

## Governance Policy Framework

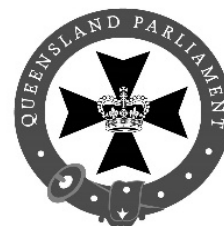
# Policy

Complaints about the Clerk of the Parliament -  
section 48A of the *Crime and Corruption Act 2001*

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Public



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Version	Date	Prepared / Modified by	Changes	Approved by
0.1	January 2019	Peter Morris	Draft	Clerk
1	April 2019	Peter Morris	Final	Clerk
2	October 2022	Rebecca Meehan	Change to nominated person under of the CC Act.	Deputy Clerk

**Contact for enquiries and proposed changes**

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**Information Security**

The document has been classified using the Queensland Parliamentary Service Information Security Classification (PSISC) as PUBLIC and will be managed according to the requirements of the PSISC.



## Purpose and Authority

Under section 48A of the *Crime and Corruption Act 2001* (CC Act), a public official must have a policy about how their unit of public administration will deal with a complaint that involves, or may involve, corrupt conduct by the public official, so that transparency and integrity are maintained.

Having regard to s48A(2) and (3) of the CC Act, this policy nominates the Deputy Clerk as the nominated person to notify<sup>1</sup> the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.<sup>2</sup>

Once the Queensland Parliamentary Service nominates a person, the CC Act applies as if a reference about notifying or dealing with the complaint to the Clerk of the Parliament is a reference to the nominated person.<sup>3</sup>

## Applicability

This policy applies:

- If there are grounds to suspect that a complaint may involve corrupt conduct by the Clerk of the Parliament of the Queensland Parliamentary Service.
- To all persons who hold an appointment in, or are officers or employees of, the Queensland Parliamentary Service.

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

## Policy Statement

The Clerk of the Parliament is the public official of the Queensland Parliamentary Service.<sup>5</sup>

This policy sets out how the Queensland Parliamentary Service will deal with a complaint (also information or matter)<sup>6</sup> that involves or may involve corrupt conduct by the Clerk of the Parliament as defined in the *Crime and Corruption Act 2001* (CC Act).

## Policy Benefits

The policy is designed to assist the Queensland Parliamentary Service to:

1. Comply with s48A of the *Crime and Corruption Act 2001*.
2. Promote public confidence in the way suspected corrupt conduct of the Clerk of the Parliament for the Queensland Parliamentary Service is dealt with (s34(c) CC Act).

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<sup>1</sup> Under ss37 or 38 of the CC Act.

<sup>2</sup> Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act.

<sup>3</sup> See s48A(3) CC Act.

<sup>4</sup> See s48(4) of the CC Act.

<sup>5</sup> For the role of the Clerk see Part 3 of the *Parliamentary Service Act 1988* (PSA).

<sup>6</sup> See s48A of the CC Act and definitions.



3. Promote accountability, integrity and transparency in the way the Queensland Parliamentary Service deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Clerk of the Parliament.

## Policy requirements

### Policy requirement 1: Resourcing

If pursuant to ss40 or 46, the Deputy Clerk has responsibility to deal with the complaint.<sup>7</sup>

- (i) The Queensland Parliamentary Service will ensure that sufficient resources are available to the Deputy Clerk to enable them to deal with the complaint appropriately.<sup>8</sup>
- (ii) The Deputy Clerk 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.
- (iii) The Deputy Clerk must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
  - purposes of the CC Act,<sup>9</sup>
  - the importance of promoting public confidence in the way suspected corrupt conduct in the Queensland Parliamentary Service is dealt with,<sup>10</sup> and
  - the Queensland Parliamentary Service's statutory, policy and procedural framework.

If the Deputy Clerk has responsibility to deal with the complaint, they:

- are delegated the same authority, functions and powers as the Clerk of the Parliament to direct and control staff of the Queensland Parliamentary Service as if they were the Clerk of the Parliament of the Queensland Parliamentary Service for the purpose of dealing with the complaint only; and
- are delegated the same authority, functions and powers as the Clerk of the Parliament to enter into contracts on behalf of the Queensland Parliamentary Service for the purpose of dealing with the complaint only.

### Policy requirement 2: Liaising and consulting with the CCC

The Clerk of the Parliament is to keep the CCC and the Deputy Clerk informed of:

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

The Clerk of the Parliament will also consult with the CCC when preparing any policy about how the Queensland Parliamentary Service will deal with a complaint that involves or may involve corrupt conduct of the Clerk of the Parliament.<sup>11</sup>

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<sup>7</sup> Under ss41 and 42 and/or ss43 and 44 of the CC Act.

<sup>8</sup> See the CCC's corruption purposes and function set out in ss4(1)(b), 33, 34, 35 and the Queensland Parliamentary Service's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint.

<sup>9</sup> See ss57 and the CCC's corruption purposes and function set out in ss4(1)(b), 33, 34, 35 of the CC Act.

<sup>10</sup> See s34(c) CC Act.

<sup>11</sup> Section 48A of the CC Act.



**Policy requirement 3: Liaising with the Speaker on complaint matters**

The Speaker of the Legislative Assembly is the Clerk of the Parliament's employer.<sup>12</sup>

Subject to the nature of the complaint and the CCC's monitoring role, the Deputy Clerk is to keep the Speaker of the Legislative Assembly, as the Clerk's employer, informed of the complaint, investigation process and the outcome.

**Implementation Advice*****Complaint involving a reasonable suspicion of corrupt conduct***

If a complaint may involve an allegation of corrupt conduct by the Clerk of the Parliament of the Queensland Parliamentary Service, the complaint may be reported to:

- (a) the Deputy Clerk; or
- (b) a person to whom there is an obligation to report under an Act<sup>13</sup> (this does not include an obligation imposed by ss37, 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 Clerk of the Parliament reasonably suspects that a complaint may involve corrupt conduct on their part, the Clerk of the Parliament must:

- (a) report the complaint to the Deputy Clerk as soon as practicable and may also notify the CCC; and
- (b) take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Speaker of the Legislative Assembly.

If the nominated person (Deputy Clerk) reasonably suspects the complaint may involve corrupt conduct by the Clerk of the Parliament, they are to:

- (a) notify the CCC of the complaint;<sup>14</sup> and
- (b) deal with the complaint, subject to the CCC's monitoring role, when —
  - directions are issued under s40 apply to the complaint, if any; or
  - pursuant to s46, the CCC refers the complaint to the Manager, HR Services to deal with the complaint.<sup>15</sup>

If directions issued under s40 apply to the complaint:

- (a) the nominated person (Deputy Clerk) is to deal with the complaint, and
- (b) the Clerk of the Parliament is to take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Speaker of the Legislative Assembly.

<sup>12</sup> Section 49(2) PSA

<sup>13</sup> See s39(2) of the CC Act.

<sup>14</sup> Under ss37 or 38, subject to s40 of the CC Act.

<sup>15</sup> Under ss41 and 42 and/or ss43 and 44 of the CC Act.



## Related Information

Staff should refer to the following documents for further information:

- *Code of Conduct for the Parliamentary Service*;
- *Crime and Corruption Act 2001*;
- Parliamentary Service Act 1988; and
- Parliamentary Service Public Disclosure Policy

## Definition of terms

<i>Term</i>	<i>Definition</i>
Crime and Corruption Commission (CCC)	the Commission continued in existence under the <i>Crime and Corruption Act 2001</i>
CC Act	<i>Crime and Corruption Act 2001</i>
Code of conduct	<i>Code of Conduct for the Parliamentary Service</i>
Complaint	includes information or matter. See definition provided by s48A(4) of the <i>Crime and Corruption Act 2001</i>
Contact details	should include a direct telephone number, email address and postal address to enable confidential communications
Corruption	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Corrupt conduct	see s15 of the <i>Crime and Corruption Act 2001</i>
Corruption in Focus	<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	Michael Ries, Deputy Clerk <a href="mailto:Michael.Ries@parliament.qld.gov.au">Michael.Ries@parliament.qld.gov.au</a> 07 3553 6610
PS Act	<i>Parliamentary Service Act 1988</i>
Police misconduct	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Public Official/CEO	see Schedule 2 (Dictionary) and also s48A of the <i>Crime and Corruption Act 2001</i>
Unit of public administration (UPA)	see s20 of the <i>Crime and Corruption Act 2001</i>

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

