

## Complaints about the Public Advocate: section 48A of the *Crime and Corruption Act 2001*

### 1. Objective

The Public Advocate is the public official of the unit of public administration (UPA) that is the Public Advocate.

The objective of this policy is to set out how the UPA that is the Public Advocate will deal with a complaint (also information or matter)<sup>1</sup> that involves or may involve corrupt conduct<sup>2</sup> of the Public Advocate as defined in the *Crime and Corruption Act 2001* (Qld).

### 2. Policy rationale

The policy is designed to assist the UPA that is the Public Advocate to:

1. Comply with section 48A of the *Crime and Corruption Act*.
2. Promote public confidence in the way suspected corrupt conduct of the Public Advocate for the UPA that is the Public Advocate is dealt with.<sup>3</sup>
3. Promote accountability, integrity and transparency in the way the Public Advocate deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Public Advocate.

### 3. Definitions

CCC	Crime and Corruption Commission - the Commission continued in existence under the <i>Crime and Corruption Act 2001</i>
Complaint	includes information or matter. See definition provided by section 48A(4) of the <i>Crime and Corruption Act</i>
Contact details	should include a direct telephone number, email address and postal address to enable confidential communications  <u>Contact details for the nominated person:</u> <a href="mailto:LGFTDDG@justice.qld.gov.au">LGFTDDG@justice.qld.gov.au</a> Telephone: 07 3738 8353 Postal address: GPO Box 3111, Brisbane Q 4001

<sup>1</sup> *Crime and Corruption Act 2001* (Qld) s 48A.

<sup>2</sup> *Crime and Corruption Act 2001* (Qld) s 35; The CCC's corruption functions encompasses both 'corrupt conduct' and 'police misconduct'.

<sup>3</sup> *Crime and Corruption Act 2001* (Qld) s 34(c).

Corruption	see schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Corrupt conduct	see section 15 of the <i>Crime and Corruption Act 2001</i>
<i>Corruption in Focus</i>	<a href="http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus">http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus</a> ; see chapter 2, page 2.5
Deal with	see schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Nominated person	see item 5 of this policy
Police misconduct	see schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Public Official/CEO	see schedule 2 (Dictionary) and also section 48A of the <i>Crime and Corruption Act 2001</i>
Unit of public administration (UPA)	see section 20 of the <i>Crime and Corruption Act 2001</i>

#### 4. Policy application

This policy applies:

- If there are grounds to suspect that a complaint may involve corrupt conduct of the Public Advocate for the UPA that is the Public Advocate
- To all persons who hold an appointment in, or are employees of the UPA that is the Public Advocate

For the purpose of this policy, reference to the UPA that is the Public Advocate is as the UPA and not the Office of the Public Advocate and the administration provided by the Department of Justice and Attorney-General (DJAG).

For the purpose of this policy a complaint includes information or matter involving corrupt conduct.<sup>4</sup>

#### 5. Nominated person

Having regard to sections 48A(2) and (3) of the *Crime and Corruption Act*, this policy nominates the Deputy Director-General, Liquor Gaming and Fair Trading as the nominated person to notify<sup>5</sup> the CCC of the complaint and to deal with the complaint under the *Crime and Corruption Act*.<sup>6</sup>

The *Crime and Corruption 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.<sup>7</sup>

#### 6. Complaints about the Public Advocate

If a complaint may involve an allegation of corrupt conduct of the Public Advocate of the UPA that is the Public Advocate, the complaint may be reported to the Deputy Director-

<sup>4</sup> *Crime and Corruption Act 2001* (Qld) s 48(4).

<sup>5</sup> *Ibid* s 38.

<sup>6</sup> *Ibid* ch 2 pt 3 div 4 sub-div 2.

<sup>7</sup> *Ibid* s 48A(3).

General, Liquor Gaming and Fair Trading or a person to whom there is an obligation to report under another Act.<sup>8</sup>

If there is uncertainty about whether or not a complaint should be reported, it is best to report it to the Deputy Director-General, Liquor Gaming and Fair Trading.

If the Deputy Director-General, Liquor Gaming and Fair Trading reasonably suspects the complaint may involve corrupt conduct of the Public Advocate, they are to:

- (a) Notify the CCC of the complaint;<sup>9</sup> and
- (b) Deal with the complaint, subject to the CCC's monitoring role when –
  - Directions issued under section 40 of the *Crime and Corruption Act* apply to the complaint, if any; or
  - Pursuant to section 46 of the *Crime and Corruption Act*, the CCC refers the complaint to the Deputy Director-General, Liquor Gaming and Fair Trading to deal with.<sup>10</sup>

If the Public Advocate reasonably suspects that the complaint may involve corrupt conduct on their part, the Public Advocate must:

- (i) Report the complaint to the nominated person as soon as practicable and may also notify the CCC; and
- (ii) Take no further action to deal with the complaint unless requested to do so by the Deputy Director-General, Liquor Gaming and Fair Trading in consultation with the Attorney-General.

If directions issued under section 40 of the *Crime and Corruption Act* apply to the complaint:

- (i) The Deputy Director-General, Liquor Gaming and Fair Trading is to deal with the complaint; and
- (ii) The Public Advocate is to take no further action to deal with the complaint unless requested to do so by the Deputy Director-General, Liquor Gaming and Fair Trading in consultation with the Attorney-General.

## 7. Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct of the Public Advocate 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 Deputy Director-General, Liquor Gaming and Fair Trading

If pursuant to sections 40 or 46, the Deputy Director-General, Liquor Gaming and Fair Trading has responsibility to deal with the complaint:<sup>11</sup>

- (i) The UPA that is the Public Advocate, or as otherwise negotiated via the Deputy Director-General, Justice Services, DJAG, will ensure that sufficient resources are

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<sup>8</sup> Ibid s 39(2); this does not include an obligation imposed by ss 38 and 39.

<sup>9</sup> As per *Crime and Corruption Act 2001* (Qld) s 38 subject to s 40.

<sup>10</sup> *Crime and Corruption Act 2001* (Qld) ss 43, 44.

<sup>11</sup> Ibid ss 43, 44.

- available to the Deputy Director-General, Liquor Gaming and Fair Trading to enable them to deal with the complaint appropriately,<sup>12</sup>
- (ii) The Deputy Director-General, Liquor Gaming and Fair Trading 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 the Deputy Director-General, Liquor Gaming and Fair Trading who is responsible for dealing with the complaint.
- (iii) The Deputy Director-General, Liquor Gaming and Fair Trading must, at all times, use their best endeavors to act independently, impartially and fairly having regard to the:
- Purpose of the *Crime and Corruption Act*,<sup>13</sup>
  - The importance of promoting public confidence in the way suspected corrupt conduct in the UPA that is the Public Advocate is dealt with,<sup>14</sup> and
  - The UPA that is the Public Advocate's statutory, policy and procedural framework.

If the Deputy Director-General, Liquor Gaming and Fair Trading has responsibility to deal with the complaint, they:

- Are delegated the same authority, functions and powers as the Public Advocate to enter into contracts on behalf of the UPA that is the Public Advocate for the purpose of dealing with the complaint (subject to appropriate financial delegation from the Director General, DJAG) , and
- Do not have any authority, function or power that cannot – under the law of the Commonwealth or state – be delegated by either the Attorney-General or the Public Advocate, to the nominated person; and
- may contact the Executive Director, Ethical Standards Unit, DJAG as necessary, who has authority to direct Office of the Public Advocate administrative staff (DJAG) for the purpose of dealing with alleged corrupt conduct.

## 9. Liaising with the CCC

The Public Advocate is to keep the CCC and the Deputy Director-General, Liquor Gaming and Fair Trading informed of:

- The contact details for the Public Advocate and the Deputy Director-General, Liquor Gaming and Fair Trading, and
- Any proposed changes to this policy.

## 10. Consultation with the CCC

The Public Advocate will consult with the CCC when preparing any policy about how the UPA that is the Public Advocate will deal with a complaint that involves or may involve corrupt conduct of the Public Advocate.<sup>15</sup>

<sup>12</sup> See the CCC's corruption purposes and functions set out in *Crime and Corruption Act 2001 (Qld)* ss 4(1)(b), 33, 34, 35 and/or the unit of public administration that is the Public Advocate's relevant statutory, policy and/or procedural framework which help inform decision-making about the appropriate way to deal with the complaint.

<sup>13</sup> See *Crime and Corruption Act 2001 (Qld)* s 57 and the CCC's corruption purposes and functions set out in ss 4(1)(b), 33, 34, 35.

<sup>14</sup> *Crime and Corruption Act 2001 (Qld)* s 34(c).

<sup>15</sup> *Ibid* s 48A.

## 11. Statutory references

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

## 12. Approval

This policy is approved by:



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John Chesterman

Public Advocate

Date 8 / 7 / 2022

**Review date:** This policy will be reviewed before 31 July 2027

