: none"> Establish terms of reference, engage independent investigators as necessary, manage investigation, support any discipline process. Obtain independent legal advice if required. Provide progress reports to the CCC as required. Brief the Director-General, DPC as required. 	<ul style="list-style-type: none"> Limited to providing access to relevant evidence, documentation and potential witnesses. Meeting obligations under the <i>Public Interest Disclosure Act 2010</i>.

<p>Director-General, DPC</p>	<p>Investigation – CCC responsible. Subject to CCC agreeing to this role.</p> <p>Decision on discipline – the Premier. Noting on advice from the Solicitor-General.</p>	<p>Not applicable. Cannot be delegated.</p>	<ul style="list-style-type: none"> • Obtain independent legal advice if required. • Provide progress reports to the CCC as required. • Support any discipline process. • Brief the Premier as required. 	<ul style="list-style-type: none"> • For the investigation – as requested by CCC. • Meeting obligations under the <i>Public Interest Disclosure Act 2010</i>.
<p>Commissioner of Fire and Emergency Services</p>	<p>Investigation – CCC responsible. Subject to CCC agreeing to this role.</p> <p>Decision on discipline – Governor in Council on recommendation of Minister for Fire and Emergency Services.</p>	<p>Not applicable. Cannot be delegated.</p>	<ul style="list-style-type: none"> • Obtain independent legal advice if required. • Provide progress reports to the CCC as required. • Support any discipline process. • Brief the Minister as required. 	<ul style="list-style-type: none"> • For the investigation – as requested by CCC. • Meeting obligations under the <i>Public Interest Disclosure Act 2010</i>.
<p>Commissioner of Police</p>	<p>Investigation – CCC responsible.</p> <p>Decision on discipline - in accordance with s4.5 <i>Police Service Administration Act 1990</i>.</p>	<p>Any delegation required is in accordance with legal advice</p>	<ul style="list-style-type: none"> • Role, if any, to be determined considering CCC and legal advice. 	<ul style="list-style-type: none"> • In accordance with CCC and legal advice.
<p>SES3 and above (excluding Directors-General)</p> <p>Queensland Health SES3 and above and Health Executive Service (HES) employee equivalents with a direct reporting relationship to Director-General, Queensland Health</p>	<p>Independent Director-General</p>	<p>Requires an instrument of delegation from the Director-General or agency Chief Executive of the home entity under s282 of the <i>Public Sector Act 2022</i>.</p>	<ul style="list-style-type: none"> • Approve that conflicts of interest in the entity can be managed appropriately so that the entity can manage the investigation process and support any discipline process. • Responsible for the investigation and support of discipline process where conflicts cannot be managed. • Provide oversight and support the independent Director-General by advising on key steps in the investigation and 	<ul style="list-style-type: none"> • Identify conflicts of interest and complete a conflicts of interest management plan if required. • Establish terms of reference, engage independent investigators as necessary, and manage investigation. • Support the independent Director-General for any discipline process. • Obtain independent legal advice if required. • Provide progress reports to the CCC and PSC as required. • Meeting obligations under the <i>Public Interest Disclosure Act 2010</i>.

			<p>discipline processes where it is managed by the entity.</p> <ul style="list-style-type: none"> • Coordinate progress reporting from entity. 	
<p>Queensland Health SES3 and above and HES equivalents – no direct reporting relationship to Director-General, Queensland Health</p>	<p>To be managed in accordance with Queensland Health policies and procedures.</p>			