

COMPLAINTS AGAINST THE CHIEF EXECUTIVE POLICY

DOCUMENT CONTROL

Document Name:	Complaints against the Chief Executive Policy		
Document ID:	CRP-POL-202604-0092-003		
Version:	003		
Approved by:	CCC Board	Date approved:	17 April 2023 27 April 2026
Maintained by:	General Counsel	Date of next review:	April 2029

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CONTEXT

1. Section 48A of the *Crime and Corruption Act 2001* (CC Act) requires the Chief Executive, in consultation with the Crime and Corruption Commission (CCC), to prepare a policy about how QPAC will deal with a complaint, information or matter that involves or may involve Corrupt Conduct of the Chief Executive.
2. The Chief Executive has directed the General Counsel to prepare this Policy on their behalf.

PURPOSE

3. The purpose of this Policy is to set out how QPAC will deal with Relevant Complaints.
4. This Policy is designed to assist QPAC to promote accountability, integrity, transparency and public confidence in the way in which QPAC deals with Relevant Complaints.

APPLICATION

5. This Policy applies to all Board members and Employees, in relation to Relevant Complaints.

POLICY

Relevant Complaint

6. For the purposes of this Policy, a Relevant Complaint is a complaint, information or matter that involves, or may involve, Corrupt Conduct of the Chief Executive.

Corrupt Conduct

7. Corrupt Conduct is:

(a) conduct of a person that:

- (i) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of:

- a Unit of Public Administration; or
- a Person Holding an Appointment;

and

- (ii) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers by the Unit of Public Administration or Person Holding an Appointment in a way that:

- is not honest or is not impartial; or
- involves a breach of the trust placed in a Person Holding an Appointment, either knowingly or recklessly; or
- involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a Person Holding an Appointment;

and

- (iii) would, if proved, be:

- a criminal offence; or

- a disciplinary breach providing reasonable grounds for terminating the person's services;

OR

(b) conduct of a person that:

(i) impairs, or could impair, public confidence in public administration;

and

(ii) involves, or could involve, any of the following:

- collusive tendering;
- fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of protecting health or safety of persons, or protecting the environment, or protecting or managing the use of the State's natural, cultural, mining or energy resources;
- 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;
- fraudulently obtaining or retaining an appointment;

and

(iii) would, if proved, be:

- a criminal offence; or
- a disciplinary breach providing reasonable grounds for terminating the person's services.¹

8. If there is uncertainty about whether a complaint is a Relevant Complaint, it should be treated as a Relevant Complaint.
9. A complaint against the Chief Executive which is not a Relevant Complaint (i.e. does not involve or potentially involve Corrupt Conduct by the Chief Executive) must be dealt with in accordance with QPAC's *Public Interest Disclosure Policy and Procedure, Complaints Management Policy and Procedure* or other relevant policy or procedure, depending on the nature of the complaint.

Nominated Person

10. The following persons may be the Nominated Person to notify the CCC of and deal with a Relevant Complaint:
 - (a) the Chair;
 - (b) the Deputy Chair;
 - (c) the RMAC Chair;
 - (d) the Executive Director – People and Culture ;
 - (e) General Counsel.

¹ Section 15 CC Act.

11. The Chair must:

- (a) decide which of the persons listed in paragraph 10 will be the Nominated Person for a particular Relevant Complaint; and
- (b) inform the Nominated Person of that decision.

Reporting a Relevant Complaint

12. A Relevant Complaint may be reported to the Chair, the Deputy Chair and the RMAC Chair by sending an email to publicinterestdisclosure@qpac.com.au.
13. Alternatively, a relevant complaint may be reported via the Whispli Platform, QPAC's Whistle Blower program. This can be accessed via this link - <https://qpac.whispli.com/speakupplatform> or as otherwise advised on QPAC's intranet and induction materials.
14. The CC Act also allows a Relevant Complaint to be made to the CCC.
15. The PID Act also allows a Public Officer to make a Relevant Complaint (a Public Interest Disclosure) to:
- (a) the Chief Executive;
 - (b) any Board member;
 - (c) another person who, directly or indirectly, supervises or manages the Public Officer;
 - (d) a PID Contact Officer under QPAC's *Public Interest Disclosure Policy and Procedure*;
 - (e) the CCC;
 - (f) the Minister for the Arts or any other Member of the Parliament of Queensland.

Reporting by the Chair

16. The Chair must:

- (a) inform the Board of the Relevant Complaint;
- (b) inform the Board of the Nominated Person for the complaint; and
- (c) keep the Board informed of developments in the dealing with the complaint.

17. If the Board considers that the Relevant Complaint or the dealing with that Relevant Complaint includes any matter that may:

- (a) prevent, or significantly affect, QPAC's achievement of its goals under its strategic plan; or
- (b) significantly affect QPAC's performance in delivering the outputs under its operational plan,

the Chair must immediately inform the Minister for the Arts of the matter and the Chair's opinion².

² Section 52(c) of the QPAT Act.

18. If the Board becomes aware of a loss of QPAC's property that is a result of Corrupt Conduct of the Chief Executive, the Chair must:
- (a) ensure a written record is kept of the following details about the loss:
 - (i) a description of the property, including its value;
 - (ii) the reason for the loss;
 - (iii) the action taken about the loss, including, for example the following:
 - action to remedy any weakness in QPAC's internal control;
 - action taken to obtain reimbursement;
 - details about approval for writing off the loss; and
 - (b) if the loss is a material loss (being money of more than \$500 or property of more than \$5,000 value), as soon as practicable but not later than 6 months after becoming aware of the loss, notify:
 - (i) the Minister for the Arts;
 - (ii) the Auditor-General;
 - (iii) the CCC; and
 - (iv) for a loss resulting from a criminal offence: a police officer.³

Dealing with a Relevant Complaint

Persons other than the Nominated Person

19. Only a Nominated Person may deal with a Relevant Complaint.
20. If the Chief Executive or a Board member (other than the Chair) receives a Relevant Complaint, they must:
- (a) report the complaint to the Chair of the Board as soon as practicable (unless the matter has already been reported to the Chair);
 - (b) take no further action to deal with the complaint unless requested to do so by the Nominated Person.
21. If any Employee (other than the Chief Executive) receives a Relevant Complaint, they must:
- (a) refer the matter to the Chair, the Deputy Chair and the RMAC Chair by sending an email to publicinterestdisclosure@qpac.com.au as soon as practicable; and
 - (b) take no further action to deal with the complaint unless requested to do so by the Nominated Person.

Nominated Person

22. If the Nominated Person is a person other than the Chair, the Nominated Person must:
- (a) keep the Chair informed of developments in the dealing with the Relevant Complaint; and
 - (b) deal with the complaint in consultation with and in accordance with any directions given by the Chair.

³ Section 16 *Financial and Performance Management Standard 2019* (Qld).

23. If the Nominated Person reasonably suspects that the Relevant Complaint may involve Corrupt Conduct of the Chief Executive, they must:
- (a) notify the CCC:
 - (i) of the complaint⁴;
 - (ii) that they are the Nominated Person for the complaint; and
 - (iii) of the Nominated Person's contact details and any changes to those contact details during the time that the Nominated Person is dealing with the Relevant Complaint; and
 - (b) if the CCC refers the complaint to the Nominated Person⁵, deal with the complaint:
 - (i) subject to the CCC's monitoring role; and
 - (ii) in accordance with QPAC's *Public Interest Disclosure Policy and Procedure*⁶.
24. If the Nominated Person considers that it is not reasonable to suspect that the Relevant Complaint involves Corrupt Conduct of the Chief Executive, they must refer the complaint to be dealt with in accordance with QPAC's *Public Interest Disclosure Policy and Procedure*, *Complaints Management Policy and Procedure* or other relevant policy or procedure, depending on the nature of the complaint.
25. If the Nominated Person is unsure whether paragraph 23 or paragraph 24 applies, they must act in accordance with paragraph 23.
26. The Chair and the Nominated Person must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
- (a) purpose of the CC Act to continuously improve the integrity of, and to reduce the incidence of corruption in, the public sector;
 - (b) the importance of promoting accountability, integrity and transparency and public confidence in the way QPAC deals with suspected Corrupt Conduct; and
 - (c) QPAC's statutory obligations

Delegations

27. The CC Act applies to the Nominated Person as if a reference to the Chief Executive notifying or dealing with the Relevant Complaint is a reference to the Nominated Person⁷.
28. The Board hereby delegates to the Chair and to the Nominated Person:
- (a) authority to direct and control Employees; and
 - (b) administrative authority to enter into contracts on behalf of QPAC,
- only for the purpose of and to the extent necessary to deal with a Relevant Complaint.

⁴ In accordance with sections 38 and 39 of the CC Act and subject to any directions which apply to the complaint which have been issued under section 40 of the CC Act.

⁵ Pursuant to section 46 CC Act.

⁶ A Relevant Complaint is also a Public Interest Disclosure if the disclosure is made by a Public Officer (whether or not that Public Officer is a QPAC Employee). All Relevant Complaints to which paragraph 23 applies must be dealt with under QPAC's *Public Interest Disclosure Policy and Procedure*, regardless of whether they are technically a Public Interest Disclosure or not, except that the requirements to report to the Office of the Queensland Ombudsman do not apply.

⁷ Section 48A(3) CC Act.

29. The Board hereby delegates to the Chair financial authority to approve expenditure of up to \$100,000, which may be exercised in conjunction with an exercise of the administrative authority delegated in paragraph 28(b), only for the purpose of and to the extent necessary to deal with a Relevant Complaint.
30. The Chair and the Nominated Person must exercise the authority delegated in paragraphs 28 and 29 in accordance with QPAC's *Delegations*.

Resources

31. QPAC will ensure that sufficient resources are available to the Nominated Person to enable them to deal with a Relevant Complaint appropriately.
32. The Chair and the Nominated Person must ensure that any consultations 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:
- (a) authorisation under a law of the Commonwealth or the State, or
 - (b) the consent of the Chair or the Nominated Person responsible for dealing with the complaint.

ENQUIRIES

33. If you have any enquiries regarding this Policy, please contact:
- (a) the Executive Director – People and Culture; or
 - (b) General Counsel.

REVIEW

34. This Policy must be reviewed at least every 3 years.
35. The CCC must be consulted in relation to any material amendments to, or replacements of, this Policy.

DEFINITIONS

Term	Definition
Board	QPAC's Board (Queensland Performing Arts Trust comprising members appointed under section 6(1) of the QPAT Act)
Board member	A member of the Board
CC Act	<i>Crime and Corruption Act 2001</i> (Qld)
CCC	Crime and Corruption Commission
Chair	The Chair of the Board
Chief Executive	QPAC's Chief Executive (The director of Queensland Performing Arts Trust, appointed under section 32 of the QPAT Act)
Corrupt Conduct	See paragraph 7
Deputy Chair	The Deputy Chair of the Board

Term	Definition
Employees	All QPAC employees, including permanent, temporary, casual, full-time, part-time, variable part-time and flexible part-time employees
Nominated Person	A person who may deal with a Relevant Complaint, determined in accordance with paragraphs 10 and 11(a) of this Policy
Person Holding an Appointment	Any person holding an office, place or position in a Unit of Public Administration, whether the appointment is by way of election or selection (Section 21 CC Act)
PID Act	<i>Public Interest Disclosure Act 2010 (Qld)</i>
Public Interest Disclosure	A disclosure made under the PID Act. Refer to QPAC's <i>Public Interest Disclosure Policy</i> .
Public Officer	An employee, member or officer of a Public Sector Entity (Section 7 PID Act)
Public Sector Entity	Any of the following: • a committee of the Legislative Assembly, whether or not a statutory committee; • the parliamentary service; • a court or tribunal; • the administrative office attached to a court or tribunal; • the Executive Council; • a Queensland Government department; • the Queensland Ambulance Service or the Queensland Fire and Rescue Service or the Queensland Police Service; • a Queensland local government; • a registered higher education provider or TAFE Queensland; • the Queensland Agricultural Training Colleges under the <i>Queensland Agricultural Training Colleges Act 2005</i>; • an entity established under an Act or under State or local government authorisation for a public, State or local government purpose; • an entity, prescribed under a regulation, that is assisted by public funds. (Section 6 PID Act)
QPAC	Queensland Performing Arts Trust
QPAT Act	<i>Queensland Performing Arts Trust Act 1977 (Qld)</i>
Relevant Complaint	See paragraph 6
RMAC Chair	The Chair of QPAC's Risk Management and Audit Committee
Unit of Public Administration	Each of the following: • the Legislative Assembly and the parliamentary service; • the Executive Council; • a Queensland Government department; • the Queensland Police Service; • a Queensland local government; • a corporate entity established by a Queensland Act or that is of a description of a corporate entity provided for by a Queensland Act which, in either case, collects revenues or raises funds under the authority of a Queensland Act;

Term	Definition
	• a noncorporate entity, established or maintained under a Queensland Act, that is funded to any extent with State moneys or is financially assisted by the State; • a State court, of whatever jurisdiction, and its registry and other administrative offices; • another entity prescribed under a regulation. However, none of the following is a Unit of Public Administration: the CCC; • the Parliamentary Commissioner; • the entity consisting of the Parliamentary Commissioner and officers and employees of the parliamentary service assigned to the parliamentary commissioner and persons engaged to provide the parliamentary commissioner with services, information or advice; • an entity declared by an Act not to be a unit of public administration. (Section 20 CC Act)

REFERENCES

<i>Crime and Corruption Act 2001 (Qld)</i>
<i>Public Interest Disclosure Act 2010 (Qld)</i>
<i>Queensland Performing Arts Trust Act 1977 (Qld)</i>
<i>Financial and Performance Management Standard 2019 (Qld)</i>
<i>QPAC Code of Conduct</i>
<i>QPAC Complaints Management Policy</i>
<i>QPAC Complaints Management Procedure</i>
<i>QPAC Conflicts of Interest Policy</i>
<i>QPAC Public Interest Disclosure Management Program</i>
<i>QPAC Public Interest Disclosure Policy and Procedure</i>
<i>QPAC Delegations</i>
<i>QPAC Public Interest Disclosure Policy</i>