

Complaints about the Public Official

Head of Power

Crime and Corruption Act 2001

Related Legislation

Local Government Act 2009

Definitions

CC Act means the *Crime and Corruption Act 2001*.

CCC means the Crime and Corruption Commission continued in existence under the CC Act.

CEO means Council's Chief Executive Officer.

Complaint includes information or matter.

Corrupt conduct has the same meaning as in the CC Act.

Deal with has the same meaning as in the CC Act.

Employee means all employees of Council, whether employed on a permanent, temporary, or part-time basis and includes volunteers and employees of businesses and entities contracted to provide services to, or on behalf of Council.

Nominated person means the person nominated by this policy.

Objective

The CEO is the public official of the Council.

The objective of this policy is to set out how the Council will deal with a complaint that involves or may involve corrupt conduct of the CEO.

Application

This Policy applies:

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

Policy Statement

This Policy is designed to assist the Council to:

1. comply with section 48A of the CC Act;
2. promote public confidence in the way suspected corrupt conduct of the CEO is dealt with; and
3. promote accountability, integrity and transparency in the way the Council deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the CEO.

Nominated Person

Having regard to section 48A(2) and (3) of the CC Act, this policy nominates the Manager Legal Services as the nominated person. In the absence of the Manager Legal Services, the Deputy CEO is nominated by this policy as the nominated person.

When the nominated person reasonably suspects that a complaint involves or may involve corrupt conduct of the CEO, the nominated person will notify the CCC of the complaint and deal with the complaint under the CC Act.

The CC Act applies as if a reference to the CEO about notifying or dealing with a complaint is a reference to the nominated person.

Complaints involving a reasonable suspicion of corrupt conduct of the CEO

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

1. the nominated person; or
2. a person to whom there is an obligation to report under an Act.

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

If the nominated person reasonably suspects the complaint involves or may involve corrupt conduct of the CEO, the nominated person must:

1. notify the CCC of the complaint; and
2. deal with the complaint, subject to the CCC's monitoring role, when –
 - (a) directions issued under section 40 of the CC Act apply to the complaint; or
 - (b) pursuant to section 46 of the CC Act, the CCC refers the complaint to the nominated person to deal with.

If the CEO receives a complaint and reasonably suspects that the complaint involves or may involve corrupt conduct on the CEO's part the CEO must:

1. report the complaint to the nominated person as soon as practicable; and
2. take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Mayor.

If section 40 directions apply to the complaint:

1. the nominated person is to deal with the complaint; and
2. the CEO is to take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Mayor.

Resources for the nominated person

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

1. the Council will ensure that sufficient resources are available to enable the nominated person to deal with the complaint appropriately;
2. the nominated person must 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:

- (a) authorisation under a law of the Commonwealth or the State; or
 - (b) the consent of the nominated person; and
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;
 - (b) importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with; and
 - (c) Council's statutory, policy and procedural framework.

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

1. is delegated the same authority, functions and powers as the CEO to direct and control staff of the Council as if the nominated person was the CEO for the purpose of dealing with the complaint only;
2. is delegated the same authority, functions and powers as the CEO to enter into contracts on behalf of the Council for the purpose of dealing with the complaint; and
3. does not have any authority, function or power that cannot (under the law of the Commonwealth or the State) be delegated by either the Council or the CEO, to the nominated person.

Liaising with the CCC

The CEO must keep the CCC and the nominated person informed of:

1. the contact details for the CEO and the nominated person; and
2. any proposed changes to this policy.

Consultation with the CCC

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

Related Documents

This policy complements and is to be implemented in conjunction with other Council policies and directives.

Review Triggers

This policy will be reviewed for applicability, effectiveness, and consistency with relevant legislation, Council resolutions, and other Council documents. Reviews of this policy will occur as required, or at least once every four years.

Responsibility

This Policy is to be:

1. implemented by the Manager Governance & Executive Services; and
2. reviewed and amended by the Chief Executive Officer in accordance with the "Review Triggers" as recommended by Director Finance & Corporate Services and in consultation with the CCC in accordance with the *Crime and Corruption Act 2001* section 48A.

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