

Requirements for Reporting Official Misconduct

Human Resources Policy

Effective Date: May 2008

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1 PURPOSE

To outline the:

- Responsibilities of management and employees to report matters that may involve suspected official misconduct; and
- Complaint-handling processes on the receipt of allegations of suspected official misconduct.

2 APPLICATION

This policy applies to all Queensland Health employees, volunteers, contractors, consultants and others who exercise power or control resources for or on behalf of Queensland Health.

3 GUIDELINES

Guidelines may be developed to facilitate implementation of this policy. The guidelines must be consistent with this policy.

4 DELEGATION

The “delegate” is as listed in the Queensland Health Human Resource Delegations Manual as amended from time to time.

5 REFERENCES

- *Crime and Misconduct Act 2001*
- *Public Sector Ethics Act 1994*
- *Whistleblowers Protection Act 1994*
- *Criminal Code Act 1899*
- Queensland Health Code of Conduct
- Induction and Orientation HR Policy
- Video Surveillance Cameras (Closed Circuit Television) Occupational Health and Safety Policy

6 SUPERSEDES

- IRM 3.1-5 Official Misconduct – Requirements and Process for Reporting

7 POLICY

7.1 Obligation to Disclose Official Misconduct including Fraud, Corruption and Maladministration

Section 9 of the *Public Sector Ethics Act 1994* places an obligation on all Queensland Health employees to disclose fraud, corruption and maladministration. This obligation is also reflected in Principle 2 of the Queensland Health Code of Conduct.

The Queensland Health Code of Conduct also extends this obligation to include volunteers, contractors, consultants and others who exercise power or control resources for or on behalf of Queensland Health.

Accordingly, all employees of Queensland Health, volunteers, contractors, consultants and others who exercise power or control resources for or on behalf of Queensland Health, have a responsibility to report matters that a person suspects involves, or may involve, official misconduct.

Disciplinary action may be taken against an employee who fails to report acts or suspicions of official misconduct.

7.2 Official Misconduct

“Official misconduct” is any “conduct” connected with the performance of an employee’s duties that is dishonest or lacks impartiality, involves a breach of trust or is a misuse of officially obtained information or material required. The conduct could, if proven, be a criminal offence or serious enough to justify dismissal.

Conduct which may constitute official misconduct includes and is not limited to:

- Theft of Queensland Health property.
- Unauthorised release or disclosure of confidential and/or patient information.
- Misuse of Queensland Health assets and/or equipment eg vehicles, fuel cards, mobile telephones, computers etc.
- Conducting a private business during working hours and/or utilising Queensland Health resources.
- Conflicts of interest including contracting and/or approving a contract on behalf of Queensland Health with a firm or business in which an interest is held.
- Theft and/or fraudulent dealings of the property / possessions of Queensland Health patients.
- Assault in the workplace of fellow employees, patients or other persons.
- Utilising the Queensland Health computer network for accessing or transmitting pornographic images.
- Causing, or attempting to cause or conspiring to cause, detriment to another person because (or in the belief that) another person has made or may make a public interest disclosure pursuant to the *Whistleblowers Protection Act 1994*.
- Other serious misconduct which would tend to bring Queensland Health into disrepute and which is likely to result in disciplinary action, including dismissal.
- Wilful neglect which may be defined as malicious or reckless conduct.

“Official Misconduct” and related matters are defined in sections 14-19 of the *Crime and Misconduct Act 2001*. Refer to the definitions section of this policy for more information.

7.3 Referral to the Crime and Misconduct Commission

Section 38 of the *Crime and Misconduct Act 2001* places an obligation on the Director-General of Queensland Health to refer allegations of suspected official misconduct to the Crime and Misconduct Commission (CMC).

Area General Managers, Clinical Chief Executive Officers, District Managers, Executive Directors and state wide divisional heads (Executive Managers) who are made aware of allegations of suspected official misconduct must refer those matters to the Director-General, via the Director, Ethical Standards Unit. Area General Managers, District Managers and Branch Directors are not to report allegations of suspected official misconduct directly to the CMC.

The Director, Ethical Standards Unit is to ensure all complaints of alleged official misconduct, theft, fraud etc are assessed and referred to the CMC.

Ethical Standards Unit may conduct preliminary inquiries to establish the bona fides of a complaint. In exceptional circumstances, the Director-General may authorise the use of covert investigative techniques, such as covert video surveillance or the engagement of private investigators.

7.4 Crime and Misconduct Commission Action

The CMC will advise the Director-General on whether the CMC will proceed to investigate the allegations of suspected official misconduct or whether the matter will be referred back to Queensland Health for appropriate action.

8 APPLYING THE POLICY

8.1 Knowledge of Official Misconduct Obligations

Executive Managers **are to ensure** that all employees and volunteers are made aware of their obligations contained in this policy.

For consultants, contractors, and agency staff this responsibility rests with the External Service Provider, not Queensland Health.

8.2 Process for Reporting Matters Involving Suspected Official Misconduct

An employee who observes or is made aware of any act which may involve fraud, corruption, maladministration or other conduct which the employee suspects involves, or may involve, official misconduct, has a duty to immediately report those matters to their immediate line manager. Volunteers and others who are not employees are to report such matters to the person who supervises their work.

An employee may report matters of suspected official misconduct directly to the Executive Managers where the disclosure involves allegations in relation to the conduct of their immediate line manager.

The line manager is required to immediately notify the Executive Managers of the receipt of such allegations.

The Executive Managers must then immediately refer the allegations to the Director, Ethical Standards Unit as per section 7.3 of this policy.

8.3 Internal Investigations

Where an internal departmental investigation is to proceed, this will be undertaken by the Ethical Standards Unit, unless determined otherwise by the Director, Ethical Standard Unit. Such investigations will be undertaken in accordance with the Investigations Procedures Manual.

9 DEFINITIONS

<p>Official Misconduct</p>	<p>Section 15 of the <i>Crime and Misconduct Act 2001</i> states that “official misconduct” is “conduct that could, if proved, be:</p> <ul style="list-style-type: none"> (a) a criminal offence; or (b) a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment,” <p>Other sections of the <i>Crime and Misconduct Act 2001</i> of relevant to the definition of “official misconduct”: include:</p> <ul style="list-style-type: none"> • Section 14 outlines the meaning of “conduct”. • Section 16 states that conduct happening over time, or at any time, may be “official misconduct”. • Section 17 states that conduct outside Queensland may be “official misconduct”. • Section 18 states that conspiracy or attempt to engage in conduct may be “official misconduct”. • Section 19 states that “official misconduct” is not affected by time limitations.
<p>Fraud and Corruption</p>	<p>Fraud is normally characterised by some form of deliberate deception to facilitate or conceal the misappropriation of assets</p> <p>Corruption involves a breach of trust in the performance of official duties</p> <p>Many forms of fraud and corruption are offences under the <i>Criminal Code Act 1899</i>. These include offences such as extortion, false claims, stealing, misappropriation of property, false pretence, receipt or solicitation of secret commissions, forgery, revenue evasion, election fraud, currency violation and drug dealing.</p>
<p>Maladministration</p>	<p>Schedule 6 of the <i>Whistleblowers Protection Act 1994</i> states that maladministration is administrative action that is unlawful, arbitrary, unjust, oppressive, improperly discriminatory or taken for an improper purpose.</p>

10 HISTORY

<p>May 2008</p>	<p>Developed as a result of the HR Policy Framework consolidation project.</p>
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