



Gladstone Regional Council

Council Policy

Title	DEALING WITH COMPLAINTS INVOLVING THE CHIEF EXECUTIVE OFFICER
Policy Number	P-2018-23
Business Unit/s	PEOPLE, CULTURE & SAFETY
Date of Adoption	18 SEPTEMBER 2018
Resolution Number	G/18/3526
Review Date	18 SEPTEMBER 2021
Date Repealed	

1.0 PURPOSE:

~~The purpose of this policy is to establish clear guidelines for managing corruption complaints and reporting real or suspected corrupt conduct involving the Chief Executive Officer (Public Official) to the Crime and Corruption Commission.~~

This policy establishes guidelines to deal with¹ complaints alleging corrupt conduct involving the Chief Executive Officer and provides direction on the reporting and management of any associated real or suspected corrupt conduct.

2.0 SCOPE:

~~This policy applies to all workplace participants engaged at Gladstone Regional Council and identifies circumstances that trigger the application of the policy.~~

This policy applies:

1. If there are grounds to suspect that a complaint² may involve corrupt conduct by the Chief Executive Officer; and
2. To all persons who hold an appointment in, or are employees of, Gladstone Regional Council.

3.0 RELATED LEGISLATION:

- ~~Local Government Act 2009 (Qld)~~
- Crime & Corruption Act 2001 (Qld)
- ~~Crime & Corruption Regulations 1995 (Qld)~~
- ~~Public Sector Ethics Act 1994 (Qld)~~
- ~~Work Health & Safety Act 2011 (Qld)~~

4.0 RELATED DOCUMENTS:

¹ See definitions for the meaning of 'deal with' under the *Crime and Corruption Act 2001*

² See Section 48A(4) of the *Crime and Corruption Act 2001*.

The following has been developed to help facilitate the implementation of this policy:

- ~~Code of Conduct Policy~~
- ~~Anti-Discrimination Policy~~
- ~~Anti-Harassment Policy~~
- ~~Reporting Corrupt Conduct Corporate Standard~~
- ~~Investigating Allegations & Complaints Corporate Standard~~
- ~~Employee Assistance Program Corporate Standard~~
- Corruption in Focus: a guide to dealing with corrupt conduct in the Queensland public sector <http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus>

5.0 DEFINITIONS:

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

~~“CEO” means Chief Executive Officer~~

~~“Crime and Corruption Commission (CCC)” means the Commission continued in existence under the Crime and Corruption Act 2001~~

~~“CC Act” means Crime and Corruption Act 2001~~

~~“Complaint” includes information or matter involving or may involve suspected corrupt conduct~~

~~“Corruption” involves wrongdoing by a public official in carrying out their official duties or exercising their powers. Refer to Schedule 2 (Dictionary) of the CC Act.~~

~~“Corrupt Conduct” see Section 15 of the Crime and Corruption Act 2001~~

~~“Nominated Person” refer to section 6.1 of this policy.~~

~~“Public Official” means the Chief Executive Officer (including any person acting in the position of CEO for the duration of the acting placement)~~

~~“Unit of Public Administration (UPA)” means the local government of Gladstone Regional Council~~

~~“Workplace Participants” means employees, volunteers and contractors.~~

36.0 POLICY STATEMENT:

3.1 Policy Principles

This policy aims to:

1. Promote public confidence in the way reports of suspected corrupt conduct involving the Chief Executive Officer are dealt with as required under Section 34(c) of the *Crime and Corruption Act 2001*.
2. Ensure that Council meets its obligations under Section 48A of the *Crime and Corruption Act 2001* which requires Council to have a policy in place.

3. Embed the principles of natural justice in dealing with alleged corrupt conduct complaints and affording confidentiality and protection to those involved where it is appropriate to do so.

~~Council is committed to eliminating corrupt conduct and preventing its occurrence and believes:~~

- ~~• in ensuring an honest and impartial work environment that enhances the standing and reputation of Council~~
- ~~• corrupt conduct is unfair, wastes public money and resources, leads to inefficiency, and destroys trust~~
- ~~• workplace participants have a role to play in reporting real or suspected corrupt conduct and in maintaining effective work practices to combat corruption.~~

~~The CCC and the Council are committed to protecting the reputation of those who report suspected corrupt conduct and those who are the subject of the complaint. Strict confidentiality must be maintained by all involved in the process.~~

3.2 6.1 Nominated Person

Having regard to the *CC Act*, specifically section 48A (2) and (3), this policy nominates:

- Mayor as the a nominated person; and
- ~~General Manager People, Culture & Safety as the nominated person~~ General Manager People and Strategy as a nominated person;
for the purposes of dealing with real or suspected corrupt conduct involving the Chief Executive Officer.

Nominated persons have the responsibility to report and deal with alleged corrupt conduct complaints involving the Chief Executive Officer in accordance with the *Crime and Corruption Act 2001*.

As there is more than one nominated person at Gladstone Regional Council:

~~Nominated persons must notify the Crime and Corruption Commission of the complaint and are required to manage the complaint in accordance the *CC Act 2001*.~~

~~Where there is more than one nominated person:~~

- the nominated persons will, with or without consulting the CCC, decide who will be the nominated person for a particular complaint; and
- the nominated person for that particular complaint will inform the CCC, and include;
 - the title of person; and
 - the entity with to whom the CEO is accountable (the elected Council); and
 - that they are the nominated person for the particular complaint.

Once the person is nominated, 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.

6.2 Complaints involving a reasonable suspicion of corrupt conduct, where there is a nominated person

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

- ~~• the nominated person; or~~
- 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, best practice is to report it to the nominated person.~~

~~If the nominated person reasonably suspects the complaint may involve corrupt conduct of the CEO, the nominated person is required to:~~

- ~~(a) notify the CCC of the complaint, and~~
- ~~(a) deal with the complaint, in accordance with the CCC's monitoring role, at times 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, and there is a nominated person, the CEO must:~~

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

~~Where there is a nominated person, and if directions issued under s40 of the CC Act 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 Council.~~

3.3.1 Obligation to Report

If a complaint involves an allegation of corrupt conduct by the Chief Executive Officer, the complaint may be reported to:

1. A nominated person of Gladstone Regional Council (refer section 3.2); or
2. The Queensland Crime and Corruption Commission; or
3. A person to whom there is an obligation to report to under another Act³ (this does not include an obligation imposed by Sections 38 or 39(1) of the *Crime and Corruption Act 2001*). For example, reporting under the *Local Government Act 2009*.

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

3.3.2 Nominated Person Reporting

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

1. Notify the Queensland Crime and Corruption Commission of the complaint⁴; and
2. Deal with the complaint, subject to the Queensland Crime and Corruption Commission's monitoring role when —
 - a) Directions issued under Section 40 of the *Crime and Corruption Act 2001* apply to the complaint; or
 - b) The complaint is referred to a nominated person to deal with under Section 46 of the *Crime and Corruption Act 2001*⁵.

³ See Section 39(2) of the *Crime and Corruption Act 2001*.

⁴ Pursuant to Section 38 of the *Crime and Corruption Act 2001*.

Should the nominated person decide that a complaint reported to them is not required to be notified to the Queensland Crime and Corruption Commission under Section 38 of the *Crime and Corruption Act 2001*, the nominated person must make a record of the decision under Section 40A of the Act.

3.3.3 Self-Reporting by Chief Executive Officer

If the Chief Executive Officer receives a complaint and reasonably suspects that the complaint may involve corrupt conduct on their part, the Chief Executive Officer must report the complaint to a nominated person as soon as practicable and may also notify the Queensland Crime and Corruption Commission.

3.3.4 Limitation placed on Chief Executive Officer

With the exception of Section 3.3.3, the Chief Executive Officer must take no action to deal with a complaint alleging corrupt conduct involving them, unless requested to do so by the nominated person in consultation with Council, or if required to do so by the Queensland Crime and Corruption Commission.

~~6.3 — Provision of resources to the nominated person~~ 3.4.1. Investigation and Resources

Where the nominated person has the responsibility to deal with a complaint, Council will;

- ensure that sufficient resources are available to enable them to deal with a complaint efficiently and appropriately; and
- ensure that consultations, if any, for the purpose of securing sufficient resources to deal with the complaint appropriately are confidential and are not disclosed, other than to the CCC, without;
 - I. authorisation under a law of the Commonwealth or the State, or
 - II. the consent of the nominated person responsible for dealing with the complaint.
- the nominated person must, at all times, use their best endeavours to act independently, impartially and fairly, having regard to the:
 - I. purposes of the *CC Act*, and
 - II. The principles of natural justice; and
 - III. the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with, and
 - IV. ~~Council's statutory, policy and procedural framework~~ Council's legislative, policy, corporate standard and procedural frameworks.
- The nominated person may have regard to the resources provided by the Queensland Crime and Corruption Commission regarding dealing with corrupt conduct in the Queensland public sector (refer to related documents). ~~Corruption in Focus: a guide to dealing with corrupt conduct in the Queensland public sector~~
~~<http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus>~~

3.4.2 Authority of Nominated Person

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

⁵ Under Sections 43 and 44 of the Crime and Corruption Act 2001.

1. Are delegated the same authority, functions and powers as the Chief Executive Officer for the purpose of dealing with the complaint only and may direct and control work participants of Council as if the nominated person is the Chief Executive Officer.
2. Do not have any authority, function or power that cannot, under the law of the Commonwealth or the State, be delegated by Council to the nominated person.

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

- ~~▪ are delegated the same authority, functions and powers as the CEO~~
- ~~▪ are to direct and control work participants of Council as if the nominated person is CEO of Council for the purpose of dealing with the complaint only~~
- ~~▪ 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~~
- ~~▪ do not have any authority, function or power that cannot, under the law of the Commonwealth or the State, be delegated by Council to the nominated person; and~~

3.4.3 Outcome and Reporting

If a nominated person has responsibility to deal with the complaint, they must, subject to any direction of the Queensland Crime and Corruption Commission:

~~If the nominated person has responsibility to deal with the complaint, they must, subject to any direction of the CCC:~~

- deal with the complaint, and
- ~~before finally dealing with the complaint, report to Council in-confidence about~~
 - I. the action taken or not taken to investigate the complaint
 - II. the reasons the nominated person considers the investigation action to be appropriate in the circumstances; and
 - III. the reasons the nominated person considers that taking or not taking disciplinary or other action against the CEO to be appropriate in the circumstances.
- In finally dealing with the complaint, provide a response to the complainant consistent with s. 44(5) of the CC Act and to the CEO sufficient to comply with procedural fairness obligations, if any.

3.5 Information and Consultation - Queensland Crime and Corruption Commission

The Queensland Crime and Corruption Commission will be kept informed of the contact details for the Chief Executive Officer and nominated persons and will be consulted on any proposed changes to this policy.

3.6 Recordkeeping and Information Privacy

A copy of complaints alleging corrupt conduct involving the Chief Executive Officer and all associated records must be placed on file in the records management system (ECM) with the appropriate privacy classification assigned.

~~6.4 Liaising with the Crime and Corruption Commission~~

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

- ~~▪ the contact details for the CEO and the nominated person,~~
- ~~▪ any proposed changes to this policy.~~

~~6.5 Consultation with the Crime and Corruption Commission~~

~~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.~~

6.0 CONSIDERATION OF HUMAN RIGHTS

Gladstone Regional Council has considered the human rights protected under the *Human Rights Act 2019 (Qld)* when adopting and/or amending this policy. When applying this policy, Council will act and make decisions in a way that is compatible with human rights and give proper consideration to any human rights relevant to the decision.

7.0 ATTACHMENTS:

Nil

8.0 EVALUATION OF POLICY

This policy will be successful when alleged corrupt conduct complaints involving the Chief Executive Officer are managed in a fair, respectful and timely way applying the principles of natural justice and privacy for all those involved. The measure of success being that alleged corrupt conduct complaints regarding the Chief Executive Officer are managed in accordance with the requirements of the *Crime and Corruption Act 2001*.

9.0 DEFINITIONS

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

Term	Definition
Chief Executive Officer	Gladstone Regional Council's 'public official' for the purposes of Section 48A and Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Corrupt Conduct	See Section 15 of the <i>Crime and Corruption Act 2001</i>
Deal with	See Section 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Natural justice	Also referred to as 'procedural fairness' which applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. The rules of natural justice, provide a framework that ensures decision-making is fair and reasonable, free from bias and provides the opportunity for all parties to a fair hearing.
Nominated Person	See Section 48A(2) and (3) of the <i>Crime and Corruption Act 2001</i>
Privacy Classification	Is the level of digital security assigned to a document which restricts access to those that are authorised to view the information.

10.0 REVIEW

This policy is to be reviewed upon the earlier of:

1. Five years from the date of adoption of the most recent version;
2. Any relevant statutory review periods;
3. The related legislation or governing documents are amended or repealed; or
4. A request from the Chief Executive Officer or Council.

~~8.0 REVIEW MECHANISM:~~

~~This policy will be reviewed when any of the following occur:~~

- ~~1. The related legislation or governing documents are amended or replaced; or~~

2. ~~Other circumstances as determined by resolution of Council or the CEO; or~~

3. ~~Three years from date of adoption.~~

TABLE OF AMENDMENTS			
Document History	Date	Council Resolution No.	Notes (including the prior Policy No, precise of change/s, etc)
Originally Approved	16 December 2014	G/14/2270	
Amendment 1	18 September 2018	G/18/3526	Prior Policy was P-2014-33. Changes as recommended by the CCC
Amendment 2			
Amendment 3			