



MAPOON ABORIGINAL SHIRE COUNCIL

Complaints about Public Officials Policy

RESOLUTION NO. 85/01 VERSION V3

This is an official copy of the **Complaints about Public Officials Policy** of **Mapoon Aboriginal Shire Council**, made in accordance with the provisions of the Local government Act and Regulations, Public Records Act, Mapoon Aboriginal Shire Council's Local Laws, Subordinate Local Laws and current Council Policies.

The Complaints about Public Officials Policy is a Statutory Policy.

Operational policies are prepared to guide employee behaviour. This Policy is approved by the Mapoon Aboriginal Shire Council for the operations and guidance of Council and Council staff.

Statutory policies are prepared in response to legislative requirements and mandate employee behaviour. This Policy is approved by the Mapoon Aboriginal Shire Council for the guidance of Council and Council staff.

DOCUMENT VERSION CONTROL			
VERSION	DATE	RESOLUTION N ^o .	DETAILS
1.0	16/01/2018	08.	Responsible Officer: Accountant Policy Type: Operational Policy
2.0	20/08/2018	11.	Responsible Officer: Chief Executive Officer Policy Type: Operational Policy
3.0	18/6/19	85/01	Responsible Officer: Chief Executive Officer Policy Type: Operational Policy
			EXPIRY 30 June 2020

Complaints about Public Officials Policy

Introduction/Policy Statement:

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

Policy scope:

The policy is designed to assist the Mapoon Aboriginal 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 Mapoon Aboriginal Shire Council is dealt with (s34(c) CC Act)
- Promote accountability, integrity and transparency in the way the Mapoon Aboriginal Shire Council deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the Chief Executive Officer.

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 0747457801 mapoon.ceo@mapoon.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>
<i>Corruption in Focus</i>	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>

¹ See s48A of the CC Act and definitions

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>
Unit of public administration (UPA)	See s20 of the <i>Crime and Corruption Act 2001</i>

Policy statement:

This policy applies:

- If there are grounds to suspect that a complaint may involve corrupt conduct of the Chief Executive Officer of the Mapoon Aboriginal Shire Council; and
- All persons who hold an appointment in, or are employees of, the Mapoon Aboriginal Shire Council

For the purpose of this policy a complaint includes information or matter.²

Nominated person

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

- The Corporate Services Manager and the Works Manager 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.³

Where there is more than one nominated person:

- the nominated persons will - with or without consulting the CCC or Mayor of the Mapoon Aboriginal Shire Council - decide who will be the nominated person for a particular complaint; and
- the nominated person for that particular complaint will inform the CCC and the Mayor or Chief Executive Officer that they are the nominated person for the particular complaint.

Once the Mapoon Aboriginal Shire Council nominates a person, the CCC 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.

² See s48(4) CC of the CC Act

³ Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act

Complaint involving a reasonable suspicion of corrupt conduct, where there is a nominated person

Where there is a nominated person, if a complaint involves an allegation of corrupt conduct by the Chief Executive Officer of the Mapoon Aboriginal Shire Council, the complaint may be reported to:

- the nominated person, or
- a person to whom there is an obligation to report under an Act⁴ (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 notify the CCC of the complaint⁵, and 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 Executive Manager Corporate and Community Services to deal with⁶.

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:

- 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 of the Mapoon Aboriginal Shire Council.

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 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 of Mapoon Aboriginal Shire Council.

Resourcing the Nominated Person

If pursuant to ss40 or 46, the Nominated Person has responsibility to deal with the complaint⁷:

⁴ See s39(2) of the CC Act

⁵ Under ss37 or 38, subject to s40 of the CC Act

⁶ Under ss41 and 42 and/or ss43 and 44 of the CC Act

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

- The Mapoon Aboriginal Shire Council will ensure that sufficient resources are available to the Nominated person to enable them to deal with the complaint appropriately⁸, 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 Chief Executive Officer 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 Act⁹
- The importance of promoting public confidence in the way suspected corrupt conduct in the Mapoon Aboriginal Shire Council is dealt with¹⁰, and
- The Mapoon Aboriginal Shire Council's statutory, policy and procedural framework.

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 public official/CEO and the nominated person/s (if there is a nominated person)
- 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 Mapoon Aboriginal Shire Council will deal with a complaint that involves or may involve corrupt conduct of the public official/CEO.¹¹

Statutory references

⁸ See the CCC's corruption purposes and function set out in ss4(1)(b), 33, 34, 35 and the Mapoon Aboriginal Shire Council's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint

⁹ See ss57 and the CCC's corruption purposes and function set out in ss4(1)(b), 33, 34, 35 of the CC Act

¹⁰ See s34(c) CC Act

¹¹ Section 48A of the CC Act

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

Inclusions and exclusions

For the purposes of this policy, the following inclusions and exclusions apply:

- Nil

Relevant Legislation

- Crime and Corruption Act 2001.

Variations

MASC reserves the right to vary, replace or terminate this policy from time to time.

Related Policies and Procedures

- Fraud and Corruption Policy
- Code of Conduct

Policy Version and Revision Information

Policy authorised and adopted by:

Naseem Begam Chetty: Chief Executive Officer and The Mapoon Aboriginal Shire Council.

Policy Maintained by:

Corporate Services Manager

Review date: 30/6/2020

Original issue: 12/1/18

This version: 3.0

Date Adopted: 18/6/19

Workplace Participant Acknowledgement

I acknowledge:

- (a) Receiving this MASC Policy;
- (b) That I should comply with this policy; and
- (c) That there may be disciplinary consequences if I fail to comply, including termination of employment.

Your name:

Signed:

Date:
