

## Fraud and Corruption Prevention Policy

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### 1. Scope

This Policy applies to all Council Officials (Councillors, Administrators, members of staff of Council, Council Committee Members, Conduct Reviewers, Delegates of Council and volunteers) who perform functions on behalf of Council.

### 2. Purpose

Council has zero tolerance on any fraud or corrupt behaviour. Council is committed to the prevention, deterrence, detection and investigation of all forms of fraud and corrupt conduct. This Fraud and Corruption Prevention Policy forms a part of Council's Governance Framework, and ensures the appropriate mechanisms are in place to protect Council's public assets and finances, as well as the integrity, security and reputation of Council.

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### 3. Policy

- 3.1 Council will not tolerate, fraud or corrupt conduct or misconduct by Council officials.
- 3.2 Council is committed to a culture of good governance and ethical behavior. In accepting its responsibility for good governance, Council will set the example for accountability, integrity and transparency in the provision of services to the community, and the management of Council as an organisation. For that reason,

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Council is committed to:

- Minimising the opportunities for fraud or corrupt conduct by Council officials;
  - Detecting, investigating and disciplining/prosecuting fraud or corrupt conduct;
  - Reporting fraud or corrupt conduct, including suspected fraud or corrupt conduct, to the Independent Commission Against Corruption (ICAC) in line with the obligations under the *ICAC Act* and the NSW Police, where appropriate; and
  - Encouraging and supporting the reporting of wrongdoing.
- 3.3 Preventing fraud or corrupt activity, and avoiding or managing conflicts of interests. This is addressed through implementing appropriate auditing systems to prevent, deter and identify corrupt activities. This approach is supported by the development and implementation of a Fraud and Corruption Prevention Plan.

### 3.4 Responsibilities

#### 3.4.1 Chief Executive Officer

The Chief Executive Officer has ultimate responsibility for managing fraud and corruption risks in Council. In accordance with the *Independent Commission Against Corruption Act 1988* and Council's Code of Conduct and Procedures for the Administration of the Code of Conduct for Local Councils in NSW, the Chief Executive Officer is obliged to report any suspected or actual matter to the ICAC that they suspect on reasonable grounds, or may concern, corrupt conduct whether on the part of Council officials or any party with whom it conducts business. In cases of complaints against the Chief Executive Officer, the Lord Mayor or Administrator assumes these responsibilities.

In accordance with the *Public Interest Disclosures Act 1994*, other like reports must be made to the following external authorities:

- The NSW Ombudsman – for maladministration.
- The Law Enforcement Crime Commission (LECC) – for law enforcement misconduct.
- The Information Commissioner – for disclosures about government information contravention, the IPC or its staff.
- The Office of Local Government, Department of Premier and Cabinet – for serious and substantial waste in local government (reports about serious and substantial waste in State government agencies should be made to the Auditor General).
- The ICAC Inspector – for disclosures about the ICAC or its staff.

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### 3.4.2 Council officials

All Council officials have a responsibility and an obligation to:

- a) Report cases of suspected or actual fraud or corrupt conduct either through Council's internal reporting framework (as outlined in Council's Public Interest Disclosures (PID) Policy) or directly to the ICAC or relevant external authority.
- b) Behave honestly and in accordance with Council's Code of Conduct and other Council policies.
- c) Report behaviour that comprises an attempt or an inducement to engage in any fraud or corruption.
- d) Refrain from taking (or encouraging others to take) any action or engage in any conduct against any person who reports fraud, corruption, maladministration or serious and substantial waste that is detrimental to the interests of any such person.
- e) To the extent that they are reasonably capable of doing so, protect any person who reports fraud, corruption, maladministration or serious and substantial waste from any action or conduct that is detrimental to the interests of any such person if they become aware of the identity of a person who has made any such report in line with Council's Public Interest Disclosure Policy and the Code of Conduct.
- f) Effectively maintain and implement systems of internal control established to prevent or detect fraud or corruption.
- g) Undertake relevant training relating to the prevention, detection and investigation of fraud and corruption.
- h) Assist in investigations undertaken in respect of any suspected or reported fraud or corruption.

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### 3.4.3 Management Staff

Council staff who hold the position of Chief Executive Officer, Executive Director, Director, Group Manager (including Chiefs), Manager or Team Leader have the following responsibilities, in addition to their responsibilities as Council staff stated elsewhere in this Policy:

- a) Take appropriate measures to ensure that their staff understand the standards of expected behaviour as outlined in the Guiding Principles, Council's Code of Conduct, and relevant policies and procedures
- b) Ensure that any suspected fraud or corruption, maladministration and serious and substantial wastage reported to them are referred to the Group Manager, Governance & Risk or the Chief Executive Officer without delay. If a report is received orally, they must take steps to record the report in writing.
- c) To the extent permitted by law, maintain the confidentiality of people making reports and the subject matter of those reports.
- d) Ensure that Council staff who have reported any suspected fraud or corruption, maladministration and serious and substantial waste in accordance with this Policy are not disadvantaged or suffer detrimental action.
- e) Take steps to identify and assess the risk of fraud or corruption occurring in their area of responsibility.
- f) Take steps to ensure to implement controls and detection systems to address any identified risks of fraud or corruption in their area of responsibility, and monitor the continued operation of those systems and controls.
- g) Demonstrate leadership in the area of ethics and fraud & corruption minimisation.
- h) Undertake regular reviews, audits and checks to detect irregularities.
- i) Use basic data mining tools to detect possible fraud and corruption.
- j) Ensure that all Council staff in their area of responsibility are aware of this Policy, and that this Policy is readily available for their inspection.

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- k) Take reasonable steps to require that Council contractors whose contracts they administer comply with this Policy to the extent that it is relevant to their contractual arrangements and adhere to the ethical standards described in this Policy.
- l) The implementation of systems and controls to minimise fraud or corruption together with the assessment of fraud or corruption risks must:
- be undertaken in consultation with the Executive Director Corporate Services; or Group Manager, Legal Services, and
  - comply with any directions or guidelines issued from time to time by the Chief Executive Officer, the Executive Director Corporate Services or Group Manager, Legal Services relating to any such assessments.

#### **3.4.4 Council contractors, consultants and volunteers**

Contractors, consultants, volunteers and any other people who perform public official functions on behalf of Council, are encouraged to support Council's commitment to preventing fraud and corruption through reporting suspicious behaviour in accordance with the Code of Conduct.

#### **3.4.5 Internal Ombudsman**

The Internal Ombudsman is Council's nominated Public Interest Disclosures Coordinator and Code of Conduct Complaints Coordinator. The CEO may also refer serious complaints to the Internal Ombudsman for investigation and action. The Internal Ombudsman can assist Councillors, Council staff and the general public with advice and guidance in relation to possible or suspected fraud and corruption.

#### **3.4.6 External parties**

All external parties who engage in business with Council must observe Council's Statement of Business Ethics and comply with Council

#### **3.4.7 Residents and members of the public**

Residents, customers and members of the public are encouraged to support Council's commitment to preventing and addressing fraud or corrupt conduct by reporting suspicious behaviour and suspected fraud and corruption to the Chief Executive Officer

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or other external authority.

### **3.5 Reporting**

All Council officials have an obligation to report suspected fraud or corrupt conduct. Council’s Public Interest Disclosure (PID) Policy provides guidance on how to report wrongdoing such as fraud and corrupt conduct. The PID Policy also outlines the relevant external authorities to report other types of wrongdoing.

Council’s Code of Conduct and Complaints Handling Policy also provide mechanisms for members of the public to report suspected fraud and corruption.

All fraud and corruption will be reported by Council to the ICAC. Other external authorities will be notified of fraudulent or corrupt conduct as considered appropriate by the Group Manager, Governance & Risk, the Chief Executive Officer, or the Group Manager, Legal Services. Crimes committed against the Council will be reported to the Police.

### **3.6 Investigation**

All reports of alleged fraud and corruption received by Council will be treated seriously by Council, investigated and reported to the ICAC, the NSW Police or relevant external agency.

### **3.7 Training Education and Awareness**

#### **3.7.1 Councillor and Council Staff Awareness**

Fraud and corruption control is the responsibility of all staff.

Council will provide training and education to assist Councillors and Council staff in being able to identify and prevent fraud or corruption in accordance with this Policy.

Councillors and Council staff must participate in training and education provided by Council that is directed towards communicating to them that fraud or corruption is unacceptable.

Council will ensure relevant training is provided to Councillors and Council staff on an ongoing basis to advise them of the Code of Conduct, Public Interest Disclosure Policy and their responsibilities and obligations.

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Management staff must be proactive in identifying behaviours that could result in corruption, either actual or perceived.

### **3.7.2 Customer and Community Awareness**

Council must promote awareness among the community, customers, contractors, suppliers and other third parties that fraud or corruption in any dealings with Council is unacceptable.

Management staff must assist third parties to report any suspected fraud or corruption.

### **3.8 Conduct and Discipline**

Councillors and Council staff must carefully read, understand and observe the Code of Conduct.

Fraud or corruption is unacceptable and offenders will face disciplinary action in accordance with the Code of Conduct, Procedures for the Administration of the Code of Conduct for Local Councils in NSW and other Council policies

Council may seek criminal prosecution for any fraud or corruption.

Council may institute civil or administrative legal proceedings in respect of fraud or corruption as considered appropriate by the Chief Executive Officer.

## **4 Related Resources**

### **4.1 Legislation**

- *Independent Commission Against Corruption Act 1988*
- *Local Government Act 1993 and General Regulation 2005*
- *Public Interest Disclosures Act 1994*
- *Crimes Act 1900*

### **4.2 Associated Documents**

- Code of Conduct
- Procedures for the Administration of the Model Code of Conduct
- Complaints Handling Policy
- Gifts and Benefits Policy
- Public Interest Disclosures Policy

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- Procurement Policy
- Statement of Business Ethics
- Standards Australia: AS 8001-2008 Fraud Control
- Performance Counseling and Disciplinary Policy
- Interaction between Councillors and Staff Policy
- Criminal History Records Checks Policy
- Charitable Fundraising Procedures

## 4.3 Definitions

**Corruption** The dishonest or preferential use of power or position, a breach of public trust or the misuse of information or material acquired in the course of official functions. The *Independent Commission Against Corruption Act 1988* further defines corruption.

**Corrupt conduct** As defined in the Independent Commission Against Corruption Act 1988 NSW (ICAC Act):

"Is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect an NSW public official or public sector organisation.

While it can take many forms, corrupt conduct occurs when:

- a public official improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others
- a public official dishonestly exercises his or her official functions, or improperly exercises his or her official functions in a partial manner, breaches public trust or misuses information or material acquired during the course of his or her official functions
- a member of the public influences, or tries to influence, a public official to use his or her position in a way that affects the probity of the Public official's exercise of functions
- a member of the public engages in conduct that could involve one of the matters set out in section 8(2A) of the ICAC Act where such conduct impairs, or could impair, public confidence in public administration."

**Council official** An individual who carries out public official functions on behalf of Council or acts in the capacity of a public official. For the purpose of this Policy, employees, Councillors,

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members of Council committees and delegates of Council, contractors, consultants and other people who perform functions on behalf of Council such as volunteers and relevant external parties are Council officials.

## ***Fraud***

Fraud is dishonest activity or a dishonest representation intended to result in financial or personal gain. Fraud includes, but is not limited to:

- theft of money or other property by employees or persons external to the department, where deception is used deliberate falsification, concealment or improper destruction of documentation, or use of falsified documentation;
- improper use of information or position for personal gain;
- theft of departmental property where deception is not used.

## ***Misconduct***

Conduct by a Council official which constitutes a ground for disciplinary action whilst acting in their capacity as a Council official, where such conduct contravenes Council's Code of Conduct.

## ***Employees***

Employees who perform public official functions on behalf of Council and include contractors, consultants and volunteers.

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