

Human Resources Policy

Requirements for reporting suspected corrupt conduct

Policy Number: E9 (QH-POL-218)

Publication date: August 2019

Purpose: To outline the:

- responsibilities of managers and employees to report matters that may involve suspected corrupt conduct and
- complaint handling processes on the receipt of allegations of suspected corrupt conduct.

Application: This policy applies to all Department of Health (including Queensland Ambulance Service) employees, volunteers, contractors, consultants and others who exercise power or control resources for or on behalf of the Department of Health.

Delegation: The 'delegate' is as listed in the relevant Department of Health Human Resource (HR) Delegations Manual, or Queensland Ambulance Service Human Resource (HR) Delegations Manual, as amended from time to time.

Legislative or other authority:

- *Ambulance Service Act 1991*
- *Crime and Corruption Act 2001*
- *Criminal Code Act 1899*
- *Hospital and Health Boards Act 2011*
- *Human Rights Act 2019*
- *Public Interest Disclosure Act 2010*
- *Public Sector Ethics Act 1994*
- *Public Service Act 2008*

Related policy or documents:

- Code of Conduct for the Queensland Public Service (Code of Conduct)
- Employee complaints HR Policy E12 (QH-POL-140)
- Corrupt conduct complaints involving the Director-General HR Policy E15 (QH-POL-419)
- Orientation, induction and mandatory training HR policy G6 (QH-POL-183)
- Public Interest Disclosure HR policy I5 (QH-POL-202)
- Fraud Control Policy (QH-POL-295:2015)

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1 Obligation to disclose corrupt conduct including fraud and maladministration

Principle 1 of the Code of Conduct, Integrity and Impartiality, requires all employees to meet their obligations to report suspected wrongdoing, including conduct not consistent with the Code of Conduct.

The Code of Conduct defines employees as:

- any Queensland public service agency employee whether permanent, temporary, full-time, part-time or casual
- any volunteer, student, contractor, consultant or anyone who works in any other capacity for a Queensland public service agency.

Where an employee becomes aware of or suspects wrongdoing, they must immediately report it to an appropriate authority.

Disciplinary action may be taken against an employee who fails to report acts or suspicions of corrupt conduct. A failure to report suspected corrupt conduct can in itself be corrupt conduct.

2 Reporting matters involving suspected corrupt conduct

An employee who suspects another employee of engaging in corrupt conduct, has a duty to immediately report those matters to their manager. Volunteers and others who are not employees are to report such matters to the person who supervises their work.

Managers are required to immediately notify Ethical Standards Unit (ESU), Office of the Director-General by email CO.Complaints@health.qld.gov.au or telephone 3708 5414.

An employee may report matters of suspected corrupt conduct to another senior officer where the disclosure involves allegations in relation to the conduct of their immediate manager.

Alternatively, employees may report matters of suspected corrupt conduct directly to ESU or the Crime and Corruption Commission (CCC), following any process established by the CCC for making corrupt conduct complaints.

To report suspected corrupt conduct, there does not need to be a formal complaint from an aggrieved person. Suspected corrupt conduct may arise from other information or matter such as the findings of an audit report or in the course of resolving a grievance.

Suspected corrupt conduct does not have to be serious corrupt conduct or show that it has actually occurred. Some complaints may appear minor, however may turn out to be quite serious, or an aggregation of minor issues can indicate a systemic problem.

Any employee who reports or receives information about suspected corrupt conduct must be careful from the outset to maintain confidentiality, as a public interest disclosure may be involved and it preserves the integrity of any review or other process to deal with the alleged conduct.

3 Referral to the Crime and Corruption Commission

Section 38 of the *Crime and Corruption Act 2001* places an obligation on the Public Official (the Director-General) to notify the CCC where there is reasonable suspicion that a complaint, information or matter involves or may involve, corrupt conduct.

On receipt of a report of suspected corrupt conduct, ESU will assess the information and make the necessary referrals to the CCC for endorsement and authorisation for the Department of Health (department) to proceed with the management of the complaint, information or matter.

Subject to any directions issued to the department under section 40 of the *Crime and Corruption Act*, ESU will provide advice to the delegate when a matter can be dealt with immediately.

No further enquiry or action should be taken until any required endorsement is received from the CCC and advice has been provided by ESU. Immediate and necessary reasonable action can be taken if there is a risk of danger to a patient, the public or an employee's safety, or there is a risk of loss of evidence. Please discuss with ESU before the action is taken.

Where criminal conduct is alleged, a report to the Queensland Police Service may be necessary before any action is taken by the department.

4 Dealing with suspected corrupt conduct

Section 44 and Schedule 2 of the *Crime and Corruption Act* informs how a complaint of suspected corrupt conduct may be dealt with, including taking no action.

Where it is determined that formal departmental investigation is required, this will be undertaken by an investigator appointed by an authorised delegate of the department. Refer to the relevant HR Delegations Manual.

ESU may conduct enquiries to ascertain the nature and extent of any conduct that may have led to the complaint. The Director-General may authorise the use of covert investigative techniques, such as covert video surveillance or the engagement of private investigators.

After a complaint of corrupt conduct has been dealt with and it is established that no corrupt conduct has occurred, there may still be workplace or other issues that need to be dealt with. In this regard, the complaint, information or matter will be referred to the appropriate delegate.

5 Awareness and training

Managers must ensure all employees, volunteers, students, consultants and contractors under their supervision are made aware of their obligations contained in this policy.

The Director-General has mandated training in:

- ethics, integrity and accountability (included in Code of Conduct)
- fraud awareness
- public interest disclosures

for department employees. It is the responsibility of managers to ensure employees under their supervision complete the required training.

Definitions:

Corrupt conduct	<p>Section 15(1) of the <i>Crime and Corruption Act 2001</i> defines corrupt conduct as conduct of a person, regardless of whether the person holds or held an appointment, that -</p> <ul style="list-style-type: none"> • adversely affects, or could adversely affect, directly or indirectly, the performance of functions (official duties) or exercise of power of a unit of public administration or person holding an appointment; <u>and</u> • the conduct must be of a kind that could result, directly or indirectly, in the improper performance of those duties in a way that is not honest or impartial, or a knowing or reckless breach of trust, or involves a misuse of information; <u>and</u> • must be such that it would, if proved, be a criminal offence or a disciplinary breach providing reasonable grounds for dismissal. <p>Examples include:</p> <ul style="list-style-type: none"> • theft of departmental property, including medication and medical supplies • fraudulently obtaining a financial gain through the misuse of government funds or assets • unauthorised release or disclosure of confidential information • timesheet fraud, claiming for duties not performed • misuse of departmental assets and equipment e.g. vehicles, mobile telephones, computers etc. • maladministration and misappropriation including misuse of fuel cards and corporate credit cards • utilising departmental resources and/or conducting a private business during working hours • not declaring conflicts of interest • assault in the workplace of employees, patients or other persons • utilising the Queensland Health computer network for accessing or transmitting pornographic images or images which may depict child exploitation • causing, attempting to cause or conspiring to cause, detriment to another person because (or in the belief that) another person has made a public interest disclosure pursuant to the <i>Public Interest Disclosure Act 2010</i> • wilful neglect which may be defined as malicious or reckless conduct • involves an allegation of 'professional misconduct (see definition below). <p>Section 15(2) of the <i>Crime and Corruption Act</i> also defines corrupt conduct as conduct of a person, regardless of whether the person holds or held an appointment, that:</p> <ul style="list-style-type: none"> • impairs, or could impair, public confidence in public administration; <u>and</u> • involves, or could involve <ul style="list-style-type: none"> – collusive tendering; – fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of protecting
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	<p>health or safety of persons, protecting the environment, or protecting or managing the use of the State's natural, cultural, mining or energy resources</p> <ul style="list-style-type: none"> – dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets; – evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue; or – fraudulently obtaining or retaining an appointment; <u>and</u> <ul style="list-style-type: none"> • must be such that it would, if proved, be a criminal offence or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.
Fraud	<p>Fraud is normally characterised by some form of deliberate deception in order to obtain a benefit. The official definition is as per AS8001-2008: <i>Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position.</i></p>
Investigation	<p>A 'formal' investigation process involves the appointment of an Investigator by the Director-General, or delegate (the appointer).</p> <p>The final product of a formal investigation is an investigation report. The Investigator must prepare and provide a report to the appointer.</p> <p>After considering the report, the Director-General, or delegate, may take the action he or she considers appropriate in relation to the matters identified in the report.</p>
Maladministration	<p>The Public Interest Disclosure Act defines maladministration as administrative action that was taken contrary to law, or was unreasonable, unjust, oppressive, or improperly discriminatory; or was taken for an improper purpose; or on irrelevant grounds; or having regard to irrelevant considerations; or was an action for which reasons should have been given, but were not given; or was based wholly or partly on a mistake of law or fact; or was wrong.</p>
Professional misconduct	<p>Professional misconduct is conduct connected with exercising the skill of a professional or engaging in the performance of the specified duties or activities of a position.</p> <p>Professional misconduct can also be corrupt conduct if it meets the four elements under section 15 of the Crime and Corruption Act.</p> <p>While professional misconduct only rarely amounts to corrupt conduct, it can do so even when there is no criminal offence involved.</p> <p>In such cases, the conduct must involve repeated behaviour (including neglect, failure and inaction) that undermines the trust placed in the person by virtue of their position; or be a single incident</p>

	of behaviour indicating a callous or reckless disregard for, or indifference to, the skills required for the proper discharge of the duties of the position.
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History:

August 2019	<ul style="list-style-type: none"> • Policy: <ul style="list-style-type: none"> – formatted as part of the HR Policy review – amended to update references and naming conventions – amended to reflect the updated <i>Crime and Corruption Act 2001</i> definition of corrupt conduct from 1 March 2019.
March 2018	<ul style="list-style-type: none"> • Policy amended to update references and naming conventions.
October 2014	<ul style="list-style-type: none"> • Policy amended to reflect changes in legislation and Department of Health organisational changes. • Policy title changed from 'Requirements for reporting official misconduct' to 'Requirements for reporting corrupt conduct.'
May 2014	<ul style="list-style-type: none"> • Policy reviewed as part of the Queensland Ambulance Service (QAS) HR Policy Integration project. • Policy applicable to QAS employees.
November 2013	<ul style="list-style-type: none"> • Updated as part of the HR Policy Simplification Project. • Policy amended to: <ul style="list-style-type: none"> – reflect changes in legislation and organisational from 1 July 2012 – limit application to the Department of Health. • remove the definition of Official Misconduct in the body of the policy and extended it in the definition section.
May 2008	<ul style="list-style-type: none"> • Developed as a result of the HR policy consolidation project.
Previous	<ul style="list-style-type: none"> • IRM 3.1-5 Official Misconduct – Requirements and Process for Reporting.