

Policy



STATUTORY

COMPLAINTS OF CORRUPT CONDUCT BY CHIEF EXECUTIVE OFFICER

Head of Power

Section 48A *Crime and Corruption Act 2001*

Key Supporting Council Document

Lockyer Valley Regional Council Corporate Plan 2017-2022:

5.7 Compliance with legislation

Definitions

Complaint	includes information or matter (as per section 48A(4) of <i>Crime and Corruption Act 2001</i>)
Corrupt conduct – (as per section 15 of <i>Crime and Corruption Act 2001</i>)	<p>means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <ul style="list-style-type: none">• adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of— a unit of public administration; or a person holding an appointment; and• results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned above in a way that is not honest or is not impartial; or involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and• would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment. <p>Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <ul style="list-style-type: none">• impairs, or could impair, public confidence in public administration; and

- involves, or could involve, collusive tendering; fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of protecting health or safety of persons; protecting the environment; protecting or managing the use of the State's natural, cultural, mining or energy resources;
- involves, or could involve, dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets; evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue; fraudulently obtaining or retaining an appointment; and
- would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

Nominated person for the purpose of this policy, the nominated person is the Group Manager People and Business Performance.

Policy Objective

The purpose of this policy is to set out how Lockyer Valley Regional Council will deal with a complaint that involves or may involve corrupt conduct of its Chief Executive Officer (CEO). This policy seeks to promote:

- public confidence in the way suspected corrupt conduct of the CEO is dealt with; and
- 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.

Policy Statement

This policy applies where there are grounds to suspect that a complaint may involve corrupt conduct of Chief Executive Officer of Council. The policy applies to all persons who hold an appointment in or are employees of Council.

In accordance with section 48A(2) and (3) of the *Crime and Corruption Act 2001*, Council nominates the Group Manager People and Business Performance as the nominated person to notify the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the *Crime and Corruption Act 2001*.

If a complaint may involve an allegation of corrupt conduct of the CEO, the complaint may be reported 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 complaint; and
- deal with the complaint, subject to the CCC's monitoring role, when —
 - directions issued under section 40 apply to the complaint, if any, or
 - the CCC refers the complaint to the nominated person to deal with (section 46).

If the CEO reasonably suspects that the complaint may involve corrupt conduct on their part, the CEO 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 in consultation with the Mayor.

Where there is a nominated person, and if directions issued under section 40 apply to the complaint:

- the nominated person is to deal with the complaint, and

- 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.

If the nominated person has responsibility to deal with the complaint (sections 40 and 46):

- the Council will ensure sufficient resources are available to the nominated person to enable them to deal with the complaint appropriately
- 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, always use their best endeavours to act independently, impartially and fairly having regard to the:
 - purposes of the *Crime and Corruption Act 2001*
 - the importance of promoting public confidence in the way suspected corrupt conduct in the Council is dealt with; 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
- do not have any authority, function or power that cannot under the law of the Commonwealth or the State be delegated by either the Mayor or the CEO, to the nominated person.

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

- the contact details for the CEO and the nominated person
- any proposed changes to this policy.

Related Documents

NA