



Attachment 1 to Item 4.4.3

Draft Fraud and Corruption Prevention Policy

Date of meeting: 10 October 2023
Location: Council Chambers
Time: 6:30pm



Fraud and Corruption Prevention

DRAFT COUNCIL POLICY

Division:	Corporate Services	Policy Number:	PAN002N
Branch:	Governance	Adopted Date:	
Responsible Officer:	Manager Governance	Next Review Date:	
Director:	Director Corporate Services	Version:	2



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1. TITLE

Fraud and Corruption Prevention Policy.

2. PURPOSE

This Policy outlines Council's commitment to the prevention, deterrence, detection, and investigation of all forms of fraud and corruption. It ensures the appropriate mechanisms are in place to protect the integrity, security, and reputation of Council.

It assists Council in effectively discharging their responsibilities under the Code of Conduct, Internal Reporting Policy (Public Interest Disclosures Act), the Public Interest Disclosures Act 2022, and the Independent Commission Against Corruption Act 1988.

3. SCOPE

This Policy applies to all Council Officials, including Councillors, staff, members of Council Committees, and delegates of Council, and is also required to be complied with by contractors, consultants, volunteers, and other people who perform functions on behalf of Council.

This Policy should be read in conjunction with Council's Code of Conduct and the Internal Reporting Policy (Public Interest Disclosures Act).

4. BACKGROUND

In 2017 Council developed a policy in response to recommendations released by the Independent Commission Against Corruption (ICAC), following that agency's investigation into the former City of Botany Bay Council (Operation Ricco) whereby ICAC advised all NSW local councils to assess their corruption prevention framework and operations to ensure that they remain resistant to corrupt conduct. As outlined in ICAC's *'Foundations for corruption prevention'* web page, implementing formalised systems and processes are a key tool for facilitating corruption prevention.

5. POLICY DETAILS

5.1 Policy Statement

- a) Council is committed to upholding an ethical culture supported by appropriate policies, procedures and strategies that prevent fraudulent and corrupt behaviour.
- b) Council will not tolerate misconduct, fraudulent behaviour, or corrupt conduct by any Council Official.

5.2 Principles

Council is committed to building a corruption resistant culture through:

- a) The prevention and deterrence of an opportunity for fraudulent or corrupt conduct by Council Officials.
- b) The detection, investigation and disciplining and/or prosecution of fraudulent or corrupt conduct.
- c) The reporting of any fraud or corruption to the Independent Commission Against Corruption and other appropriate authorities, as required.



- d) Implementing appropriate staff education and auditing systems to deter and identify fraud and corruption activities.

5.3 Fraud and Corruption

- a) Fraud and corruption occur in circumstances including, but not limited to:
 - i) A Council Official improperly using, or trying to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others.
 - ii) A Council Official dishonestly exercising their official functions, or improperly exercising their official functions in a partial manner, breaching public trust or misusing information or material acquired during the course of their official functions.
 - iii) A member of the public influencing, or trying to influence, a Council Official to use their position in a way that affects the probity of the public official's exercise of functions.
 - iv) A member of the public engaging in conduct that could involve one of the matters set out in Section 8(2A) of the ICAC Act (see Appendix 1) where such conduct impairs, or could impair, public confidence in public administration.
- b) Common areas where fraud and corruption risks could arise include:
 - i) Planning and development assessment
 - ii) Policy and/or program development
 - iii) Procurement, including tendering
 - iv) Revenue collection and administering payments to the public
 - v) Service delivery to the public, including program and contract management
 - vi) Provision of grants and funding agreements
 - vii) Exercising regulatory authority
 - viii) Internal governance arrangements.

5.4 Prevention of Fraud and Corruption

- a) Council will ensure that significant risks to Council Officials which may result in fraudulent or corrupt conduct are identified and evaluated through regular audits and risk assessments.
- b) Council will monitor relevant legal obligations to ensure that operating procedures meet these obligations.
- c) Council will ensure that this Policy, the Code of Conduct, and other relevant policies and documentation are up to date and available to Council Officials and members of the public.
- d) Council will ensure that Council Officials are trained in the relevant Council policies and other documentation as a deterrent to fraudulent or corrupt conduct, and to ensure that Council Officials are empowered to report fraudulent or corrupt conduct that they may suspect.
- e) Council will ensure that appropriate fraud and corruption prevention and detection controls are incorporated into computer systems and other business systems.



5.5 Reporting Suspected Fraud or Corrupt Conduct

- a) Council Officials will be made aware of fraud and corruption reporting procedures, including this Policy and the Internal Reporting Policy (Public Interest Disclosures Act), and are actively encouraged to report suspected fraud and corruption through official channels.
- b) All information received by Council in relation to suspected fraudulent or corrupt conduct will be collected, classified, and handled appropriately with regard to privacy, confidentiality, legal professional privilege, and the requirements of natural justice.
- c) All records relating to reports and investigations of suspected fraudulent and corrupt conduct will be retained in accordance with the State Records Act 1998 and will be treated as subject to Council's Access to Information and Privacy policies.
- d) The General Manager has ultimate responsibility for managing fraud and corruption risks within Council and for making mandatory reports as required by the Independent Commission Against Corruption Act 1988.
- e) In cases of complaints against the General Manager, the Mayor or Administrator will assume the responsibilities in clause 5.5(d).
- f) In accordance with the Public Interest Disclosures Act 2022, reports can be referred to an integrity agency or to an investigating authority, including, but not limited to:
 - i) the NSW Ombudsman
 - ii) the Auditor-General
 - iii) the Independent Commission Against Corruption
 - iv) the Secretary of the Department of Planning, Industry and Environment
 - v) the Privacy Commissioner
 - vi) the Information Commissioner.

6. ROLES AND RESPONSIBILITIES

Position	Roles and Responsibilities
General Manager/Mayor	<ul style="list-style-type: none"> • Report any allegations of fraud and corruption to the relevant authority and/or conduct investigations as required.
Director Corporate Services	<ul style="list-style-type: none"> • In their role as Disclosures Coordinator, accept and assess complaints to comply with the Public Interest Disclosures Act
Manager Governance	<ul style="list-style-type: none"> • As the owner of this Policy, review this Policy at appropriate times in accordance with Council's Code of Conduct, changes to relevant legislation, and in response to audits or risk assessments. • Organise any training and education related to fraud and corrupt conduct prevention. • Conduct fraud and corruption risk assessments of Council every two years, and report on these findings to the Audit, Risk and Improvement Committee. • Capture recommendations from risk assessments in a Fraud Control Action Plan, oversee the carrying out of the Action Plan, and report the status of the Action Plan to the Audit, Risk and Improvement Committee.
Manager Enterprise Risk Systems	<ul style="list-style-type: none"> • Capture identified fraud and corruption risks in Council's Risk Register.



Position	Roles and Responsibilities
Internal Audit Coordinator	<ul style="list-style-type: none"> Facilitate any fraud and corruption related internal audits, and report audit recommendations to the Audit, Risk and Improvement Committee.
Council Officials	<ul style="list-style-type: none"> Comply with this and other Council policies and refrain from engaging in fraudulent and corrupt conduct. Report suspicious behaviour in accordance with the Internal Reporting (Public Interest Disclosures Act) Policy. Carry out assigned actions arising from risk assessments, the Fraud Control Acton Plan or an audit.
Audit, Risk and Improvement Committee	<ul style="list-style-type: none"> Provide recommendations to Council regarding this Policy, the results of fraud and corruption audits, the fraud and corruption risk assessments, and the Fraud Control Action Plan.
Manager Information Services	<ul style="list-style-type: none"> Develop and maintain appropriate security protocols to ensure segregation of duties to prevent fraud and corruption from within Council's information technology and business systems.

7. DEFINITIONS

Term	Definition
Corrupt Conduct/Corruption	Deliberate, serious wrongdoing that involves dishonest or partial exercise of official functions, a breach of public trust, or the misuse of information or material either against Council or by its staff. See Appendix 1 for the full definition of corrupt conduct under the Independent Commission Against Corruption Act.
Council Official	Councillors, staff, members of Council Committees, and delegates of Council.
Fraud	Deliberate and premeditated use of deception to gain advantage from a position of trust and authority. It includes acts of omission, theft, the making of false statements, evasion, manipulation of information, and other acts of deception.

8. RELATED DOCUMENTS

Legislation

- Australian Standard AS 8001:2008 – Fraud and corruption control
- Independent Commission Against Corruption Act 1988
- Local Government Act 1993
- Local Government (General) Regulation 2021
- Public Interest Disclosures Act 2022

Related policies

- Council's Code of Conduct
- Customer Feedback Policy
- Gifts and Benefits for Councillors and Staff Policy
- Internal Reporting Policy (Public Interest Disclosures Act)
- Statement of Business Ethics



9. APPENDICES

Appendix 1 – Corrupt Conduct under Section 8 of Independent Commission Against Corruption Act

“8 General nature of corrupt conduct

(1) *Corrupt conduct is—*

- (a) *any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or*
- (b) *any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or*
- (c) *any conduct of a public official or former public official that constitutes or involves a breach of public trust, or*
- (d) *any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.*

(2) *Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters—*

- (a) *official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition),*
- (b) *bribery,*
- (c) *blackmail,*
- (d) *obtaining or offering secret commissions,*
- (e) *fraud,*
- (f) *theft,*
- (g) *perverting the course of justice,*
- (h) *embezzlement,*
- (i) *election bribery,*
- (j) *election funding offences,*
- (k) *election fraud,*
- (l) *treating,*
- (m) *tax evasion,*
- (n) *revenue evasion,*
- (o) *currency violations,*
- (p) *illegal drug dealings,*



- (q) *illegal gambling,*
 - (r) *obtaining financial benefit by vice engaged in by others,*
 - (s) *bankruptcy and company violations,*
 - (t) *harbouring criminals,*
 - (u) *forgery,*
 - (v) *treason or other offences against the Sovereign,*
 - (w) *homicide or violence,*
 - (x) *matters of the same or a similar nature to any listed above,*
 - (y) *any conspiracy or attempt in relation to any of the above.*
- (2A) *Corrupt conduct is also any conduct of any person (whether or not a public official) that impairs, or that could impair, public confidence in public administration and which could involve any of the following matters—*
- (a) *collusive tendering,*
 - (b) *fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources,*
 - (c) *dishonestly obtaining or assisting in obtaining, or dishonestly benefiting from, the payment or application of public funds for private advantage or the disposition of public assets for private advantage,*
 - (d) *defrauding the public revenue,*
 - (e) *fraudulently obtaining or retaining employment or appointment as a public official.”*