# Section 48A of the *Crime and Corruption Act 2001* policy - template for Departments[[1]](#footnote-1) to adopt

## Complaints about the [Director-General/other title]: section 48A of the *Crime and Corruption Act 2001*

### 1 Objective

1. The [Director-General/other title] is the public official of the [insert full name of Department/entity] [Department/entity acronym] for the purposes of the [*Crime and Corruption Act 2001*](https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2001-069) (CC Act).
2. 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/other title] of the [Department/entity acronym].
3. The objective of this policy is to set out how the [Department/entity acronym] will deal with a complaint (or information or matter)[[2]](#footnote-2) that involves or may involve corrupt conduct, as defined in the CC Act, by the [Director-General/other title].

### 2 Policy rationale

This policy is designed to assist the [Department/entity acronym] to:

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

### 3 Definitions

|  |  |
| --- | --- |
| Crime and Corruption Commission (CCC) | the Commission continued in existence under the CC Act |
| CC Act  | [*Crime and Corruption Act 2001*](https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2001-069) |
| Complaint | includes information or matter: see the definition in s. 48A(4) of the CC Act |
| Contact details for Nominated person  | \*\*\* the Department must INSERT actual phone and/or email contact details here\*\*\* |
| Corrupt conduct | see s. 15 of the CC Act |
| *Corruption in Focus* | <https://www.ccc.qld.gov.au/publications/corruption-focus>; see chapter 2, page 26  |
| Deal with | seeSchedule 2 (Dictionary) of the CC Act |
| Framework | means the “Framework for oversight of senior public service employee complaints devolved by the CCC” 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 | see s. 48A & Schedule 2 (Dictionary) 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 by the [Director-General/other title] of the [Department/entity acronym]; and
* to all persons who hold an appointment in, or are employees of, the [Department/entity acronym].

For the purpose of this policy a complaint includes information or matter.[[3]](#footnote-3)

### 5 Nominated person

Having regard to s. 48A(2) and (3) of the CC Act, this policy nominates:

* [title/identity of one or more persons] as the nominated person/s

to notify[[4]](#footnote-4) the CCC of the complaint and, subject to the Framework, to deal with the complaint under the CC Act.[[5]](#footnote-5)

The provisions of the CC Act that regulate how the [Director-General/other title] as the public official of the [Department/entity acronym] is to notify or deal with a complaint also apply to the nominated person.[[6]](#footnote-6)

*[drafting note: where there is more than one nominated person, insert the following:]*

*Where there is more than one nominated person:*

* *The nominated persons will decide who will be the nominated person for a particular complaint, and*
* *Where a nominated person decides to notify the CCC about a complaint, the nominated person will inform the CCC that they are the nominated person for that complaint.*

### 6 Complaints about the [Director-General/other title]

If a complaint may involve an allegation of corrupt conduct by the [Director-General/other title] of the [Department/entity acronym], the complaint may be reported to:

* the nominated person; or
* a person to whom there is an obligation to report under an Act[[7]](#footnote-7) (this does not include an obligation imposed by ss. 38 or 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.

*Complaints received by the nominated person*

If the nominated person reasonably suspects that a complaint involves or may involve corrupt conduct by the [Director-General/other title], they are to notify the CCC of the complaint.[[8]](#footnote-8)

Where, pursuant to s. 46 of the CC Act, the CCC refers a complaint back to the nominated person to deal with,[[9]](#footnote-9) or pursuant to directions issued under s. 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.

*Complaints received by the [Director-General/other title]*

If the [Director-General/other title] receives a complaint that may involve corrupt conduct on their part, they must:

* report the complaint to the nominated person as soon as practicable and may also notify the CCC; and
* 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.

### Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct by the [Director-General/other title] is not required to be notified to the CCC under s. 38 of the CC Act, the nominated person must make a record of the decision that complies with s. 40A of the CC Act.

### Resourcing the nominated person

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

* the [Department/entity acronym] 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/other title] to direct and control staff of the Department/entity acronym] as if the nominated person is the [Director-General/other title] of the [Department/entity acronym] for the purpose of dealing with the complaint only.

### 9 Liaising with the CCC

The [Director-General/other title] is to keep the CCC and the nominated person informed of:

* the contact details for the [Director-General/other title] and the nominated person; and
* any proposed changes to this policy.

### 10 Consultation with the CCC

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

### 11 Statutory references

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

### 12 Approval

This policy is approved by:

* [Director-General/other title]

Date ...........................................
1. This template is to be used by all departments declared under s. 197 of the [*Public Sector Act 2022*](http://www.legislation.qld.gov.au/view/whole/pdf/inforce/current/act-2022-034), except for the Department of the Premier and Cabinet, the Queensland Police Service, Queensland Corrective Services, and Queensland Fire and Emergency Services. [↑](#footnote-ref-1)
2. See s. 48A(4) of the CC Act and the definitions in clause 3. [↑](#footnote-ref-2)
3. See s. 48A(4) of the CC Act. [↑](#footnote-ref-3)
4. Pursuant to s. 38 of the CC Act. [↑](#footnote-ref-4)
5. Under Chapter 2, Part 3, Division 4, Subdivision 2 of the CC Act. [↑](#footnote-ref-5)
6. See s. 48A(3) of the CC Act. [↑](#footnote-ref-6)
7. See s. 39(2) of the CC Act. [↑](#footnote-ref-7)
8. Pursuant to s. 38 of the CC Act. [↑](#footnote-ref-8)
9. Under ss. 43 and 44 of the CC Act. [↑](#footnote-ref-9)