

Complaints about the Chief Executive Officer Policy

Policy Number: BSC033	Version: 2
Classification: Statutory	Section: Executive - Governance
Date Adopted by Council: 20/05/2020	Resolution Number: 2020.05.020
Responsible Officer: Chief Executive Officer (CEO)	Review Note: This policy is reviewed when any of the following occur: <ol style="list-style-type: none"> 1. The related information is amended or replaced. 2. Other circumstances as determined from time to time by the Chief Executive Officer. Notwithstanding the above, this policy is to be reviewed at intervals of no more than twelve (12) months.
Legislation: <i>Crime and Corruption Act 2001</i>	

1. Objective

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

2. Policy rationale

The policy is designed to assist the BSC to:

- (i) Comply with s48A of the *Crime and Corruption Act 2001*
- (ii) Promote public confidence in the way suspected corrupt conduct of the CEO for the BSC is dealt with (s34(c) CC Act)
- (iii) Promote accountability, integrity and transparency in the way the BSC deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the CEO.

3. Definitions

BSC	Barcoo Shire Council
CEO	Chief Executive Officer
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 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>

¹ See s48A of the CC Act and definitions below

² The CCC's Corruption function encompasses both "corrupt conduct" and "police misconduct". For the purposes of the Queensland Police Service, wherever the term "corrupt conduct" is used in the policy, they would also have to consider police misconduct, as per s37 of the CC Act

<i>Corruption in Focus</i>	https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/Corruption-in-focus-Guide-2020.pdf
Deal with	See Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
Nominated person	Councillor Sally O’Neil, Mayor - Barcoo Shire Council Email: sally.oneil@barcoo.qld.gov.au Office phone: (07) 4658 6902 Mobile: 0424 791 449
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 CEO of the BSC
- To all persons who hold an appointment in, or are employees of, the BSC

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 of the BSC as the nominated person to notify⁴ the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.⁵

Once the BSC nominates a person, the CC Act applies as if a reference about notifying or dealing with the complaint to the Mayor is a reference to the nominated person⁶.

6. Complaints about the CEO

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

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

Where there is a nominated person, if a complaint may involve an allegation of corrupt conduct of the CEO of the BSC, the complaint may be reported to:

- The nominated person, or
- A person to whom there is an obligation to report under an Act⁷ (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:

- Notify the CCC of the complaint⁸, and

³ See s48(4) CC of the CC Act

⁴ Under ss37 or 38 of the CC Act

⁵ Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act

⁶ See s48A(3) CC Act

⁷ See s39(2) of the CC Act

(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 Mayor to deal with⁹.

7. Resourcing the Nominated Person

If pursuant to ss40 or 46, the Mayor has responsibility to deal with the complaint¹⁰:

- (i) The BSC will ensure that sufficient resources are available to the Mayor to enable them to deal with the complaint appropriately¹¹, and
- (ii) 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 responsible for dealing with the complaint
- (iii) The Mayor must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
 - Purposes of the CC Act¹²
 - The importance of promoting public confidence in the way suspected corrupt conduct in the BSC is dealt with¹³, and
 - The BSC's statutory, policy and procedural framework.

If the Mayor has responsibility to deal with the complaint, they:

- Are delegated the same authority, functions and powers as the public official/CEO to direct and control staff of the BSC as if the Mayor is the public official/CEO of the BSC for the purpose of dealing with the complaint only
- Are delegated the same authority, functions and powers as the public official/CEO to enter into contracts on behalf of the BSC for the purpose of dealing with the complaint

If the Mayor has responsibility to deal with the complaint, they must:

- Disclose the complaint to the elected Council of the local government
- Deal with the complaint, and
- Before finally dealing with the complaint, report to the Council about
 - The action taken or not taken
 - The reasons the Mayor considers the action to be appropriate in the circumstances and
 - The results of the action taken that are known at the time of the report¹⁴.

8. Liaising with the CCC

The public official/CEO is to keep the CCC and Mayor informed of:

8 Under ss37 or 38, subject to s40 of the CC Act

9 Under ss41 and 42 and/or ss43 and 44 of the CC Act

10 Under ss41 and 42 and/or ss43 and 44 of the CC Act

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

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

13 See s34(c) CC Act

14 See ss42 and 44 of the CC Act

- The contact details for the public official/CEO and the nominated person/s (if there is a nominated person)
- Any proposed changes to this policy.

9. Consultation with the CCC

The public official/CEO will consult with the CCC when preparing any policy about how the BSC will deal with a complaint that involves or may involve corrupt conduct of the public official/CEO.¹⁵

10. Statutory references

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

Related Documents:

BSC Workplace Discrimination and Harassment Policy

BSC Employee Code of Conduct

BSC Public Interest Disclosure Policy

Public Interest Disclosure (PID) Act

¹⁵ Section 48A of the CC Act