



# Complaints about Public Official Policy

*Section 48A Crime and Corruption Act 2001*

# 1. POLICY STATEMENT

Section 48A of the Crime and Corruption Act 2001 (Qld) (CC Act) requires Townsville City Council (TCC), as a unit of public administration, to have a policy for how TCC will deal with a complaint that involves, or may involve, corruption of the public official.

The Chief Executive Officer (CEO) is the public official of TCC. The objective of this policy is to set out how TCC will deal with a complaint (also information or matter)<sup>1</sup> that involves, or may involve, corrupt conduct of its CEO as defined in the CC Act.

## 2. POLICY RATIONALE

The policy is designed to assist TCC to:

1. Comply with s48A of the CC Act;
2. Promote public confidence in the way suspected corrupt conduct of the CEO for TCC is dealt with (s34(d) CC Act); and
3. Promote accountability, integrity and transparency in the way that TCC deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the CEO.

## 3. DEFINITIONS

**Crime and Corruption Commission (CCC)** – means the Commission continued in existence under the CC Act.

**CC Act** – means the Crime and Corruption Act 2001 (Qld)

**Complaint** – includes information or matter. See definition provided by s48A(4) of the CC Act.

**Contact Details** – means the details of the Chief Legal Officer.

**Corruption** – means the same as Schedule 2 (Dictionary) of the CC Act

**Corrupt Conduct** – means the same as section 15 of the CC Act

**Corruption in Focus** – means <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/Corruption-in-focus-Guide-2023.pdf>;

**Deal with** – means the same as Schedule 2 (Dictionary) of the CC Act

**Manager** – includes persons appointed to positions including with the title, Team Manager, General Manager, Principal, Director and Chief.

**Nominated person** – see item 5 of this policy

**Public Official/CEO** – means the same as Schedule 2 (Dictionary) and section 48A of the CC Act.

**Unit of Public Administration (UPA)** – see s20 of the CC Act.

**Workers** – includes employees, contractors, volunteers and all others who perform work on behalf of Council.

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## 4. POLICY APPLICATION

This policy applies if there are grounds to suspect that a complaint may involve corrupt conduct of the CEO. This policy does not apply to complaints about other TCC employees. For complaints involving TCC employees other than the CEO, please refer to the Complaints Policy and Procedures and the Management of Fraud and Corruption Policy. This policy applies to all persons who hold an appointment in, or are employees of, the TCC.

For the purpose of this policy a complaint includes information or matter.<sup>2</sup>

## 5. NOMINATED PERSON

Having regard to s48A(2) and (3) of the CC Act, this policy nominates the Chief Legal Officer as the nominated person to notify<sup>3</sup> the CCC of the complaint and to deal with the complaint under the CC Act.<sup>4</sup>

The CC Act applies as if a reference about notifying or dealing with the complaint to the public official/CEO is a reference to the nominated person.<sup>5</sup>

## 6. COMPLAINTS ABOUT THE CEO

### 6.1. COMPLAINT INVOLVING A REASONABLE SUSPICION OF CORRUPT CONDUCT, WHERE THERE IS A NOMINATED PERSON

Where there is a nominated person, if a complaint may involve an allegation of corrupt conduct of the CEO, the complaint may be reported to:

- the nominated person; or
- a person to whom there is an obligation to report under an Act<sup>6</sup> (this does not include an obligation imposed by ss37, 38 and 39(1) of the CC Act).

If there is uncertainty about whether or not a complaint should be reported, it is best to report it to the nominated person.

If the nominated person reasonably suspects the complaint may involve corrupt conduct of the CEO, they are to:

- a) notify the CCC of the complaint<sup>7</sup>, and
- b) deal with the complaint, subject to the CCC's monitoring role, when —
  - directions issued under s40 apply to the complaint, if any, or
  - pursuant to s46, the CCC refers the complaint to the Chief Legal Officer to deal with<sup>8</sup>.

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

- (i) report the complaint to the nominated person as soon as practicable and may also notify the CCC; and
- (ii) take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Mayor.

## 7. RECORDKEEPING REQUIREMENTS

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

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the decision that complies with s. 40A of the CC Act.

## 8. RESOURCING THE NOMINATED PERSON

If pursuant to ss40 or 46, the nominated person has responsibility to deal with the complaint<sup>9</sup> :

- (i) TCC will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately<sup>10</sup>; and
- (ii) 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; or
  - the consent of the nominated person responsible for dealing with the complaint
- (iii) the nominated person must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
  - purposes of the CC Act<sup>11</sup>;
  - the importance of promoting public confidence in the way suspected corrupt conduct in TCC is dealt with<sup>12</sup>; and
  - TCC's statutory, policy and procedural framework.

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

- are delegated the same authority, functions and powers as the CEO to direct and control staff of TCC as if the nominated person is the CEO of TCC for the purpose of dealing with the complaint only;
- are delegated the same authority, functions and powers as the CEO to enter into contracts on behalf of TCC for the purpose of dealing with the complaint; and
- do not have any authority, function or power that cannot — under the law of the Commonwealth or the State — be delegated by either the Mayor or the CEO, to the nominated person.

## 9. LIAISING WITH THE CCC

The CEO is to keep the CCC and the nominated person/s (if any) informed of:

- the contact details for the public official/CEO and the nominated person/s; and
- any proposed changes to this policy

## 10. CONSULTATION WITH THE CCC

The CEO will consult with the CCC when preparing any policy about how TCC will deal with a complaint that involves or may involve corrupt conduct of the public official/CEO.<sup>13</sup>

## 11. LEGAL PARAMETERS

*Local Government Act 2009*

*Local Government Regulation 2012*

*Crime and Corruption Act 2001*

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## 12. ASSOCIATED DOCUMENTS

Corruption In Focus; A guide to Dealing with Corrupt Conduct in Queensland Public Sector

Directions issued by the Crime and Corruption Commission To Townsville City Council pursuant to section 40 of the *Crime and Corruption Act 2001*. In particular, the direction dated 25 November 2022

## 13. STATUTORY REFERENCES

Unless otherwise stated, all statutory references are to the Crime and Corruption Act 2001 (Qld).

<sup>1</sup> See s48A of the CC Act and definitions below

<sup>2</sup> See s48(4) CC of the CC Act

<sup>3</sup> Under ss37 or 38 of the CC Act

<sup>4</sup> Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act

<sup>5</sup> See s48A(3) CC Act

<sup>6</sup> See s39(2) of the CC Act

<sup>7</sup> Under 38, subject to s40 of the CC Act

<sup>8</sup> Under ss43 and 44 of the CC Act

<sup>9</sup> Under ss43 and 44 of the CC Act

<sup>10</sup> See the CCC's corruption purposes and function set out in ss4(1)(b), 33, 34, 35 and TCC's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint

<sup>11</sup> See ss57 and the CCC's corruption purposes and function set out in ss4(1)(b), 33, 34, 35 of the CC Act

<sup>12</sup> See s34(c) CC Act

<sup>13</sup> Section 48A of the CC Act

## 14. DOCUMENT HISTORY

Date	Version	Amendment	Reviewer	Approved
23/05/2023	4	Inclusion of recordkeeping requirements recommended by the Crime and Corruption commission and non-substantive changes.	Legal Services	Council

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