# Suggested policy template

## Title: [Complaints about the public official: section 48A of the *Crime and Corruption Act 2001*]

### 1 Objective

The [position title] is the public official of the [UPA].

The objective of this policy is to set out how the [UPA] will deal with a complaint
(also information or matter)[[1]](#footnote-1) that involves or may involve corrupt conduct[[2]](#footnote-2) of its
[public official/CEO] as defined in the *Crime and Corruption Act* *2001* (CC Act).

### 2 Policy rationale

The policy is designed to assist the [UPA] to:

1. Comply with s. 48A of the CC Act
2. Promote public confidence in the way suspected corrupt conduct of the [public official/CEO] for the [UPA] is dealt with (s. 34(c) CC Act)
3. Promote accountability, integrity and transparency in the way the [UPA] deals with
a complaint that is suspected to involve, or may involve, corrupt conduct of the
[public official/CEO].

### 3 Definitions

|  |  |
| --- | --- |
| Crime and Corruption Commission (CCC) | the Commission continued in existence under the CC Act |
| CC Act  | *Crime and Corruption Act 2001* |
| Complaint | includes information or matter: see definition provided by s. 48A(4) of the CC Act |
| Contact details for Nominated person  | \*\*\* INSERT actual contact details here\*\*\* |
| Corruption | see Schedule 2 (Dictionary) of the CC Act |
| 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 2.6  |
| Deal with | seeSchedule 2 (Dictionary) of the CC Act |
| Nominated person | see item 5 of this policy |
| Police misconduct | see Schedule 2 (Dictionary) of the CC Act |
| Public Official/CEO | see Schedule 2 (Dictionary) and also s. 48A 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 of the
[public official/CEO] of the [UPA]
* to all persons who hold an appointment in, or are employees of, the [UPA].

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 Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.[[5]](#footnote-5)

The CC Act applies as if a reference about notifying or dealing with the complaint to the public official/CEO is a reference to the nominated person[[6]](#footnote-6).

[drafting note: where there is more than one nominated person, insert the following 2 paragraphs:]

The nominated persons will — with or without consulting the CCC or [title of person or entity with to whom the public official/CEO is accountable (e.g. Minister for Department; Elected Council/Mayor for local government CEO)] — 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 for that particular complaint will inform the CCC and [title of person or entity with to whom the public official/CEO is accountable] that they are the nominated person for the particular complaint.

### 6 Complaints about the [public official/CEO]

If a complaint may involve an allegation of corrupt conduct of the [public official/CEO] of the [UPA]*,* 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 ss37, 38 and 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.

If the nominated person reasonably suspects the complaint may involve corrupt conduct of the [public official/CEO], they are to:

1. notify the CCC of the complaint[[8]](#footnote-8), and
2. deal with the complaint, subject to the CCC’s monitoring role, when *—*
	* + [drafting note: *only include this first dot point if 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[[9]](#footnote-9).

If the [public official/CEO] reasonably suspects that the complaint may involve corrupt conduct on their part, the [public official/CEO] must:

1. report the complaint to the nominated person as soon as practicable and may also notify the CCC; and
2. take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the [title of person or entity to whom the public official/CEO is accountable].

[drafting note: *only include this paragraph if UPA has a s. 40 CC Act agreement*] Where directions issued under s. 40 of the CC Act apply to the complaint:

1. the nominated person is to deal with the complaint, and
2. the [public official/CEO] is to take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the [title of person or entity to whom the public official/CEO is accountable].

### Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct of the [public official/CEO] 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 or 46 of the CC Act, the nominated person has responsibility to deal with the complaint[[10]](#footnote-10):

1. the [UPA] will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately[[11]](#footnote-11), and
2. the nominated person is to ensure that consultations, if any, 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 responsible for dealing with the complaint
3. 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[[12]](#footnote-12)
		+ the importance of promoting public confidence in the way suspected corrupt conduct in the [UPA] is dealt with[[13]](#footnote-13), 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 [public official/CEO] to direct and control staff of the [UPA] as if the nominated person is the [public official/CEO] of the [UPA] for the purpose of dealing with the complaint only
* are delegated the same authority, functions and powers as the [public official/CEO] to enter into contracts on behalf of the [UPA] for the purpose of dealing with the complaint
* do not have any authority, function or power that cannot — under the law of the Commonwealth or the State — be delegated by either the [title of person or entity with to whom the public official is accountable (e.g. Minister for Department; the elected Council/Mayor for local government CEO)] or the [public official/CEO], to the nominated person.

### 9 Liaising with the CCC

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

* the contact details for the public official/CEO and the nominated person; and
* any proposed changes to this policy.

### 10 Consultation with the CCC

The [public official/CEO] will consult with the CCC when preparing any policy about how the [UPA] will deal with a complaint that involves or may involve corrupt conduct of the public official/CEO.[[14]](#footnote-14)

### 11 Statutory references

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

### 12 Approval

This policy is approved by:

* [public official/CEO]

Date ...........................................
* [governing body of the UPA to whom the public official/CEO is accountable]

Date ........................................

Review date ........................................

1. See s. 48A of the CC Act and the definitions below. [↑](#footnote-ref-1)
2. The CCC’s corruption function encompasses both “corrupt conduct” and “police misconduct”. For the purposes of the Queensland Police Service, wherever the term “corrupt conduct” is used in the policy, they would also have to consider police misconduct, as per s. 37 of the CC Act. [↑](#footnote-ref-2)
3. See s. 48A(4) of the CC Act. [↑](#footnote-ref-3)
4. Under ss. 37 or 38 of the CC Act. [↑](#footnote-ref-4)
5. Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 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. Under ss. 37 or 38, subject to s. 40 of the CC Act. [↑](#footnote-ref-8)
9. Under ss. 41 and 42 and/or ss. 43 and 44 of the CC Act. [↑](#footnote-ref-9)
10. Under ss. 41 and 42 and/or ss. 43 and 44 of the CC Act. [↑](#footnote-ref-10)
11. See the CCC’s corruption purposes and function set out in ss. 4(1)(b), 33, 34, 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-11)
12. See s. 57 of the CC Act and the CCC’s corruption purposes and function set out in ss. 4(1)(b), 33, 34, 35 of the CC Act. [↑](#footnote-ref-12)
13. See s. 34(c) of the CC Act. [↑](#footnote-ref-13)
14. Section 48A of the CC Act. [↑](#footnote-ref-14)