

Policy Title: COMPLAINTS AGAINST THE CHIEF EXECUTIVE OFFICER

Policy Subject: Governance

Policy No: DOC# 3787622v2 – CP006

Directorate: Organisational Services

Department: Governance & Customer Service

Section: Governance

Responsible Officer: Executive Manager Governance & Customer Service

Authorised by: Director Organisational Services

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Risk Assessment: Medium

1. OBJECTIVE

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

2. POLICY

The policy is designed to assist the Fraser Coast Regional Council to:

1. comply with s48A of the *Crime and Corruption Act 2001*;
2. promote public confidence in the way suspected corrupt conduct of a CEO is dealt with (s34(c) CC Act); 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.

3. DEFINITIONS

To assist in interpretation of this policy the following definitions apply:

- **CC Act** means *Crime and Corruption Act 2001*
- **CEO** means *Chief Executive Officer of the Fraser Coast Regional Council including people acting temporarily in the role.*
- **Crime and Corruption Commission (CCC)** means *the Commission continued in existence under the CC Act.*
- **Complaint** includes *information or matter. See definition provided by s48A(4) of the Crime and Corruption Act 2001.*
- **Corruption** means *corrupt conduct.*

- **Corrupt Conduct** see s15 of the Crime and Corruption Act 2001
- **Nominated Person** see item 5 of this policy.
- **Deal with** see Schedule 2 (Dictionary) of the Crime and Corruption Act 2001
- **Public Official** means the Chief Executive Officer.
- **Unit of Public Administration (UPA)** means Local Government – Fraser Coast Regional Council

4. APPLICATION

This policy applies:

1. if there are grounds to suspect that a complaint may involve corrupt conduct by Council's Chief Executive Officer;
2. to all persons who hold an appointment in, or are employees of, the Council.

5. NOMINATED PERSON

Having regard to s48A (2) and (3) of the CC Act, this policy nominates:

1. the Director Organisational Services of Fraser Coast Regional Council; or
2. if the nominated person has a conflict or is implicated in the complaint, another Director of the Fraser Coast Regional Council, as determined by the Mayor; or
3. if all Directors of Fraser Coast Regional Council have conflict or are implicated in the complaint, a nominated person, as determined by the Mayor.

The nominated person who deals with a particular complaint must notify the Crime and Corruption Commission of the complaint and is required to manage the complaint in accordance with the CC Act.

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

6. COMPLAINTS ABOUT THE CEO

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

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

1. notify the CCC of the complaint; and

2. 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 nominated person to deal with.

If the CEO is in receipt of a complaint and reasonably suspects that the complaint may involve corrupt conduct on their part, the CEO must:

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

If directions issued under s40 apply to the complaint the nominated person is to deal with the complaint and 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 Council.

If the complaint about the CEO's conduct is made by an elected member of the Fraser Coast Regional Council the nominated person may engage an external party to investigate the matter.

7. RESOURCING THE NOMINATED PERSON

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

1. Council will ensure that sufficient resources are available to the nominated persons to enable them to deal with the complaint appropriately; and
2. 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 persons responsible for dealing with the complaint.
3. 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;
 - the importance of promoting public confidence in the way suspected corrupt conduct in Council is dealt with; and
 - Council's statutory, policy and procedural framework.

Where 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 Council staff as if the nominated person is 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;
3. may be delegated any authority, function or power, under the law of the Commonwealth or the State, as required to deal with the complaint;

4. 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 Mayor, to the nominated person.

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

1. disclose the complaint to the Mayor;
2. deal with the complaint;
3. before finally dealing with the complaint, report to the Mayor about
 - o action taken or not taken;
 - o the reason the action is appropriate in the circumstance;
 - o the results of the action taken that are known at the time of the report.

8. 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. The CEO is to inform the CCC of any proposed changes to this policy.

9. 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.

10. STATUTORY REFERENCES

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