



COMPLAINT AGAINST THE CEO

Type:	Council		
Owner:	Council		
Responsible Officer:	Mayor		
Approval Date:	22/10/2024	Next Review:	22/10/2026
Records Number:	203968	Council/CEO Decision:	Council
Legislation Reference:	s173 and 175(1) of the Local Government Act 2019 (Act)		

1 PURPOSE

The purpose of this policy is to set out how the Council will deal with a complaint that involves or may involve a breach in the code of conduct of its CEO. This conduct may include real or suspected corrupt conduct under the *Independent Commissioner Against Corruption Act 2017*.

This policy is designed to assist the Council:

1. Comply with s173 of the *Local Government Act 2019 (Act)*;
2. Comply with s175(1) of the *Local Government Act 2019 (Act)*;
3. Promote public confidence in the way suspected inappropriate conduct of the Council's CEO is dealt with; and
4. Promote accountability, integrity and transparency in the way the Council deals with a complaint that is suspected to involve, or may involve, inappropriate or corrupt conduct of the CEO.

2 SCOPE

This policy applies:

- If there are grounds to suspect that a complaint may involve a breach of the Chief Executive Officer (CEO) code of conduct; and
- To all persons who hold an appointment as the CEO of the Council, whether permanent, short-term or temporary.

3 DEFINITIONS

CEO - The Chief Executive Officer of Katherine Town Council appointed under Section 165 of the *Local Government Act 2019*.

Complainant – A person making a complaint.

ICAC - The Independent Commissioner Against Corruption.

Nominated person – is one or more Elected Members that have been formally selected by The Council.

The Council – Is the body of Elected Members

4 DETAILS

COMPLAINT HANDLING PROCEDURE

4.1 Nominated person(s) to receive and first consider the complaint

The Council is to ensure that at least one elected member is a *nominated person* for the purposes of this policy. If there is no *nominated person*, the principal member is the *nominated person* for the purposes of this policy.

The Council may have more than one *nominated person*. Where there is more than one *nominated person(s)*, the *nominated person(s)* will decide who will be the *nominated person* for a particular complaint.

The *nominated person(s)* are to receive the complaint about the CEO and to deal with the complaint in accordance with this policy and relevant legislation.

Complaints may be made to the *nominated person(s)* by email to records@ktc.nt.gov.au

The *nominated person(s)* should, at all times, use their best endeavors to act independently, impartially and fairly, having regard to the:

- purposes of the *Local Government Act 2019*, and the *Independent Commissioner Against Corruption Act 2017*;
- the importance of promoting public confidence in the way suspected breaches of the code of conduct by the CEO; and
- Council's statutory, policy, and procedural framework.

4.2 Complaints about the Chief Executive Officer

If a complaint involves an allegation of corrupt conduct or a breach of the Code of Conduct of the Chief Executive Officer, the complaint should be reported to:

- the *nominated person(s)*;
- a person to whom there is an obligation to report under an Act.

If there is uncertainty about whether a complaint should be reported, it is best to report it to the *nominated person(s)*.

4.3 Complaints received by the Chief Executive Officer

If the CEO receives a complaint and reasonably suspects that the complaint may involve corrupt conduct on their part, and there is a *nominated person(s)*, the CEO must:

- report the complaint to the *nominated person(s)* as soon as practicable;
- may report the complaint to the ICAC; and
- take no further action to deal with the complaint unless requested to do so by the *nominated person(s)* in consultation with Council.

4.4 Complaints received by the nominated person(s)

As soon as practicable the *nominated person(s)* is to determine the seriousness of the complaint. The *nominated person(s)* should do this through by assigning a tier category to the complaint.

If the *nominated person(s)* or Council reasonably suspects the complaint involves or may involve corrupt conduct of the Chief Executive Officer, they are to make a report to the ICAC pursuant to the *Independent Commissioner Against Corruption Act 2017*.

Once the complaint has a tier category the *nominated person(s)* should consider the complaint received within a reasonable time. The *nominated person(s)* must responsibly deal with the complaint, subject to any direction by the ICAC, within a reasonable time by:

- a) resolving the complaint;
- b) dismissing the complaint: or
- c) forwarding the complaint to the Council.

The Council for referred complaints must responsibly deal with the complaint, subject to any direction by the ICAC, within a reasonable time by:

- a) resolving the complaint;
- b) dismissing the complaint: or
- c) forwarding the complaint to an advisor for investigation and recommendations.

4.5 A tiered approach to managing a complaint

As referred in paragraph 4.3, the *nominated person(s)* should consider the complaints received on a tiered approach. In determining the tier of complaint the *nominated person(s)*:

- should have regard to the information received in the complaint;
- may receive and gather basic information about the complaint.

In determining the tier of the complaint the *nominated person(s)* may consider the following tier categories:

Tier 1

Where the complaint is not about the CEO Code of Conduct, or it seriously lacks information to support the complaint, or the complaint appears to be inappropriate, rude or vexatious, the *nominated person(s)* may choose to dismiss the complaint.

Tier 2

The *nominated person(s)* may escalate the complaint to the Council if the complaint is about the CEO's conduct and:

- the conduct by the CEO is without a reasonable explanation; or
- the conduct by the CEO appears to have been willfully done; or
- the conduct by the CEO appears to have been repeatedly done without taking reasonable due care; or
- the complaint is grievous; or
- the complaint is in relation to a complex matter.

When forwarding the complaint to the Council, the *nominated person(s)* should forward all relevant information for Council to review and consider.

Tier 3

Council may engage an external advisor to investigate a serious complaint referred to them by the *nominated person(s)*. The external advisor should not have any conflicts of interest. The external advisor is to report back to Council with their findings and recommendations within a reasonable time.

4.6 Recording-keeping

For all tier categories, the nominated person(s) should prepare a file note covering the process they undertook to deal with the complaint, summary of evidence, attempts to resolve the complaint (if required), and any recommendations.

4.7 Factors of consideration

In dealing responsibly with the complaint, the *nominated person(s)* (or Council when the complaint has been referred) should:

- have regard to the information received in the complaint;
- receive and gather basic information about the complaint;
- make reasonable inquiries into the complaint;
- discuss the complaint with each of the parties; and
- attempt to resolve the complaint through solutions mutually accepted by the complainant and CEO.

If the matter has been referred to an external advisor, they should take all reasonable steps that the *nominated person(s)* and/or Council may take to gather the information to make their recommendations.

If the complaint is not resolved

If the complaint cannot be resolved, the *nominated person(s)* (or Council for referred complaints) is to:

- ensure natural justice is provided to both parties;
- interview any witnesses, if necessary to form a view;
- provide a written report to Council by a specified date covering the process, summary of evidence, attempts to resolve the complaint, and any recommendations.

4.8 Confidentiality

Information regarding a complaint received are to be treated as confidential and are not to be disclosed, other than to the ICAC, without:

- authorisation under an Act; or
- the consent of the *nominated person(s)* responsible for dealing with the complaint.

Information regarding a complaint includes the complaint form, statements from any parties, and reports provided by the *nominated person(s)*, Council, or external advisor, regarding the status of a complaint.

Complaints should only be formally discussed by the *nominated person(s)*, Council, or external advisor during the confidential sessions. Minutes kept are confidential information in accordance with regulation 51(1)(f) of the *Local Government (General) Regulations 2021* (NT).

The complainant, Chief Executive Officer, and any Elected Member(s) with a conflict of interest in relation to the complaint are required to leave the meeting room during any discussion, consideration or decision relating to the complaint.

4.9 Managing conflicts of interest

In order to comply with section 179 of the *Local Government Act 2019*, the administration handling and review of a complaint is not to involve the CEO. This is because the CEO will have, or will be perceived to have, a conflict of interest about a matter alleged.

Nominated person and conflicts of interest

Under section 114 of the *Local Government Act 2019*, an elected member of the Council with a conflict of interest in the complaint is not to participate in considering or making decisions about the complaint.

If there is only one *nominated person*, and they have a conflict of interest, they are to:

- bring the complaint to Council as soon as they received it and form the view they have a conflict of interest;
- disclose their conflict of interest to Council; and
- immediately withdraw from any further participation in the complaint handling process.

The complaint will then be dealt with by Council who will either resolve, dismiss or consider the complaint.

4.10 Administration support to Council

An appropriate council staff member is to provide support to the Council in the absence of the CEO's support, including:

- 4.10.1 Organising the confidential meetings necessary (i.e. issuing notices, agendas and reports to comply with the Act);
- 4.10.2 Taking confidential minutes to document Council's resolutions regarding the complaint;
- 4.10.3 Engaging an external advisor as requested by the Council, and
- 4.10.4 Generally supporting the Council to make a decision as quickly as practicable.

4.11 Expectations

The complaint handling process is to give the people involved an opportunity to be heard and respond in a fair, appropriate and transparent way.

The response to a complaint received should be timely and decisions made as soon as practicable without undue delay. This may mean engaging an external advisor and holding special Council meetings to make decisions.

Where a complaint relates to fraud or corruption the *nominated person(s)* and/or Council is to advise the ICAC, and the Council is to follow ICAC's instructions regarding dealing, or not dealing, with the complaint.

Certain complaints may require the CEO to curtail their intended actions until the Council has made and communicated their decision about the complaint.

The CEO's probation or annual contract review is to be delayed until the complaint about the CEO's conduct is resolved.

5 ASSOCIATED POLICIES/DOCUMENTS

Code of Conduct for CEO

6 REFERENCES AND RELATED LEGISLATION

Independent Commissioner Against Corruption Act 2017

Local Government Act 2019

Revision History

Version	Approval date	Details of change	Responsible officer
1	07/10/2024	Created	Mayor/CEO
2			
3			