

Fraud & Corruption Prevention Policy

Adoption Date:	May 1995
Amendment Date:	April 2003, July 2005, 14/08/ 2007, 10/11/2009, 23/11/2012, 27/10/2015, 1/12/2016 (SSCM Committee), 19/10/2021 (EMT), MIN22.168
Reaffirmed:	14/03/2022
Minute Number:	MIN07.1157, MIN09.1581, MIN12.1249, MIN15.656
Review Date:	1/12/2024
Directorate:	City Performance
Record Number:	POL21/68

1. INTRODUCTION

1.1. Purpose

The Council is committed to the prevention, detection and investigation of all forms of fraud or corrupt conduct. The Fraud and Corruption Prevention Policy forms a central part of Council's Code of Conduct ethical framework, and ensures the appropriate mechanisms are in place to protect the integrity, security and reputation of the Council. Fraud can directly influence Council's ability to deliver services and undermine community confidence and trust.

Council requires a fraud and corruption control framework which identifies and manages the risk of incidences of fraud or corruption and includes prevention, detection, and monitoring strategies. Council does not and will not tolerate fraudulent or corrupt practices either by its own staff, contractors, consultants or other people who perform functions or provide services on behalf of Council such as volunteers and external parties.

1.2. Scope

This Policy applies to all Council officials comprising Councillors, staff (including permanent, part-time, temporary, casual and fixed-term), contractors to Council; committee members, volunteers; and external parties performing functions on behalf of Council.

The policy supports the statutory duty of all public officials, including Councillors and staff, to act honestly and exercise a reasonable degree of care and diligence as provided in section 439 of the *Local Government Act 1993*.

The scope of the policy includes processes outlined in the Audit Office of New South Wales' Fraud Control Improvement Kit 2015 which aligns with the Fraud and Corruption Control Standard AS8001-2008. The following ten key attributes of an effective fraud control system have been identified by the Audit Office:

1. Leadership
2. Ethical Framework
3. Responsibility Structures
4. Fraud Control Policy
5. Prevention Systems
6. Fraud Awareness
7. Third Party Management Systems
8. Notification Systems
9. Detection Systems
10. Investigation Systems

1.3. Organisational commitment and responsibilities

Councillors, the Chief Executive Officer, Directors and other staff, as well as contractors, consultants and volunteers working at Council, have a responsibility to prevent fraud and corruption. The organisation's commitment to fraud and corruption prevention management is outlined as follows:

WHO	COMMITMENT	HOW
Chief Executive Officer	Sets expectations that promotes an organisational culture for ethical behaviour and one that does not tolerate fraud or corruption. Obligated to investigate and report fraud and other forms of corrupt conduct.	<ul style="list-style-type: none"> • Visibly endorsing fraud control activities. • Implement program for fraud prevention education and training for staff • Provide support and direction to key staff responsible for investigating fraud matters. • Reports to the ICAC under the <i>ICAC Act 1988</i>. • Regularly review reports about fraud-related matters that may arise. • Encourage all staff to be alert to fraud or other corrupt activity.
Directors and Managers	Provide leadership to mitigate fraud and corruption risks through business internal controls and appropriate reporting systems.	<ul style="list-style-type: none"> • Responsibility for implementing the fraud control framework aimed at preventing and detecting fraud or corruption. • Promote awareness of ethical conduct and mechanisms to prevent fraud or corruption • Ensure a risk-based assessment is undertaken and documented of business activities to mitigate against fraud or corruption. • Effectively maintain and implement systems of internal control established to prevent or detect fraud or corruption. • Responding to, investigating, and reporting on fraud and other irregularities. • Ensure staff are committed to undertake an approved program on fraud awareness education and training.
Public Officer	Establish and maintain a Fraud Control Framework.	<ul style="list-style-type: none"> • Establish and maintain a fraud control framework including documented investigation procedures. • Respond to and investigate fraud and other irregularities. • Provide regular reports to the Chief Executive Officer on issues arising from fraud-related activities.
All staff	Understand and report on fraud or other corrupt activity.	<ul style="list-style-type: none"> • Comply with ethical behaviour and act honestly in accordance with the Code of Conduct. • Be aware of obligations for reporting fraud and any other suspected wrongdoing. • Report cases of suspected or actual fraud or corrupt conduct under the Internal Reporting Policy, or directly to the ICAC or relevant external agency. • Report behaviour that compromises an attempt or an inducement to engage in fraud or other wrongdoing.

		<ul style="list-style-type: none"> • Complete fraud awareness education and training. • Assist in any investigations undertaken in respect of any suspected or reported fraud or corruption.
Audit, Risk and Improvement Committee	Review and assess management's risk management framework to mitigate against fraud.	<ul style="list-style-type: none"> • Oversight role in fraud and corruption mitigation. • Seek regular reports on whether management has in place a current and comprehensive risk management framework • Assess whether associated procedures are in place for effective identification and management of business and financial risks, including fraud. • Include in audit plan reviews of high-risk business activities with potential for fraudulent activity.
Internal Audit Program Coordinator	Identify areas of high risk for review to mitigate against fraud.	<ul style="list-style-type: none"> • Responsible for reviewing of the robustness of internal controls, monitoring and reviewing processes in place through risk based internal audit programs addressing the corporate risks.

2. TERMS AND DEFINITIONS

Fraud

Fraud is a dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit.

The theft of property belonging to an entity by a person or persons internal to the entity but where deception is not used is also considered 'fraud' for the purposes of this Standard.

Examples of fraud which fall within the intended scope of this Policy, include but are not limited to:

- Theft of plant and equipment.
- Theft of stock or inventory
- False timesheet entries or claims for time not spent on Council work.
- Providing false statutory declarations or statements in order to receive payments for contracted works.
- False invoicing (involving a staff member of the entity or a person external to the entity creating a fictitious invoice claiming payment for goods and services not delivered or exaggerating the value of goods delivered or services provided).
- Theft of funds other than by way of false invoicing.
- Theft of cash.
- Theft of intellectual property or other confidential information.

- Misuse of position by Councillors, Directors, Senior Managers or other staff in order to gain some form of financial advantage.

Corruption

Corrupt conduct, as defined in the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"), is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation.

Generally, corrupt conduct involves:

- NSW public official improperly using, or trying to improperly use, the knowledge, power or resources of his or her position for personal gain or the advantage of others.
- NSW public official dishonestly exercising his or her official functions or improperly exercising his or her official functions in a partial manner, exercising his or her functions in a way that breaches public trust or misuses information or material acquired during the course of his or her official functions.
- A member of the public influencing, or trying to influence, a NSW public official to use his or her position in a way that is dishonest or partial.
- 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 where such conduct impairs, or could impair, public confidence in public administration.

More information and the legislative provisions can be found on the [Independent Commission Against Corruption's website at https://www.icac.nsw.gov.au/](https://www.icac.nsw.gov.au/).

Public Official

A Public Official is an individual having public official functions or acting in a public official capacity. This includes Council Officials such as Councillors, members of staff of a Council, administrators, Council committee members, delegates of Council and Council advisers.

Fraud & Corruption Prevention Framework

All policies, procedures, practices, staff, hardware, and software used by Council in the fraud and corruption prevention framework.

Policy

A statement of instruction that sets out how we should fulfill our vision, mission, and goals.

Procedure

A statement or instruction that sets out how our policies will be implemented and by whom.

Public interest disclosure

A report about wrongdoing made by a public official in New South Wales in accordance with Council's adopted Internal Reporting Policy under the Public Interest Disclosures Act 1994.

3. KEY ELEMENTS OF FRAUD AND CORRUPTION APPROACH

- 3.1 Shoalhaven City Council is committed to protecting its revenue, expenditure, property, intellectual capital and reputation from any attempt, either by members of the public,

contractors, sub-contractors, agents, intermediaries, councillors or its own employees to gain by deceit, any financial or other benefits.

3.2 The principal elements of Council's Fraud and Corruption Prevention Policy are:

3.2.1 The prevention of fraud and corruption at its origin. In particular, the implementation of effective control structures and procedures which aim to eliminate the prospect of fraud occurring.

3.2.2 All Councillors, the Executive and management, other staff, contractors, consultants, volunteers and delegates working at Council to be made aware of their obligation to act ethically and to follow Council's Code of Conduct requirements.

3.2.3 All external contractors, consultants and others dealing with the Council to be made aware of the ethical standards expected of them in their dealings with Council.

3.2.4 A commitment to a policy of prevention, detection, investigation and prosecution of individual cases of fraud.

3.2.5 A commitment by Council that the utmost protection will be given to those making public interest disclosures ("Whistleblowers") under the Public Interest Disclosures Act 1994.

3.2.6 Respect of the civil rights of employees and citizens and a commitment to natural justice.

4. REPORTING

4.1 The Council official must report as soon as possible any suspected fraudulent or corrupt behaviour.

4.2 Within Council, reports can be made to the Chief Executive Officer, Directors, Manager-Business Assurance & Risk/ Public Officer, Internal Audit Program Coordinator and Rangers Unit Leader. Report can be made to the Mayor for any suspected fraudulent and corrupt practices by the Chief Executive Officer.

4.3 All reports should be subsequently reported to the Chief Executive Officer (or the Mayor in case of suspected fraud and corrupt practices by the Chief Executive Officer) who will determine whether the matter requires reporting to Independent Commission Against Corruption.

4.4 The person reporting the corrupt conduct may be afforded protection by Council under the provisions of the Internal Reporting Policy.

5. INVESTIGATIONS

5.1 The Chief Executive Officer will decide whether an investigation will be taken and its nature and scope. The Chief Executive Officer will decide who will conduct the investigation; internally or externally.

5.2 The Mayor will decide on investigation on any allegation made against the Chief Executive Officer.

5.3 ICAC's publication "A Guide to Conducting Internal Investigations" may be used as a resource when conducting internal investigations.

5.4 The objectives of any investigation will be to:

- Identify fraud and corruption vulnerabilities in business processes and instigate remedial action.
- Determine and if appropriate instigate any applicable insurance coverage aspects.
- Identify offenders and refer them for prosecution.
- Where practical, instigate recovery action through insurances or through the criminal courts on behalf of Council.
- Determine and if warranted refer the outcome of the investigation to Human Resources for appropriate disciplinary action.

5.5 The outcome of any investigation shall be communicated to the Chief Executive Officer and the Executive Management Team with an indicated timeframe to implement controls. The relevant Director shall be responsible for providing update on the implementation plan to the Chief Executive Officer and the Executive Management Team.

6. EXTERNAL NOTIFICATIONS

The Independent Commission Against Corruption Act 1988 requires the Chief Executive Officer to report suspected instances of corrupt conduct, including fraud, to the Independent Commission Against Corruption.

In accordance to the Internal Reporting Policy, the Chief Executive Officer may decide on reporting allegations of fraud to the Police.

7. RELATED DOCUMENTS AND LEGISLATION

This policy statement supports Council's ethical framework including the following policy documents and legislation:

- *Code of Conduct 2020*
- *Code of Conduct Procedures 2020*
- *Statement of Business Ethics*
- *Internal Reporting Policy (Public Interest Disclosures 1994)*
- *Local Government Act 1993*
- *Independent Commission Against Corruption Act 1988*
- *Public Interest Disclosures Act 1994*
- *Crimes Act 1900*
- Audit Office of New South Wales' Fraud Control Improvement Kit 2015

8. REVIEW

This policy to be reviewed every two years or earlier in the event of policy and/or legislative change, and/or publication by Government agencies of new or revised guidelines relevant to the policy provisions. A resolution of the Council could also require a review of this policy.

9. APPLICATION OF ESD PRINCIPLES

This Policy supports Council's commitment to ESD principles through requiring the consideration of energy efficiency and recycled component of goods provided to Council.