

# CASSOWARY COAST REGIONAL COUNCIL

## POLICY

### Prevention and Management of Complaints about the Public Official: Section 48A of the *Crime and Corruption Act 2001*



**Policy Number: 2.53**

#### 1. **Authority**

*Crime and Corruption Act 2001*

*Public Interest Disclosure Act 2010*

Fraud and Corruption Control Policy 2.48

Public Interest Disclosure Policy and Guidelines documents 1.11

General Complaints Process 1.3

Complaints Management Process 2.27

#### 2. **Objective**

This policy has been designed to—

- Comply with s48A of the *Crime and Corruption Act 2001*
- Set out how Council will deal with a complaint (also information or matter) that involves or may involve corrupt conduct of its Chief Executive Officer or as defined in the *Crime and Corruption Act 2001*
- Support high standards of professional and ethical conduct within the Cassowary Coast Regional Council (Council)
- Prevent incidents of corrupt conduct occurring within the Council
- Facilitate the effective notification, assessment and management of complaints of suspected corrupt conduct within the Council in accordance with the *Crime and Corruption Act 2001 (Qld)*.

This policy forms part of Council's overall approach to integrity management and should be read in conjunction with the Public Interest Disclosure Policy 1.11, Public Interest Disclosure Guidelines 1.11, and Fraud and Corruption Control Policy 2.48.

#### 3. **Policy Statement**

Council is committed to—

- Implementing awareness initiatives and internal control systems to prevent and/or minimise incidents of corrupt conduct.
- Promoting public confidence in the way suspected corrupt conduct of the Chief Executive Officer is dealt with
- Promoting 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 Chief Executive Officer

- Promoting the public interest by facilitating complaints of corrupt conduct which relate to the Council
- Taking appropriate action on proven corrupt conduct and wrong doing including in respect to employees, suppliers, providers and other external parties.

#### 4. Definitions

|                            |   |
|----------------------------|---|
| Appointed person           | Mr James Gott, Chief Executive Officer as Public Official or Mrs Nancy Gassin, Executive Governance Coordinator as nominated person   |
| CCC                        | Crime and Corruption Commission   |
| CC Act                     | <i>Crime and Corruption Act 2001</i>  |
| Complaint                  | includes information or matter. See definition provided by s48A(4) of the <i>Crime and Corruption Act 2001</i>  |
| Contact details            | should include a direct telephone number, email address and postal address to enable confidential communications  |
| Corruption                 | see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>   |
| Corrupt conduct            | see s15 of the <i>Crime and Corruption Act 2001</i>   |
| <i>Corruption in Focus</i> | <a href="http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus">http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus</a> ; see chapter 2, page 2.5 |
| Council                    | Cassowary Coast Regional Council  |
| Deal with                  | see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>   |
| Nominated person           | see item 7 of this policy   |
| Police misconduct          | see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>   |
| Public Official            | Mr James Gott, Chief Executive Officer  |

#### 5. Scope

This policy applies—

- If there are grounds to suspect that a complaint may involve corrupt conduct of the Chief Executive Officer of Council
- To all persons who hold an appointment in, or are employees of the Council.

#### 6. Responsibility for given effect to this policy

This policy applies to all employees, councillors, volunteers and contractors working for Council regardless of whether they are permanent, temporary, fulltime, part-time or casual employees. For the purposes of this policy, the term contractor includes on-hired temporary labour services (agency staff) and subcontractors.

## 7. Nominated Person

In most instances a complaint involving a reasonable suspicion of corrupt conduct would be handled or referred to the CEO by default. If the matter is an alleged complaint against the CEO, the matter must be handled by the nominated person/s.

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

- Executive Governance Coordinator 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.

Where there is more than one nominated person:

- the nominated persons will — with or without consulting the CCC or (e.g. (the Minister for Department of Local Government, Racing and Multicultural Affairs, Elected Council/Mayor) — decide who will be the nominated person for a particular complaint; and
- the nominated person for that particular complaint, will inform the CCC and the Minister for Local Government, Racing and Multicultural Affairs, Elected Council/Mayor that they are the nominated person for the particular complaint.

Once Council nominates a person, the CC Act applies as if a reference about notifying or dealing with the complaint to the Chief Executive Officer (CEO), is a reference to the nominated person.

## 8. Policy Guidelines

### 8.1 Complaint involving a reasonable suspicion of corrupt conduct

If a complaint may involve an allegation of corrupt conduct of 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 the 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 in doubt – report.**

If the nominated person reasonably suspects the complaint may involve corrupt conduct of the CEO, they are to—

- (a) Notify the CCC of the complaint; and
- (b) 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 reasonably suspects that the complaint may involve corrupt conduct on their part, the CEO must—

- (i) Report the complaint to the nominated person as soon as practicable and may also notify the CCC; and
- (ii) Take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the DLGRMA or other appropriate authority of whom the CEO is accountable.

If directions issued under s40 apply to the complaint—

- (i) The nominated person is to deal with the complaint, and
- (ii) 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 person or entity to whom the CEO is accountable. *Refer s37 and s38.*

## **8.2 Resourcing the public official/CEO/or the nominated person**

If, pursuant to ss40 or 46, the CEO or nominated person (appointed person) has responsibility to deal with the complaint—

- (i) Council will ensure that sufficient resources are available to the appointed person to deal with the complaint appropriately, and
- (ii) The appointed 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 appointed person responsible for dealing with the complaint
- (iii) The appointed 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 the Council is dealt with, and
  - the 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 public official/CEO 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 the 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 State — be delegated by either the person or entity with to whom the public official is accountable (e.g. Minister for Department; the elected Council/Mayor for the local government CEO) or the public official/CEO, to the nominated person; and

If the public official/CEO has responsibility to deal with the complaint, they must—

- Disclose the complaint to the Council;
- Deal with the complaint; and
- Before finally dealing with the complaint, report to the Council about—
  - the action taken or not taken
  - the reasons the CEO considers the action to be appropriate in the circumstances, and
  - the results of the action taken that are known at the time of the report.

### **8.3 Liaising with the CCC**

The CEO is to keep the CCC and the nominated person/s (if any) informed of—

- the contact details for the CEO and the nominated person/s (if there is a nominated person)
- any proposed changes to this policy.

### **8.4 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.

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Policy Review: 4 years or as determined by Council or Chief Executive Officer