

DRAFT Fraud and Corruption Prevention Policy

Leadership

Achieve ethical governance and improve decision making through open, accountable and positive leadership

| | |
|----------------------------------|--|
| Document Type | Council Policy |
| Document Reference No. | [Governance to insert] |
| Version No. | 4.0 |
| Council File Reference | Policy – Organisation Wide Policies (CMGT) |
| Adoption Date | [Governance to insert] |
| Resolution Number | [Governance to insert] |
| Responsible Officer | Manager Governance and Corporate Performance |
| Responsible Branch | Corporate Strategy and Resourcing |
| Responsible Business Unit | Governance |
| Review Schedule | 3 years |
| Review Date | [Governance to insert] |

Table of Contents

| | |
|--|---|
| 1. Objectives..... | 3 |
| 2. What is Fraud and Corruption?..... | 3 |
| 3. Policy..... | 4 |
| 4. Scope..... | 5 |
| 5. Roles and Responsibilities..... | 5 |
| 6. Performance Measures..... | 6 |
| 7. Definitions..... | 6 |
| 8. Related Material..... | 7 |
| 8.1 Related Legislation..... | 7 |
| 8.2 Related Policies and Procedures..... | 7 |
| 9. Non-compliance with this Policy..... | 7 |
| 10. Document Control..... | 7 |
| 11. Attachments..... | 8 |

1. Objectives

This policy has been developed to set the framework for Council's zero-tolerance approach to fraud and corruption. Fraud and corruption are incompatible with our values and present a risk to the achievement of our objectives and the provision of our services to the public, in a cost-efficient, effective and ethical manner. The public, our employees and other people we deal with are entitled to expect all Council officials to act with integrity and to protect resources, information, reputation and the public interest. Therefore, Council is committed to an honest and ethical environment that minimises fraud and corruption.

2. What is Fraud and Corruption?

Fraud refers to dishonestly obtaining a benefit, or causing a loss, by deception or other means. Fraud against Council may include (but is not limited to):

- theft
- accounting fraud (e.g. false invoices, misappropriation);
- misuse of Council credit cards;
- unlawful use of, or unlawful obtaining of, property, equipment, material or services;
- causing a loss or avoiding and/or creating a liability;
- providing false or misleading information to Council or failing to provide information when there is an obligation to do so;
- misuse of Council assets, equipment or facilities;
- making, or using, false, forged or falsified documents; and/or
- wrongfully using Council information or intellectual property.

Corruption is deliberate, serious wrongdoing that involves 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.

In addition, the *Independent Commission Against Corruption Act 1998* (ICAC Act) further defines **corrupt conduct** as including but not being limited to:

- a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, 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.

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

- a Council 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 member of the public influences, or tries to influence, a public official to use their 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.

The community expects Council officials to perform their duties with honesty and in the best interests of the public. Corrupt conduct by a Council official involves a breach of public trust that can lead to inequity, wasted resources or public money and reputational damage.

Some examples of corrupt conduct are:

- a Council official participating in a decision-making process in which they have a financial or other type of conflict of interest.
- a member of the public bribing a Council official to influence a decision of that official.
- a Council official (including a former Council official) selling or distributing confidential information gained while working in an official capacity.

3. Policy

Council is committed to protecting its revenue, expenditure, information and assets from any attempt either by Council officials, external service providers or members of the public to gain financial or other benefits by deceit.

General Principles

Council will not tolerate any act of fraud or corruption.

Council is committed to:

- Minimising the opportunities for fraud and corruption by maintaining an effective system of internal controls for the prevention and detection of fraud and corruption.
- Ensuring Council officials are aware of their obligations to report suspected fraud or corruption through regular training.
- Conducting periodic fraud risk assessments to identify emerging opportunities for fraud.
- Detecting, investigating and disciplining/prosecuting individual cases of fraud or corruption.

Fraud and Corruption Control Plan

Council has a Fraud and Corruption Control Plan that underpins this Policy. It details Council's approach to the detection and deterrence of fraud and corruption, and strategies to assist managers to meet their fraud and corruption control responsibilities, including:

- **Prevention and Training**

To ensure that Council creates a culture of zero tolerance amongst Council officials in relation to fraud and corruption a regular fraud and corruption training and awareness

program will be implemented.

- **Reporting**

Any Council official who suspects fraudulent or corrupt behaviour must report it in accordance with Council's Public Interest Disclosures Policy.

- **Investigation**

All cases of alleged fraud and/or corruption will be investigated and where appropriate, reported to ICAC and may be referred to the NSW Police for prosecution.

4. Scope

This Policy is part of Council's fraud and corruption control framework and applies to all officials of Council, including temporary staff and contractors. Community members who undertake volunteer roles with Council will be removed from their position as a volunteer if they are found to have behaved fraudulently or corruptly.

5. Roles and Responsibilities

General Manager

- Ensure that Council's powers, duties and responsibilities are exercised in an open, fair and proper manner to the highest standards of probity.
- Report any matter that is reasonably suspected to involve corrupt or fraudulent conduct to ICAC (Section 11 ICAC Act).
- Lead Council staff and external service providers in their understanding of and compliance with this Policy and related Council policies.

In cases of complaints against the General Manager, the Mayor (or Administrator) assumes the aforementioned responsibilities.

Mayor and Councillors (or Administrator)

- Guide the proper management of Council resources and the development and implementation of systems and practices to minimise the risk of fraud and corruption.
- Ensure that the investigation of suspected fraud and corruption adheres to relevant Council policies, and where appropriate is reported to the ICAC in accordance with the ICAC Act.

Executive and Managers

- Ensure there are adequate measures to prevent, detect and respond to fraud and corruption within the respective business areas under their control, in accordance with Council's fraud and corruption control framework.
- Lead team members in their understanding of and compliance with this Policy and related Council policies.

Manager Governance and Corporate Performance

- Implement and monitor Council's fraud and corruption control framework.
- Provide advice and assistance to Council staff in relation to this Policy.

- Nominated under the Public Interest Disclosures Policy as Council's Disclosures Coordinator, who has a central role in Council's internal reporting system.

Council Officials

- Read, understand and comply with this and related policies.
- Report known or suspected fraud or corruption as soon as possible after becoming aware of it, in accordance with the processes outlined in the Public Interest Disclosures Policy.

Internal Audit and External Audit

- Be alert to the possibility of fraud and corruption within Council.
- Examine and evaluate the adequacy and effectiveness of internal controls.

Audit, Risk and Improvement Committee (ARIC)

- Provide oversight of Council's risk management, control, governance and external accountability responsibilities. The responsibilities of the ARIC include that the ARIC must keep fraud control under review in accordance with section 428A of the *Local Government Act 1993*.

6. Performance Measures

The success of this Policy will be demonstrated by:

- No reports of breaches of this Policy.
- Audits making positive findings about Council's fraud and corruption control measures, where applicable.

7. Definitions

| | |
|----------------------------------|---|
| Benefit | A non-tangible item of value that one person or organisation confers on another (for example, hospitality, preferential treatment, access to confidential information, free access to services which are normally charged at a fee, or access to a private spectator box at a sporting or entertainment event). |
| Corrupt conduct | This is defined in Part 2 of this Policy. |
| Corruption | This is defined in Part 2 of this Policy. |
| Council official | Means Councillors, Council employees or contractors, administrators, Council Committee members (excluding members of wholly advisory committees), delegates of Council and volunteers. |
| External service provider | An entity engaged to deliver a function or service for and on behalf of Council. |
| Fraud | This is defined in Part 2 of this Policy. |

| | |
|-------------------------|--|
| ICAC | Independent Commission Against Corruption |
| Internal control | A process, policy or other action that acts to minimise risk and enhance the likelihood that stated objectives and goals will be achieved. |

8. Related Material

8.1 Related Legislation

The following legislative materials are related to this Policy:

- *Independent Commission Against Corruption Act 1988*
- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Public Interest Disclosures Act 1994*

8.2 Related Policies and Procedures

The following documents are related to this Policy:

- Code of Conduct
- Code of Conduct Procedures
- Fraud and Corruption Control Plan
- Gifts and Benefits Procedure
- Public Interest Disclosures Policy
- Related Party Disclosures Policy
- Statement of Business Ethics

9. Non-compliance with this Policy

Non-compliance with this Policy may constitute a breach of Council's Code of Conduct and may result in disciplinary action. However, where a Council official is reasonably suspected of behaving corruptly, that conduct will be reported to the ICAC and the Council official may be investigated under the ICAC Act.

10. Document Control

Version Control

| Version | Adoption Date | Notes |
|------------|--|--|
| 1.0 | 11/7/2012 | Initial adoption of document |
| 2.1 | 23/7/2014 | Policy updated |
| 3.0 | 13/2/2019 | Substantial amendments to ensure consistency with the 2015 Sample Fraud Control Policy published by the NSW Audit Office |
| 4.0 | [insert date on which version was adopted] | Substantial amendments to ensure consistency with the 2021 Sample Fraud Control Policy published by ICAC |

11. Attachments

There are no attachments to this Policy.

Approved by:

WINGECARRIBEE SHIRE COUNCIL

[Governance to insert adoption date]

DRAFT