

Changes to the *Crime and Corruption Act 2001*

Factsheet 2 | February 2019



Record-keeping requirements for assessment decisions (section 40A)

This factsheet has been prepared to advise units of public administration (UPAs) about:

- the changes to the *Crime and Corruption Act 2001* that are directly relevant to them
- the actions they must take under the new legislation.

Background

The *Crime and Corruption Act 2001* (CC Act) defines:

- what constitutes “corrupt conduct”
- the Crime and Corruption Commission’s (CCC) jurisdiction to oversee the Queensland public sector, and
- how complaints about public sector corruption are to be assessed and actioned.

On 9 November 2018 the *Crime and Corruption and Other Legislation Amendment Act 2018* was passed, bringing in changes to the CC Act. The changes to the Act came out of recommendations from both the CCC and units of public administration (UPAs) to:

- widen the definition of corrupt conduct to capture additional types of behaviour
- extend the CCC’s jurisdiction over conduct that, while not technically within the public sector, can corrupt its functions and damage public confidence in it
- ensure that full records of decisions about allegations of corrupt conduct are kept by UPAs.

Amendments most relevant to UPAs

Two key amendments are relevant to UPAs. These are:

1. changes to section 15, which defines corrupt conduct, and
2. a new section 40A, which includes an additional record-keeping requirement.

This factsheet deals with the introduction of the new section 40A. All references to legislation in this factsheet are to the *Crime and Corruption Act 2001*, unless otherwise specified.



New section 40A

A **new section 40A** now requires public officials to keep a record of any decision **not to refer** alleged corrupt conduct to the CCC as required by section 38.

40A Record of alleged corrupt conduct not notified

- (1) This section applies if a public official decides that a complaint, or information or matter, about alleged corrupt conduct is not required to be notified to the commission under section 38.
- (2) The public official must make a record of the decision.
- (3) The record must include—
 - (a) the details of the complaint or information or matter; and
 - (b) the evidence on which the public official relied in making the decision; and
 - (c) any other reasons for the decision.

The information recorded should be sufficient for a reasonable person to understand how and why the decision was made.

Details to be recorded

If you are assessing a complaint or allegation that you do not believe needs to be referred to the CCC, the CCC recommends that **at the minimum** you should:

- Accurately record how you assessed the complaint against the definition of corrupt conduct.
- Specify why in your view the complaint did not meet the definition or threshold for notification to the CCC.
- Record the decision-maker's name, position and their endorsement of your assessment.
- Identify and record any conflict of interest issues – detail the steps taken to deal with any perceived or actual conflicts.



Timelines for new section 40A

UPAs must comply with the new section 40A in relation to any matter **assessed on or after 9 November 2018**, regardless of:

- when it was received, or
- when the conduct is alleged to have occurred.