

# Complaints About the Chief Executive Officer (Section 48A of the *Crime and Corruption Act 2001*) - Council Policy

<b>Effective Date</b>	Ordinary Meeting of Council - 19 August 2020
<b>Policy Owner</b>	Customer Support & Governance
<b>Link to Corporate Plan</b>	Strategic Priority - Financial Sustainability
<b>Review Date</b>	September 2024
<b>Related Legislation</b>	<i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i> <i>Crime and Corruption Act 2001</i> <i>Public Interest Disclosure Act 2010</i>
<b>Related Documents</b>	Complaints Management - Council Policy Complaints Management - Standard Work Practice (SWP) Confidentiality - Council Policy Code of Conduct

Policy Version	Approval Date	Adopted/Approved
1	20/11/2011	Approved by Chief Executive Officer (Organisational Policy)
2	20/11/2014	Approved by Chief Executive Officer (Organisational Policy)
3	19/08/2020	Ordinary Meeting of Council (Council Policy)
4	23/09/2020	Ordinary Meeting of Council

*This policy may not be current as Council regularly reviews and updates its policies. The latest controlled version can be found in the policies section of Council's intranet or Website. **A hard copy of this electronic document is uncontrolled.***

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## **POLICY OBJECTIVES/PURPOSE:**

The Chief Executive Officer (CEO) is the public official of the Western Downs Regional Council within the meaning of the *Crime and Corruption Act 2001* (the CC Act). The objective of this policy is to set out how Council, including Councillors, employees and contractors will deal with a complaint (also information or matter) that involves or may involve corrupt conduct<sup>1</sup> of its public official as defined in the CC Act.

## **ORGANISATIONAL SCOPE:**

This policy applies:

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

For the purpose of this policy a complaint includes information or a matter.

## **POLICY:**

The policy is designed to assist Council to:

1. Comply with section 48A of the *Crime and Corruption Act 2001*;
2. Promote public confidence in the way suspected corrupt conduct of the CEO for Council is dealt with (section 34(c) CC Act);
3. Promote accountability, integrity and transparency in the way 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:

1. the Mayor and the Customer Support and Governance Manager as the nominated persons to notify the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.
2. The :-
  - a. nominated persons will, with or without consulting the CCC, decide who will be the nominated person for a particular complaint; and
  - b. nominated person for that particular complaint will inform the CCC and the Council of the complaint, and include:-
    - i. the title of the person; and
    - ii. that they are the nominated person for the particular complaint.
3. Once the Council nominates a person, 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.

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<sup>1</sup> See section 15 of the *Crime and Corruption Act 2001*

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## COMPLAINTS ABOUT THE CEO:

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

1. either of the nominated person/s, or
2. a person to whom there is an obligation to report under an Act (this does not include an obligation imposed by sections 37, 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 either of the nominated person/s.

The Mayor may be contacted as follows:

Mail: Private and Confidential  
Mayor  
Western Downs Regional Council  
PO Box 551, Dalby Qld 4405  
Phone: 1300 268 624  
E-mail: paul.mcveigh@wdrc.qld.gov.au

The Customer Support and Governance Manager may be contacted as follows:

Mail: Private and Confidential  
Customer Support and Governance Manager  
Western Downs Regional Council  
PO Box 551, Dalby QLD 4405  
Phone: 1300 268 624  
E-mail: peter.greet@wdrc.qld.gov.au

If the nominated person dealing with a particular complaint reasonably suspects the complaint may involve corrupt conduct of the CEO, they are required to:

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 apply to the complaint, if any, or
  - b. pursuant to section 46, the CCC refers the complaint to the nominated person to deal with.

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

1. report the complaint to either of the nominated person/s 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 who is responsible for dealing with the complaint.

If directions issued under section 40 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 who is responsible for dealing with the complaint.



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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 section 38, the nominated person must make a record of the decision that complies with section 40A of the CC Act.

## **CONFIDENTIALITY:**

Any persons responsible for dealing with the complaint about corrupt conduct (including external investigators) have a duty to maintain confidentiality in relation to the complaint.

The duty to maintain confidentiality extends to the identity of the person making the complaint, the person who is the subject of the complaint and sometimes even the existence of the complaint.

Consideration will also need to be given to whether the complainant is making a public interest disclosure and is therefore subject to the provisions of the *Public Interest Disclosure Act 2010*.

In particular, the following should be kept confidential:-

1. the identity of the source of the information (including names of any disclosers);
2. the identity of those involved in the investigation including witnesses; and
3. the nature and content of oral and documentary evidence gathered during the investigation.

## **RESOURCING 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 the nominated person 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:
  - a. authorisation under a law of the Commonwealth or the State, or
  - b. the consent of the nominated person 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:
  - a. purposes of the CC Act
  - b. the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with, and
  - c. the Council's statutory, policy and procedural framework.

The nominated person with the responsibility to deal with the complaint:

1. 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 of the Council for the purpose of dealing with the complaint only;
2. are 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. do not have any authority, function or power that cannot be delegated by either the Council or the CEO.



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## **LIAISING WITH THE CCC**

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

1. the contact details for the public official/CEO and the nominated person/s; 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 public official/CEO.

