

Private Health Insurance Ombudsman

Protocols for Inspection Function

Legislative background

Under the *Ombudsman Act 1976* (the Act), the Private Health Insurance Ombudsman has the power to inspect private health insurers and brokers. The key parts of the Act include:

Section 20SA and 20TA

- The power to enter places occupied by private health insurers and brokers, and places where documents or other records relating to their business are kept;
- The power to inspect and take extracts or copies of any document or record relating to an Ombudsman complaint.
- The Office must give 48 hours' notice to the occupier of its intention to access premises.

Section 20SB (1), (2), (3)

- Following a 20SA inspection, the Ombudsman may make recommendations to a private health insurer to take a specific course of action or make changes to its rules; or for a health care provider or private health insurance broker to take specific course of action.
- The Ombudsman may require the person to report to the Office on the action proposed to be taken within a specific time period.

Section 20SB (4), (5)

- Following a 20SA inspection, the Ombudsman may report to the Health Minister on any recommendations made to insurers or brokers, or report on any recommendations for general changes in regulatory or industry practices.

Authorised persons

Inspections are conducted by persons authorised by the Commonwealth Ombudsman.

The Inspection roles are delegated to APS 5 and 6 officers, Assistant Directors and Director of the Private Health Insurance team, Industry Branch.

Criteria for authorised persons:

- Employees of the Commonwealth Ombudsman or persons performing duties with the Office of the Commonwealth Ombudsman via other contractual arrangements
- Passed an Australian Federal Police check
- Signed a Declaration of Conflict of Interest
- Signed a Declaration of Confidentiality and
- The Ombudsman considers they have appropriate expertise.

Under **Section ZIA** of the Act, the officers conducting inspections under 20SA and 20TA must carry an identity card at all times while exercising the inspection powers.

Confidentiality

Staff are obliged to maintain the confidentiality of information obtained in the course of their duties. Disclosure of information acquired in the course of exercising functions under the Act is prohibited unless the disclosure is:

- necessary for the performance of their official duties, or
- authorised or required by or under law.

Inspection staff must not:

- read information that is not relevant to the inspection
- discuss sensitive issues with persons who do not need to know.

Conflict of interest

All public sector employees are under an obligation to take reasonable steps to declare and avoid real or apparent conflicts of interest in connection with their employment. In an inspection context, conflicts of interest may arise in a number of circumstances, such as:

- where the subject of a case is personally known to a member of the inspection team, or
- where a member of the inspection team was involved in, or has prior knowledge of, an investigation (e.g. from previous work experience).

Inspection staff must not inspect a record relating to a person that is personally known to them, or where they have direct knowledge or involvement in the matter. It is the responsibility of each staff member to identify, disclose and avoid real or apparent conflicts of interest.

If a conflict of interest is identified, the relevant inspections officer must inform the lead inspections officer for the inspection, or if not appropriate, the other inspections officers.

The relevant inspections officer/s must then report the conflict of interest to their Director immediately upon return to the office.

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