

**Program:** Office of the Mayor and CEO  
**Date of Adoption:** 28 September 2022  
**Resolution Number:** ORD-2022-280  
**Review Date:** 28 September 2025

**Scope**

This policy applies to:

- all complaints against the Chief Executive Officer (CEO) of Mackay Regional Council (MRC); and
- to all persons who hold an appointment in or are Staff of the MRC.

**Objective**

The objective of this policy is to outline the way in which the Council will *deal with* complaints against the CEO including any allegations that may involve corrupt conduct as defined in the *Crime and Corruption Act* (CC Act).

The policy also assists the MRC in complying with s48A of the CC Act.

**Policy Statement**

This policy is designed to assist the Council to:

1. Comply with s48A of the CC Act.
2. Comply with *Local Government Act 2009* (LGA) and *Local Government Regulation 2012* (LGR).
3. Promote public confidence, accountability, integrity and transparency in the way the Council deals with all allegations against the CEO including those of a serious nature that may involve, misconduct or corrupt conduct.

Council considers that to the extent this policy engages and limits, or potentially limits, any human rights, that limitation is reasonable in that it is proportionate and justified.

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This process to remain in force until otherwise determined  
 by Mackay Regional Council

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## 1.0 Nominated Person

Having regard to s48A (2) and (3) of the CC Act, the nominated person appointed under this policy to **deal with** complaints against the CEO is the person holding the position of Mayor of MRC.

The contact details for the nominated person are:

Mayor

Mackay Regional Council

Phone: 07 4961 9455

Email: Current email details located @  
[mackay.qld.gov.au/contact/councillors](mailto:mackay.qld.gov.au/contact/councillors)

Post: PO Box 41  
Mackay QLD 4740

Once the MRC 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.

## 2.0 Resourcing and Authority of the Nominated Person

The nominated person has the discretion to acquire the services of suitably qualified persons (either internal or external to MRC) to act as his/her agent to assist him/her deal with such complaints.

The Council will ensure that sufficient resources are available to the *nominated person* to enable him/her 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

The *nominated person* (or his/her agent) must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:

- purposes of the CC Act
- 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.

The *nominated person* is delegated the same authority, functions and powers as the CEO to direct and control staff of the Council and to enter into contracts on behalf of the Council as if the nominated person is the CEO of the Council for the specific purpose of dealing with the complaint only.

### 3.0 Dealing with complaints about the CEO

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

- the nominated person, or
- a person to whom there is an obligation to report under an Act <sup>[1]</sup> (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 CEO reasonably suspects that the complaint may involve corrupt conduct on their part, the CEO must:

- (i) report the complaint to the nominated person as soon as practicable and may also notify the CCC, and
- (ii) take no further action to deal with the complaint unless requested to do so by the nominated person.

If directions issued under s40 apply to the complaint:

- (i) the nominated person is to deal with the complaint, and
- (ii) 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* reasonably suspects the complaint may involve an allegation of corrupt conduct of the CEO, the nominated person or his/her agent is to:

- notify the CCC of the complaint in accordance with the requirements of the *directions notice* issued by the CCC to MRC; and
- *deal with* the complaint, subject to the CCC's monitoring role and any directions issued by the CCC under s40 of the CC Act.

All other complaints against the CEO, including those involving allegations of *misconduct* are to be dealt with by the *nominated person* or his/her agent accordance with Council's Administrative Actions Complaints Policy.

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

- The contact details for the public official/CEO and the nominated persons;
- Any proposed changes to this policy.

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

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<sup>[1]</sup> See s39(2) of the CC Act

#### 4.0 Definitions

To assist in interpretation the following definitions shall apply:

**CCC** shall mean the Crime and Corruption Commission

**CC Act** shall mean the *Crime and Corruption Act 2001*.

**CEO** means the Chief Executive Officer of the Mackay Regional Council, including people acting temporarily in the role.

**Complaint** includes any complaint:

- Relating to information or matter as provided by s48A (4) of the CC Act; or
- about the behaviour of the CEO; or
- that constitutes an *administrative action complaint* against the CEO in accordance with s268(2) of the LGA i.e.:
  - a decision, or a failure to make a decision,
  - an act, or a failure to do an act;
  - the formulation of a proposal or intention; or
  - the making of a recommendation.

**Contact Details** shall mean a direct telephone number, email address and postal address to enable confidential communications.

**Corruption** means corrupt conduct.

**Corrupt Conduct** see section 15 of the *Crime and Corruption Act 2001*.

**Council** shall mean the Mayor and Councillors of Mackay Regional Council.

**Deal with**, shall mean undertaking all actions to address the complaint in an appropriate way which includes:

- (a) investigate the complaint, information or matter; and
- (b) gather evidence for –
  - (i) prosecutions for offences; or
  - (ii) disciplinary proceedings; and
- (c) refer the complaint, information or matter to an appropriate authority to start a prosecution or disciplinary proceeding; and
- (d) start a disciplinary proceeding; and
- (e) other actions required to process the complaint in accordance with Council's complaint management policies and processes.

**Directions Notice** shall mean the directions issued by the CCC to MRC outlining the notification obligations of the nominated officer pursuant to S40 of the CC Act.

**LGA** shall mean the *Local Government Act 2009*

**LGR** shall mean the *Local Government Regulation 2012*

**Misconduct** shall mean when the CEO breaches his/her obligations under his/her contract of employment. Examples of misconduct include but are not limited to:

- breaches of policies, code of conduct and other reasonable instructions;
- unauthorised absence from duty; or
- inappropriate use of Council property and facilities.

**MRC** shall mean Mackay Regional Council.

**Nominated Person** shall mean the person responsible to **deal with** complaints against the CEO in accordance with the policy.

**Staff** shall mean all persons employed by Mackay Regional Council on a permanent, temporary, or casual basis, or otherwise engaged by Mackay Regional Council including those under a contract of service or a volunteer program.

**5.0 Review of Policy**

This policy will be reviewed when any of the following occur:

- The related documents are amended or replaced.
- Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

**6.0 Reference**

- *Crime and Corruption Act 2001*
- *Local Government Act 2009*
- *Local Government Regulation 2012*

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
2	Review of Policy	Minor amendments	Council	13.02.19
3	Advice from CCC in an email to the CEO dated 29/03/19	Change to the definition of corrupt conduct and inclusion of the last sentence in s5 as a result of advice from the CCC	Council	12.06.19
4	Review	Minor changes.	Council	28.9.22