

Chapter 6 – External reporting

The topics covered in this chapter are:

- The context of organisational reporting
- Integrity agencies
- What they do
- Integrity agencies' roles in fraud and corruption control
- Reporting policies and procedures
- Annual reporting requirements
- Best-practice target

The context of organisational reporting

Where suspicious activities are found within an organisation, appropriate action must be taken to investigate and bring any wrong-doers to account. Oversight by external integrity agencies increases the likelihood that fraud and corruption will be dealt with appropriately. However, this can only occur if the activities are brought to the attention of the external agencies. For this reason, reporting of particular suspicions and instances is a legislated requirement of each jurisdiction relevant to the type of conduct. The CC Act requires that the CEO report any suspected corrupt conduct (CC Act section 38).

This chapter outlines the obligations for organisations to report suspected fraud and corruption. It should be read in conjunction with Chapter 4, Reporting systems, and Chapter 5, Public interest disclosures.

Integrity agencies

Queensland's public sector integrity framework includes several independent statutory agencies which have complementary roles, responsibilities and powers to promote good governance, accountability and integrity.

These include:

- the CCC
- the Queensland Ombudsman (QO)
- the Queensland Audit Office (QAO)
- the Queensland Integrity Commissioner
- the Office of the Information Commissioner.

Their integrity-building activities are supplemented by the law enforcement role of the QPS.

Each of these bodies plays an important role in dealing with fraud and corruption.

The CCC receives complaints about suspected corrupt conduct and determines the most appropriate action to deal with them. The CCC has the power to investigate cases of serious or systemic corrupt conduct in the public interest or to refer the matter to the organisation for it to deal with. When it refers a complaint to a department or other agency to investigate, the CCC monitors the quality of the organisation's investigation to ensure that the outcome is reasonable and appropriate. It also assists organisations to enhance their capacity to prevent and deal with corrupt conduct. Its ambit includes state government departments including the QPS, public sector agencies and statutory bodies,

government owned corporations, universities, TAFEs, courts, prisons, tribunals and elected officials including state government politicians and local government councillors (CC Act).

Corruption includes “corrupt conduct” and “police misconduct”. Corrupt conduct is defined in the Introduction of this Guide. Police misconduct is any conduct (other than corrupt conduct) that is disgraceful, improper or unbecoming a police officer, shows unfitness to be or continue as a police officer; or does not meet the standard of conduct the community reasonably expects of a police officer. Fraud and corruption fall within both these definitions.

See <www.ccc.qld.gov.au>.

The Queensland Ombudsman reviews the actions and decisions of Queensland state government agencies, local government and some universities that may be:

- made for an improper purpose or on irrelevant grounds
- illegal or contrary to law
- unreasonable, unjust, improperly discriminatory
- based on a mistake of law or fact
- made without giving reasons, or
- simply wrong.

Some of these actions or decisions may indicate fraud or corruption.

The Ombudsman is also the oversight agency for Public Interest Disclosures under the PID Act (see Chapter 5).

See <www.ombudsman.qld.gov.au>.

The Queensland Auditor-General’s role, through the QAO, is to provide assurance to parliament on the accountability and performance of the Queensland public sector. This is achieved through the provision of independent audit services and reports tabled to the parliament on the results of those audits.

The *Auditor-General Act 2009* provides the principal legislative basis for the Auditor-General to access all government information for the purpose of performing financial and performance audits and the freedom to report findings arising from audits and for the operation of the QAO. Financial audits are conducted over every public sector entity each year. Performance audits are undertaken to assess whether agencies are achieving their objectives effectively and efficiently. Audits of non-government bodies may also be performed for the purpose of assessing how government funding has been used.

Deliberately mis-stating information about the true financial position of an agency in its Annual Report is fraud and those who do this can be prosecuted under the Criminal Code Act 1899. Equally, it is an offence for a senior officer to direct others to prepare information for publication in the annual or other statutory reports that is knowingly false or misleading, and such a direction may lead to charges of fraud, corruption or other offences.

By monitoring and reporting on compliance and other operational practices, the QAO promotes the accountability of public sector entities to the parliament and other stakeholders. The QAO’s observations and recommendations assist agencies to identify weaknesses and implement appropriate measures to address and mitigate identified fraud and corruption risks.

See <www.qao.qld.gov.au>.

The Queensland Integrity Commissioner was established by parliament to maintain and enhance the integrity of the Queensland public sector by providing advice to ministers, MPs, senior public servants and others about ethics and integrity issues, including conflicts of interest. The Commissioner is also

responsible for maintaining the Register of Lobbyists and monitoring compliance with the *Integrity Act 2009* and the Lobbyists Code of Conduct.

See <www.integrity.qld.gov.au>.

The Office of the Information Commissioner was established by the *Right to Information Act 2009* and the *Information Privacy Act 2009* to promote access to government-held information and to protect people's personal information held by the public sector. It deals with privacy complaints and makes decisions on whether an agency's privacy obligations can be waived or modified in the public interest.

See <www.oic.qld.gov.au>.

The Queensland Police Service is responsible for upholding law and order in Queensland, for detecting offenders (including fraud and corruption offenders) and bringing them to justice. Its primary legislative basis is the *Police Powers and Responsibilities Act 2000* and the *Criminal Code 1899*.

See <www.police.qld.gov.au>.

Integrity agencies' roles in fraud and corruption control

The integrity agencies offer a range of external reporting channels and advice, depending on the nature and scope of the alleged conduct. They enable the organisation's officers to report suspected fraud and corruption externally so that appropriate action can be taken.

Reporting suspected fraud or corruption and other corrupt conduct committed by an external party

Actions involving suspected fraud or corruption committed against an organisation by an external party should be reported directly to the CEO and to the QPS, and can be reported directly to the CCC. The public official (usually the CEO) of each public sector organisation has a statutory obligation to report any suspicion of corrupt conduct to the CCC.

Reporting suspected fraud, corruption and other corrupt conduct committed by employees

All cases of corrupt conduct (which includes fraud and corruption) should be brought to the notice of the public official (usually the CEO). The public official of each public sector organisation has a statutory obligation to report any suspicion of corrupt conduct to the CCC.

There are special arrangements where the corrupt conduct involves the public official/CEO. Under section 48A of the CC Act, each public sector organisation must have a policy about how a complaint that involves, or may involve, corrupt conduct by the public official/CEO will be dealt with, so that transparency and integrity in the complaint-making and resolution processes are maintained.

To assist public sector organisations, the CCC provides an outline of what such a policy should include, and a suggested template which public sector organisations may reproduce or draw on for guidance in the development of their own policy. The outline sets out a suggested structure and core elements, with some additional notes. Public sector organisations are obligated to consult with the CCC in the development of this policy.

See <www.ccc.qld.gov.au/research-and-publications/publications/ccc/48a.doc>.

There are additional reporting requirements for the QPS. Under the *Police Service Administration Act 1990*, it is the duty of all QPS officers and employees to report internal cases of misconduct to both the Commissioner of Police and the CCC. If the Commissioner of Police reasonably suspects a matter may involve police misconduct, the Commissioner is obliged to report the complaint, information or matter to the CCC.

Any individual may report suspected corrupt conduct directly to the CCC in a number of ways: in writing (mail, email, on-line form or fax) or by telephone, including anonymously, or in person.

Organisations are encouraged to report by means of the online form on the CCC website, but can also notify the CCC by letter. It is best to establish a protocol or standard format for reporting to the CCC to ensure that reported matters contain as much information as possible to help the CCC assess the complaint. (CCC *Corruption in focus*, p. 2.5).

The CCC registers all reports and assesses them to see whether they are within the Commission's jurisdiction and what action, if any, is most appropriate to deal with the allegations. The CCC may investigate the matter itself, or may refer it to the relevant department or agency subject to monitoring by the CCC. (See the CCC's publication, *Corruption in focus* and Chapter 7 of these guidelines for more details.) Alternatively, the CCC may refer any criminal activity aspects of the conduct to the QPS and the disciplinary aspects to the relevant department or agency. The person making the allegation will be notified of the outcome in due course.

Information on individual and organisation reporting obligations, and how to report, is available from the CCC in hard copy form or on the website www.ccc.qld.gov.au.

Reporting breaches of the Lobbyists Code of Conduct

Lobbying is the act of attempting to influence decisions made by officials in government. Lobbying is a normal and acceptable action by a member of a democratic society, and is an important mechanism by which governments gain information. However, a person who is paid to try to influence government decisions on behalf of a group or individual is a professional lobbyist and must be listed on the Lobbyist Register. Once registered, the lobbyist must adhere to the Lobbyists Code of Conduct. Professional lobbyists attempting to lobby public officials without being registered, or breaching the Lobbyists' Code of Conduct, can lead to perceptions of corruption and are to be reported to the Integrity Commissioner. If a lobbyist is found to have breached the Lobbyists Code of Conduct they may be de-registered and will not be permitted to continue as a lobbyist.

Any attempt to unduly influence a government decision through the offer of bribes, individual rewards or incentives is an offence and must be reported to the CEO who will decide any appropriate further reporting. (See the Integrity Commissioner's website <www.integrity.qld.gov.au>).

Reporting loss of the organisation's money or property

There are specific obligations placed on CEOs to report losses of money or property. The obligations depend on whether the loss is:

- a "material" loss
 - for local government, this is cash or equivalent of more than \$500, or an asset valued at over \$1000
 - for a department or statutory authority, this is cash or equivalent of more than \$500, or an asset valued at over \$5000
- a reportable loss, which is a loss resulting from:
 - a criminal offence, or
 - corrupt conduct of an employee, local government worker or councillor, or
 - conduct of a consultant or contractor engaged by the organisation where the conduct would be corrupt conduct if the contractor were a councillor, local government employee or local government worker, or officer of the organisation.

CEOs, accountable officers and statutory bodies must keep a written record of the details of all losses that are either material and/or reportable, and of the actions taken to remedy any weakness in the organisation's internal controls (FPMS sections 21 and 22; LG Reg 307A (1) and (2)).

Once a CEO, accountable officer or statutory body becomes aware of a loss of any of the organisation’s property that may be the result of an offence under the *Criminal Code Act 1899* or another Act, the accountable officer or statutory body must notify the appropriate Minister, the QAO and the QPS (FPMS, section 21(1) and (3); LG Reg 307A (3)).

If the loss involves suspected corrupt conduct, the matter must be reported to the appropriate Minister, the QAO and the CCC (FPMS, section 21(1) and (3); Local Government Regulation 2012 section 307A (3)). The CCC then has the option of investigating the matter itself or referring it to the QPS or the organisation (see above). The following table summarises the CEO’s obligations.

	Local Government	Departments and Statutory Authorities
Relevant legislation	LG Reg section 307A	FPMS sections 21 and 22; Schedule Dictionary for definitions
A “material loss” is:	Cash or equivalent over \$500 Assets valued at over \$1,000	Cash or equivalent over \$500 Assets valued at over \$5,000
All losses that result from a criminal offence or suspected corrupt conduct	<ul style="list-style-type: none"> • Must be recorded 	
All material losses	<ul style="list-style-type: none"> • Must be recorded • Must be reported to: <ul style="list-style-type: none"> – the appropriate Minister – the Auditor-General 	
Material losses that result from criminal offences	<ul style="list-style-type: none"> • Must be recorded • Must be reported to: <ul style="list-style-type: none"> – the appropriate Minister – the Auditor-General – QPS 	
Material losses that result from suspected corrupt conduct by employees or contractors	<ul style="list-style-type: none"> • Must be recorded • Must be reported to: <ul style="list-style-type: none"> – the appropriate Minister – the Auditor-General – CCC 	

Reporting complaints regarding administrative decisions

Complaints about administrative matters should be directed to the Queensland Ombudsman. The Ombudsman is not commonly involved in fraud and corruption matters, although such incidents may give rise to administrative issues in their resolution. Close liaison is maintained between the CCC and the Ombudsman to ensure that cross-jurisdictional matters are handled appropriately. Nevertheless, the Ombudsman is not an alternative complaints avenue to the CCC, and vice versa. Dissatisfaction with advice from one agency does not mean the issue falls within the jurisdiction of the other.

The Ombudsman makes recommendations to agencies to correct decisions if necessary. The organisation’s reporting systems should outline the matters likely to be of concern to the Ombudsman, such as not acting on complaints, and unfair employment or tendering processes.

For more information see <www.ombudsman.qld.gov.au>.

Reporting Public Interest Disclosures

All PIDs must be reported by the organisation to the Ombudsman in accordance with specified formats. There must be adequate record keeping at all stages to enable timely and accurate reporting to the Ombudsman as mandated in the *Public Interest Disclosure Act* section 33.

The PID Act does not require organisations to report on PIDs in annual reports. However, the Department of the Premier and Cabinet (DPC) has the authority to issue specific requirements which may change from year to year. For further information check the document, *Annual Report Requirements for Queensland Government Agencies* prepared by DPC.

For more information see <www.ombudsman.qld.gov.au>.

Reporting policies and procedures

When a matter falls within the jurisdiction of more than one integrity body, the CEO of the organisation must ensure that it is reported to each one that is relevant. Organisations therefore need to develop sound reporting policies and procedures that cater for these potentially overlapping requirements — either by specific policies and procedures or through reporting mechanisms incorporated within more general arrangements covering the full scope of the organisation's reporting obligations.

The procedures for external reporting of fraud and corruption should detail the kind of conduct to be reported, and to whom, how, and when to report, and what action is to be taken by the officer within the organisation who officially receives the report. They should cater for disciplinary action if the policy and procedural requirements are not met.

Good reporting procedures will include an outline of any investigative and follow-up processes (see Chapter 7), and what the reporting person can expect to happen after they have submitted a complaint. Effective feedback is a crucial part of the communication process (see Chapters 9 and 10).

The organisation should ensure that training is provided to employees regarding external reporting and the processes around reporting obligations.

Annual reporting requirements

Annual reports are a tool for external reporting of the operation of an organisation's fraud and corruption control plan.

Specific authorised officers of a department or statutory body must certify whether, in their opinion, the annual financial statements are compliant with requirements for establishing and keeping the organisation's accounts, and present a true and fair view (in accordance with accounting standards) of the organisation's transactions for the financial year (section 42, FPMS).

The Financial Reporting Requirements (FRRs) for Queensland Government Agencies also require that a Management Certificate must be provided by the accountable officer and the CFO of the department or, in the case of a statutory body, the Chairperson and the person responsible for financial administration of the statutory body. The Certificate must state, in addition to the requirements under the *Financial Accountability Act 2009* section 62(1), that the assertions in the certificate are based on an appropriate system of internal controls and risk management processes being effective, in all material respects, with respect to financial reporting throughout the reporting period.

The *Public Sector Ethics Act 1994* section 12K makes it a requirement for CEOs of public service agencies to ensure that public officials are given access to appropriate education and training about public sector ethics. Section 12M makes it a requirement for those CEOs to include a statement about their implementation of this requirement in their annual report.

The FPMS (section 49) also directs that the requirements in the document, *Annual Report Requirements for Queensland Government Agencies* (prepared by the Department of the Premier and Cabinet) are met. These reporting requirements may change from year to year. The purpose of these changes is to improve the quality of the content of reports and financial statements, as well as integrity-related matters.

Best-practice target

- (1) The organisation should have a clear understanding of the type of actions that would raise the suspicion of fraud and corruption, based on the risk identification and management processes already undertaken. (See Chapter 2: Risk management system.)
- (2) The organisation should have clear policies and detailed procedures regarding the obligations for the reporting of fraud and corruption to relevant external bodies.
- (3) These policies and procedures should outline how and when to report to the CCC, Ombudsman, QAO, Office of the Integrity Commissioner and the QPS.
- (4) The different external reporting obligations should form part of the overall reporting arrangements developed to support the organisation's fraud and corruption control program.

Additional reading

- *Queensland Treasury Financial reporting requirements for Queensland Government Agencies*

Checklist: External reporting

The following questions are indicative only. Each organisation should develop its own checklist to reflect its specific needs and risk environment. The checklist should be re-examined and updated periodically, as part of the organisation's program of fraud and corruption control appraisal.

Legislative requirements

- Has the organisation developed a clear policy covering both mandatory and optional reporting of fraud and corruption matters to external organisations, including the:
 - CCC? (CC Act sections 38, 48A)
 - Ombudsman? (PID Act sections 33, 58)
 - QAO? (FPMS section 21 (3))
 - Integrity Commissioner?
 - Information Commissioner?
 - QPS? (FPMS section 21 (3) (c))
- Do established procedures ensure that reports of suspected corrupt conduct are brought to the attention of the CEO for transmission to external bodies? (CM Act section 38)
- Do established procedures ensure that reports of suspected corrupt conduct against the CEO are brought to the attention of the CEO or nominated officer for transmission to external bodies? (CM Act section 48A)
- Does the reporting system ensure that allegations, in addition to being reported to the CEO, are also reported to appropriate external bodies such as:
 - the CCC (possible corrupt conduct)? (CC Act sections 38, 48A)
 - the QPS (possible criminal conduct)? (FPMS section 21 (3) (c))
 - the Queensland Ombudsman (PIDs and possible maladministration)? (PID Act section 33)
- Do the external reporting policies and practices effectively address all legislative requirements and best-practice guidelines of the CCC/QAO/Ombudsman/Integrity Commissioner for reporting of corrupt conduct and other integrity matters?

Recommended Best Practice

- Are there specific arrangements or operational protocols, outlining reporting criteria and individual responsibilities for reporting?
- Are reporting requirements and options covered by the organisation's education and awareness activities?
- Are there disciplinary provisions that apply if reporting requirements are not met?
- Is there a periodic review process that systematically examines the organisation's external reporting requirements to ensure that when a change to the requirements occurs the new reporting obligations are met?