

Complaint (Public Official) Policy

Responsible Manager	Chief Executive Officer
Head of power	<i>Local Government Act 2009 Local Government Regulation 2012 Crime and Corruption Act 2001</i>
Authorised by	Council
Authorised on	20 September 2022
Implemented from	September 2022
Last reviewed	2022
Review history	2021
To be reviewed on	1 July 2023
Corporate Plan	<i>TSIRC Corporate Plan 2020–2025</i> Outcome 4: We are a transparent, open and engaging council. Outcome 8: We manage Council affairs responsibly for the benefit of our communities

1. Purpose

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

2. Application

This policy applies:

- a. if there are grounds to suspect that a complaint may involve corrupt conduct of Council's CEO.
- b. to all local government employees, Councillors, contractors and agents of Council.

For the purpose of this policy a complaint includes information or matter.¹

3. Legislation/Policies

This policy is established with reference to obligations specified in the *Crime and Corruption Act 2001*.

This policy is designed to assist Council to:

- a. Comply with section 48A of the *Crime and Corruption Act 2001*
- b. Promote public confidence in the way suspected corrupt conduct of Council's CEO is dealt with (section 34(c) CC Act)
- c. 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

4. Definitions & Interpretation

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

Crime and Corruption Commission (CCC)	the Commission continued in existence under the <i>Crime and Corruption Act 2001</i>
CC Act	<i>Crime and Corruption Act 2001</i>
Chief Executive Officer (CEO)	means the Chief Executive Officer of Council
Complaint	includes information or matter. See definition provided by s48A(4) of the <i>Crime and Corruption Act 2001</i>
Contact details (nominated person)	Cr Phillemon Mosby Mayor, Torres Strait Island Regional Council Add: Poruma Island, Queensland 4875

¹ See section 48(4) CC of the CC Act.

	<p>Tel: 07 4034 5775</p> <p>Email: Cr.Phillemon.Mosby@tsirc.qld.gov.au</p> <p>Mayoral email: mayor@tsirc.qld.gov.au</p>
Corruption	see 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>
<i>Corruption in Focus</i>	https://www.ccc.qld.gov.au/publications/corruption-focus ; see chapter 2, page 2.6; see chapter 2, page 2.6
Council	Council means Torres Strait Island Regional Council
Deal with	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Nominated person	see item 5 of this policy
Public Official/CEO	see Schedule 2 (Dictionary) and also s48A of the <i>Crime and Corruption Act 2001</i>
Unit of public administration (UPA)	see section 20 of the <i>Crime and Corruption Act 2001</i>

5. Nominated Person

- a. Having regard to section 48A(2) and (3) of the CC Act, this policy nominates Council's Mayor as the nominated person to notify² the CCC of the complaint and to deal with the complaint under the CC Act.³ The Mayor shall refer any such complaint for external investigation. Where the Mayor has a conflict of interest, the Mayor may nominate another Councillor as delegated nominated person.
- b. 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 nominated person.⁴

6. Complaints about the CEO

- a. If a complaint may involve an allegation of corrupt conduct of the CEO, the complaint may be reported to:
 - i. the nominated person, or
 - ii. a person to whom there is an obligation to report under an Act⁵ (this does not

² Under ss37 or 38 of the CC Act.

³ Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act.

⁴ See section 48A(3) CC Act.

⁵ See section 39(2) of the CC Act.

include an obligation imposed by sections 37, 38 and 39(1) of the CC Act).

- a. If there is uncertainty about whether or not a complaint should be reported, it is best to report it to the nominated person.
- b. If the nominated person reasonably suspects the complaint may involve corrupt conduct of the CEO, the nominated person must:
 - i. notify the CCC of the complaint,⁶ and
 - ii. deal with the complaint, subject to the CCC's monitoring role, when —
 - directions issued under section 40 apply to the complaint, if any, or
 - pursuant to section 46, the CCC refers the complaint to the nominated person to deal with.⁷
- c. 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 elected Council.

7. Recordkeeping Requirements

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

8. Resourcing the Nominated Person

- a. Council will ensure that sufficient resources are available to the nominated person enable them to deal with the complaint appropriately.⁸
- b. The nominated person must 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 nominated person.
- c. 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,⁹
 - ii. the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with,¹⁰ and
 - iii. the Council's statutory, policy and procedural framework.

⁶ Under section 38, subject to section 40 of the CC Act.

⁷ Under sections 43 and 44 of the CC Act.

⁸ See the CCC's corruption purposes and function set out in sections 4(1)(b), 33, 34, 35 and Council's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint.

⁹ See sections 57 and the CCC's corruption purposes and function set out in sections 4(1)(b), 33, 34, 35 of the CC Act.

¹⁰ See section 34(c) CC Act.

- d. The nominated person:
- i. is delegated the same authority, functions and powers as the CEO to direct and control Council employees, contractors and agents as if the nominated person is the CEO for the purpose of dealing with the complaint only.
 - ii. is 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.
 - iii. does not have any authority, function or power that cannot — under the law of the Commonwealth or the State — be delegated by either the elected Council or the CEO, to the nominated person.

9. Liaising with the CCC

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

- a. the CEO's contact details
- b. the nominated person's contact details
- c. any proposed changes to this policy

10. Consultation with the CCC

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.

Adoption: 20 September 2022

Due for Revision: 1 July 2023



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