

Corruption Prevention Forum

Crime and Corruption Commission

Welcome

26 May 2021



**Crime and Corruption
Commission**

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Corruption Allegations Data Dashboard

Helene Wells

Director, Research & Insights

Corruption Prevention Forum

26 May 2021



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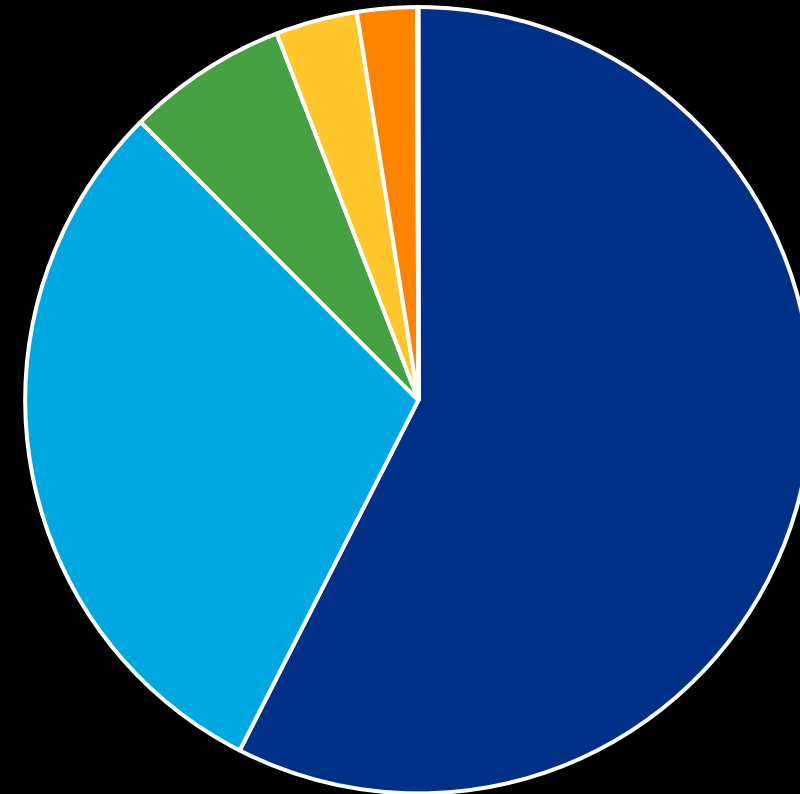
Corruption Allegations Data Dashboard

- The **CADD** is a data visualisation tool that allows the public to view CCC corruption allegations data.
- It allows users to review data, learn about the number and types of matters received by the CCC, and the agencies related to allegations.
- Data is available from 1 July 2015 for Units of Public Administration (UPAs) including:
 - » *Queensland Police Service, Public Service Department, Local Government, Parliament, etc*
- Link: <https://www.ccc.qld.gov.au/corruption/corruption-allegations-data-dashboard>



What we don't report in the CADD

- At present, the CADD does not report any **outcome data** relating to the allegations the CCC receives.
- Feedback from some UPAs and the public is that they are interested in gaining **more insights** from the public inclusion of outcome data.



1 July 2015 to 31 December 2020

(CCC internally reported CADD)

■ Outcome Unknown (RFNA)

■ No Further Action

■ Not substantiated

■ Outcome Unknown (Open)

■ Substantiated

■ Management Action

■ Other

OFFICIAL



Benefits to including outcome data in the CADD

- Provides a more **complete picture** of suspected corruption in the Queensland public sector
- Potentially contributes to **increased public confidence** (for the CCC and for UPAs)
- Helps to inform our shared understanding of **corruption risks**
- Enables **predictive models** to be built that could assist with early corruption risk identification.



Barriers to including outcome data in the CADD

- The **accessibility** of outcome data from UPAs, given the variation in how agencies may record and store data
- The **quality** of outcome data
- The **different** allegation data frameworks and definitions among UPAs
- The **capacity** of UPAs to provide outcome data to the CCC.



Want to stay informed about the CADD?

- **CCC Liaison Officers** – we send emails each time the CADD is updated
- Subscribe to **CCC updates** – you'll get alerts when the CADD is updated
 - » <https://www.ccc.qld.gov.au/subscribe-updates>
- Email or call **Director Research & Insights**
 - » Helene.Wells@ccc.qld.gov.au
 - » (07) 3360 6215



Identifying suspected corrupt conduct and when to report it to the CCC?

Darren Brookes

Director - Assessments

Corruption Division

darren.brookes@ccc.qld.gov.au



Presentation to:

Corruption Prevention Forum

26 May 2021

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| Main purpose of today

- To ensure you have an understanding of how to interpret the definition of 'corrupt conduct' in sections 15(1) and 15(2) of the *Crime and Corruption Act 2001* (the CC Act)
- To provide guidance as to your reporting obligations under the CC Act



Crime and Corruption Act 2001

❑ Main purpose of the Act:

- *To combat and reduce the incidence of major crime; and*
- *To reduce the incidence of corruption in the public sector*

s4. Crime and Corruption Act

❑ This is a joint responsibility of the CCC and **ALL** UPA's

❑ How do we do this?



The CCC 'bible'

- **Corruption in Focus**
 - **Helps to navigate the process**
 - **Gives examples of 'corrupt conduct'**
 - **Sets out your obligations under the CC Act**
 - **What must be notified**
 - **How they should be made**
 - **Explains what is a 'reasonable suspicion' (Ch.2)**
 - **Download from CCC website and put it on your desktop!**



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Corruption in focus

A guide to dealing with
corrupt conduct in the
Queensland public sector

January 2020



Corruption in focus

A guide to dealing with
corrupt conduct in the
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January 2020

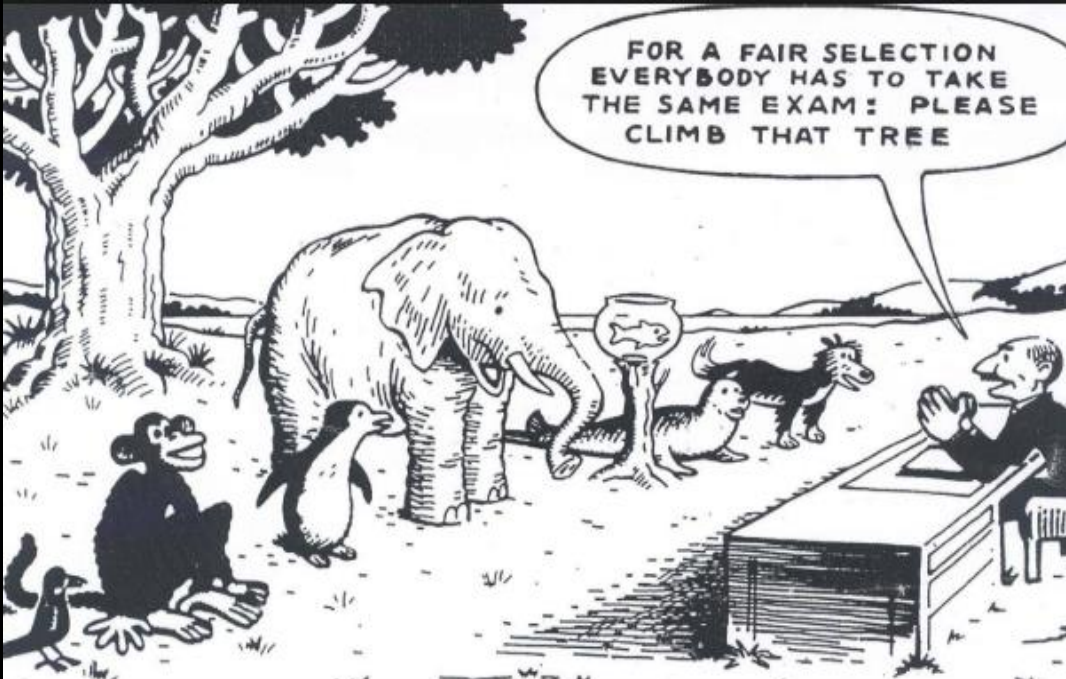


➤ How corrupt conduct comes to your attention

❑ Suspected corrupt conduct can come to your attention from many sources, including but not limited to:

- a complaint referred to you by the CCC
- through your existing complaints process as a human rights complaint
- a complaint made by a member of the public to one of your managers
- a report by a staff member to their manager in accordance with your UPA's internal reporting system or grievance procedures
- an internal audit report that reveals possible corrupt conduct
- a letter from a local contractor alleging corrupt conduct
- concerns raised by a member of the public about your UPA in the local newspaper.

Assessment of Complaints



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s 15(1) Corrupt conduct: key elements

In determining corrupt conduct you are looking for:

(a) Relationship of conduct to UPA functions

Adversely affects power or function of
UPA or UPA employee

(b) Outcome of conduct:
exercise of power or function is

- (i) Not honest or impartial
- (ii) Breach of the trust
- (iii) Misuse of information or material

(c) Seriousness of conduct:
either criminal offence or **reasonable grounds**
for dismissal

- Any criminal offence;
- Does not have to actually result in dismissal



| s 15(2) Corrupt conduct: key elements

In determining corrupt conduct you are looking for:

(a) **Effect** of the conduct

impairs, or could impair, public confidence
in public administration

(b) **Type** of conduct

One of the types of **fraud** identified in
15(2)(b)(i) to (v)

(c) **Seriousness** of the conduct

- Any criminal offence;
- Reasonable **grounds** for dismissal (does not have to actually result in dismissal)



| Only notify if have 'reasonable suspicion'

- Agencies should only send complaints to the CCC if they have a 'reasonable suspicion' that each of the 3 elements of s. 15(1) or s. 15(2) can be satisfied and a reasonable suspicion that the conduct actually occurred
- No need to have all of the evidence to prove the conduct occurred but for a suspicion to be reasonable there needs to be more than idle wondering or speculation
- Do not notify the CCC if you do not hold a reasonable suspicion



Reasonable suspicion

“A state of conjecture or surmise where proof is lacking. I suspect but cannot prove.”

Hussien v Chong Fook Kam [1970] AC 9472 at 948

When a statute prescribes that there must be reasonable grounds for a suspicion this requires the existence of facts sufficient to induce suspicion in a reasonable person.

George v Rockett (1990) 170 CLR 104 at 112

Although the CCC can provide advice or guidance, it is the public official, or delegate's, responsibility to determine that there is definitely a reasonable suspicion of corrupt conduct before referring a matter to the CCC.

You might have direct knowledge that shows beyond doubt an allegation is not correct!

This will be of benefit to the resources of both agencies in ensuring only matters relevant to the CCC's jurisdiction are assessed.



Reasonable suspicion

- For a suspicion to be reasonable there needs to be more than idle wondering or speculation (*Queensland Bacon Pty Ltd v Rees* (1966) 115 CLR at 303)
- there must be some evidence sufficient for a reasonable person to suspect corrupt conduct
- Only send us complaints if you have a 'reasonable suspicion' that each of the 3 elements of s. 15(1) or s. 15(2) can be satisfied; and the conduct actually occurred
- Must be based on an objective assessment of the information at hand
- No need to have all of the evidence to prove the conduct



Notifications – sections 38 & 39 (Obligations)

Once a reasonable suspicion is formed (s 38) -

- Complaint, or information or matter
- involves, or may involve, corrupt conduct then,
- Public official (or delegate) must notify the Commission

Duty to notify is **paramount** (s 39) -

- **MUST** be complied with despite –
- any obligation the public official has to maintain confidentiality about a matter to which the complaint relates.



| Awaiting assessment

• Section 38 referrals

□ DO:

- Reassure your complainant, provide support where necessary, comply with any obligations under the PID Act;
- Manage the risk – remove or reduce any reoccurrence, develop adequate controls;
- Report any criminal offences to the QPS – but ensure they are aware the matter has been referred to the CCC;
- Secure and preserve any evidence;
- Obtain relevant policies & procedures – review and update if necessary (don't wait to be told – you own the risk);
- Plan your investigation.

This is not an exhaustive list.



Integrity Services Assessment



General Criteria

- » Within jurisdiction?
- » Serious or systemic?
- » Impact on the community?
- » Genuine, made in good faith?
- » Agency capability?
- » Requires the CCC's special powers?
- » Public interest (s.34)?
- » Performance of our monitoring function?
- » Intel / SO complaints history?

Outcomes

- CCC investigates
- Refer back RNFA, M&CR, PIR.
- Joint investigation
- No Further Action



| Integrity Services Assessment

Filters

- Reasonable suspicion – s 37 or 38 CC Act
- Direction issued under s.40 CC Act

Assessments

- Case Categorisation and Prioritisation Model
- Initial information available – open source
- CCC Intelligence



Using Intelligence in assessing complaints

Beulah Davies

Intelligence Analyst

Corruption Prevention Forum

26 May 2021



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| What is “Intelligence”



A process of **gathering information** and then **adding value** to that information in order to achieve a stated purpose or outcome. The information gathered will relate to an activity or suspected activity of interest.

Intelligence is **insight** that provides **direction** for **effective decision making**.



| Types of “Intelligence”

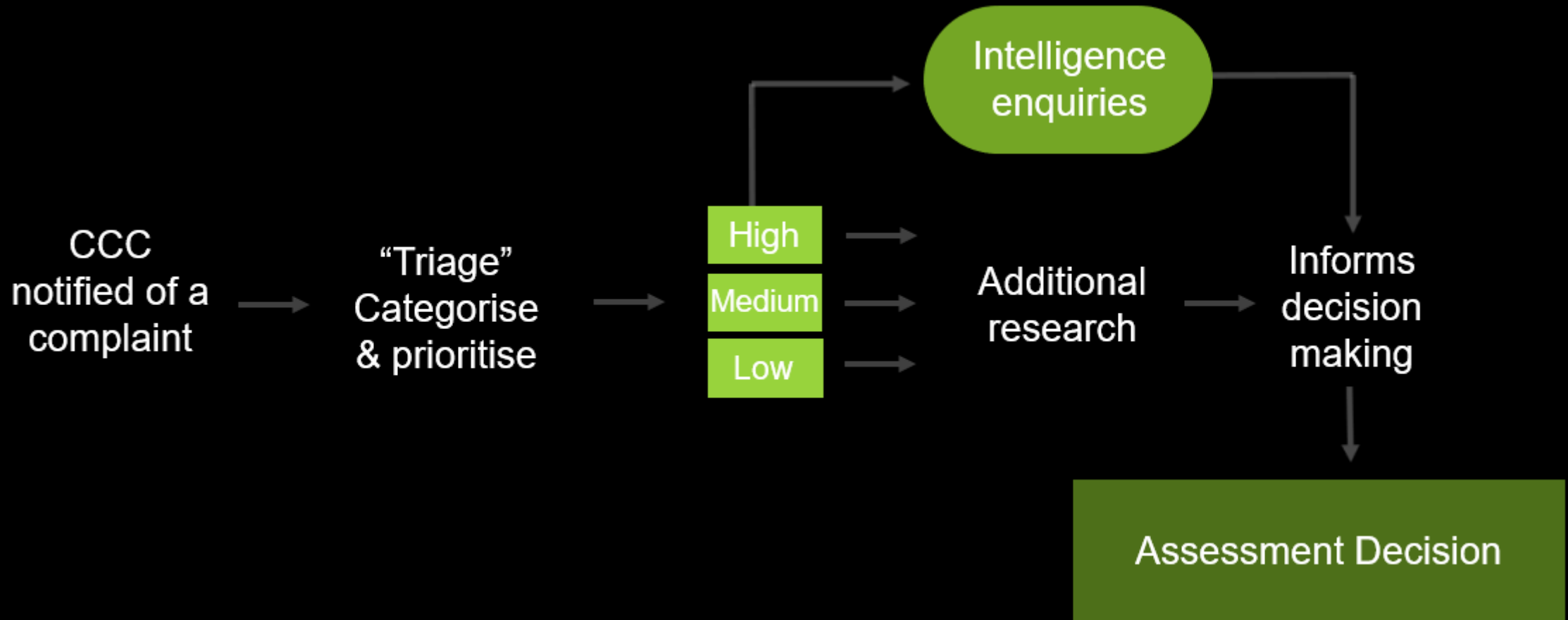


Tactical intelligence – provides insight and understanding on a specific complaint matter or investigation, used to inform and direct investigative activity

Strategic intelligence – identifies and provides insight into trends and emerging risks and provides long term guidance to decision making (prevention focus)



Using Intelligence in assessment





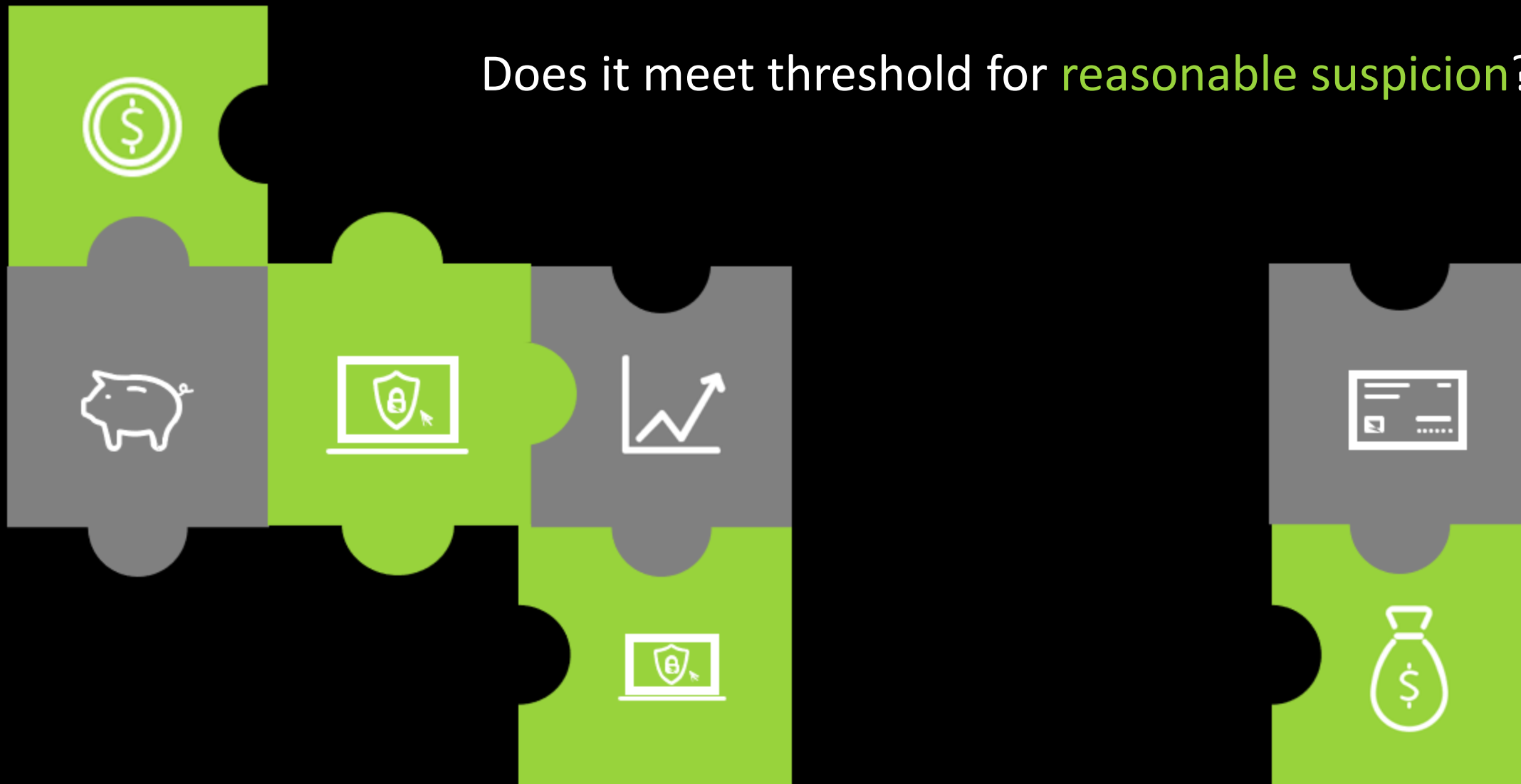
Does it meet threshold for **reasonable suspicion**?



Allegations have been made against a Executive Director employed at a UPA, who is alleged to have been involved in the awarding of a contract to a company, owned/operated by her associate. She is also alleged to be receiving kickbacks from the company.



Does it meet threshold for **reasonable suspicion**?



| CCC's Intelligence Fundamentals Training



Coming soon – end of 2021

Aims to upskill participants to conduct **open source intelligence** gathering activities to support the assessment and investigation of corrupt conduct.

Express your interest!

Email: Beulah.davies@ccc.qld.gov.au



Corruption Strategy Project Update

Paxton Booth

Executive Director, Corruption Strategy, Prevention and Legal

Corruption Prevention Forum

26 May 2021



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Corruption Strategy

Objectives:

- Identify a co-ordinated approach to deliver activities which deliver the greatest impact
- Establish quantitative and qualitative measures of impact for the corruption prevention activities
- Identify when and how to collaborate with other stakeholders
- Become more proactive in response to emerging corruption risks



Corruption Strategy

What we did:

- Literature review of prevention methodologies and measures of impact
- Stakeholder engagement
 - » Discussion paper
 - » Direct engagement via interviews
- Internal review and develop draft Corruption Strategy



Corruption Strategy

What we found:

- Better access to CCC officers - advice
- More information about the reasons for our decisions
- Greater support for investigations referred to agencies to undertake
- More collaboration via joint investigations and access to our powers
- Increased education/training about topics in *Corruption in Focus*
- More information about emerging corruption risks
- Additional context and communication with our prevention products



Corruption Strategy

Next Steps:

- Changes to our practices where within existing resourcing, including:
 - » More webinars for two-way engagement about our prevention products
 - » More collaboration in the design and content of prevention products
 - » A more strategic approach in the delivery of our prevention material
- Under consideration – changes requiring additional resources
 - » Access to more advice
- Some suggestions/requests still being worked on
- Publication of our Corruption Strategy once approved



Corruption Strategy

Project Update – Integrity Services

Liz Foulger

Executive Director, Integrity Services

Corruption Prevention Forum

26 May 2021



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Integrity Services

What we're doing:

- Quarterly Newsletter which will include contact details for CCC officers
- Updates on our performance (KPIs)
- Reconciliation Action Plan – Review of the complaints management system to instil confidence in the way Aboriginal and Torres Strait Islander peoples access this function.
- LEAN 2.0 project
- Training and information sessions



| Thank you. Questions?



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[youtube.com/channel –](https://youtube.com/channel-)
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| Break



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When should an agency engage an external investigator?

Marie Zitny

Director, Review

Corruption Prevention Forum

26 May 2021



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Overview of presentation

- CCC processes.
- Reasons for engaging an external investigator and considerations.
- Case studies.
- Experiences and tips from CCC reviews of investigations.



CCC assessment decisions

No further action

Referral back to UPA (Units of Public Administration)
(CCC review approx. 7% of those investigations)

May conduct a cooperative investigation with UPA

CCC investigation



Matters Assessed Reports

The CCC's referral will advise you of:

- The complainant.
- The subject officer.
- The reasons for the assessment.
- Reporting timeframes if applicable.
- Source material.
- Directions about how the complaint should be dealt with.



Considerations for engaging an external investigator :

- Comply with all relevant procurement obligations.
- Seek experience and expertise.
- Avoid conflicts of interest.



Reasons for engaging an external investigator :

- The risk to public confidence
 - » Conflict of Interest.
 - » Allegations against the public official.
 - » Significant power imbalance between subject officer and investigator.
 - » Allegations against the liaison officer.
 - » Allegations against the agency investigators.



Reasons for engaging an external investigator :

- Lack of capability and/or capacity.
- The requirement for specialist skills.
- High profile/media interest



Case Study no 1.

- CCC review identified power imbalance between investigator and subject officer.
- Recommendation of no further action not accepted.
- Returned to agency with strong recommendation to engage external investigator.
- Investigation substantiated many serious allegations and referred to QPS for fraud investigation.
- Post separation disciplinary action underway.



Case Study no 2.

- Allegations against staff from governance unit including CCC liaison officer.
- No objective and qualified internal investigator available.
- External investigation ensured matter was dealt with objectively and transparently.
- Professional reputation and integrity maintained.



What makes a good investigation report

- » Well structured
- » All relevant witnesses interviewed
- » Clear and concise analysis of evidence
- » Systemic issues identified



Tips for improved outcomes

- » Maintain communication with the CCC case officer for matters under review.
- » Provide sufficiently detailed reports in accordance with reporting time frames.
- » Monitor progress of external investigation closely.
- » Seek advice if needed.



Corruption in focus

<http://www.ccc.qld.gov.au/corruption-prevention/corruption-in-focus>

E: Marie.Zitny@ccc.qld.gov.au



Corruption in focus

**A guide to dealing with
corrupt conduct in the
Queensland public sector**

March 2019



Procedural Fairness

During a workplace investigation

Geoff Kennedy

Director, Corruption Legal

Corruption Prevention Forum

26 May 2021



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Overview

- To provide a practical guide to the requirements of procedural fairness in conducting internal workplace investigations:
 - » What is procedural fairness in workplace investigations?
 - » The rules
 - » Practical tips
 - » Handy resources



Procedural Fairness – what is it?

- Common law duty
- Procedural fairness or natural justice – same concept
- Duty on decision makers to:
 - » act fairly
 - » when making a decision under a statute
 - » where that decision will adversely affect an individual's rights, interests or legitimate expectations



Rules

- 3 main rules:
 1. The rule against bias
 2. The hearing rule
 3. The evidence rule



No bias

The rule against bias:

- Decision maker is free from actual and apparent bias
- No pre-judgment
- Impartiality
- No conflicts of interest, or material interest, or personal association



Hearing rule

The hearing rule:

- Affected person has right to be heard and present their case
- Reasonable opportunity to respond to the allegations
- Opportunity to be heard – flexible and depends on the case



Evidence rule

The evidence rule:

- Decisions are made on identifiable and logical evidence
- Not based on speculation or suspicion
- Evidence disclosed by one side should be provided to the other
- Written reasons for decision is best practice



Practical tips to common questions

What are the allegations against me?

- » Obligation to provide an outline of the allegations before interview – hearing rule
- » Put it in writing
- » No obligation to provide everything – just a fair summary of the allegations
- » Include possible consequences

Who has made the allegations against me?

- » No obligation to provide details of the complainant
- » Sometimes unavoidable and can depend on the case
- » Be aware of possible PID Act and Privacy Act implications



Practical tips to common questions

Can I have a copy of the allegations against me?

- » There is no obligation to provide a copy of everything before interview
- » In fairness, key documents should be provided before hand
- » Written summary or show cause notice setting out the allegations sufficient in most cases

Who is the investigator and decision maker?

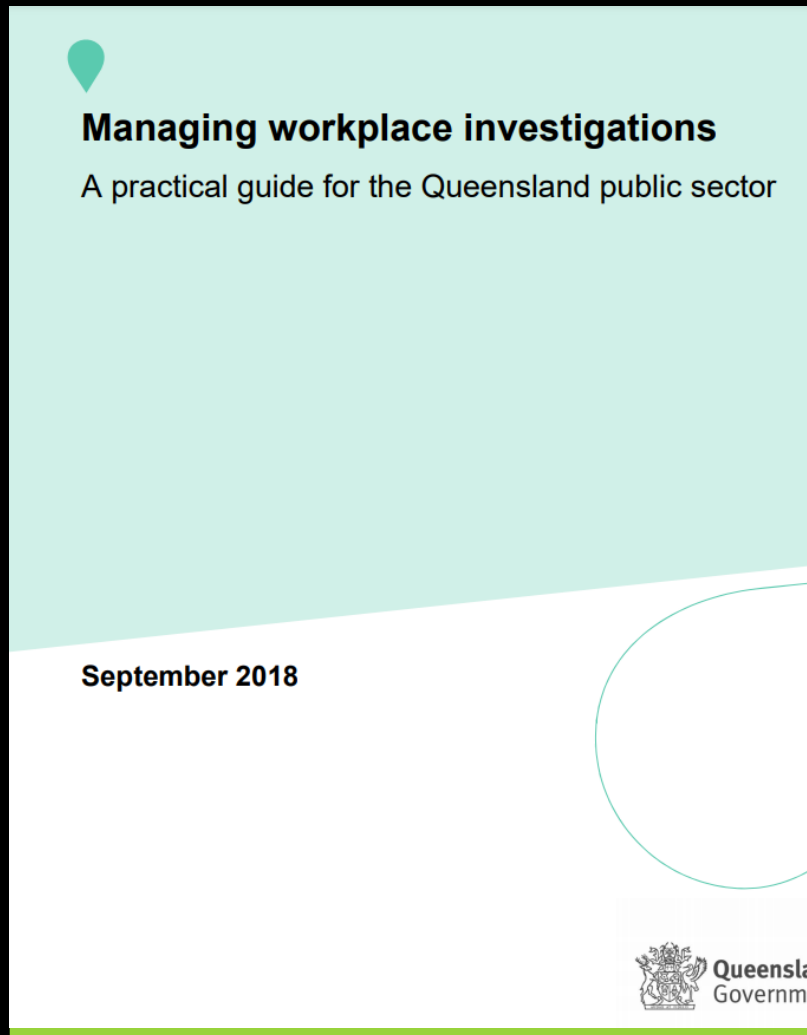
- » Affected person has the right to know who will be investigating and deciding
- » Put it in writing



Handy resources

- » *Public Service Act 2008, s 190*
- » *Local Government Regulation 2012, ss 278 - 283*
- » Corruption in Focus: A guide to dealing with corrupt conduct in the Queensland Public Sector, CCC
- » Public Service Commission Directives:
 - Workplace Investigations, Directive 17/20
 - Discipline, Directive 14/20





- Managing Workplace Investigations: PSC
- Practical guide to assist deal with allegations of inappropriate conduct or poor performance
- Very useful resource when considering a workplace investigation



Case Study

Department of Education

Rob Watts & Adam Jewell

CCC Detective Sergeant & Principal Investigator

Corruption Prevention Forum

26 May 2021



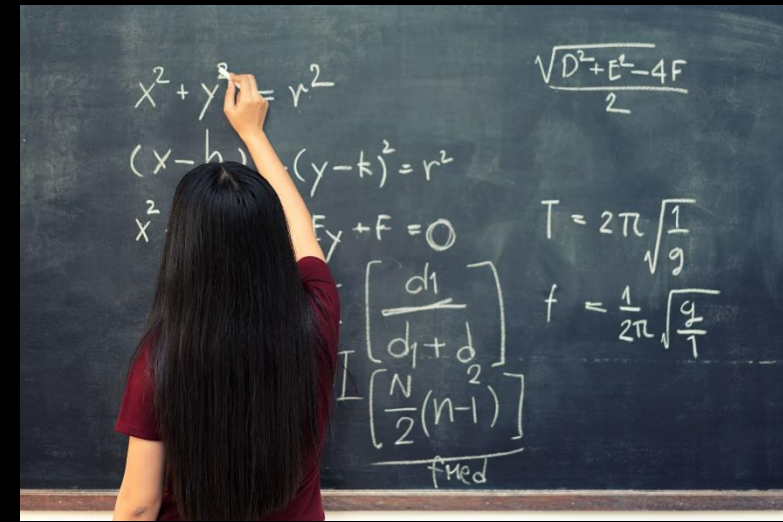
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Situation

- Internal audit
- Allegations
 - » Nepotism
 - » Preferential treatment in procurements processes
 - » Fraudulent behaviour corporate credit card
- Subject officer suspended
- Secondment for joint investigation



Issues Identified

- Policy wording
- Dishonesty / exculpations / excuses / intent
- Investigative scope
- Other related entities
- Social interactions
- Gifts & Hospitality



Strategy

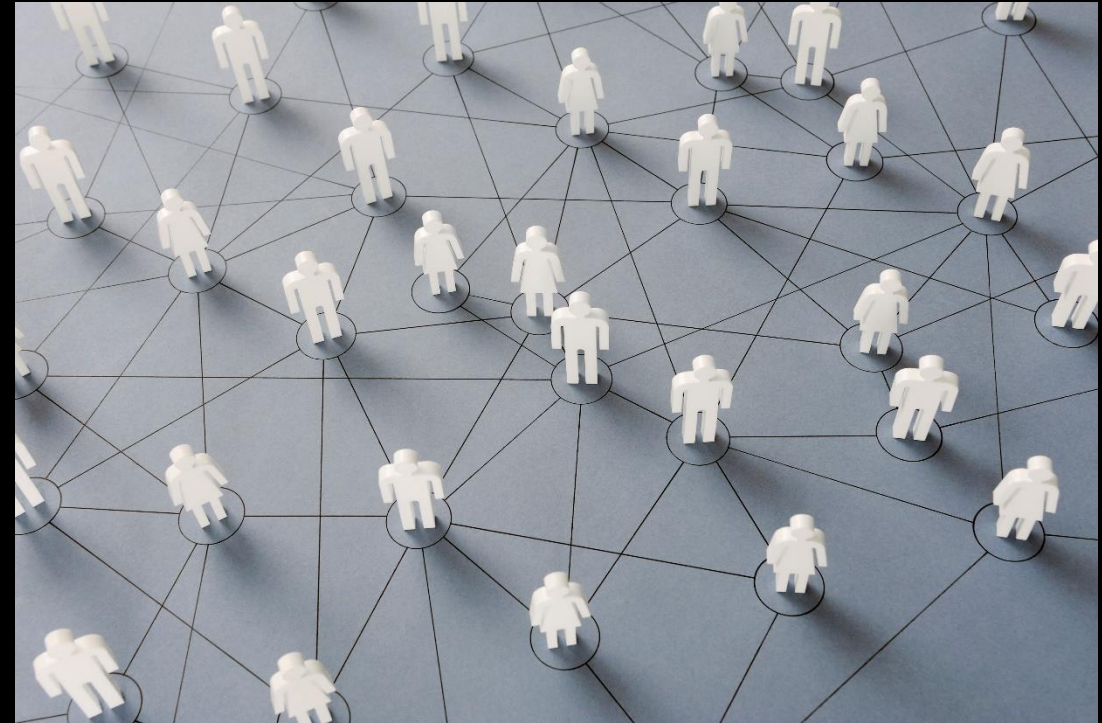


- Engagement
 - » Suppliers
 - » Associated entities
 - » Key decision makers
 - » Dept Education staff
 - » Executive



Results

- Establishing common goals
- Communications to suppliers
- Changes to policies
 - » Gifts & Benefits
 - » Corporate credit card reform
 - » Managing conflicts of interest
 - » Responsible use of public funds



Acting with Integrity. Always!



Engaging the CCC - Why



- Complexity
- Resource availability
- Multi-disciplinary teams
- Legislative powers
 - » Notices
 - » Search warrants
 - » Forensic analysis (electronics & financial)

- Police
- Civilian investigators
- Financial investigators
- Lawyers
- Intelligence officers
- Forensic computing experts
- Researchers and policy specialists
- Corporate staff

Multi-Disciplinary Teams



Engaging the CCC – How/What's needed

- Communication
- Evidence matrix needed
 - » Allegations
 - » Dishonesty
 - » Appropriate policy
 - » Witnesses to be spoken to



Engaging the CCC – Joint Investigation



- Executive engagement (prior to and during)
- Co-operation
- Confidentiality
- Transparency



CCC Investigation



| Thank you. Questions?



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