

COUNCIL POLICY - CM03.27CP

COMPLAINTS ABOUT THE PUBLIC OFFICIAL (CHIEF EXECUTIVE OFFICER): SECTION 48A OF THE *CRIME AND CORRUPTION ACT 2001*

OBJECTIVES

The objectives of this policy are to assist the Scenic Rim Regional Council to:

1. Comply with s48A of the *Crime and Corruption Act 2001* (CC Act);
2. Promote public confidence in the way suspected corrupt conduct of the Chief Executive Officer (Council's public official) is dealt with (s34(c) CC Act); and
3. 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 the Chief Executive Officer.

POLICY STATEMENT

Council is committed to dealing with a complaint (also information or matter) that involves or may involve corrupt conduct of its public official (Chief Executive Officer) as defined in the *Crime and Corruption Act 2001*, in accordance with Attachment 1 - Dealing with a complaint involving the public official (*Crime and Corruption Act 2001*, s48A).

DEFINITIONS

Crime and Corruption Commission (CCC) is the Commission continued in existence under the Crime and Corruption Act 2001

CC Act is the *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 Phone (0755405111); Email (integrity@scenicrim.qld.gov.au); Postal Address (PO Box 25 Beaudesert Qld 4285)

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

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

Corruption in Focus <http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus> ; see chapter 2, page 2.5

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

Nominated person see item 2 of Attachment 1 of the policy

Public Official (Chief Executive Officer) see Schedule 2 (Dictionary) and also s48A of the *Crime and Corruption Act 2001*

Unit of Public Administration (UPA) - The Scenic Rim Regional Council is the UPA under s20 of the *Crime and Corruption Act 2001*

RELATED DOCUMENTS

Crime and Corruption Act 2001

This policy replaces Attachment D - Corrupt Conduct Complaints Process of Council Policy - Complaints Management (CM03.14CP). As such, Attachment D of the Complaints Management Policy is considered repealed and has no legal effect.

This policy supports the Scenic Rim Regional Council Corporate Plan 2018-2023, in particular Theme - Open and Responsive Government.

SCENIC RIM REGIONAL COUNCIL

Adopted XX/YY/ZZ (Please insert Committee details below in Version details)

Version Information

Version No.	Date	Key Changes
1	XXX	XXXXX Committee Item No. Y.yy New stand-alone policy as per CCC recommendation. Replaces Attachment D of Complaints Management Policy.

Policy Reference Number: CM03.27CP
Directorate: Regional Services
Branch: Governance

Adoption/Approval Date:
Review Date:
File References: 02/18/001; 14/03/008; 04/15/004

Attachment 1



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

The Scenic Rim Regional Council is a Unit of Public Administration (UPA) - see s20 of the Crime and Corruption Act 2001 (CC Act)

The Chief Executive Officer is the public official of the Scenic Rim Regional Council.

1. Policy application

The Complaints about the public official (Chief Executive Officer): section 48A of the *Crime and Corruption Act 2001* Policy CM03.27CP applies:

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

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

2. Nominated person

Having regard to s48A(2) and (3) of the CC Act, the policy nominates the Coordinator Governance and Corporate Policy as the nominated person² to notify³ the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.⁴

Once the Council nominates a person, the CC Act applies as if a reference about notifying or dealing with the complaint to the Chief Executive Officer is a reference to the nominated person⁵.

¹ See s48(4) CC of the CC Act

² See footnote 2 'Suggested outline of policy'

³ Under s37 or s38 of the CC Act

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

⁵ See s48A(3) CC Act

3. Complaints about the Chief Executive Officer

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

- the nominated person, or
- a person to whom there is an obligation to report under an Act⁶ (this does not include an obligation imposed by s37, s38 and s39(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 nominated person.

If the nominated person reasonably suspects the complaint may involve corrupt conduct of the Chief Executive Officer, they are to:

- (a) notify the CCC of the complaint⁷, and
- (b) deal with the complaint, subject to the CCC's monitoring role, when —
 - directions issued under s40 of the CC Act apply to the complaint, if any, or
 - pursuant to s46 of the CC Act, the CCC refers the complaint to the nominated person to deal with⁸.

If the Chief Executive Officer reasonably suspects that the complaint may involve corrupt conduct on their part, the Chief Executive Officer 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 Mayor.

If directions issued under s40 of the CC Act apply to the complaint:

- (i) the nominated person is to deal with the complaint, and
- (ii) the Chief Executive Officer is to take no further action to deal with the complaint unless requested to do so by the nominated person in consultation with the Mayor.

⁶ See s39(2) of the CC Act

⁷ Under s37 or s38, subject to s40 of the CC Act

⁸ Under s43 and s44 of the CC Act

4. Resourcing the Chief Executive Officer or the nominated person

If pursuant to s40 or s46 of the CC Act, the Chief Executive Officer or the nominated person has responsibility to deal with the complaint⁹:

- (i) the Council will ensure that sufficient resources are available to the Chief Executive Officer or nominated person to enable them to deal with the complaint appropriately¹⁰, and
- (ii) the Chief Executive Officer or nominated 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 Chief Executive Officer or nominated person responsible for dealing with the complaint
- (iii) the Chief Executive Officer or nominated person, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
 - purposes of the CC Act¹¹
 - the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with¹², 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 Chief Executive Officer to direct and control staff of the Council as if the nominated person is the Chief Executive Officer of the Council 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 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 the State — be delegated by either the Mayor or the Chief Executive Officer, to the nominated person; and

If the Chief Executive Officer has responsibility to deal with the complaint, they must:

- disclose the complaint to the Mayor;
- deal with the complaint, and
- before finally dealing with the complaint, report to the Mayor about
 - the action taken or not taken

⁹ Under s43 and s44 of the CC Act

¹⁰ See the CCC's corruption purposes and function set out in s4(1)(b), s33, s34, s35 and the [UPA]'s relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint

¹¹ See s57 and the CCC's corruption purposes and function set out in s4(1)(b), s33, s34, s35 of the CC Act

¹² See s34(c) CC Act

- the reasons the Chief Executive Officer considers the action to be appropriate in the circumstances and
- the results of the action taken that are known at the time of the report¹³.

5. Liaising with the CCC

The Chief Executive Officer is to keep the CCC and the nominated person informed of:

- the contact details for the Chief Executive Officer and the nominated person; and
- any proposed changes to the policy.

6. Consultation with the CCC

The Chief Executive Officer 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 Chief Executive Officer.¹⁴

7. Statutory references

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

¹³ See s42 and s44 of the CC Act

¹⁴ Section 48A of the CC Act