

WUJAL WUJAL ABORIGINAL SHIRE COUNCIL
COMPLAINTS ABOUT THE CHIEF EXECUTIVE OFFICER (PUBLIC OFFICIAL)
(section 48A of the *Crime and Corruption Act 2001*)



1 Objective

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

The objective of this policy is to set out how the Wujal Wujal Aboriginal Shire Council (hereinafter, the Council) will deal with a complaint (also information or matter)¹ that involves or may involve corrupt conduct² of its Chief Executive Officer (CEO) as defined in the *Crime and Corruption Act 2001* (CC Act).

2 Policy rationale

The policy is designed to assist the 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 CEO for the Council 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 CEO.

3 Definitions

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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> |
| Complaint | includes information or matter. See definition provided by s48A(4) of the <i>Crime and Corruption Act 2001</i> |
| Contact details | Mayor, Wujal Wujal Aboriginal Shire Council Phone: 4083 9100 E-mail: Mayor.Tayley@wujal.qld.gov.au Postal: 1 Hartwig Street, Wujal Wujal, QLD, 4895 |
| Corrupt conduct | see s15 of the <i>Crime and Corruption Act 2001</i> |
| <i>Corruption in Focus</i> | http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus ; see chapter 2, page 2.6 |
| 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> |

1 See s48A of the CC Act and definitions below.

2 The CCC's Corruption function encompasses both "corrupt conduct" and "police misconduct".

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4 Policy application

This policy applies:

- if there are grounds to suspect that a complaint may involve corrupt conduct of the CEO of the Council; and
- to all persons who hold an appointment in, or are employees of, the Council.

For the purpose of this policy a complaint includes information or matter.³

5 Nominated person

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

- The Mayor, Wujal Wujal Aboriginal Shire Council as the nominated person⁴

to notify⁵ the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.⁶

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 person⁷.

6 Complaints about the CEO

If a complaint may involve an allegation of corrupt conduct of the CEO 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 Act⁸ (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 nominated person.

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

- (a) notify the CCC of the complaint⁹, 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 person to deal with¹⁰.

³ See s48(4) CC of the CC Act.

⁴ See footnote 2 'Suggested outline of policy'.

⁵ Under s38 of the CC Act.

⁶ Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act.

⁷ See s48A(3) CC Act.

⁸ See s39(2) of the CC Act.

⁹ Under s38, subject to s40 of the CC Act.

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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 Mayor.

If directions issued under s40 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 Mayor.

7 Resourcing the nominated person

If pursuant to ss40 or 46, the nominated person has responsibility to deal with the complaint¹¹:

- (i) the Council will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately¹², 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,
- (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;¹³
 - the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with;¹⁴ 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 CEO to direct and control staff of the Council as if the nominated person is the CEO of the Council for the purpose of dealing with the complaint only;
- are 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; and

10 Under ss43 and 44 of the CC Act.

11 Under ss43 and 44 of the CC Act.

12 See the CCC's corruption purposes and function set out in ss4(1)(b), 33, 34, 35 and the Council's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint.

13 See ss57 and the CCC's corruption purposes and function set out in ss4(1)(b), 33, 34, 35 of the CC Act.

14 See s34(c) CC Act.

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- 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 CEO, to the nominated person.

8 Liaising with the CCC

The CEO is to keep the CCC and the nominated person informed of:

- the contact details for the CEO and the nominated person; and
- 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 CEO.¹⁵

10 Statutory references

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

11 Approval

This policy is approved by:

- CEO

Date: 25 July 2019

- Wujal Wujal Aboriginal Shire Council

Date: 25 July 2019

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| DATE OF ADOPTION: | 25 July 2019 (Resolution No. 0425072019) |
| TIME PERIOD OF REVIEW: | 3 Years |
| DATE OF NEXT REVIEW: | June 2022 |

¹⁵ Section 48A of the CC Act.