

DEALING WITH A COMPLAINT INVOLVING THE CEO (S. 156 GOVERNMENT OWNED CORPORATIONS ACT 1993 AND S. 48A OF THE CRIME AND CORRUPTION ACT 2001)

1. Purpose

The objective of this policy is to set out how SunWater Limited will deal with a Complaint that involves or may involve corrupt conduct of its Chief Executive Officer (CEO).

This Policy has been developed with a view to being consistent with policies of Units of Public Administration under section 48A of the CC Act, (despite section 48A of the CC Act not applying to SunWater). This policy is designed to assist SunWater to:

- Promote public confidence in the way suspected corrupt conduct of the CEO of SunWater is dealt with (s156 GOC Act);
- Promote accountability, integrity and transparency in the way SunWater deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the CEO.

2. Policy Application

This Policy applies if there is a Complaint which involves or relates to the CEO regardless of whether it is suspected the Complaint involves corrupt conduct, or not.

The relevant obligations in respect of notifying complaints of suspected corrupt conduct relating to SunWater are set out in section 156 of the GOC Act. It provides that the CEO must notify the CCC of a Complaint relating to the GOC if the CEO suspects the complaint involves, or may involve, something that would be corrupt conduct under CC Act (if the GOC were a unit of public administration).

3. Definitions

Crime and Corruption Commission (CCC)	the Commission continued in existence under the Crime and Corruption Act 2001
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>
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>
Deal with	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
GOC	Government Owned Corporation
GOC Act	<i>Government Owned Corporations Act 1993</i>
Nominated person	see item 4 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>

4. Nominated person

This Policy nominates the Chair of the Board (including any person acting in that role from time to time) as the Nominated Person.

5. Notification

For the purposes of notifying a Complaint to which this policy applies, sections 156(1) and (2) of the GOC Act apply to SunWater as if a reference to the CEO were a reference to the Nominated Person. In assessing a Complaint for notification, the Nominated Person must, at all times, use his or her best endeavours to act independently, impartially and fairly to investigate the Complaint (and such other matters that the nominated person identifies) and assess and determine whether there are grounds to suspect the Complaint involves, or may involve, something that would be corrupt conduct under the CC Act if the GOC were a unit of public administration, having regard to the:

- purposes of the CC Act;
- the importance of promoting public confidence in the way suspected corrupt conduct in SunWater Limited is dealt with; and
- SunWater’s statutory, policy and procedural framework.

The Nominated Person must, pursuant to section 156 of the GOC Act, notify the CCC of a Complaint relating to the GOC if the nominated person suspects the complaint involves, or may involve, something that would be corrupt conduct under CC Act (if the GOC were a unit of public administration).

The Nominated Person must also advise the Board of Directors about the action taken or not taken in respect of a notification of the Complaint.

If the CEO suspects a Complaint may involve corrupt conduct on his or her part, the CEO must:

- Report the Complaint to the Nominated Person as soon as practical and may also notify the CCC under section 156 of the GOC Act; and
- Take no further action to deal with the Complaint unless requested to do so by the Nominated Person.

6. Post notification - Dealing with a Complaint

The Nominated Person has responsibility to Deal with a Complaint notified under section 156 GOC Act to which this Policy applies when:

- Directions issued under section 40 of the CC Act apply to the Complaint; or
- Pursuant to the CC Act, the CCC refers the Complaint to the Nominated person or the CEO to deal with.

In such circumstances, the GOC Act and CC Act will apply as if a reference to the CEO of SunWater was a reference to the Nominated Person, and the Nominated Person:

- is delegated the same authority, functions and powers as the CEO to direct and control staff of SunWater as if the Nominated Person is the CEO for the purpose of dealing with the Complaint only;
- is delegated the same authority, functions and powers as the CEO to enter into contracts on behalf of SunWater for the purpose of dealing with the Complaint;
- must, before Dealing with the Complaint, consult with the Chairperson of the Board about the proposed action to be taken or not taken, subject to any lawful direction of the CCC;
- must advise the Board of the manner in which the Complaint has been Dealt with, subject to any lawful direction of the CCC.

SunWater will ensure that sufficient resources are available to the Nominated Person to enable them to deal with any Complaint appropriately. In Dealing with a 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 Act;
- the importance of promoting public confidence in the way suspected corrupt conduct in SunWater Limited is dealt with; and
- SunWater’s statutory, policy and procedural framework.

7. Liaising with the CCC

The CEO is to keep the CCC and the Nominated Person informed of:

- The contact details for the CEO and the Nominated Person;
- Any proposed changes to this Policy.

8. Consultation with the CCC

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

9. Review of Policy

The Board will review this Policy on a two yearly basis. The CEO and Company Secretary have the authority to approve administrative amendments to this and other governance policies, with advice to be provided to the Board on material administrative changes.

10. Enquiries Regarding This Policy

Enquiries regarding this Policy should be directed to the General Counsel or the Company Secretary.

Approval

This policy is approved by:

- Board of Directors of SunWater Limited, dated February 2016

Next Review date: February 2018