

Complaints about the Director-General: section 48A of the *Crime and Corruption Act 2001*

1 Objective

1. The Director-General is the public official of the Department of State Development and Infrastructure (DSDI) for the purposes of the [Crime and Corruption Act 2001](#) (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 of DSDI.
3. The objective of this policy is to set out how DSDI will deal with a complaint (or information or matter)¹ that involves or may involve corrupt conduct, as defined in the CC Act, by the Director-General.

2 Policy rationale

This policy is designed to assist DSDI 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 of DSDI is dealt with (s. 34(c) CC Act).
3. Promote accountability, integrity, and transparency in the way DSDI deals with a complaint that is reasonably suspected to involve, or may involve, corrupt conduct by the Director-General.

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 the definition in s. 48A(4) of the CC Act
Contact details for Nominated person	Deputy Director-General, Corporate Michael.McKee@dsdilgp.qld.gov.au
	Executive Director, People and Performance Belinda.Bayliss@dsdilgp.qld.gov.au
	Director, Integrity & Workplace Relations Monique.butler@dsdilgp.qld.gov.au
Corrupt conduct	see s. 15 of the CC Act
<i>Corruption in Focus</i>	https://www.ccc.qld.gov.au/publications/corruption-focus ; see chapter 2, page 26
Deal with	see Schedule 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

¹ See s. 48A(4) of the CC Act and the definitions in clause 3.

	published by the PSC (as varied from time to time) – see <u>Attachment 1</u>
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 of DSDI; and
- to all persons who hold an appointment in, or are employees of, DSDI.

For the purpose of this policy a complaint includes information or matter.²

5 Nominated person

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

- Michael McKee, Deputy-Director Corporate
- Belinda Bayliss, Executive Director, People & Performance
- Monique Butler, Director Integrity & Workplace Relations

as the nominated persons to notify³ the CCC of the complaint and, subject to the Framework, to deal with the complaint under the CC Act.⁴

The provisions of the CC Act that regulate how the Director-General as the public official of DSDI is to notify or deal with a complaint also apply to the nominated person.⁵

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

If a complaint may involve an allegation of corrupt conduct by the Director-General of DSDI, the complaint may be reported to:

- the nominated person; or
- a person to whom there is an obligation to report under an Act⁶ (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.

² See s. 48A(4) of the CC Act.

³ Pursuant to s. 38 of the CC Act.

⁴ Under Chapter 2, Part 3, Division 4, Subdivision 2 of the CC Act.

⁵ See s. 48A(3) of the CC Act.

⁶ See s. 39(2) of the CC Act.

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, they are to notify the CCC of the complaint.⁷

Where, pursuant to s. 46 of the CC Act, the CCC refers a complaint back to the nominated person to deal with,⁸ 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

If the Director-General 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.

7. Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct by the Director-General 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.

8. 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:

- DSDI 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 to direct and control staff of DSDI as if the nominated person is the Director-General of DSDI for the purpose of dealing with the complaint only.

9 Liaising with the CCC

The Director-General is to keep the CCC and the nominated person/s informed of:

- the contact details for the Director-General and the nominated person/s; and
- any proposed changes to this policy.

⁷ Pursuant to s. 38 of the CC Act.

⁸ Under ss. 43 and 44 of the CC Act.

10 Consultation with the CCC

The Director-General will consult with the CCC when preparing any policy about how DSDI will deal with a complaint that involves or may involve corrupt conduct by the Director-General.

11 Statutory references

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

12 Approval

This policy is approved by:

Graham Fraine, Director-General

Department of State Development and Infrastructure

Signed: 

Date: 1/3/24

Attachment 1

Framework for oversight of senior public service employee complaints devolved by the Crime and Corruption Commission

Effective 1 March 2023, this framework supports complaints devolved by the Crime and Corruption Commission (CCC), including complaints about former employees, for all public service Senior Executive Service (SES) 3, or equivalent and higher.

Subject of complaint	Decision maker	Instrument required	Public Sector Commission (PSC) role	Entity role
Directors-General (excluding Director-General, Department Premier and Cabinet (DPC), Commissioner of Police and Commissioner of Fire and Emergency Services)	Director-General, DPC	Requires instrument of delegation from the Premier to Chair of Public Sector Governance Council under s281 of the <i>Public Sector Act 2022</i> .	<ul style="list-style-type: none"> Establish terms of reference, engage independent investigators as necessary, manage investigation, support any discipline process. Obtain independent legal advice if required. Provide progress reports to the CCC as required. Brief the Director-General, DPC as required. 	<ul style="list-style-type: none"> Limited to providing access to relevant evidence, documentation and potential witnesses. Meeting obligations under the <i>Public Interest Disclosure Act 2010</i>.

<p>Director-General, DPC</p>	<p>Investigation – CCC responsible. Subject to CCC agreeing to this role.</p> <p>Decision on discipline – the Premier. Noting on advice from the Solicitor-General.</p>	<p>Not applicable. Cannot be delegated.</p>	<ul style="list-style-type: none"> • Obtain independent legal advice if required. • Provide progress reports to the CCC as required. • Support any discipline process. • Brief the Premier as required. 	<ul style="list-style-type: none"> • For the investigation – as requested by CCC. • Meeting obligations under the <i>Public Interest Disclosure Act 2010</i>.
<p>Commissioner of Fire and Emergency Services</p>	<p>Investigation – CCC responsible. Subject to CCC agreeing to this role.</p> <p>Decision on discipline – Governor in Council on recommendation of Minister for Fire and Emergency Services.</p>	<p>Not applicable. Cannot be delegated.</p>	<ul style="list-style-type: none"> • Obtain independent legal advice if required. • Provide progress reports to the CCC as required. • Support any discipline process. • Brief the Minister as required. 	<ul style="list-style-type: none"> • For the investigation – as requested by CCC. • Meeting obligations under the <i>Public Interest Disclosure Act 2010</i>.
<p>Commissioner of Police</p>	<p>Investigation – CCC responsible.</p> <p>Decision on discipline - in accordance with s4.5 <i>Police Service Administration Act 1990</i>.</p>	<p>Any delegation required is in accordance with legal advice</p>	<ul style="list-style-type: none"> • Role, if any, to be determined considering CCC and legal advice. 	<ul style="list-style-type: none"> • In accordance with CCC and legal advice.
<p>SES3 and above (excluding Directors-General)</p> <p>Queensland Health SES3 and above and Health Executive Service (HES) employee equivalents with a direct reporting relationship to Director-General, Queensland Health</p>	<p>Independent Director-General</p>	<p>Requires an instrument of delegation from the Director-General or agency Chief Executive of the home entity under s282 of the <i>Public Sector Act 2022</i>.</p>	<ul style="list-style-type: none"> • Approve that conflicts of interest in the entity can be managed appropriately so that the entity can manage the investigation process and support any discipline process. • Responsible for the investigation and support of discipline process where conflicts cannot be managed. • Provide oversight and support the independent Director-General by advising on key steps in the investigation and 	<ul style="list-style-type: none"> • Identify conflicts of interest and complete a conflicts of interest management plan if required. • Establish terms of reference, engage independent investigators as necessary, and manage investigation. • Support the independent Director-General for any discipline process. • Obtain independent legal advice if required. • Provide progress reports to the CCC and PSC as required. • Meeting obligations under the <i>Public Interest Disclosure Act 2010</i>.

			<p>discipline processes where it is managed by the entity.</p> <ul style="list-style-type: none"> • Coordinate progress reporting from entity. 	
<p>Queensland Health SES3 and above and HES equivalents – no direct reporting relationship to Director-General, Queensland Health</p>	<p>To be managed in accordance with Queensland Health policies and procedures.</p>			