



Complaints about the Public Official

Number:	Stat. 16
Responsible Manager:	Chief Executive Officer
Head Policy:	N/A
Legislation:	Crime and Corruption Act 2001 Local Government Act 2009 Ombudsman Act 2001 Public Interest Disclosure Act 2010 Public Records Act 2002 Public Sector Ethics Act 1994
Associated Policies:	Public Interest Disclosure Policy Code of Conduct Fraud and Corruption Control Plan

Objective

The Chief Executive Officer is the public official of the KASC.

The objective of this policy is to set out how the KASC 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 (CC Act).

This policy is designed to assist the KASC to:

1. Comply with s48A of the Crime and Corruption Act 2001
2. Promote public confidence in the way suspected corrupt conduct of the Chief Executive Officer for the KASC is dealt with (s34(c) CC Act)
3. Promote accountability, integrity and transparency in the way the KASC deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Chief Executive Officer

This policy applies to all persons who hold an appointment in, or are employees of, the Council, where there are grounds to suspect that a complaint may involve corrupt conduct of the CEO of KASC



Nominated Person

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

- Executive Manager Governance and Operations and the Executive Manager Finance as the nominated persons to notify the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.

Where there is more than one nominated person:

- the nominated persons will — with or without consulting the CCC or Mayor— decide who will be the nominated person for a particular complaint; and
- the nominated person for that particular complaint will inform the CCC and Mayor that they are the nominated person for the particular complaint.

Once the Council nominates a person, the CC Act applies as if a reference about notifying or dealing with the complaint to the public official/CEO is a reference to the nominated person.

Complaints about the Chief Executive Officer

Where there is a nominated person, if a complaint may involve an allegation of corrupt conduct of the Chief Executive Officer of the KASC, the complaint may be reported to:

- the nominated person, or
- a person to whom there is an obligation to report under an Act (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 nominated person reasonably suspects the complaint may involve corrupt conduct of the Chief Executive Officer they are to:

- (a) notify the CCC of the complaint , and
- (b) deal with the complaint, subject to the CCC's monitoring role, when —
 - 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 with.

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

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

(i) the nominated person is to deal with the complaint, and

(ii) the Chief Executive Officer 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.

Resourcing the Nominated Person

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

(i) the KASC will ensure that sufficient resources are available to the Nominated Person to enable them to deal with the complaint appropriately , and

(ii) 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 [public official/CEO or nominated person] responsible for dealing with the complaint

(iii) 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 Act
- the importance of promoting public confidence in the way suspected corrupt conduct in the KASC is dealt with , and
- the KASC'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 KASC as if the nominated person is the Chief Executive Officer of the KASC 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 KASC 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 Council with to whom the public official is accountable (e.g. Minister for Department; the elected Council/Mayor for local government CEO)] or the Chief Executive Officer, to the nominated person



Liaising with the CCC

The Chief Executive Officer is to keep the CCC and the nominated person(s) informed of:

- the contact details for the Chief Executive Officer and the nominated person(s)
- any proposed changes to this policy.

Consultation with the CCC

The Chief Executive Officer will consult with the CCC when preparing any policy about how the KASC will deal with a complaint that involves or may involve corrupt conduct of the Chief Executive Officer

Review

This policy is to remain in force from 19 September 2018 until otherwise determined by Council.