

Introduction

The purpose of the *Crime and Corruption Act 2001*

The main purposes of the *Crime and Corruption Act 2001* (CC Act) are to:

- combat and reduce the incidence of major crime
- reduce the incidence of corruption in the public sector.

To achieve these purposes, the CC Act establishes the Crime and Corruption Commission (CCC). In relation to corruption, the CCC must ensure complaints about corruption are dealt with appropriately.

In performing its functions, the CCC is subject to monitoring and review by the Parliamentary Crime and Corruption Committee.

Working with units of public administration

The CC Act does not put sole responsibility for dealing with corruption onto the CCC. It recognises that reducing corruption must be core business for all public sector agencies, including the Queensland Police Service.

As a public official, you are responsible for managing your agency under any governing legislation, which includes dealing with any inappropriate behaviour on the part of your staff. Your responsibility in this area is reinforced by the CC Act. While the CC Act recognises that action to deal with corrupt conduct in a unit of public administration (UPA) should generally happen within that unit, it obliges you to notify all cases of suspected corrupt conduct to the CCC first to ensure that all corruption is dealt with consistently. At the same time, the CCC focuses on more serious or systemic cases of corrupt conduct.

These guidelines are designed to help you recognise precisely when you need to notify the CCC, and to decide the best way of dealing with complaints that are referred to you by the CCC. They also give practical advice about conducting an investigation, and explain the CCC's monitoring role.

Scope and limitations of this guide

The jurisdiction of the CCC is diverse, encompassing suspected corrupt conduct affecting:

- departments and statutory bodies
- universities
- local government
- courts, tribunals and boards (including jurisdiction over judicial officers where they are acting as members of decision-making bodies in UPAs)
- prisons
- state and local politicians (only where the corrupt conduct would, if proven, amount to a criminal offence)

As this guide has been designed to be used throughout the public sector, it is necessarily generic. With the exception of chapter 4, which looks specifically at local government, it does not provide advice on legislation or rules that might be specific to a particular UPA.

It does, however, provide practical advice on:

- meeting your obligations under the CC Act
- conducting an investigation

- maintaining the integrity of the complaints process
- ensuring confidentiality and fairness during the process
- preventing corrupt conduct.

Terminology

A glossary of relevant terms is provided at the end of this guide. However, the following terms are defined here for you, as an understanding of them is vital to comprehending the information in this guide.

Complaint

For the purposes of this guide, complaint means not only a formal complaint, but also—

- “information” that might be received through such means as routine agency audits, media articles, Crime Stoppers or the CCC’s intelligence activities or sources
- “matter” that might be received through such means as court proceedings, or referrals from the Coroner or a public inquiry.

Corruption

Corruption and corrupt conduct are not the same thing under the CC Act. Corruption includes both corrupt conduct (see chapter 1) and police misconduct, but for the purposes of this guide, only corrupt conduct will be discussed.

Public official

Means—

- the ombudsman
- the chief executive officer of a UPA, including the commissioner of police
or
- a person who constitutes a corporate entity that is a UPA.

Structure of this guide

Information for CEOs and managers

This section comprises four chapters dealing with the relationship between public officials and the CCC.

- Chapter 1 describes what corrupt conduct is, and what the CCC’s role is in relation to it. It differentiates between corrupt conduct and other misconduct, and provides scenarios to help you do the same.
- Chapter 2 describes your obligations in relation to corrupt conduct. It explains the concept of “reasonable suspicion”, shows how the four elements of corrupt conduct fit together, and takes you through how, when and what to notify the CCC.
- Chapter 3 provides guidance on what happens when complaints are referred to you by the CCC to deal with, including what action you can take, choosing an investigator, the CCC’s monitoring role, and how to report back to the CCC.
- Chapter 4 provides specific additional advice for local government CEOs, who must also consider the requirements of the *Local Government Act 2009* about the roles of the chief executive officer, mayor and councillors, and the closeness of the interaction between the community, government and management. Mayors and councillors should also find this chapter useful in helping them understand the obligations placed on their council’s CEO, especially the obligation to notify the CCC about corrupt conduct.

Information for CEOs, managers and investigators

This section outlines several key issues that need to be considered by anyone in your UPA involved in dealing with complaints about corrupt conduct.

- Chapter 5 discusses the issues surrounding:
 - confidentiality
 - public interest disclosures
 - conflicts of interest
 - procedural fairness.

It also provides advice on managing the impact of an investigation on the workplace, regardless of whether the investigation is being conducted internally, or by the CCC.

Information for investigators

This section comprises five chapters dealing with how to conduct an investigation into corrupt conduct.

- Chapter 6 provides guidance on how to plan an investigation and ensure that you have sufficient authority to undertake the tasks that are needed.
- Chapter 7 describes the different types of evidence that you might need to collect, how to gather evidence, and the rules of evidence and standards of proof.
- Chapter 8 deals specifically with conducting interviews, including developing questions, evaluating an interview, and alternatives to face-to-face interviews.
- Chapter 9 deals with analysing the evidence collected, preparing the final report and closing the investigation.
- Chapter 10 describes the methods you can use when an investigation goes off track, including where evidence is lost, information is leaked, or conflicts of interest emerge during the course of the investigation.

Many of the principles outlined in these investigation chapters may also apply to investigations you need to conduct that do not relate to corrupt conduct, although some of the stricter recommendations might be excessive in certain circumstances. For example, the requirement to electronically record all interviews with witnesses might be relaxed in less serious cases where notes of interviews may suffice. Similarly, in less serious cases, it is not necessary to be so strict about the perceived independence of the investigator, especially if it is not practical to appoint someone from a different work unit. These decisions will need to be made on a case-by-case basis, balancing the nature and seriousness of the allegations with practicalities such as cost.

Prevention

While most of this guide is concerned with what must be done where there is a reasonable suspicion of corrupt conduct, this section applies a more proactive perspective.

- Chapter 11 gives practical advice to help UPAs take advantage of opportunities to prevent, or at least minimise, corrupt conduct in the workplace. It does not attempt to cover the full range of strategies needed to build UPA resistance to fraud and corruption, but outlines how prevention activities for the future might be initiated as a result of an investigation or complaint.

Internal complaints management systems

This guide assumes that your UPA has an established system to record complaints about service delivery and staffing matters, as is mandatory under the *Public Service Act 2008* (see s. 219A). This system should incorporate a process to capture, categorise and refer immediately to you any suspected corrupt conduct.

To be effective, the system must provide the guidelines for receiving, recording, processing, responding to and reporting on complaints, as well as helping to improve services and decision-making.

Members of the public, managers and staff should all be made aware of these reporting systems and have access to information about how to lodge a complaint. Your UPA's code of conduct should also place an obligation on your staff to report any suspected corrupt conduct.

The Queensland Ombudsman's Office is committed to ensuring agencies meet best practice standards in complaints handling, and has developed a number of tools to assist in developing an effective complaint management system.

For more information, visit <www.ombudsman.qld.gov.au>.

Local government

Councils must also have established systems to record complaints about administrative action (e.g. service delivery and staffing matters). Members of the public, councillors and staff should all be made aware of these reporting systems and know how to gain access to them.

Council employees also have an obligation to report any suspected corrupt conduct, and this should be stipulated in your council's code of conduct.

Guidelines for complaints management in councils are available in the 2001 publication [*Complaints management: recognising opportunities for improvement*](#), published jointly by the Department of Local Government and Planning and the Queensland Ombudsman.