

Dealing with complaints involving the public official (*Crime and Corruption Act 2001, s48A*)

1. Objective

The objective of this policy is to set out how Gympie Regional Council (Council) will deal with a complaint (includes information or matter)¹ that involves or may involve corrupt conduct of its public official as defined in the Crime and Corruption Act 2001 (CC Act).

For the purpose of this policy, Council's Chief Executive Officer (CEO) is its public official.

2. Rationale

The policy is designed to assist Council to:

- Comply with s48A of the CC Act
- Promote public confidence in the way suspected corrupt conduct by the CEO is dealt with²
- Promote accountability, integrity and transparency through the way in which Council deals with a complaint that is suspected to involve, or may involve, corrupt conduct by its CEO

3. Definitions

Chief Executive Officer (CEO)	the Chief Executive Officer of Gympie Regional Council
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>
Complaint	a complaint about corrupt conduct includes information or matter involving corrupt conduct. Refer definition provided by s48A(4) of the <i>Crime and Corruption Act 2001</i> . See also s36(5) of the CC Act for examples of 'information or matter'.
Contact details	includes 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>
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>
Reasonable suspicion	See 'reasonably suspects' in Schedule 2 (Dictionary) of the CC Act and Chapter 2 <i>Corruption in Focus</i> available on the CCC website

¹ See s48A of the CC Act and definitions above.

² Refer public interest intent of s34(c) of the CC Act

4. Application

This policy applies:

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

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

5. Nominated person

Having regard to s48A(2) and (3) of the CC Act, this policy nominates the Mayor of Gympie Regional Council as the nominated person to notify³ 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 public official/CEO is a reference to the nominated person.

6. Complaints about the public official

If a complaint may involve an allegation of corrupt conduct by the CEO the complaint may be reported to:

- 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 Mayor.

If the Mayor reasonably suspects the complaint may involve corrupt conduct of the CEO, the Mayor must:

- notify the CCC of the complaint⁴, and
- 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.⁵

If the CEO reasonably suspects that a complaint may involve corrupt conduct on his/her 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 unless requested to do so by the Mayor

If directions issued under s40 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 unless requested to do so by the Mayor.

³ Under s38 of the CC Act

⁴ Under s38 and s40 of the CC Act

⁵ Under s43 and s44 of the CC Act

7. Resourcing the nominated person

If pursuant to s40 or s46, the Mayor has responsibility to deal with the complaint⁶:

- Council will ensure that sufficient resources are made available to the Mayor to enable the Mayor to deal with the complaint appropriately⁷, 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 authorisation under a law of the Commonwealth or the State, or the consent of the Mayor

The Mayor must at all times use his/her best endeavours to act independently, impartially and fairly having regard to the:

- purposes of the CC Act⁸
- the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with⁹, and
- Council's statutory, policy and procedural framework.

Where the Mayor has responsibility to deal with the complaint, the Mayor:

- is delegated the same authority, functions and powers as the CEO to direct and control Council staff as if the Mayor is the CEO for the purpose of dealing with the complaint only
- is 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
- may be delegated any authority, function or power, under the law of the Commonwealth or the State, as required to deal with the complaint

8. Liaising with the CCC

The CEO is to keep the CCC informed of the contact details for the public official/CEO and the Mayor. Further, the CEO is to inform the CCC of any proposed changes to this policy.

9. 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 public official/CEO¹⁰.

10. Statutory references

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

11. Approval/Review

This policy is approved via formal Council resolution and will be reviewed on an annual basis.

⁶ Under s43 and s44 of the CC Act

⁷ Refer to the CCC's corruption purposes and function set out in ss4(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

⁸ See s57 and the CCC's corruption purposes and function set out in ss4(1)(b), 33, 34, 35 of the CC Act

⁹ See s34(c) of the CC Act

¹⁰ Refer s48A of the CC Act