

The Health Ombudsman can issue a section 48 notice requiring information when more information is required from you in order to assess a health service complaint. The Health Ombudsman may request information under section 48 of the Health Ombudsman Act 2013 (the Act).

You must comply with a section 48 notice requiring information

It is an offence under the Act—punishable by a fine of up to 50 penalty units—to not comply with a section 48 notice unless you have a reasonable excuse. It is a reasonable excuse for an individual to not comply if the information might tend to incriminate the individual. This exception does not apply to entities that are not natural persons, such as corporations or a Hospital and Health Service under the *Hospital and Health Boards Act 2011*.

Queensland and federal privacy laws **do not** override your obligation to comply with this notice.

Providing false or misleading information

Under section 264 of the Act, it is an offence for any person—punishable by a penalty of up to 100 penalty units—to provide a document or information that is false or misleading to the Health Ombudsman, unless you:

- tell the Health Ombudsman, an authorised person or a staff member of the Office of the Health Ombudsman, to the best of your ability, how it is false or misleading
and
- have, or can reasonably obtain, the correct information, and give the correct information.

The complainant's rights

If you receive a notice, you should **not** contact the person who made the complaint. All communications regarding the complaint and the notice should be directed to the Office of the Health Ombudsman.

If, for any reason, you are in contact with the complainant (for example, you work with them), please be aware it is a criminal offence—punishable by a fine of up to 200 penalty units or two years imprisonment—to cause, attempt to cause, or conspire to cause detriment to another person who has provided assistance or information to the Health Ombudsman. The offence includes trying to induce another person to cause detriment to someone. In addition to the criminal offence, you may be liable in damages to the person who suffered detriment.

Your rights

Section 275 of the Act provides the following protections to a person who honestly and on reasonable grounds, gives information to the Health Ombudsman for the purpose of assessing a health service complaint:

- A person is not subject to any liability for giving the information, and no action, claim or demand may be taken or made against the person for giving the information.
- A person who gives the information cannot be held to have breached any code of professional etiquette and cannot be held to have departed from accepted standards of professional conduct.
- In a proceeding for defamation, the person publishing the information has a defence of absolute privilege for publishing the information.
- A person who would otherwise be required to maintain confidentiality about the information under an act or rule of law:
 - does not contravene the act, oath or rule of law or practice by giving the information
 - is not liable to disciplinary action for giving the information.
- A person giving expert advice about a matter or a person giving an opinion about a matter.

Reprisal for assisting the Health Ombudsman

Under section 262 of the Act, it is a criminal offence—punishable by a fine of up to 200 penalty units or two years imprisonment—for a person to cause, attempt to cause, or conspire to cause detriment to you for providing information or assistance to the Health Ombudsman.

In addition, the person that caused you to suffer detriment is liable in damages to you in a court of law. Any remedy which a court may grant for a tort, may be granted to you for the detriment you suffered. If you believe you are the subject of a reprisal by anyone for providing assistance or information to the Health Ombudsman, please notify the Office of the Health Ombudsman immediately.

Information requests

Under the Act, the Health Ombudsman may request information from:

- any person
- a health service provider.

A health service provider includes:

- a health practitioner
- an individual who provides a health service
- a health service organisation (for example, an organisation providing a health service at a private health facility, an ambulance service, a medical, dental, pharmaceutical or physiotherapy practice, or a Hospital and Health Service under section 17 of the *Hospital and Health Boards Act 2011*).

The Health Ombudsman may direct a section 48 notice to any of the above individuals or entities, including persons in charge of a health service organisation such as the chief executive officer or directors of a health service organisation.

What information can be required?

Under the Act, the Health Ombudsman may require any information, including any documents. Please refer to the notice for the type of information which the Health Ombudsman requires from you.

How the information is used

The Health Ombudsman will use the information to assess the complaint and perform the functions of the Health Ombudsman under the Act, and may disclose the information to third parties including, but not limited to:

- the complainant (the person/entity who made the complaint)
- other state or commonwealth government agencies
- other third parties (for example, for the purpose of obtaining an expert opinion in relation to anything contained in the information)
- any other person/entity (such as a complainant or health service provider that is the subject of the complaint) for the purpose of performing a function under the Act
- courts and tribunals such as the Queensland Civil and Administrative Tribunal.

Providing information

The notice you received contains the date, time and method by which you must provide the information. The Act states the maximum time you may be given to provide the information is 14 days after the notice is given to you. The Health Ombudsman does not have power to extend this timeframe.

Release of information

The Act does not require the Health Ombudsman to provide you with an authority from any person when issuing a notice requiring information.

Issue multiple notices

The Health Ombudsman may, after receiving information from you, issue you with further notices requiring further information from you.

Compensation for the costs

The Act does not provide for compensation for the costs you incur in complying with a section 48 notice.

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