

COMPLAINTS ABOUT THE OMBUDSMAN: Section 48A of the *Crime and Corruption Act 2001*



OLAO/2018/022
Version 1.2

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Objective

The Land Access Ombudsman (Ombudsman) is the “public official” of the Office of the Land Access Ombudsman (the Office) for the purposes of the [Crime and Corruption Act 2001](#) (the CC Act).

The objective of this policy is to set out how the Office will deal with an allegation against the Ombudsman that involves or may involve corrupt conduct as defined in the CC Act, and how to make a complaint.

This policy applies:

- if there are grounds to suspect that a complaint (also information or matter) may involve corrupt conduct by the Ombudsman
- to all persons who hold an appointment in, or are officers of, the Office.

Under s 48A of the CC Act, a public official must, in consultation with the chairperson of the Crime and Corruption Commission (CCC), prepare a policy about how the unit of public administration for which the official is responsible (i.e. the Office) will deal with a complaint that involves or may involve corruption by the public official. This policy has been developed in consultation with the CCC chairperson, in accordance with s.48A of the CC Act.

Policy statement

This policy is designed to assist the Office to:

- comply with s48A of the CC Act
- promote public confidence in the way suspected corrupt conduct by the Ombudsman is dealt with
- promote accountability, integrity, and transparency in the way the Office deals with a complaint that is suspected to involve, or may involve, corrupt conduct by the Ombudsman.

Definitions

Crime and Corruption Commission (CCC)	the Commission continued in existence under the CC Act
CC Act	Crime and Corruption Act 2001
Complaint	includes information or matter: see definition provided by s. 48A(4) of the CC Act
Contact details for Nominated person	Senior Dispute Resolution Officer Email: corporatelao@lao.org.au Phone: (07) 31812411 Post: PO Box 15148, City East, Qld 4002
Corruption	Corruption see Schedule 2 (Dictionary) of the CC Act
Corrupt conduct	see s. 15 of the CC Act
Corruption in Focus	https://www.ccc.qld.gov.au/publications/corruption-focus ; see chapter 2, page 26
Deal with	see Schedule 2 (Dictionary) of the CC Act
Nominated person	Senior Dispute Resolution Officer of the Office
Police misconduct	see Schedule 2 (Dictionary) of the CC Act

Public Official/CEO	see Schedule 2 (Dictionary) and also s. 48A of the CC Act
Unit of public administration (UPA)	See s. 20 of the CC Act

Policy Application

This policy applies:

- if there are grounds to suspect that a complaint may involve corrupt conduct by the Ombudsman
- to all persons who hold an appointment in or are employed by the Office.

The Office is committed to maintaining public confidence in the integrity, accountability, fairness, and impartiality of the Office's operations and decisions.

All allegations of suspected corrupt conduct must be reported in accordance with this policy as soon as the issue is recognised.

Nominated person

Having regard to s 48A(2) and (3) of the CC Act, this policy nominates the Senior Dispute Resolution Officer of the Office as the nominated person to:

- notify the CCC, pursuant to s 38 of the CC Act, of a complaint, or information or matter¹, that involves, or may involve, corrupt conduct by the Ombudsman; and
- deal with the complaint under the CC Act.²

The CC Act applies as if a reference about notifying or dealing with the complaint to the public official is a reference to the Senior Dispute Resolution Officer.³

Complaints about the Ombudsman

If a complaint may involve an allegation of corrupt conduct against the Ombudsman, the complaint may be reported to:

- the nominated person (the Senior Dispute Resolution Officer)
- a person to whom such a report may otherwise be lawfully made (e.g. if the alleged corrupt conduct involves a criminal offence under the *Criminal Code (Qld)*, to a member of the Queensland Police Service).

If there is uncertainty about whether a complaint should be reported, it is best to report the conduct to the nominated person.

If the nominated person "reasonably suspects"⁴ the complaint may involve corrupt conduct by the Ombudsman, they are to:

- notify the CCC of the complaint pursuant to s 38 of the CC Act; and

¹ Examples of information or matter involving corruption that may be given to the CCC can be found in s 36(3) of the CC Act.

² Under Chapter 2, Part 3, Division 4, Subdivision 2 of the CC Act.

³ CC Act, s 48A(3).

⁴ See the definition of "reasonably suspects" in Schedule 2 (Glossary) of the CC Act, and the CCC's publication entitled "[Corruption in focus: A guide to dealing with corrupt conduct in the Queensland public sector](#)" (June 2023).

- (b) deal with the complaint if, pursuant to s 46 of the CC Act, the CCC refers the complaint to be dealt with by the nominated person, subject to the CCC's monitoring role.⁵

If the Ombudsman reasonably suspects that a complaint may involve corrupt conduct on their part, the Ombudsman must:

- (a) report the complaint to the nominated person 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.

Confidentiality

The Ombudsman, the Senior Dispute Resolution Officer, the Office, and persons responsible for dealing with a complaint about corrupt conduct (including external investigators) have a duty to maintain confidentiality in relation to the complaint.⁶

The duty to maintain confidentiality extends to the identity of the person making the complaint, the person who is the subject of the complaint, and sometimes even the existence of the complaint.

Consideration will also be given to whether the complainant is making a public interest disclosure, and is therefore subject to the provisions of the [Public Interest Disclosure Act 2010](#).

Record keeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct by the Ombudsman is not required to be notified to the CCC, under s.38 of the CC Act, the nominated person must make a record of the decision that complies with s.40A of the CC Act.

Resources for the nominated person

If, pursuant to s 46 of the CC Act, the nominated person has responsibility to deal with the complaint:

- (a) the Office will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately; and
 (b) the nominated person 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
 (c) the nominated person must, always, use their best endeavours to act independently, impartially, and fairly having regard to:
- the purposes of the CC Act
 - the importance of promoting public confidence in the way suspected corrupt conduct in the Office is dealt with
 - the Office's statutory, policy and procedural framework.

If the nominated person has responsibility to deal with the complaint, they:

⁵ See s 43 and s 44 of the CC Act in relation to dealing with complaints.

⁶ For more information about confidentiality, see the CCC's publication entitled ["Corruption in focus: A guide to dealing with corrupt conduct in the Queensland public sector"](#) (June 2023).

- are delegated the same authority functions and powers as the Ombudsman to direct and control staff of the Office as if the nominated person is the Ombudsman for the purpose of dealing with the complaint only
- are delegated the same authority, functions and powers as the Ombudsman to enter into contracts on behalf of the Office for the purpose of dealing with the complaint
- do not have any authority, function or power that cannot – under the law of the Commonwealth or the State – be delegated by either the Minister for Resources or the Director-General of the Department of Resources, to the nominated person.

Liaising with the CCC

The Ombudsman is to keep the CCC informed of:

- the contact details for the Ombudsman and the nominated person
- any proposed changes to this policy.

Consultation with the CCC

The Ombudsman will consult with the CCC chairperson when preparing any policy about how the Office will deal with a complaint that involves, or may involve, corrupt conduct by the Ombudsman.⁷

Legislation

- [Crime and Corruption Act 2001](#)
- [Land Access Ombudsman Act 2017](#)
- [Public Sector Ethics Act 1994](#)
- [Public Sector Act 2022](#)

Further information

For further information regarding this policy, please contact the Senior Dispute Resolution Officer, the Office.

Review

This policy will be reviewed within two years of the approval date.

Approval



Jane Pires
Land Access Ombudsman

⁷ CC Act, s 48A.

Date: 20/12/2023

Version History

VERSION	DATE	ACTION	DESCRIPTION / COMMENTS
1.0	15/04/2019		First release
1.1	15/04/2020	Amended SIO to SDRO	Internal review
1.2	12/12/2023	Amended OLAO to LAO Added SDRO contact details Updated policy in line with CCC Template Policy for Section 48A Policy	Internal review

Keywords

Corruption, corrupt conduct, public official, Crime and Corruption Commission, CCC, public interest disclosure