



STATUTORY POLICY
MOUNT ISA CITY COUNCIL
Complaints about a Public Official Policy

RESOLUTION NO. **OM31/08/20** VERSION **V3**

APPLIES TO STATUTORY POLICIES ONLY

This an official copy of the **Complaints about a Public Official Policy**, made in accordance with the provisions of *Local Government Act 2009*, *Local Government Regulation 2012*, *Crime and Corruption Act 2001*, and current Council Policies.

Statutory Policies comply with a legislative requirement; the **Complaints about a Public Official Policy** is approved by the Mount Isa City Council for the operations and procedures of Council.

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Sharon Ibardolaza
Chief Executive Officer

DOCUMENT VERSION CONTROL

Governance/Policies/Statutory Doc ID# 10273			POLICY TYPE	Statutory (Council)
VERSION	DATE	RESOLUTION NO.	DETAILS	
V1	13.06.2018	OM11/06/18	Responsible Officer - Chief Executive Officer	
V2	26.09.2018	OM21/09/18	Responsible Officer – Chief Executive Officer	
V3	26.08.2020	OM31/08/20	Responsible Officer – Chief Executive Officer	
			REVIEW DUE	09.2022

DISTRIBUTION AND DISSEMINATION

Internal email to all employee	X	Section meetings / Toolbox talks	X
Internal email to all councillors		Included in employee inductions	X
Employee noticeboards	X	Council website	X
Internal training to be provided		External training	
Registered in magiQ	X		



1. PURPOSE

The Chief Executive Officer (“CEO”) is the public official of the Unit of Public Administration (“UPA”).

The objective of this policy is to set out how the UPA will deal with a complaint (also information or matter) that involves or may involve corrupt conduct of its CEO as defined in the *Crime and Corruption Act 2001* (“CC Act”).

This policy is designed to assist the UPA (Mount Isa City Council) to;

- a) Comply with s48A of the CC Act;
- b) Promote public confidence in the way suspected corrupt conduct of the CEO for the Council is dealt with (s34(c) CC Act);
- c) 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.

2. COMMENCEMENT

This policy will commence on and from 26 August 2020. It replaces all other policies or arrangements governing complaints about a public official (whether written or not).

3. APPLICATION

This policy applies if there are grounds to suspect that a complaint may involve corrupt conduct of the Council's CEO.

4. NOMINATED PERSON

4.1 Pursuant to s48A (2) and (3) of the CC Act, this policy nominates the mayor as the nominated person to notify the Crime and Corruption Commission (“CCC”) of the complaint and to deal with the complaint under the CC Act. Once the UPA nominates a person, the CC Act applies as if a reference about notifying or dealing with the complaint to the CEO is a reference to the nominated person.

4.2 The contact details for the nominated person are as follows:

Mayor Danielle Slade
Email: mayor@mountisa.qld.gov.au
Phone: 4747 3280 and 0417 172 068
Mail: PO Box 815, Mount Isa QLD 4825

5. COMPLAINTS ABOUT THE CEO

5.1 Where a complaint may involve an allegation of corrupt conduct of the CEO, the complaint may be reported to the mayor or a person to whom there is an obligation to report under an Act.

5.2 If there is uncertainty about whether or not a complaint should be reported, Council employees should report the conduct to the mayor. Where the mayor reasonably suspects the complaint may involve corrupt conduct of the CEO, the mayor will;

- a) notify the CCC of the complaint; and
- b) deal with the complaint, subject to the CCC's monitoring role, when –
 - i. directions issued under s40 apply to the complaint, if any, or;
 - ii. pursuant to s46, the CCC refers the complaint to the mayor to deal with.

- 5.3 If the CEO reasonably suspects that the complaint may involve corrupt conduct on their part, the CEO must;
- a) report the complaint to the nominated person as soon as practicable and may also notify the CCC; and
 - b) take no further action to deal with the complaint unless requested to do so by the mayor in consultation with the Council.
- 5.4 Where directions are issued under s40 of the CC Act;
- a) the mayor is to deal with the complaint; and
 - b) the CEO is to take no further action to deal with the complaint unless requested to do so by the mayor in consultation with the Council.

6. CONFIDENTIALITY

- 6.1 The CEO, the mayor and other persons responsible for dealing with the complaint about corrupt conduct (including external investigators) have a duty to maintain confidentiality in relation to the complaint.
- 6.2 The duty to maintain confidentiality extends to the identity of the person making the complaint, the person who is the subject of the complaint and sometimes, even the existence of the complaint.
- 6.3 Consideration will also need to be given to whether the complainant is making a Public Interest Disclosure ("PID") which would then be subject to the provisions of the *Public Interest Disclosure Act 2010* and Council's Public Interest Disclosure Policy.
- 6.4 In particular, the following should be kept confidential;
- a) the identity of the source of the information (including the names of any disclosers);
 - b) the identity of those involved in the investigation, including witnesses; and
 - c) the nature and content of oral and documentary evidence gathered during the investigation.

7. RESOURCING THE MAYOR

- 7.1 Where the mayor has responsibility to deal with the complaint;
- a) the Council will ensure that sufficient resources are available to enable the mayor to deal with the complaint appropriately; and
 - b) 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;
 - i. authorisation under a law of the Commonwealth or the State; or
 - ii. the consent of the mayor.
- 7.2 The mayor must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the;
- a) purposes of the CC Act;
 - b) the importance of promoting public confidence in the way suspected corrupt conduct in Council is dealt with; and



c) Council's statutory, policy and procedural framework.

7.3 For the purpose of dealing with the complaint only, the mayor is delegated the same authority, functions and powers of the CEO;

a) to direct and control staff of the Council;

b) to enter into contracts on behalf of the Council; and

c) the mayor does not have any authority, function or power that cannot – under the law of the Commonwealth or the State - be delegated by either the Council or the CEO.

8. LIAISING WITH THE CCC

8.1 The CEO is to keep the CCC and the mayor informed of;

a) the contact details for the CEO and the mayor; and

b) any proposed changes to this policy.

8.2 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.

9. VARIATIONS

9.1 Council reserves the right to vary or replace this policy from time to time in accordance with the CC Act.

9.2 Any variations to this policy must first be approved by the chair of the Crime and Corruption Commission.

10. BREACH OF POLICY

10.1 Where Council reasonably believes an employee has breached this policy, the matter will be dealt with under the Performance and Misconduct Policy.

11. COMMUNICATION AND DISTRIBUTION

11.1 Council will make available to the public, the Complaints about a Public Official Policy on our website at www.mountisa.qld.gov.au.

11.2 Supervisors will ensure the policy is distributed as per the Distribution and Dissemination table on this policy.

12. DEFINITIONS

a) **Complaint** – As defined in s48A (4) of the *Crime and Corruption Act 2001* and includes information or matter.

b) **Corrupt conduct** – as defined in s15 of the *Crime and Corruption Act 2001*

1) Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that—

a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—

(i) a unit of public administration; or

(ii) a person holding an appointment; and

b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph a) in a way that—

(i) is not honest or is not impartial; or



- (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
 - (iii) 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
 - c) would, if proved, be—
 - (i) a criminal offence; or
 - (ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.
 - 2) Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that—
 - a) impairs, or could impair, public confidence in public administration; and
 - b) involves, or could involve, any of the following—
 - (i) collusive tendering;
 - (ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)—
 - (A) protecting health or safety of persons;
 - (B) protecting the environment;
 - (C) protecting or managing the use of the State's natural, cultural, mining or energy resources;
 - (iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;
 - (iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;
 - (v) fraudulently obtaining or retaining an appointment; and
 - c) would, if proved, be—
 - (i) a criminal offence; or
 - (ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.
- c) **Deal with** – see Schedule 2 (Dictionary) of the *Crime and Corruption Act 2001*
- d) **Employees** – include employees, a contractor of the local government and a type of person prescribed under a regulation (as per s199(2) *Local Government Act 2009*)
- e) **Nominated Person** – Mayor of Mount Isa City Council
- f) **Public Official** – Chief Executive Officer of Mount Isa City Council
- g) **Reasonably suspects** – means suspects on grounds that are reasonable in the circumstances (as per schedule 2 (Dictionary) of the *Crime and Corruption Act 2001*)
- h) **Unit of Public Administration** – Mount Isa City Council

ASSOCIATED LEGISLATION AND POLICIES

- *Crime and Corruption Act 2001*
- *Public Interest Disclosure Act 2010*
- Public Interest Disclosure Policy
- Fraud and Corruption Prevention Framework
- Management of Fraud and Corruption Policy
- Performance and Misconduct Policy