

## 1 Purpose

The objective of this policy is to set out how Council will deal with a complaint (or information or matter)<sup>1</sup> that involves or may involve corrupt conduct, as defined in the *Crime and Corruption Act 2001* (CC Act), by the Chief Executive Officer (CEO).

## 2 Scope and applications

This policy is designed to assist the Council to:

- comply with s. 48A of the CC Act.
- promote public confidence in the way suspected corrupt conduct by the CEO is dealt with (s. 34(c) CC Act).
- promote accountability, integrity, and transparency in the way the Council deals with a complaint that is reasonably suspected to involve, or may involve, corrupt conduct by the CEO.

This policy applies:

- if there are grounds to suspect that a complaint may involve corrupt conduct by the CEO; and
- to all persons who hold an appointment in, or are employees of, Council.

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

## 3 Principles

Council is committed to the local government principles in the *Local Government Act 2009* which includes having good governance, transparent and effective processes and decision making in the public interest, and ethical and legal behaviour of Councillors and local government employees.

In addition to upholding the principles outlined above, Council is committed to upholding the obligations within the *Human Rights Act 2019* by considering the provisions of the Act when making decisions relevant to this policy.

## 4 Content

### 4.1 Nominated persons

Having regard to s. 48A(2) and (3) of the CC Act, this policy nominates the following roles as nominated persons:

- the Manager Governance & Legal Services; or
- Coordinator Governance Compliance.

The nominated persons are to notify<sup>3</sup> the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.<sup>4</sup>

The provisions of the CC Act that regulate how the CEO as the public official of Council is to notify or deal with a complaint also apply to the nominated persons.<sup>5</sup>

Where there is more than one nominated person:

- The nominated persons will decide who will be the nominated person for a particular complaint, and

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<sup>1</sup> See s. 48A(4) of the CC Act and the definitions in clause 3.

<sup>2</sup> See s. 48A(4) of the CC Act.

<sup>3</sup> Pursuant to s.38 of the CC act.

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

<sup>5</sup> See s. 48A(3) of the cc Act.

- Where a nominated person decides to notify the CCC about a complaint, the nominated person will inform the CCC that they are the nominated person for that complaint.

## 4.2 Complaints about the Chief Executive Officer

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

- the nominated person/s; 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 ss. 38 or 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 persons.

Conduct which may form a reasonable basis for possible corrupt conduct includes:

- fraud and theft
- extortion
- unauthorised release of confidential information
- receiving or providing a secret commission or bribe

### 4.2.1 Complaints received by the nominated person

If the nominated person reasonably suspects that a complaint involves or may involve corrupt conduct by the CEO, they are to:

1. notify the CCC of the complaint;<sup>7</sup> and
2. deal with the complaint, subject to the CCC's monitoring role, when —
  - a. directions issued under s. 40 of the CC Act apply to the complaint; or
  - b. pursuant to s. 46 of the CC Act, the CCC refers the complaint to the nominated person/s to deal with.<sup>8</sup>

### 4.2.2 Complaints received by Chief Executive Officer

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

- report the complaint to the nominated person/s 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/s.

## 4.3 Recordkeeping requirements

Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct by 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 the decision that complies with s. 40A of the CC Act.

## 4.4 Resourcing the nominated person

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

1. Council will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately<sup>9</sup>

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<sup>6</sup> See s. 39(2) of the CC Act.

<sup>7</sup> Pursuant to s.38 of the CC act.

<sup>8</sup> Under ss. 43 and 44 of the CC Act.

<sup>9</sup> See the CCC's corruption purposes and functions set out in ss. 4(1)(b), 33, 34 and 35 of the CC Act and the Council's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint.

2. the nominated person is to ensure that any consultants 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:
  - a. authorisation under a law of the Commonwealth or the State; or
  - b. the consent of the nominated person/s
3. the nominated person must, at all times, use their best endeavours to act independently, impartially, and fairly having regard to the:
  - a. purposes of the CC Act<sup>10</sup>
  - b. the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with;<sup>11</sup> and
  - c. 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 staff of the Council as if the nominated person is the CEO for the purpose of dealing with the complaint only.

#### 4.5 Liaising with the CCC

The CEO is to keep the CCC and the nominated person informed of:

- the contact details for the CEO and the nominated persons; and
- any proposed changes to this policy.

#### 4.6 Consultation with the CCC

Council will consult with the CCC when varying this policy.

### 5 Responsibilities/accountabilities

**Employees** including the **Chief Executive Officer** are responsible for ensuring any complaints received are handled in accordance with this policy and the requirements set out in the *Crime and Corruption Act 2001*.

**Employees** or persons who are appointed in Council are required to report complaint/s that may involve an allegation of corrupt conduct by the CEO to the nominated person/s or a person to whom there is an obligation to report under an Act.

**Nominated person/s** are required to notify the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.

**Chief Executive Officer** is required to:

- report complaints that may involve corrupt conduct on their part, to the nominated person/s as soon as practicable, may also notify the CCC and then take no further action to deal with the complaint unless requested to do so by the nominated person/s;
- consult the CCC in preparing or reviewing this policy; and
- ensure the CCC is kept informed of contact details of themselves and the nominated person/s.

**Governance and Legal Services** is responsible for the review of this policy.

**Manager, Governance and Legal Services** will advise the Mayor or Deputy Mayor of complaints against the CEO or Acting CEO under formal investigation.

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<sup>10</sup> See s. 57 of the CC Act and the CCC's corruption purposes and functions set out in ss. 4(1)(b), 33, 34 and 35 of the CC Act.

<sup>11</sup> See s. 34(c) of the CC Act.

## 6 Relevant laws

*Crime and Corruption Act 2001*

*Local Government Act 2009*

*Local Government Regulation 2012*

*Public Interest Disclosure Act 2010*

*Human Rights Act 2019*

## 7 Related policies/documents

Members of the public can access Council policies on Council's website. If a policy listed below does not appear on the website please contact 131 872 or email [info@tr.qld.gov.au](mailto:info@tr.qld.gov.au) to request a copy. Staff may access policies via the [Policy Register and Review Schedule](#).

### Council policies

2.33 Corruption and Fraud Control Policy

2.52 Complaint Management Policy

2.72 Investigation Policy

4.09 Enterprise Risk Management Policy

5.08 Public Interest Disclosure Procedure

5.20 Making and Receiving Complaints Procedure

5.21 Assessing and Investigating Complaints Procedure

5.25 Enterprise Risk Management Procedure

### Other documents

Toowoomba Regional Council Code of Conduct for Employees

Audit Committee Charter

[Corporate Plan 2024 - 2029](#)

## 8 Related forms

[Complaints Form \(DM#3290885\)](#)

## 9 Definitions

| Term                                  | Definition   |
|---------------------------------------|--|
| Crime and Corruption Commission (CCC) | the Commission continued in existence under the CC Act   |
| Chief Executive Officer (CEO)         | The Chief Executive Officer (CEO) is the public official of Council for the purposes of the <i>Crime and Corruption Act 2001</i> (CC Act). |
| CC Act                                | <a href="#">Crime and Corruption Act 2001</a>  |

| Term                                   | Definition   |
|--|--|
| Complaint                              | includes information or matter: see the definition in s. 48A(4) of the CC Act  |
| Contact details for nominated person/s | : The Manager, Governance and Legal Services and/or Coordinator Governance Compliance (nominated persons) can be contacted on 131 872 or email investigations@tr.qld.gov.au. |
| Corrupt conduct                        | see s. 15 of the CC Act  |
| Corruption in Focus                    | <a href="https://www.ccc.qld.gov.au/publications/corruption-focus">https://www.ccc.qld.gov.au/publications/corruption-focus</a> ; see chapter 2, page 26                     |
| Deal with                              | see Schedule 2 (Dictionary) of the CC Act  |
| Nominated person                       | see item 5 of this policy  |
| Public official                        | see s. 48A & Schedule 2 (Dictionary) of the CC Act   |
| Unit of public administration (UPA)    | see s. 20 of the CC Act  |

## 10 Policy details

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|-------------------------------|--|--|------------------|
| <b>Policy category:</b>       | Council Policy   | <b>Policy version number<sup>12</sup>:</b> | 1.00             |
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## 11 Revision history

| Policy version | Approval date    | DM Reference |
|----------------|------------------|--------------|
| 1.00           | 10 December 2024 | 11584643v2   |

<sup>12</sup> Printed copies are uncontrolled. It is the user's responsibility to ensure that any copies of policy documents are the current issue. Any delegations should be verified via the relevant Delegation Register as it takes precedence if there is a conflict. The Chief Executive Officer will, if necessary, be the sole arbiter in resolving any issues of conflict