

Complaints about the public official of the Office of the Work Health and Safety Prosecutor: section 48A of the *Crime and Corruption Act 2001*

1 Objective

The Work Health and Safety Prosecutor (WHS Prosecutor) is the public official of the Office of the Work Health and Safety Prosecutor (OWHSP).

The objective of this policy is to set out how the OWHSP will deal with a complaint (also information or matter)¹ that involves or may involve corrupt conduct² of its WHS Prosecutor as defined in the *Crime and Corruption Act 2001* (CC Act).

2 Policy rationale

The policy is designed to assist the OWHSP to:

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

3 Definitions

Crime and Corruption Commission (CCC)	the Commission continued in existence under the CC Act	
CC Act	<i>Crime and Corruption Act 2001</i>	
Complaint	includes information or matter: see definition provided by s. 48A(4) of the CC Act	
Contact details for Nominated person	Deputy Director-General Office of Industrial Relations Email: ODDG@oir.qld.gov.au Phone: (07) 3406 9882 Post: CONFIDENTIAL GPO Box 69 Brisbane QLD 4001	Director, Ethical Standards Office of Industrial Relations Email: oir.ethicalstandards@oir.qld.gov.au Phone: (07) 3406 9811 Post: CONFIDENTIAL GPO Box 69 Brisbane QLD 4001
Corruption	see Schedule 2 (Dictionary) of the CC Act	
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 2.6	
Deal with	see Schedule 2 (Dictionary) of the CC Act	
Nominated person	see item 5 of this policy	
Police misconduct	see Schedule 2 (Dictionary) of the CC Act	

¹ See s. 48A of the CC Act and the definitions below.

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.

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 WHS Prosecutor of the OWHSP
- to all persons who hold an appointment in, or are employees of, the OWHSP.

For the purpose of this policy a complaint includes information or matter.³

5 Nominated person

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

- the Director, Ethical Standards, Office of Industrial Relations (OIR); and
- the Deputy Director-General, OIR

to notify⁴ the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.⁵

Where there is more than one nominated person:

- The nominated persons will — with or without consulting the CCC or the relevant Minister under the *Work Health and Safety Act 2011*— 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 the relevant Minister under the *Work Health and Safety Act 2011* that they are the nominated person for the particular complaint.

The CC Act applies as if a reference about notifying or dealing with the complaint to the WHS Prosecutor is a reference to the nominated person⁶.

6 Complaints about the WHS Prosecutor

If a complaint may involve an allegation of corrupt conduct of the WHS Prosecutor of the OWHSP, the complaint may be reported to:

- the nominated person, or
- a person to whom there is an obligation to report under an Act⁷ (this does not include an obligation imposed by ss.37, 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 WHS Prosecutor, they are to:

- (a) notify the CCC of the complaint⁸, and
- (b) deal with the complaint, subject to the CCC's monitoring role, when —

³ See s. 48A(4) of the CC Act.

⁴ Under ss. 37 or 38 of the CC Act.

⁵ Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act.

⁶ See s. 48A(3) of the CC Act.

⁷ See s. 39(2) of the CC Act.

⁸ Under ss. 37 or 38, subject to s. 40 of the CC Act.

- pursuant to s. 46 of the CC Act, the CCC refers the complaint to the nominated person to deal with⁹.

If the WHS Prosecutor reasonably suspects that the complaint may involve corrupt conduct on their part, the WHS Prosecutor 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 in consultation with the Minister under the *Work Health and Safety Act 2011*.

7 Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct of the WHS Prosecutor 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 nominated person has responsibility to deal with the complaint¹⁰.

- the OWHSP will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately¹¹, and
- 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
- 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 Act¹²
 - the importance of promoting public confidence in the way suspected corrupt conduct in the OWHSP is dealt with¹³, and
 - the OWHSP'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 WHS Prosecutor to direct and control staff of the OWHSP as if the nominated person is the WHS Prosecutor of the OWHSP for the purpose of dealing with the complaint only
 - are delegated the same authority, functions and powers as the WHS Prosecutor to enter into contracts on behalf of the OWHSP 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 Minister under the *Work Health and Safety Act 2011* or the WHS Prosecutor, to the nominated person.

9 Under ss. 41 and 42 and/or ss. 43 and 44 of the CC Act.

10 Under ss. 41 and 42 and/or ss. 43 and 44 of the CC Act.

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 OWHSP's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint.

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.

13 See s. 34(c) of the CC Act.

9 Liaising with the CCC

The WHS Prosecutor is to keep the CCC and the nominated person informed of:

- the contact details for the WHS Prosecutor and the nominated person; and
- any proposed changes to this policy.

10 Consultation with the CCC

The WHS Prosecutor will consult with the CCC when preparing any policy about how the OWHSP will deal with a complaint that involves or may involve corrupt conduct of the WHS Prosecutor.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:

Simon Nicholson, Work Health and Safety Prosecutor



10 November 2022