



Purpose

This policy has been developed to:

- ensure the Office of the Health Ombudsman (OHO) is committed to maintaining the highest standard of honesty and ethical behaviour within the workplace
- prevent corrupt conduct impacting on the OHO
- facilitate the effective identification, escalation, assessment and reporting of suspected corrupt conduct
 - within the OHO; and
 - identified in health service complaints, notifications or other information received by the OHO in accordance with the *Crime and Corruption Act 2001* (the CC Act).

This policy forms part of the OHO's approach and commitment to honesty and integrity and should be read in conjunction with the Procedure – Managing allegations of corrupt conduct, Procedure – Corrupt conduct in health service complaints, notifications and information and Policy - Complaints about the Health Ombudsman.

Application

This policy applies to all OHO employees including temporary and contract employees.

All staff are responsible for identifying and reporting all suspected corrupt conduct in accordance with this policy.

This policy does not apply to complaints about suspected corrupt conduct by the Health Ombudsman. See Policy - Complaints about the Health Ombudsman for more information.

Legislative provisions

- *Crime and Corruption Act 2001*
- *Criminal Code Act 1899*
- *Health Ombudsman Act 2013*
- *Human Rights Act 2019*
- *Financial Accountability Act 2009*
- *Public Interest Disclosure Act 2010*
- *Public Records Act 2002*
- *Public Sector Act 2022*
- *Public Sector Ethics Act 1994*



Related resources

D/191288 Policy – Complaints about the Health Ombudsman

D/198401 Policy – Service delivery complaints

D/171930 Policy – Public interest disclosures (to be updated)

D/231451 Procedure – Managing allegations of corrupt conduct

D/231452 Procedure – Managing corrupt conduct in health service complaints, information and notifications

D/231450 Procedure – Public interest disclosures (to be updated)

D/187193 Section 40 Direction issued to the OHO by the Crime and Corruption Commission

D/235737 Instrument of delegation of s38 and s40A of CCC

D/235738 Instrument of delegation of s43 and s44 of CCC

D/202841 Human Resource delegations

Code of Conduct for the Queensland Public Sector (Code of Conduct)

[Corruption in focus: a guide to dealing with corrupt conduct in the Queensland public sector](#)

[How to classify matters of corrupt conduct pursuant to section 40 directions](#)

[A guide to recordkeeping under section 40A](#)

Policy statement

The OHO is committed to:

- providing a corruption free workplace for employees by maintaining a culture of integrity-based values, including accountability, ethical behaviour and honesty within the organisation
- ensuring internal controls are in place to prevent corrupt conduct
- promoting public confidence, accountability and transparency in the way the OHO identifies, notifies, assesses and reports suspected corrupt conduct
 - received by the OHO about an OHO employee; and
 - identified in health service complaints, notifications or other information received by the OHO
- treating allegations of suspected corrupt conduct with confidentiality
- taking appropriate action in relation to proven corrupt conduct by employees, contractors and agency staff.

What is corrupt conduct?

There are two types of corrupt conduct defined by the CC Act, described as either “Type A” or “Type B”.



Type A¹

Type A corrupt conduct involves conduct that affects, or could affect, a public officer (an employee of a public sector agency) so that the performance of their functions or the exercise of their powers:

- is not honest or impartial;
- knowingly or recklessly breaches public trust; or
- involves the misuse of agency-related information or material.

Examples may include fraud and theft, extortion, unauthorised release of information, obtaining or offering a secret commission or nepotism.

Type B²

Type B corrupt conduct involves specific types of conduct that impairs, or could impair, public confidence in public administration. This may include:

- collusive tendering;
- fraud relating to an application for a licence, permit or other authority relating to public health or safety; the environment; or the State's natural, cultural, mining or energy resources or
- dishonestly obtaining public funds or State assets;
- evading a State tax, levy or duty or fraudulently causing a loss of State revenue; or
- fraudulently obtaining or retaining an appointment.

It is important to know that to constitute either Type A or Type B corrupt conduct, the conduct must be either a criminal offence or serious enough to warrant dismissal from employment.

Corrupt conduct may be related to any person, regardless of their position within the OHO, including:

- employees
- agency staff
- contractors (Type B)
- people who used to work for the OHO
- people who are suppliers or providers to the department.

Suspected corrupt conduct may arise at any time, either explicitly or implicitly, through a health service complaint, information or notification received by the OHO, or internally through a review of management reports, internal audits or as a result of an internal employee complaint.

¹ Crime and Corruption Commission, 'What is corrupt conduct?', <https://www.ccc.qld.gov.au/corruption/what-corrupt-conduct>.

² Crime and Corruption Commission, 'What is corrupt conduct?', <https://www.ccc.qld.gov.au/corruption/what-corrupt-conduct>.

OHO's obligations

Section 38 of the CC Act requires the Health Ombudsman to notify the Crime and Corruption Commission (CCC) where there is reasonable suspicion that a complaint, notification, or other matter involves, or may involve, corrupt conduct.

If an allegation of suspected corrupt conduct has occurred in relation to a public sector employee who is not employed by a Queensland Hospital and Health Service or the Department of Health, or in relation to an OHO employee, then the OHO must immediately notify the CCC in accordance with section 38 of the CC Act.

The requirement under s38 of the CC Act is subject to section 40 of the CC Act, which allows the CCC to make directions about the kinds of complaints public officials must notify the CCC of, and how and when these notifications must be made.

Section 40 Direction

The CCC has issued directions to the OHO pursuant to section 40 of the CC Act (the section 40 Direction).

The section 40 Direction relates to complaints the OHO becomes aware of involving the suspected corrupt conduct of an employee of a Queensland Hospital and Health Service or the Queensland Department of Health.

The section 40 Direction sets out the agreed administrative arrangements between the CCC and the OHO in relation to these complaints and must be referred to in conjunction with this policy and any other guidelines issued by the CCC under section 48(1)(a) of the CC Act.

The section 40 Direction stipulates reporting obligations associated with three different levels of alleged corrupt conduct (levels 1, 2 and 3) and provides examples of the conduct type for each level.

The OHO is required to assess suspected corrupt conduct in accordance with the s40 Direction, noting that other agencies may assess and handle suspected corrupt conduct differently.

Reporting suspected corrupt conduct

The Health Ombudsman must notify the CCC if there is a reasonable suspicion of corrupt conduct.

It is important to note that a person does not need to have sufficient evidence to form a conclusion about corrupt conduct, but rather sufficient information to form a reasonable suspicion. A reasonable suspicion, however, requires more than speculation and there must be some factual basis to reasonably induce that suspicion.

For conduct related to Hospital and Health Service employees or Queensland Department of Health employees, reporting is to be undertaken in accordance with the section 40 Direction.

For other public sector employees and OHO employees, the Health Ombudsman must immediately notify the CCC of any reasonably suspected corrupt conduct. This can occur via the online referral form [Unit of public administration notification \(UPA notification\)](#) or via the downloaded referral form, then emailed to the CCC.



All identified suspected corrupt conduct should be escalated immediately in accordance with the steps outlined in either Procedure – Managing allegations of corrupt conduct or Procedure – Corrupt conduct in health service complaints, notifications and information to ensure appropriate reporting by the CCC Liaison Officer to the CCC can occur.

Suspected corrupt conduct matters that do not meet the threshold for reporting to the CCC but are assessed as level 2 must be reported to the CCC at the conclusion of each calendar month.

Matters assessed as level 3 do not require reporting to the CCC however appropriate records must be kept in case of audit or review.

The CCC has an overriding responsibility to promote public confidence which includes a monitoring role for corrupt conduct. It is therefore important that the OHO maintains full and accurate records when identifying, assessing and managing all suspected corrupt conduct matters to ensure that it fulfils its reporting obligations, and complies with the agreed administrative arrangements under the section 40 Direction.

Roles and responsibilities

Health Ombudsman

The Health Ombudsman is responsible for the prevention, detection and reporting of corrupt conduct across the office.

As it applies to allegations of corrupt conduct about a public officer **not** employed by the OHO, the Health Ombudsman must:

- notify the CCC of a complaint, information or matter which they reasonably suspect involves, or may involve, corrupt conduct pursuant to section 38 of the CC Act, subject to the section 40 Direction; and
- must record alleged corrupt conduct not notified to the CCC.

With respect to an OHO employee, the Health Ombudsman has responsibility for:

- making determinations on suspected official misconduct; and
- referring suspected official misconduct to the Crime and Corruption Commission.

A complaint, information or matter involving corrupt conduct must be dealt with in the way they consider most appropriate, subject to CCC monitoring.³ The Health Ombudsman may nominate an officer designated as the CCC Liaison Officer and a designated CCC liaison email address to deal with inquiries from the CCC in relation to notifications of complaints, the monitoring of complaints and any other matters involving the CCC and the OHO.

The Health Ombudsman will promote and communicate the expectation that OHO staff demonstrate the highest professional and ethical standards when executing their duties.

Executive Directors

All Executive Directors are responsible for:

³ Section 44 CC Act



- dealing with a complaint about, or information or matter involving, corrupt conduct that is referred to the OHO by the CCC.
- making determinations on suspected official misconduct of an OHO employee; and
- referring suspected official misconduct of an OHO employee to the Crime and Corruption Commission.
- supporting a workplace culture that values professionalism, honesty and integrity and demonstrate positive ethical standards through conduct and communication.

Specifically delegated Executive Directors, Directors, and Managers

Executive Directors, Directors, and Managers specifically identified in the *Instrument of delegation of s38 and s40A of CCC (D/235737)* are delegated by the Health Ombudsman to deal with allegations of corrupt conduct against a public official (not OHO employee) identified in a complaint, notification, information, or other matter.

As per this standalone instrument of delegation, the listed Executive Directors, Directors, and Managers are responsible for:

- determining whether allegations of suspected corrupt conduct against a public official meet the requirements of corrupt conduct in accordance with the CC Act
- advising employees of the required action to be taken when suspected corrupt conduct has been identified in a health service complaint, notification or information, in accordance with the section 40 Direction or as otherwise required by the CC Act.

Directors

All Directors are responsible for:

- ensuring all employees under their supervision are made aware of their obligations contained in this policy. The OHO has mandated training in:
 - Fraud and Corruption Awareness (Queensland Government)
 - Code of Conduct for the Queensland Public Service.

It is the responsibility of Directors to ensure employees in their team/s complete the required training. This can be achieved by monitoring ELMO training compliance reports on a regular basis.

As above, certain Directors may also exercise the powers on behalf of the Health Ombudsman in certain circumstances, as delegated by the *Instrument of delegation of s38 and s40A of CCC (D/235737)*.

Crime and Corruption Commission Liaison Officer

This officer, as nominated by the Health Ombudsman, is responsible for notifying the CCC of a complaint which the Health Ombudsman or delegate reasonably suspects corrupt conduct has occurred. The reporting of the suspected corrupt conduct will be in accordance with the section 40 Direction or otherwise as required by the CC Act.

Human resources

Human resources are to ensure that the following mandated training is up to date and available to all staff through the ELMO Learning System:

- Fraud and corruption awareness (Qld Government) and
- Code of Conduct for the Queensland Public Service.

OHO Employees

All OHO employees are responsible for:

- reporting allegations of corrupt conduct in accordance with the Code of Conduct for the Queensland Public Service to a senior manager, ED C&SS or the CCC
- completing mandatory training in relation to fraud, corruption and the Code of Conduct
- the identification, assessment and escalation of possible corrupt conduct arising from health service complaints, notifications or other information received during the complaint management process
- direct reporting to the CCC – where a delegate has completed the corrupt conduct assessment and confirmed the status, if the assessment is deemed to be a level 1 matter, then the OHO employee is to promptly notify the Crime and Corruption Commission Liaison Officer with relevant details of the matter for direct reporting.

An OHO employee will be directed to undertake the duty of regularly reporting to the CCC in accordance with the section 40 Direction.

All employees will undertake their duties to the highest professional and ethical standard and ensure that they are familiar with:

- Policy – Managing corrupt conduct (this policy)
- Procedure – Managing allegations of corrupt conduct and
- Procedure – Corrupt conduct in health service complaints, notifications and information.

Awareness and training

Specific training on corrupt conduct may be offered through each Division, relevant to how suspected corrupt conduct should be managed in relation to the work undertaken. This training is in addition to the mandated training on fraud and corruption and Code of Conduct.

The [Crime and Corruption Commission – Corruption in Focus](#) resource provides further information as required.

Human rights considerations

In accordance with the *Human Rights Act 2019* (the HR Act), the OHO is obligated to act and make decisions in a way that is compatible with human rights and to give proper consideration to human rights when making decisions in relation to suspected corrupt conduct.



Definitions	
Conduct	Defined in section 14 of the CC Act to include neglect, failure and inaction; and conspiracy to engage in conduct; and attempt to engage in conduct.
Corrupt conduct	As defined in section 15 of the CC Act. Corrupt conduct may include conduct that involves the following: Fraud and theft, excessive use of force/assault, extortion, unauthorised access to confidential information and favouritism.
Corruption	The abuse of entrusted power for private gain. Can be seen as a breach of trust in the performance of official duties and includes conduct which does or could adversely affect the honest or impartial exercise of functions by an employee, whether or not for the benefit of the person. It also includes conduct by an employee behaving dishonestly or failure to impartially exercise an official function.
Crime and Corruption Commission Liaison Officer	A nominated OHO officer who represents the OHO when dealing with the CCC for the purposes of section 48A(2) of the CC Act.
Deal with	A complaint about corruption or information or matter involving corruption includes: (a) investigate the complaint, information or matter; and (b) gather evidence for – (i) prosecutions for offences; or (ii) disciplinary proceedings; and (c) refer the complaint, information or matter to an appropriate authority to start a prosecution or disciplinary proceeding; and (d) start a disciplinary proceeding; and (e) take other action, including managerial action, to address the complaint in the appropriate way.
Delegate	The delegates as listed in the Standalone Instrument of Delegation, issued by the Crime and Conduct Commission.
Health service complaint	A health service complaint means a complaint accepted or not accepted, a mandatory notification, a voluntary notification.
Information	Information received by the OHO through the management of a complaint. Information may be included in a telephone discussion, via email, or written document such as a submission.
Merit and Compliance Review	The CCC will apply this level of monitoring where outcome advice is required to allow the CCC to understand how a matter was dealt with and the outcome. The OHO must provide CCC a brief report explaining the actions taken to deal with the matter.
Public Interest Disclosure	A Public Interest Disclosure (PID) is a disclosure about suspected wrongdoing in the public sector. The Public Interest Disclosure Act 2010 encourages disclosure of information about suspected wrongdoing in the public sector so it can be assessed and investigated where appropriate.




Public Interest Review	The CCC will apply this to matters involving serious and/or systemic corruption, the CCC will closely monitor and may require progress reports, the frequency and the way in which OHO will report will be outlined in the Matter Assessed Report issued by the CCC.
UPA	Unit of Public Administration, see also section 20 of the <i>Crime and Corruption Act 2001</i> .

Version control

Version no.	Draft
0.1	Draft on template
0.2	Circulated to key staff for review
0.3	Draft amended following feedback
1.0	Finalised 1 st edition

Approval

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Contact	Principal Governance and Policy Officer
Custodian	Director, Office of the Health Ombudsman
Approved by	Health Ombudsman
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Signature	
Security classification ⁴	Official

⁴ 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.