

# POLICY FOR COMPLAINTS ABOUT CORRUPT CONDUCT AGAINST THE OMBUDSMAN



OLAO/2018/022  
Version 1.0

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## Purpose

The purpose of this policy is to set out how the Office of the Land Access Ombudsman (the OLAO) will deal with an allegation against the Land Access Ombudsman that involves or may involve corrupt conduct as defined in the [Crime and Corruption Act 2001](#) (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 of the Land Access Ombudsman
- to all persons who hold an appointment in, or are officers of, the OLAO.

## Background

The Land Access Ombudsman is the “public official” of the OLAO within the meaning of the CC Act.

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 OLAO) will deal with a complaint that involves or may involve corruption of the public official.

This policy has been developed in consultation with the CCC chairperson, in satisfaction of s 48A of the CC Act.

## Policy statement

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

This policy is designed to assist the OLAO to:

- comply with s 48A of the CC Act
- promote public confidence in the way suspected corrupt conduct of the Ombudsman is dealt with
- promote accountability, integrity and transparency in the way the OLAO deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Ombudsman.

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

## What is corrupt conduct?

Corrupt conduct is defined in s 15 of the CC Act in the following terms:

### 15 **Meaning of corrupt conduct**

- (1) **Corrupt conduct** means conduct of a person, regardless of

- whether the person holds or held an appointment, that—*
- (a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—*
    - (i) a unit of public administration; or*
    - (ii) a person holding an appointment; and*
  - (b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—*
    - (i) is not honest or is not impartial; or*
    - (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or*
    - (iii) 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*
  - (c) is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and*
  - (d) would, if proved, be—*
    - (i) a criminal offence; or*
    - (ii) a disciplinary breach providing reasonable grounds terminating the person's services, if the person is or were the holder of an appointment.*
- (2) Without limiting subsection (1), conduct that involves any of the following could be corrupt conduct under subsection (1)—*
- (a) abuse of public office;*
  - (b) bribery, including bribery relating to an election;*
  - (c) extortion;*
  - (d) obtaining or offering a secret commission;*
  - (e) fraud;*
  - (f) stealing;*
  - (g) forgery;*
  - (h) perverting the course of justice;*
  - (i) an offence relating to an electoral donation;*
  - (j) loss of revenue of the State;*
  - (k) sedition;*
  - (l) homicide, serious assault or assault occasioning bodily harm or grievous bodily harm;*
  - (m) obtaining a financial benefit from procuring prostitution or from unlawful prostitution engaged in by another person;*
  - (n) illegal drug trafficking;*
  - (o) illegal gambling.*

## **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 of the Land Access Ombudsman (Senior Dispute Resolution Officer, OLAO) as the nominated person to:

- (a) notify the CCC of a complaint, or information or matter<sup>1</sup>, that involves, or may involve, corrupt conduct pursuant to s 38 of the CC Act; and
- (b) deal with the complaint under the CC Act.<sup>2</sup>

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, OLAO.<sup>3</sup>

## Complaints about the Land Access Ombudsman

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

- the nominated person (the Senior Dispute Resolution Officer, OLAO)
- a person who directly or indirectly manages the person; or
- directly to the CCC; or
- 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 or not a complaint should be reported, it is best to err on the side of caution and report the conduct to the nominated person.

If the nominated person “reasonably suspects”<sup>4</sup> the complaint may involve corrupt conduct of the Land Access Ombudsman, they are to:

- (a) notify the CCC of the complaint pursuant to s 38 of the CC Act (subject to any directions issued under s 40 of the CCA Act); and
- (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.<sup>5</sup>

If the Land Access 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 Land Access Ombudsman, the Senior Dispute Resolution Officer, OLAO 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.<sup>6</sup>

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<sup>1</sup> 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.

<sup>2</sup> Under Chapter 2, Part 3, Division 4, Subdivision 2 of the CC Act.

<sup>3</sup> CC Act, s 48A(3).

<sup>4</sup> See the definition of “reasonably suspects” in Schedule 2 (Dictionary) 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”](#) (November 2016).

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

<sup>6</sup> 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”](#) (November 2016).

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](#).

## Resources for the nominated person

If pursuant to s 40 or s 46 of the CC Act, the nominated person has responsibility to deal with the complaint:

- (a) the OLAO 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, at all times, use their best endeavours to act independently, impartially and fairly having regard to:
  - o the purposes of the CC Act
  - o the importance of promoting public confidence in the way suspected corrupt conduct in the OLAO is dealt with
  - o the OLAO's statutory, policy and procedural framework.

## Liaising with the CCC

The Land Access 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 Land Access Ombudsman will consult with the CCC chairperson when preparing any policy about how the OLAO will deal with a complaint that involves, or may involve, corrupt conduct of the Ombudsman.<sup>7</sup>

## Glossary

For the purpose of this policy, the following definitions shall apply:

TERM	DEFINITION
<b>CC Act</b>	<a href="#">Crime and Corruption Act 2001</a>
<b>Complaint, about corrupt conduct</b>	Includes information or matter involving corrupt conduct. See s 48A(4) of the CC Act.
<b>Contact details</b>	Should include a direct telephone number, email address and postal address to enable confidential communications.
<b>Corrupt conduct</b>	See s 15 of the CC Act, which is reproduced in this policy.

<sup>7</sup> CC Act, s 48A.

<b>Corruption</b>	See Schedule 2 (Dictionary) of the CC Act.
<b>Crime and Corruption Commission (CCC)</b>	The Commission continued in existence under s 220 of the CC Act.
<b>Deal with</b>	See Schedule 2 (Dictionary) of the CC Act.
<b>Nominated person</b>	The Senior Dispute Resolution Officer of the Office of the Land Access Ombudsman (Senior Investigator, OLAO) is the nominated person.
<b>Officer</b>	An officer of the Office of the Land Access Ombudsman, including temporary or casual employees.
<b>OLAO</b>	The Office of the Land Access Ombudsman, established under the <a href="#">Land Access Ombudsman Act 2017</a> .
<b>Ombudsman</b>	The Land Access Ombudsman appointed under the <a href="#">Land Access Ombudsman Act 2017</a> .
<b>Public Official</b>	See Schedule 2 (Dictionary) and also s 48A of the CC Act. The Land Access Ombudsman is the public official.
<b>Reasonably suspects</b>	See Schedule 2 (Dictionary) of the CC Act.
<b>Unit of public administration (UPA)</b>	See s 20 of the CC Act. The Office of the Land Access Ombudsman is a UPA.

## Related documents

This policy should be read in conjunction with:

- the OLAO's Public Interest Disclosure Policy and Procedure
- Crime and Corruption Commission Queensland, "[Corruption in focus: A guide to dealing with corrupt conduct in the Queensland public sector](#)" (November 2016).

## Legislation

- [Crime and Corruption Act 2001](#)
- [Land Access Ombudsman Act 2017](#)
- [Public Sector Ethics Act 1994](#)
- [Public Service Act 2008](#)

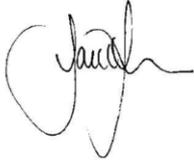
## Further information

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

## Review

This policy will be reviewed within one year of the approval date.

## Approval



**Jane Pires**  
Land Access Ombudsman

Date: 15/4/19

## 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

## Keywords

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