# Section 48A of the *Crime and Corruption Act 2001* policy - template for all UPAs, other than Departments, to adopt

## Complaints about the [Chief Executive Officer (CEO)/other title]: section 48A of the *Crime and Corruption Act 2001*

### 1 Objective

1. The [CEO/other title] is the public official of the [insert full name of UPA] [UPA 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 objective of this policy is to set out how the [UPA acronym] will deal with a complaint (or information or matter)[[1]](#footnote-1) that involves or may involve corrupt conduct, as defined in the CC Act, by the [CEO/other title].

### 2 Policy rationale

This policy is designed to assist the [UPA acronym] to:

1. Comply with s. 48A of the CC Act.
2. Promote public confidence in the way suspected corrupt conduct by the [CEO/other title] of the [UPA acronym] is dealt with (s. 34(c) CC Act).
3. Promote accountability, integrity, and transparency in the way the [UPA acronym] deals with a complaint that is reasonably suspected to involve, or may involve, corrupt conduct by the [CEO/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 UPA 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 |
| Nominated person | see item 5 of this policy |
| Public official | see s. 48A & Schedule 2 (Dictionary) of the CC Act |
| Unit of public administration (UPA) | see s. 20 of the CC Act |

### 4 Policy application

This policy applies:

* if there are grounds to suspect that a complaint may involve corrupt conduct by the [CEO/other title] of the [UPA acronym]; and
* to all persons who hold an appointment in, or are employees of, the [UPA acronym].

For the purpose of this policy a complaint includes information or matter.[[2]](#footnote-2)

### 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[[3]](#footnote-3) the CCC of the complaint and to deal with the complaint under the CC Act.[[4]](#footnote-4)

The provisions of the CC Act that regulate how the [CEO/other title] as the public official of the [UPA acronym] is to notify or deal with a complaint also apply to the nominated person.[[5]](#footnote-5)

*[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 [CEO/other title]

If a complaint may involve an allegation of corrupt conduct by the [CEO/other title] of the [UPA acronym], the complaint may be reported to:

* the nominated person; or
* a person to whom there is an obligation to report under an Act[[6]](#footnote-6) (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 [CEO/other title], they are to:

1. notify the CCC of the complaint;[[7]](#footnote-7) and
2. deal with the complaint, subject to the CCC’s monitoring role, when *—*
	* + [drafting note: *only include this first dot point if the UPA has a s. 40 CC Act agreement*] directions issued under s. 40 of the CC Act apply to the complaint; or
		+ pursuant to s. 46 of the CC Act, the CCC refers the complaint to the nominated person to deal with.[[8]](#footnote-8)

*Complaints received by the [CEO/other title]*

If the [CEO/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.

### Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct by the [CEO/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 ss. 40 [drafting note: *only include this reference to s. 40 if the UPA has a s. 40 CC Act agreement*] or 46 of the CC Act, the nominated person has responsibility to deal with the complaint:

* the [UPA] will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately[[9]](#footnote-9)
* the nominated person is to ensure that any consultations for the purpose of securing resources sufficient to deal with the complaint appropriately are confidential and are not disclosed, other than to the CCC, without:
	+ - authorisation under a law of the Commonwealth or the State; or
		- the consent of the nominated person
* the nominated person must, at all times, use their best endeavours to act independently, impartially, and fairly having regard to the:
	+ - purposes of the CC Act[[10]](#footnote-10)
		- the importance of promoting public confidence in the way suspected corrupt conduct in the [UPA] is dealt with;[[11]](#footnote-11) and
		- the [UPA]’s statutory, policy and procedural framework.

If the nominated person has responsibility to deal with the complaint, they are delegated the same authority, functions, and powers as the [CEO/other title] to direct and control staff of the [UPA] as if the nominated person is the [CEO/other title] for the purpose of dealing with the complaint only.

### 9 Liaising with the CCC

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

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

### 10 Consultation with the CCC

The [CEO/other title] will consult with the CCC when preparing any policy about how the [UPA acronym] will deal with a complaint that involves or may involve corrupt conduct by the [CEO/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:

* [CEO/other title]

Date ...........................................
1. See s. 48A(4) of the CC Act and the definitions in clause 3. [↑](#footnote-ref-1)
2. See s. 48A(4) of the CC Act. [↑](#footnote-ref-2)
3. Pursuant to s. 38 of the CC Act. [↑](#footnote-ref-3)
4. Under Chapter 2, Part 3, Division 4, Subdivision 2 of the CC Act. [↑](#footnote-ref-4)
5. See s. 48A(3) of the CC Act. [↑](#footnote-ref-5)
6. See s. 39(2) of the CC Act. [↑](#footnote-ref-6)
7. Pursuant to s. 38 of the CC Act. [↑](#footnote-ref-7)
8. Under ss. 43 and 44 of the CC Act. [↑](#footnote-ref-8)
9. See the CCC’s corruption purposes and functions set out in ss. 4(1)(b), 33, 34 and 35 of the CC Act and the [UPA]’s relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint. [↑](#footnote-ref-9)
10. See s. 57 of the CC Act and the CCC’s corruption purposes and functions set out in ss. 4(1)(b), 33, 34 and 35 of the CC Act. [↑](#footnote-ref-10)
11. See s. 34(c) of the CC Act. [↑](#footnote-ref-11)