

G.17 Dealing With a Complaint Involving the Chief Executive Officer Policy

Contents

1	OBJECTIVE	1
2	SCOPE	1
3	STATEMENT	1
3.1	Nominated Person	1
3.2	Complaints about the Chief Executive Officer	1
3.3	Resourcing the Nominated Person	2
3.4	Liaising with the CCC.....	3
3.5	Consulting with the CCC	3
4	DEFINITIONS	3
4.1	Crime and Corruption Commission (CCC).....	3
4.2	Complaint.....	3
4.3	Contact Details.....	3
4.4	Corrupt Conduct	3
5	RELATED POLICIES LEGISLATION OTHER DOCUMENTS	5

Date Adopted by Council	08 July 2016	Council Resolution No.	09-04-18
Effective Date	08 July 2016	Review Date	June 2020
Policy Owner	Council	Responsible Officer	CEO
Policy Number	G.17	IX Reference	96619
Version Number	1	08-Jul-16	Developed and adopted
	2	13-Apr-18	Reviewed – no changes

CEO Chief Executive Officer
MCCS Manager Corporate & Community Services

1 OBJECTIVE

The objectives of this policy are to:

- set out how Quilpie Shire Council will deal with a complaint (also information or matter)¹ that involves or may involve corrupt conduct of its Chief Executive Officer (the public official) as defined in the *Crime and Corruption Act 2001* (CC Act);
- comply with section 48 of the *Crime and Corruption Act 2001*;
- promote public confidence in the way suspected corrupt conduct of the Chief Executive Officer is dealt with (s34 (c) CC Act); and
- promote accountability, integrity and transparency in the way Quilpie Shire Council deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Chief Executive Officer.

2 SCOPE

This policy applies to all elected members, employees, and any other persons engaged by or associated with Quilpie Shire Council on a paid or unpaid basis (eg contractors, consultants, volunteers and work experience students). This policy is only applicable if there are grounds to suspect that a complaint may involve corrupt conduct of the Chief Executive Officer of Quilpie Shire Council.

3 STATEMENT

3.1 NOMINATED PERSON

In accordance with section 48A(2) and (3) of the CC Act, this policy nominates the Manager Corporate and Community Services 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.

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.

3.2 COMPLAINTS ABOUT THE CHIEF EXECUTIVE OFFICER

If a complaint may involve an allegation of corrupt conduct of the Chief Executive Officer of Quilpie Shire Council, the complaint may be reported to:

- The Manager Corporate and Community Services; or
- The Mayor; or
- A person to whom there is an obligation to report under an Act (this does not include an obligation imposed by ss37, 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 Manager Corporate and Community Services.

¹ See section 48 of the CC Act and definitions below

If the Manager Corporate and Community Services reasonably suspects (*Schedule 2 of the CCA defines reasonably suspects as reasonably suspects means suspects on grounds that are reasonable in the circumstances*), the complaint may involve corrupt conduct of the Chief Executive Officer, they are to:

- Notify the CCC of the complaint, and
- Deal with the complaint, subject to the CCC's monitoring role, when:
 - o Directions issued under s40 apply to the complaint, if any; or
 - o Pursuant to s46, the CCC refers the complaint to the Manager Corporate and Community Services to deal with.

If the Chief Executive officer reasonably suspects that the complaint may involve corrupt conduct on their part the Chief Executive Officer must:

- Report the complaint to the Manager Corporate and Community Services as soon as practicable and may also notify the CCC; and
- Take no further action to deal with the complaint unless requested to do so by the Manager Corporate and Community Services in consultation with the Mayor.

If directions issued under s40 apply to the complaint:

- The Manager Corporate and Community Services is to deal with the complaint; and
- The Chief Executive Officer is to take no further action to deal with the complaint unless requested to do so by the Manager Corporate and Community Services in consultation with the Mayor.

3.3 RESOURCING THE NOMINATED PERSON

If pursuant to ss40 or 46 of the CC Act, the Manager Corporate and Community Services has responsibility to deal with the complaint:

- Council will ensure that sufficient resources are available to the Manager Corporate and Community Services to enable them to deal with the complaint appropriately; and
- The Manager Corporate and Community Services 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 Manager Corporate and Community Services; and
- The Manager Corporate and Community Services 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 Quilpie Shire Council is dealt with; and
 - Quilpie Shire Council's statutory, policy and procedural framework.

If the Manager Corporate and Community Services has responsibility to deal with the complaint, they:

- Are delegated the same authority, functions and powers as the Chief Executive Officer to direct and control staff of Council as if the Manager Corporate and Community Services is the Chief Executive Officer for the purpose of dealing with the complaint only;
- Are delegated the same authority, functions and powers as the Chief Executive Officer to enter into contracts on behalf of Council for the purpose of dealing with the complaint; and
- Do not have any authority, function or power that cannot – under the law of the Commonwealth or the State – be delegated by either the Council, Mayor or the Chief Executive Officer, to the Manager Corporate and Community Services.

3.4 LIAISING WITH THE CCC

The Chief Executive Officer is to keep the CCC and the Manager Corporate and Community Services informed of:

- The contact details for the Chief Executive Officer and the Manager Corporate and Community Services; and
- Any proposed changes to this policy.

3.5 CONSULTING WITH THE CCC

The Chief Executive Officer 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 Chief Executive Officer.

4 DEFINITIONS

4.1 CRIME AND CORRUPTION COMMISSION (CCC)

The Crime and Corruption Commission (CCC) is a statutory body set up to combat and reduce the incidence of major crime and corruption in the public sector in Queensland. Its functions and powers are set out in the *Crime and Corruption Act 2001*.

4.2 COMPLAINT

In accordance with s48A of the Crime and Corruption Act 2001, complaint for the purpose of this policy includes information or matter.

4.3 CONTACT DETAILS

Contact details should include a direct telephone number, email address and postal address to enable confidential communications.

4.4 CORRUPTION

Means corrupt conduct (refer 4.5)

4.5 CORRUPT CONDUCT

Corrupt conduct is defined by the *CC Act* as conduct of a person, regardless of whether the person holds or held an appointment, that:

- adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—
 - a unit of public administration; or
 - a person holding an appointment; and
- results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned above in a way that:
 - is not honest or is not impartial; or
 - involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
 - involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and
- is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and
- would, if proved, be—
 - a criminal offence; or
 - a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

Conduct that involves any of the following could be corrupt conduct:

- abuse of public office;
- bribery, including bribery relating to an election;
- extortion;
- obtaining or offering a secret commission;
- fraud;
- stealing;
- forgery;
- perverting the course of justice;
- an offence relating to an electoral donation;
- loss of revenue of the State;
- sedition;
- homicide, serious assault or assault occasioning bodily harm or grievous bodily harm;
- obtaining a financial benefit from procuring prostitution or from unlawful prostitution engaged in by another person;
- illegal drug trafficking;
- illegal gambling.

4.6 DEAL WITH

To deal with a complaint about corruption or information or matter involving corruption, includes—

- investigate the complaint, information or matter; and
- gather evidence for—
 - prosecutions for offences; or
 - disciplinary proceedings; and
- refer the complaint, information or matter to an appropriate authority to start a prosecution or disciplinary proceeding; and
- start a disciplinary proceeding; and
- take other action, including managerial action, to address the complaint in an appropriate way.

4.7 NOMINATED PERSON

Refer to section 3.1 of this policy.

4.8 PUBLIC OFFICIAL / CEO

The Chief Executive Officer of Quilpie Shire Council. Also refer to Schedule 2 (Dictionary) and s48A of the *Crime and Corruption Act 2001*.

4.9 UNIT OF PUBLIC ADMINISTRATION (UPA)

The Local Government entity being Quilpie Shire Council. Also refer to s20 of the *Crime and Corruption Act 2001*.

4.10 REASONABLY SUSPECTS

Suspects on grounds that are reasonable in the circumstances.

5 RELATED POLICIES | LEGISLATION | OTHER DOCUMENTS

Crime and Corruption Act 2001

Local Government Act 2009

Local Government Regulation 2012

Public Sector Ethics Act 1994

Public Interest Disclosure Act 2010

Criminal Code Act 1899

IX #	Details
94362	Quilpie Shire Council Code of Conduct