

Complaint Operating Guideline - Chief Executive Officer

Tuesday, 20 February 2024
City Finance and Governance Committee

Strategic Alignment – Our Corporation

Program Contact:
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Public

Approving Officer:
Anthony Spartalis - Acting Chief Operating Officer

EXECUTIVE SUMMARY

At its meeting on 23 May 2023 Council delegated authority to the Chief Executive Officer (CEO) to develop and review the Employee Behavioural Standards (the Standards).

As part of the adoption of these Standards, the City of Adelaide's Fair Treatment in the Workplace and Grievance Resolution Operating Guideline has also been reviewed. As part of this review, it is recommended that a standalone Complaints Operating Guideline, Chief Executive Officer be adopted by Council.

RECOMMENDATION

The following recommendation will be presented to Council on 27 February 2024 for consideration.

THAT THE CITY FINANCE AND GOVERNANCE COMMITTEE RECOMMENDS TO COUNCIL

That Council

1. Adopts the Complaints Operating Guideline, Chief Executive Officer contained in Attachment A to Item 7.5 on the Agenda for the meeting of the City Finance and Governance Committee held on 20 February 2024.
 2. Authorises the Acting Chief Executive Officer or delegate to make minor, typographical or syntactical updates to the documents contained in Attachment A to Item 7.5 on the Agenda for the meeting of the City Finance and Governance Committee held on 20 February 2024
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IMPLICATIONS AND FINANCIALS

City of Adelaide 2024-2028 Strategic Plan	Strategic Alignment – Our Corporation The Complaint Operating Guideline, Chief Executive Officer supports effective governance, risk management, accountability, and transparent decision-making.
Policy	Employee Behavioural Standards Fair Treatment in the Workplace and Grievance Resolution Operating Guideline
Consultation	Not as a result of this report
Resource	Not as a result of this report
Risk / Legal / Legislative	Not as a result of this report
Opportunities	Not as a result of this report
23/24 Budget Allocation	Not as a result of this report
Proposed 24/25 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report
23/24 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

DISCUSSION

Background

1. In November 2022 changes to the *Local Government Act 1999 (SA)* ('the Act') impacted conduct and integrity provisions for employees of City of Adelaide (CoA).
2. Changes to the Act have resulted in employment matters previously approved Ministerially, now being managed through a framework that Council has adopted. The changes were the subject of a report to the 16 May 2023 City Finance and Governance Committee (Link 1 view [here](#)).
3. At its meeting on 23 May 2023 [Link 2 view [here](#)] Council resolved to support the adoption of employee behavioural standards; and delegate, pursuant to the power contained in Section 44 (1) of the Act to the CEO, the powers, and functions under Section 120A of the Act – Employee Behavioural Standards.
4. As a result of this decision, the Administration has developed Employee Behavioural Standards [Link 3 view [here](#)] and is currently reviewing the existing Fair Treatment in the Workplace and Grievance Resolution Operating Guideline [Link 4 view [here](#)].
5. The Fair Treatment in the Workplace and Grievance Resolution Operating Guideline applies to employees of the City of Adelaide and currently states that the approach for investigating a formal complaint made against the CEO will be determined by the Lord Mayor, Deputy Lord Mayor, and at least one person independent of Council.
6. The guideline does not provide specific guidance on the management of complaints made about the CEO.
7. No further guidance on the management of complaints made against the CEO is available within existing legislation, policy, or operating guidelines.
8. Consistent with the provisions in Chapter 7 (Part 1) of the Act, Council has a responsibility for the management of the CEO's performance.
9. To assist with this requirement, it is proposed that a standalone Operating Guideline is adopted by the Council for the management of complaints made against the CEO.

Policy

10. A draft Complaint Operating Guideline, CEO can be found in **Attachment A**.
11. This guideline provides a detailed process for the management of complaints made against the CEO.
12. The table below provides a summary of the operating guidelines.

Section	Detail
Stage 1 - Receipt of Complaint	<ul style="list-style-type: none"> • The Chief Operating Officer (or Manager, People) is responsible for the administration of the complaint and the appointment of an independent Conduct Reviewer. • The Conduct Reviewer is a legal practitioner responsible for the Preliminary Assessment of the Complaint. • Legal Providers outside of CoA's Panel of legal providers can be used.
Stage 2 - Preliminary Assessment	<ul style="list-style-type: none"> • Guidance on how a complaint about the CEO will be assessed. • Prescribes that a Conduct Reviewer is to undertake an initial assessment, with the authority to recommend to the Conduct Committee the following: <ul style="list-style-type: none"> ○ No further action ○ No further action – malicious or frivolous complaint ○ Resolve without investigation via alternative remedies which may include but are not limited to counselling, training, mediation, informal discussion, negotiated apology, performance management; or ○ Refer for further investigation.

	<ul style="list-style-type: none"> • Details the Conduct Committee’s role and responsibilities. • Details the process if a member of the Conduct Committee considers that they have a conflict. • Prescribes that, if the Conduct Committee considers further investigation is required, a Preliminary Assessment Report will be presented to Council for consideration.
Stage 3 - Further Investigation	<ul style="list-style-type: none"> • Prescribes that an independent investigator will be engaged. • Details that an investigation report must be prepared containing the following: <ul style="list-style-type: none"> ○ Findings of fact concerning the matter investigated. ○ Determination as to whether the conduct investigated constituted a breach of the CoA’s Employee Behavioural Standards. ○ Reasons for the determination. ○ Recommendations for resolution.
Stage 4 – Resolution	<ul style="list-style-type: none"> • Provides details regarding the process for the resolution of the complaint.

13. If approved, City of Adelaide’s Fair Treatment in the Workplace and Grievance Resolution Operating Guideline will be updated to reference the Complaints Operating Guideline, Chief Executive Officer.

DATA AND SUPPORTING INFORMATION

Link 1 - City Finance and Governance 16 May 2023- Report

Link 2 - Council 23 May 2023 Minutes

Link 3 - Employee Behavioural Standards

Link 4 - Fair Treatment in the Workplace and Grievance Resolution Operating Guideline

ATTACHMENTS

Attachment A – Complaint Operating Guideline, Chief Executive Officer

- END OF REPORT -