

Complaints about a 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 (Council), as a unit of public administration, to have a policy for how it 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 Council for the purposes of the CC Act.

The objective of this policy is to set out how Council will deal with a complaint (also information or matter)¹ that involves, or may involve, corrupt conduct, as defined in the CC Act, of the CEO.

2. Principles

The policy is designed to assist Council to:

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

3. Scope

This policy applies if there are grounds to suspect that a complaint may involve corrupt conduct of the CEO or an Acting CEO.

This policy does not apply to complaints about other Council workers. For complaints involving Council workers other than the CEO, please refer to Council's Complaint Management Policy and associated procedure and the Management of Fraud and Corruption Policy.

4. Responsibilities

Having regard to section 48A(2) and (3) of the CC Act, this policy nominates the Chief Legal Officer as the nominated person to notify² the Crime and Corruption Commission (CCC) of the complaint and deal with the complaint under the CC Act.³

¹ See s48A(4) of the CC Act and definitions in section 5.

² Under s38 of the CC Act.

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

The provisions of the CC Act that regulate how the CEO as the public officer of Council is to notify or deal with a complaint also apply to the nominated person.⁴

5. Definitions

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

Corruption - means the same as Schedule 2 of the CC Act.

Corrupt Conduct - means the same as section 15 of the CC Act.

Deal with - means the same as Schedule 2 (Dictionary) of the CC Act.

Employees - includes any persons employed directly by Townsville City Council but does not include volunteers, contractors, labour hire or contract personnel.

Manager - an individual responsible for overseeing and coordinating specific functions, departments, teams or projects within Townsville City Council.

Nominated Person - see item 4 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.

6. Policy

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 Act⁵ (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.

6.2. Complaints Received by 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 complaint⁶; and
- (b) deal with the complaint, subject to the CCC's monitoring role, when —

⁴ See s. 48A(3) of the CC Act.

⁵ See s39(2) of the CC Act.

⁶ Pursuant to s38, subject to s40 of the CC Act.

- directions issued under s40 apply to the complaint, if any; or
- pursuant to s46, the CCC refers the complaint to the nominated person to deal with.⁷

6.3. Complaints Received by the CEO

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

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

6.4. 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 s38 of the CC Act, the nominated person must make a record of the decision that complies with s40A of the CC Act.

6.5. Resourcing the Nominated Person

If pursuant to ss40 or 46, the nominated person has responsibility to deal with the complaint⁸:

- (i) Council will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately⁹; 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;
- (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 Act¹⁰;
 - the importance of promoting public confidence in the way suspected corrupt conduct in Council is dealt with¹¹; and,
 - Council'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 employees of Council as if the nominated person is the CEO of Council for the purpose of dealing with the complaint only;

⁷ Under ss. 43 and 44 of the CC Act.

⁸ Under ss. 43 and 44 of the CC Act.

⁹ 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.

¹⁰ See s57 of the CC Act and the CCC's corruption purposes and function set out in ss. 4(1)(b), 33, 34, 35 of the CC Act.

¹¹ See s. 34(c) of the CC Act.

- are delegated the same authority, functions and powers as the CEO to enter into contracts on behalf of Council 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.

6.6. 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.

6.7. Consultation with the CCC

The CEO will consult with the CCC when preparing any policy about how Council will deal with a complaint that involves or may involve corrupt conduct of the CEO.¹²

6.8. Review Rights

If the nominated person forms a view that the complaint may not involve corrupt conduct of the CEO and the complainant does not agree with the nominated person's assessment, the complainant has available external reporting including the Crime and Corruption Commission -

- Phone: (07) 3360 6060 or 1800 061 611
- Email: mailbox@ccc.qld.gov.au
- Website: [Reporting Corruption | CCC - Crime and Corruption Commission Queensland](#)

7. Legal Parameters

Crime and Corruption Act 2001

Local Government Act 2009

Local Government Regulation 2012

8. Associated Documents

Complaint Management Policy

Corruption In Focus: A guide to Dealing with Corrupt Conduct in Queensland Public Sector
([Corruption in focus: A guide to dealing with corrupt conduct in the 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.

Management of Fraud and Corruption Policy

¹² Section 48A of the CC Act.