

Complaints about the Public Official

Section 48A of the *Crime and Corruption Act 2001* requires a public official to prepare a policy about how the unit of public administration, for which the official is responsible, will deal with a complaint that involves or may involve corruption of the public official.

The Chief Executive Officer is the public official of the Carpentaria Shire Council within the meaning of the *Crime and Corruption Act 2001*.

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

Policy Details

Policy Category	Council Policy
Date Adopted	19 th July 2023
Resolution number	0723/009
Approval Authority	Council
Effective Date	19 th July 2023
Policy Version Number	4.00
Policy Owner	Executive Services
Contact Officer	Chief Executive Officer

Supporting documentation

Legislation	<ul style="list-style-type: none"> • <i>Crime and Corruption Act 2001</i>
Policies	<ul style="list-style-type: none"> • Nil
Delegations	<ul style="list-style-type: none"> • Nil
Forms	<ul style="list-style-type: none"> • Nil
Supporting Documents	<ul style="list-style-type: none"> • Nil

Version History:

Version	Adopted	Comment	eDRMS #
1.00	15/10/2014	Original	
2.00	12/12/2018	Review by CCC	
3.00	18/08/2021	Council Resolution 0821/010	
4.00	19/07/2023	Minor updates in reference to CCC model template Council Resolution 0723/009	

1. Purpose

The Chief Executive Officer (CEO) is the public official of the Carpentaria Shire Council within the meaning of the *Crime and Corruption Act 2001* ("CC Act").

This policy sets out how the Council will deal with a complaint that involves or may involve corrupt conduct of the Chief Executive Officer, as defined in the *Crime and Corruption Act 2001*.

2. Objectives

The objectives of this policy are to:

- ensure compliance with section 48A of the Crime and Corruption Act 2001;
- promote public confidence in the way suspected corrupt conduct of Council's public official is dealt with; and
- 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 its Chief Executive Officer.

3. Scope

This policy applies:

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

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

4. Nominated person

- 4.1. Having regard to s48A(2) and (3) of the CC Act, this policy nominates the Mayor as the nominated person to notify the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.
- 4.2. The CC Act applies as if a reference about notifying or dealing with the complaint to the public official/CEO is a reference to the Mayor.

5. Complaints about the Chief Executive Officer

- 5.1. Where a complaint may involve an allegation of corrupt conduct of the CEO, the complaint may be reported to:
 - the Mayor of the Carpentaria Shire Council; or
 - a person to whom there is an obligation to report to the CCC under an Act (this does not include an obligation imposed by s37, 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 Mayor.

- 5.2. If the Mayor reasonably suspects the complaint may involve corrupt conduct of the CEO, the Mayor will:
 - notify the CCC of the complaint, and
 - deal with the complaint, subject to the CCC's monitoring role, when —
 - (i) directions issued under s40 apply to the complaint, if any, or
 - (ii) pursuant to s46, the CCC refers the complaint to the Mayor to deal with.
- 5.3. If the CEO reasonably suspects that a complaint may involve corrupt conduct on their part, the CEO must:
 - report the complaint to the Mayor as soon as practicable and may also notify the CCC; and
 - take no further action to deal with the complaint.
- 5.4. If directions issued under s40 of the CC Act apply to the complaint:
 - the Mayor is to deal with the complaint, and
 - the CEO is to take no further action to deal with the complaint.

6. Confidentiality

- 6.1. The CEO, the Mayor, and persons responsible for dealing with the complaint about corrupt conduct (including contracted investigators) have a duty to maintain confidentiality in relation to the complaint.
- 6.2. The duty to maintain confidentiality extends to the identity of the person making the complaint, the person who is subject of the complaint, and sometimes even the existence of the complaint.
- 6.3. 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.
- 6.4. In particular the following should be kept confidential:
 - The identity of the source of information (including the names of any disclosers).
 - The identity of those involved in the investigation including witnesses.
 - The nature and content of oral and documentary evidence gathered during the investigation

7. Resourcing the Mayor

- 7.1. If pursuant to s40 or 46, the Mayor has responsibility to deal with the complaint:
 - the Council will ensure that sufficient resources are available to the Mayor to deal with the complaint appropriately, and
 - the Mayor 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:
 - (i) authorisation under a law of the Commonwealth or the State, or
 - (ii) the consent of the Mayor

- the Mayor must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
 - (i) purposes of the CC Act;
 - (ii) the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with, and
 - (iii) the Council's statutory, policy and procedural framework.

7.2. If the Mayor 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 Mayor is the CEO of the 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 the Council for the purpose of dealing with the complaint;
- do not have any authority, function or power not ordinarily held by the Mayor or that cannot – under the law of the Commonwealth or the State – be delegated by the CEO to the Mayor.

8. Liaising with the CCC

- 8.1. The CEO is to keep the CCC informed of:
- the contact details for CEO and the Mayor
 - any proposed changes to this policy.

9. Consultation with the CCC

- 9.1. 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. Recordkeeping requirements

- 10.1. Should the Mayor 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 s. 38 of the CC Act, the nominated person must make a record of the decision that complies with s. 40A of the CC Act.

11. Definitions

Crime & 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. See definition provided by s48A(4) of the *Crime and Corruption Act 2001*

Contact details**Mayor**

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CEO

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Corruption see Schedule 2 (Dictionary) of the *Crime and Corruption Act 2001*

Corrupt conduct see s15 of the *Crime and Corruption Act 2001*

Deal with see Schedule 2 (Dictionary) of the *Crime and Corruption Act 2001*

Nominated person see item 4 of this policy

Public Official/CEO see Schedule 2 (Dictionary) and also s48A of the *Crime and Corruption Act 2001*

Unit of public administration (UPA) see s20 of the *Crime and Corruption Act 2001*

Adopted by Council 19 July 2023 by Resolution 0723/009



Mark Crawley
Chief Executive Officer