



## COMPLAINT (PUBLIC OFFICIAL) POLICY

SPO 29

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| <b>Responsible Manager:</b> | Chief Executive Officer   |
| <b>Head of Power:</b>       | <i>Local Government Act 2009 (Qld)</i><br><i>Crime and Corruption Act 2001 (Qld)</i>  |
| <b>Authorised by:</b>       | Council   |
| <b>Authorised on:</b>       | 20 May 2019   |
| <b>Implemented from:</b>    | 20 May 2019   |
| <b>Last Reviewed:</b>       |   |
| <b>Review History:</b>      |   |
| <b>Review Date:</b>         | 30 June 2021  |
| <b>Corporate Plan:</b>      | 1. Ngalpin Idid – Art, Culture, People<br>4 Local Government services meeting Community Needs in a transparent, effective and accountable manner. |

## 1. OBJECTIVE

- 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. POLICY RATIONALE

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.

## 3. DEFINITIONS & INTERPRETATION

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

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| 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 Fred Gela<br>Mayor, Torres Strait Island Regional Council<br>Add: Lot 12 Francis Road, Hammond Island, Queensland 4875<br>Tel: 07 4034 5775<br>Email: cr.fred.gela@tsirc.qld.gov.au |
| 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</i>                  | <a href="http://www.ccc.qld.gov.au/corruption/information-for-the-public-">http://www.ccc.qld.gov.au/corruption/information-for-the-public-</a>  |

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| <i>Focus</i>                        | <a href="#">sector/corruption-in-focus</a> ; see chapter 2, page 2.5                  |
| 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>                            |

#### 4. POLICY 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.<sup>1</sup>

#### 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 notify<sup>2</sup> the CCC of the complaint and to deal with the complaint under the CC Act.<sup>3</sup> The Mayor shall refer any such complaint for external investigation.
- 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.<sup>4</sup>

#### 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

<sup>1</sup> See section 48(4) CC of the CC Act.

<sup>2</sup> Under ss37 or 38 of the CC Act.

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

<sup>4</sup> See section 48A(3) CC Act.

- ii. a person to whom there is an obligation to report under an Act<sup>5</sup> (this does not include an obligation imposed by sections 37, 38 and 39(1) of the CC Act).
- b. If there is uncertainty about whether or not a complaint should be reported, it is best to report it to the nominated person.
- c. 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,<sup>6</sup> 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.<sup>7</sup>
- d. 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.
- e. If directions issued under section 40 apply to the complaint:
  - i. the nominated person is to deal with the complaint, and
  - ii. the CEO is to 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. 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.<sup>8</sup>
- 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

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<sup>5</sup> See section 39(2) of the CC Act.

<sup>6</sup> Under section 38, subject to section 40 of the CC Act.

<sup>7</sup> Under sections 43 and 44 of the CC Act.

<sup>8</sup> 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.

- 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,<sup>9</sup>
  - ii. the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with,<sup>10</sup> and
  - iii. the Council's statutory, policy and procedural framework.
- 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.

## **8. 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

## **9. 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.

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<sup>9</sup> 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.

<sup>10</sup> See section 34(c) CC Act.

## 10. AUTHORISATION

This policy was duly authorised by Council as the Torres Strait Island Regional Council Complaint (Public Official) Policy (SPO 29) on 20 May 2019, and shall hereby supersede any previous policies of the same intent.



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Date: 28.05.2019

Bruce Ranga

**Chief Executive Officer**

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Date: 28.05.2019

Cr Fred Gela

**Mayor**

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