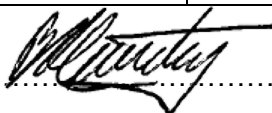




Policy Title: **INVESTIGATION OF CORRUPTION
COMPLAINTS AGAINST CHIEF
EXECUTIVE OFFICER POLICY**

Policy Type: **STATUTORY**
(Statutory, Financial, Administrative, Human Resources)

Policy Number: **S015**

| Approved by Council | Last Review | Current Review | Next Review |
|---------------------------|----------------------------|--|--------------|
| | 19 May 2020 | 18 May 2021 | May 2022 |
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| Approved by CEO/Director: | Bernie McCarthy – CEO |  Signature | |
| Effective Date | 19 May 2020 | | |
| Implementation Department | | Officer Position | |
| Corporate Services | | Director of Corporate Services | |
| Revision # | Document Management File # | | |
| 7.0 | 01-03-S015 | | |

**Complaints about the Public Official:
Section 48A of the Crime and Corruption Act 2001**

1. Objective

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

2. Policy Rationale

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

- Comply with s48A of the Crime and Corruption Act 2001
- Promote public confidence in the way suspected corrupt conduct of the Chief Executive Officer for the Aurukun Shire Council is dealt with (s34(c) CC Act)
- Promote accountability, integrity and transparency in the way the Aurukun 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> |
| Contact details | Chief Executive Officer: 4060 6801: ceo@aurukun.qld.gov.au Nominated Person: Director Corporate Services 4060 6812: dircorp@aurukun.qld.gov.au |
| 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> |
| Corruption in Focus | http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/corruption-in-focus ; see chapter 2, page 2.5 |
| 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

| | |
|-------------------------------------|---|
| Unit of public administration (UPA) | see s20 of the <i>Crime and Corruption Act 2001</i> |
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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 Chief Executive Officer of the Aurukun Shire Council
- to all persons who hold an appointment in, or are employees of, the Aurukun Shire Council For the purpose of this policy a complaint includes information or matter²

5. Nominated person

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

- The Director Corporate Services as the nominated person
- To notify³ the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.⁴
- If the nominated person is to deal with the complaint, they may refer investigation of the complaint to a professional external investigator.
- In the event an internal investigator is engaged to investigate the complaint, the Director Corporate Services will ensure the external investigator is bound by the Crime and Corruption Act and Council's policy in investigating complaints against the Chief Executive Officer, in particular the confidentiality requirements under section 7 below.

6. Complaints about the Chief Executive Officer

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 Aurukun Shire Council, the complaint may be reported to:

- the nominated person, or
- A person to whom there is an obligation to report under an Act⁵ (this does not include an obligation imposed by ss37,38 and 39 (1) of the CC Act).

If there is uncertainty about whether 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:

- notify the CCC of the complaint⁶, and
- deal with the complaint, subject to the CCC's monitoring role, when -

² See s48(4) CC of the CC Act

³ Under ss37 or 38 of the CC Act

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

⁵ See s39(2) of the CC Act

⁶ Under s38, subject to s40 of the CC Act

- 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 with⁷

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

Where there is a nominated person, and if directions issued under s40 apply to the complaint:

- the nominated person is to deal with the complaint, and
- the Chief Executive Office r is to take no further action to deal with the complaint

7. Resourcing the Nominated Person

If pursuant to ss40 or 46, the Nominated Person has responsibility to deal with the complaint⁸

- the Aurukun Shire council will ensure that enough resources are available to the Nominated Person to enable them to deal with the complaint appropriately⁹, and
- 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
- 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 Act¹⁰
 - the importance of promoting public confidence in the way suspected corrupt conduct in the Aurukun Shire Council is dealt with¹¹, and
 - The Aurukun 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 Aurukun Shire Council

⁷ Under ss41 and 42 and/or ss43 and 44 of the CC Act

⁸ Under ss41 and 42 and/or ss43 and 44 of the CC Act

⁹ 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

¹⁰ See ss57 and the CCC's corruption purposes and function set out in ss4(1)(b), 33, 34, 35 of the CC Act

¹¹ See s34(c) CC Act

as if the nominated person is the Chief Executive Officer of the Aurukun 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 Aurukun 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 either the elected Councillor Chief Executive Officer of Aurukun Shire or 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/s (if any) informed of:

- the contact details for the Chief Executive Officer and the nominated person/s (if there is a 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 Aurukun Shire Council will deal with a complaint that involves or may involve corrupt conduct of the public official/CEO¹².

10. Statutory references

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

¹² Section 48A of the CC Act