



Purpose

To outline how the Office of the Health Ombudsman (OHO) will deal with a complaint or allegation against the Health Ombudsman that involves, or may involve, corrupt conduct under s48A of the Crime and Corruption Act 2001.

Application

This policy applies:

- if there are grounds to suspect that a complaint or allegations may involve corrupt conduct of the Health Ombudsman
- to all employees of the OHO

Policy statement

The policy is required by s48A of the Crime and Corruption Act 2001. It is also designed to:

- promote public confidence in the way suspected corrupt conduct of the Health Ombudsman is dealt with
- promote accountability, integrity and transparency in the way the OHO deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Health Ombudsman.

Legislative provisions

- *Crime and Corruption Act 2001*
- *Public Service Act 2008*
- *Public Sector Ethics Act 1994*
- *Public Interest Disclosure Act 2010*
- *Criminal Code Act 1899*

Related resources

- Code of Conduct for the Queensland Public Service (Code of Conduct)
- Complaints about the Health Ombudsman
- Public Interest Disclosure Policy and Procedure
- Internal Complaints Policy and Procedure

Obligations to disclose corrupt conduct

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, including corrupt 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 corrupt conduct, 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.

Nominated Person

The Executive Director, Corporate and Strategic Services is the Nominated Person for the purposes of this policy. Responsibilities of the Nominated Person are:

- to notify the Crime and Corruption Commission ('CCC') of complaints about the Health Ombudsman that the Nominated Person suspects involve or may involve corrupt conduct; and
- to receive from the CCC referral of any complaints about the Health Ombudsman for the Nominated Person to deal with; and
- to deal with complaints about the Health Ombudsman referred to the Nominated Person by the CCC.
- If the CCC requires that a complaint against the Health Ombudsman be investigated, the Nominated Person will engage an external investigator to undertake the investigation.

Complaints about the Health Ombudsman

Complaints involving a reasonable suspicion of corrupt conduct

If a complaint involves an allegation of corrupt conduct against the Health Ombudsman, the complaint can be reported to:

- The Nominated Person (Executive Director, Corporate and Strategic Services)
- the Minister for Health
- directly to the CCC
- a person to whom such a report may be lawfully made—for example, if the alleged corrupt conduct involves a criminal offence, a member of the Queensland Police Service.

If an employee is uncertain about whether a complaint should be reported, they should err on the side of caution and report their concerns to the Nominated Person.

If an employee raises concerns direct with the Health Ombudsman, and the Health Ombudsman reasonably suspects they may involve corrupt conduct on their part, the Health Ombudsman must:

- report the complaint to the Nominated Person as soon as practicable and may also notify the CCC



- take no further action to deal with the concerns unless requested to do so by the Nominated Person.

If a complaint involves an allegation of corrupt conduct against another staff member at the Office of the Health Ombudsman, refer to *Requirements for reporting corrupt conduct policy*.

Resources for Nominated Person

If the Nominated Person has responsibility to deal with the complaint:

- sufficient resources must be made available to the Nominated Person to enable them to deal with the complaint appropriately
- the Nominated Person is to ensure that any consultations for the purpose of securing resources sufficient to deal with the complaint appropriately are confidential and not disclosed, other than to the CCC, unless they have authorisation under a Queensland or Commonwealth law
- at all times the Nominated Person must act independently, impartially and fairly having regard to the
 - purposes of the Crime and Corruption Act 2001
 - the importance of promoting public confidence in the way suspected corrupt conduct in the OHO is dealt with
 - the OHO's statutory, policy and procedural framework.
- If the Nominated Person has responsibility to deal with the complaint, they:
- are delegated the same authority, functions and powers as the Health Ombudsman to direct and control officers as if the Nominated Person is the Health Ombudsman, for the purpose of dealing with the complaint only
- are delegated the same authority, functions and powers as the Health Ombudsman to enter into contracts on behalf of the OHO for the purpose of dealing with the complaint
- do not have any authority, function or power that cannot—under the law of the Australian or the Queensland governments—be delegated by the Health Ombudsman to the nominated officer.

Liaising with the Crime and Corruption Commission

The Health Ombudsman must keep the CCC informed of:

- the contact details for the Health Ombudsman and the Nominated Person
- any proposed changes to this policy.

The Health Ombudsman must keep the Nominated Person informed of their contact details.

Consultation with the Crime and Corruption Commission

The Health Ombudsman will consult with the CCC when preparing any policy about how the OHO will deal with a complaint that involves, or may involve, corrupt conduct of the Health Ombudsman.



Definitions	
Corrupt conduct	Section 15 of the Crime and Corruption Act 2001 defines corrupt conduct and involves an allegation of 'professional misconduct' (see definition below)
Delegate	The delegate is as listed in the Office of the Health Ombudsman human resources delegations manual, as amended from time to time.
Disciplinary action	For the purposes of this policy disciplinary action is action pursuant to section 187 and section 188 of the <i>Public Service Act 2008</i> . Where a person is not subject to the disciplinary provisions of the <i>Public Service Act 2008</i> (e.g. a contractor) other appropriate action may be taken which may lead to termination of the relationship with the OHO.
Employee	A public service officer, temporary employee (engaged under section 148(2)(a) of the <i>Public Service Act 2008</i>), or general employee (engaged under section 147(2)(a) of the <i>Public Service Act 2008</i>).
Investigation	<p>A 'formal' investigation process involves the appointment of an Investigator by the CCC or Nominated Person.</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 Nominated Person must provide the report to the CCC. The CCC may take the action he or she considers appropriate in relation to the matters identified in the report.</p>
Nominated Person	<p>The Executive Director, Corporate and Strategic Services, is the Nominated Person.</p> <p>Contact details: Dermot Tiernan, Executive Director, Corporate and Strategic Services (07) 3158 1379</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 definition of corrupt conduct in section 15 of the <i>Crime and Corruption Act 2001</i>.</p> <p>While professional misconduct only rarely amounts to corrupt conduct, it can do so even when there is no criminal offence involved but when the conduct is so serious, if proved, it provides reasonable grounds for terminating the person's services if they are or were a holder of an appointment. 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 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.</p>



Version control

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Approval

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Contact	Executive Director, Corporate and Strategic Services
Custodian	Health Ombudsman
Approved by	Health Ombudsman
Approval date	5 December 2022
Signature	
Security classification ¹	Official

¹ NB. This footnote is intended to provide guidance when deciding the security classification of information.

Official – routine information without special sensitivity or handling requirements and a low business impact per document if compromised or lost. For example, information that may be shared across government agencies.

Sensitive – information that requires additional handling care due to its sensitivity or moderate business impact if compromised or lost. For example, information containing legal professional privilege.

Protected – information that requires the most careful safeguards due to its sensitivity or major business impact if compromised or lost. For example, cabinet documents.