



s.48A Crime & Corruption Act 2001 - Complaints about the Chief Executive Officer

Policy Information			
Policy Name	s.48A Crime & Corruption Act 2001 - Complaints about the Chief Executive Officer		
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Responsible Officer	Director Corporate & Communications		
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1. Purpose

1.1 Council must adopt a policy to set out how 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.

2. Objective

1.1 The Chief Executive Officer (CEO) is the public official of the Mornington Shire Council (MSC) for the purposes of the Crime & Corruption Action 2001 (CC Act).

1.2 The objective of this policy is to set out how the MSC will deal with a complaint ¹(or information or matter) that involves or may involve corrupt conduct, as defined in the CC Act by the CEO.

3. Scope

This policy is designed to assist the MSC to:

3.1 Comply with s.48A of the CC Act.

3.2 Promote public confidence in the way suspected corrupt conduct by the CEO of the MSC is dealt with (s.34(c) CC Act).

3.3 Promote accountability, integrity and transparency in the way the MSC deals with a complaint that is reasonably suspected to involve, or may involve, corrupt conduct by the CEO.

4. Definitions

Crime and Corruption Commission (CCC)	the Commission continued in existence under the CC Act
CC Act	Crime and Corruption Act 2001
Complaint	includes information or matter: see the definition in s. 48A(4) of the CC Act
Contact details for Nominated person	Matthew Fox Director Corporate & Communications Ph: 07 4745 7888 Matthew.Fox@mornington.qld.gov.au
Corrupt conduct	see s. 15 of the CC Act
<i>Corruption in Focus</i>	www.ccc.qld.gov.au/publications/corruption-focus ; see chapter 2, page 26
Deal with	see Schedule 2 (Dictionary) of the CC Act
Nominated person	see item 5 of this policy
Public official	see s. 48A & Schedule 2 (Dictionary) of the CC Act
Unit of public administration (UPA)	see s. 20 of the CC Act

¹ See s.48A(4) CC Act and definitions in clause 3

5. Application

5.1 This policy applies:

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

5.2 For the purpose of this policy a complaint includes information or matter.²

6. Nominated Person

5.1 Having regard to s.48A (2) and (3) of the CC Act, this policy nominates:

- Director Corporate & Communications as the nominated person to notify³ the CCC of the complaint and to deal with the complaint under the CC Act⁴.

5.2 The provisions of the CC Act that regulate how the CEO as the public official of the MSC is to notify or deal with a complaint also apply to the nominated person.

7. Complaints about the CEO

6.1 If a complaint may involve an allegation of corrupt conduct by the CEO of the MSC, the complaint may be reported to:

- The nominated person; or
- The CCC directly, via the CCC's website; or
- A person to whom there is an obligation to report under an Act⁵ (this does not include an obligation imposed by ss. 38 or 39 (1) of the CC Act).

6.2 If there is uncertainty about whether or not a complaint should be reported, it is best to report it to the nominated person.

Complaints received by the nominated person.

6.3 If the nominated person reasonably suspects that a complaint involves or may involve corrupt conduct by the CEO they are to:

² See s.48a (4) of the CC

³ Pursuant to s.38 of the CC Act

⁴ Under Chapter 2, Part 3, Division 4, Subdivision 2 of the CC Act.

⁵ See s.39(2) of the CC Act

1. Notify the CCC of the complaint⁶; and
2. Deal with the complaint, subject to the CCC's monitoring role, when directions issued under s.40 of the CC Act apply to the complaint; or
3. Pursuant to s.46 of the CC Act, the CCC refers the complaint to the nominated person to deal with⁷.

Complaints received by the CEO.

6.4 If the CEO receives a complaint that may involve corrupt conduct on their part, they must:

- Report the complaint to the nominated person 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 nominated person.

8. Recordkeeping Requirements

7.2 Should the nominated person decide that a complaint, or information or matter, about alleged corrupt conduct by the CEO is not required to be notified to the CCC under s.38 of the CC Act, the nominated person must make a record of the decision that complies with s.40A of the CC Act.

9. Resourcing the Nominated Person

8.1 If pursuant to ss. 40 or 46 of the CC Act, the nominated person has responsibility to deal with the complaint:

- The MSC will ensure that sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately⁸.
- The nominated person is to ensure that any consultations 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.
- 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 Act⁹

⁶ Pursuant to s.38 of the CC Act

⁷ Under ss.43 and 44 of the CC Act.

⁸ See the CCC's corruption purposes and functions set out in ss.4(a)(b), 33, 34 and 35 of the CC Act and the MSC relevant statutory, policy and procedural framework which help inform the decision making about the appropriate way to deal with the complaint.

⁹ See s.57 of the CC Act and the CCC's corruption purposes and functions set out in ss.4(1)(b), 33, 34 and 35 of the CC Act.

- The importance of promoting public confidence in the way suspected corrupt conduct in the MSC is dealt with;¹⁰ and
- The MSC's statutory, policy and procedural framework.

8.2 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 MSC as if the nominated person is the CEO for the purpose of dealing with the complaint only.

10. Liaising with the CCC

9.1 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.

11. Liaising with the CCC

10.1 The CEO will consult with the CCC when preparing any policy about how the MSC will deal with a complaint that involves or may involve corrupt conduct by the CEO.

12. Statutory References

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

13. Approval

12.1 This policy has been endorsed by the MSC.

¹⁰ See s.34(3) of the CC Act.