



BOULIA SHIRE COUNCIL

Dealing with a Complaint involving a Public Official (CEO)

Category:	Policy
Policy Number:	130
Document Version:	Ver 2
Obsolete Version:	2022/11.11
Keyword Classification:	Public official, CEO, misconduct, complaint
Summary:	Process to follow involving a complaint regarding the Chief Executive Officer
Adoption Date:	24 th November 2023
Resolution:	2023/11.14
Due for Revision:	Annually
Revision date:	24 th November 2026
Date revoked:	n/a
Related documents:	Policy 127 - Complaints Management Policy and Process Policy 128 - Public Interest Disclosure Policy and Procedure
Responsible Section:	Executive
Responsible Officer:	CEO
Legislation:	Crime and Corruption Act 2001

Approval

This policy is approved by:

➤ Chief Executive Officer

Date: 22nd December 2023

➤ Mayor Boulia Shire Council

Date: 22nd December 2023

Complaints about the public official (CEO): section 48A of the *Crime and Corruption Act 2001*

1 Objective

The Chief Executive Officer is the public official of the Boulia Shire Council.

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

2 Policy rationale

The policy is designed to assist the Boulia Shire Council to:

1. Comply with s48A of the *Crime and Corruption Act 2001*
2. Promote public confidence in the way suspected corrupt conduct of the Chief Executive Officer for the Boulia Shire Council is dealt with (s34(d) CC Act)
3. Promote accountability, integrity and transparency in the way the Boulia Shire Council deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Chief Executive Officer.

3 Definitions

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	includes information or matter. See definition provided by s48A(4) of the <i>Crime and Corruption Act 2001</i>
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>
<i>Corruption in Focus</i>	https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CC/Corruption-in-focus-Guide-2020.pdf see chapter 2, page 2.1
Deal with	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Nominated person	see item 5 of this policy
Police misconduct	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
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 s20 of the <i>Crime and Corruption Act 2001</i>

4 Policy application

This policy applies:

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

For the purpose of this policy a complaint includes information or matter (s48(4) CC Act).

5 Nominated person

Having regard to s48A(2) and (3) of the CC Act, this policy nominates:

- Mayor as the nominated person/s to notify (under s38 of the CC Act) the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act (Chapter 2, Part 3, Division 4, Subdivisions 1 & 2).

Mayor's contact details: Mayor Rick Britton

Phone: 0407 122 430

Email: mayor@boulia.qld.gov.au

Postal Address: 18 Herbert Street, Boulia QLD 4829

Please mark all mail as 'Confidential'

Once the Boulia Shire Council nominates a person, 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 person² (s48A(3) CC Act).

6 Complaints about the CEO

Complaint involving a reasonable suspicion of corrupt conduct, where there is a nominated person

Where there is a nominated person, if a complaint may involve an allegation of corrupt conduct of the Chief Executive Officer of the Boulia Shire Council, the complaint may be reported to:

- the nominated person, or
- a person to whom there is an obligation to report under an Act (s39(2) CC Act) (this does not include an obligation imposed by s37, s38 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 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 complaint (s38, subject to s40 CC Act), and
 - (b) 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 officer to deal with (s43, s44 CC Act).
-

If the Chief Executive Officer reasonably suspects that the complaint may involve corrupt conduct on their part, and there is a nominated person, 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.

Where there is a nominated person, and if directions issued under s40 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.

7 Resourcing the Nominated Person

If pursuant to s40 or 46, the nominated person has responsibility to deal with the complaint (s43, s44 CC Act):

- (i) the Boulia Shire Council will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately³ (s4(1)(b), 33, 34, 35 CC Act and Boulia Shire Council's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint), and
- (ii) the 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 nominated person responsible for dealing with the complaint
- (iii) the nominated person must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
 - purposes of the CC Act (s57, s4(1)(b), s33, s34, s35)
 - the importance of promoting public confidence in the way suspected corrupt conduct in the Boulia Shire Council is dealt with⁴ (s34(d) CC Act), and
 - the Boulia Shire 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 Boulia Shire Council as if the nominated person is the Chief Executive Officer of the Boulia Shire 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 Boulia Shire 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 the Chief Executive Officer to the nominated person

8 Liaising with the CCC

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

- the contact details for the public official/CEO and the nominated person
- any proposed changes to this policy.

9 Consultation with the CCC

The Chief Executive Officer will consult with the CCC when preparing any policy about how the Boulia Shire Council will deal with a complaint that involves or may involve corrupt conduct of the public official/CEO. (s48A CC Act)

10 Statutory references

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