

Dealing with a complaint of corrupt conduct against the Ombudsman

Policy statement

The Energy and Water Ombudsman (Ombudsman) is the public official of the Office of the Energy and Water Ombudsman Queensland (EWOQ) within the meaning of the *Crime and Corruption Act 2001* (CC Act).

The objective of this policy is to set out how EWOQ will deal with a complaint (also information or matter)¹ that involves or may involve corrupt conduct of the Ombudsman.

Scope

The policy is designed to assist EWOQ to:

- Comply with s48A of the CC Act.
- Promote public confidence in the way suspected corrupt conduct of the Ombudsman is dealt with (s34(c) CC Act).
- Promote accountability, integrity and transparency in the way EWOQ deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Ombudsman.

Definitions

CCC

The Crime and Corruption Commission. The Commission continued in existence under the *Crime and Corruption Act 2001*.

CC Act

The *Crime and Corruption Act 2001*.

Complaint

Includes information or matter. See definition provided by s48A(4) of the *Crime and Corruption Act 2001*.

Complaint corruption

See Schedule 2 (Dictionary) of the *Crime and Corruption Act 2001*.

Corrupt conduct

See s15 of the *Crime and Corruption Act 2001*.

¹ See s48A of the CC Act and definitions below

Deal with

Schedule 2 (Dictionary) of the *Crime and Corruption Act 2001*.

EWOQ employees

Include full-time, temporary, part-time, and casual, outsourced service providers, consultants and contractors, volunteers/work experience staff, associated committee members, and members of the Advisory Council to the Energy and Water Ombudsman Queensland.

Minister

The Minister responsible for energy and water supply.

Public official / Chief Executive Officer (CEO)

Schedule 2 (Dictionary) and also s48A of the *Crime and Corruption Act 2001*.

Reasonably suspects

Schedule 2 (Dictionary) of the *Crime and Corruption Act 2001*.

Unit of public administration (UPA)

s20 of the *Crime and Corruption Act 2001*.

Policy application

This policy applies:

- If there are grounds to suspect that a complaint may involve corrupt conduct of the Ombudsman.
- To all persons who hold an appointment in, or are employees of, EWOQ.

For the purposes of this policy a complaint² includes information or matter.³

Nominated person

Having regard to s48A(2) and (3) of the CC Act, this policy nominates the General Manager – Business Support as the nominated person⁴ to notify⁵ the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.⁶

General Manager – Business Support contact details are as follows:

Telephone – 07 3087 9453

Email – lyn.stevens@ewoq.com.au

PO Box 3640, South Brisbane BC Qld 4101

² See s48(4) of the CC Act

³ Examples of information or matter involving corruption that may be given to the commission can be found in s36(5) of the CC Act

⁴ See footnote 2 'Suggested outline of policy'

⁵ Under s37 or s38 of the CC Act

⁶ Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act

The CC Act applies as if a reference about notifying or dealing with the complaint to the Ombudsman is a reference to the General Manager - Business Support.⁷

Complaints about the Ombudsman

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

- the General Manager – Business Support, or
- a person to whom there is an obligation to report under an Act⁸ (this does not include an obligation imposed by s37, s38 and s39(1) of the CC Act).

If there is uncertainty about whether or not a complaint should be reported, EWOQ officers should err on the side of caution and report the conduct to the General Manager – Business Support.

If the General Manager – Business Support reasonably suspects the complaint may involve corrupt conduct of the Ombudsman, the General Manager – Business Support will:

- Notify the CCC of the complaint.⁹
- Deal with the complaint, subject to the CCC’s monitoring role, when —
 - directions issued under s40 CC Act apply to the complaint, if any, or
 - pursuant to s46 CC Act, the CCC refers the complaint to the General Manager - Business Support to deal with.¹⁰

If the Ombudsman reasonably suspects that the complaint may involve corrupt conduct on his/her part, and there is a nominated person, the Ombudsman must:

- Report the complaint to the General Manager - Business Support as soon as practicable and may also notify the CCC.
- Take no further action to deal with the complaint unless requested to do so by the General Manager - Business Support in consultation with the Minister.

Where there is a nominated person, and it directions issued under s40 of the CC Act apply to the complaint:

- The General Manager - Business Support is to deal with the complaint, and
- The Ombudsman is to take no further action to deal with the complaint unless requested to do so by the General Manager - Business Support in consultation with the Minister.

Confidentiality

The Ombudsman, the General Manager - Business Support, and persons responsible for dealing with the complaint about corrupt conduct (including external investigators) have a duty to maintain confidentiality¹¹ in relation to the complaint.

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.

⁷ See s48A(3) CC Act

⁸ See s39(2) of the CC Act

⁹ Under s37 or s38, subject to s40 of the CC Act

¹⁰ Under s41 and s42 and/or s43 and s44 of the CC Act

¹¹ For further information about the obligation maintain confidentiality see 'CCC guide to dealing with corrupt conduct in the Queensland public sector'

Consideration will also need to 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*.

In particular, the following should be kept confidential:

- The identity of the source of information (including the names of any disclosers).
- The identity of those involved in the investigation including witnesses.
- The nature and content of oral and documentary evidence gathered during the investigation.

Resourcing the General Manager – Business Support

If pursuant to s40 or s46 of the CC Act, the General Manager - Business Support has responsibility for dealing with the complaint:¹²

- EWOQ will ensure that sufficient resources are available to enable the General Manager - Business Support to deal with the complaint appropriately¹³, and
- The General Manager - Business Support will 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, or
 - the consent of the General Manager - Business Support.
- The General Manager - Business Support must, at all times, use his/her best endeavours to act independently, impartially and fairly having regard to the:
 - purposes of the CC Act¹⁴
 - the importance of promoting public confidence in the way suspected corrupt conduct in EWOQ is dealt with¹⁵, and
 - EWOQ's statutory, policy and procedural framework.

If the General Manager – Business Support has responsibility to deal with the complaint, they:

- are delegated the same authority, functions and powers as the Ombudsman to direct and control employees of EWOQ as if the General Manager – Business Support is the Ombudsman of EWOQ for the purpose of dealing with the complaint only.

Liaising with the CCC

The Ombudsman is to keep the CCC and the General Manager – Business Support informed of:

- The contact details for the Ombudsman and the General Manager - Business Support.
- Any proposed changes to this policy.

¹² Under s41 and s42 and/or s43 and s44 of the CC Act

¹³ See the CCC's corruption purposes and function set out in s4(1)(b), s33, s34, s35 and EWOQ's statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint

¹⁴ See s57 and the CCC's corruption purposes and function set out in s4(1)(b), s33, s34, s35 of the CC Act

¹⁵ See s34(c) CC Act

Consulting with the CCC

The Ombudsman will consult with the CCC when preparing any policy about how EWOQ will deal with a complaint that involves or may involve corrupt conduct of the Ombudsman.¹⁶

Associated documents

Legislation:

- [Energy and Water Ombudsman Act 2006](#)
- [Crime and Corruption Act 2001](#)
- [Public Service Act 2008](#)
- [Public Sector Ethic Act 1994](#)

Resources

- [CCC guide to dealing with corrupt conduct in the Queensland public sector](#)
- PO_OM_005 Customer and Scheme Participants Complaint Policy

Approval

Approved by the Energy and Water Ombudsman and effective from the date endorsed.

Jane Pires

Energy and Water Ombudsman

Date: 31/05/2019

¹⁶ s48A of the CC Act