

Policy Name	Fraud and Corruption Prevention
Policy Number	CS25
Responsible Section	Governance
Responsible Department	Corporate Services
Date Last Adopted	July 2021
Date of Next Review	July 2024
Applicable Legislation	Public Interest Disclosure Act 2018 Local Government Act 1999 Local Government (Elections Act) 1999 Development Act 1993 State Records Act 1997 Freedom of Information Act 1991 Ombudsmans Act 1972 Independent Commissioner Against Corruption Act 2012 Criminal Law Consolidation Act 1935
Related Governance Documents	Council Policy CS24 - Conflict of Interest Council Policy CS20 - Public Integrity – Complaints & Investigations Council Policy CS26 - Procurement Council Policy CL01 - Elected Members' Allowances & Support Administrative Policy 1.02.01 - Internal Financial Controls Public Integrity Framework Risk Management Framework Governance Framework Code of Conduct for Council Employees Code of Conduct for Council Elected Members
City Plan Theme	Leadership

PURPOSE/OBJECTIVE

This Policy is designed to protect public funds and assets and the integrity, security and reputation of the Council by outlining Council's approach to the prevention or minimisation, identification and control of fraudulent and/or corrupt activity and, summarises the associated responsibilities of Council Members and Council Employees.

The Council recognises that Fraud and Corruption in Public Administration have the potential to cause significant financial and non-financial harm. Therefore, the prevention and control of Fraud and Corruption features predominantly within the systems and procedures of Council.

Please Note – This Policy has been developed based on the LGA Document – Fraud and Corruption Prevention Model Policy.

SCOPE

This Policy supports the provisions of the *Local Government Act 1999 (The Act)* and associated legislation and applies to all disclosures that relate to the actual or suspected occurrence of Fraud and/or Corruption within the Council.

This Policy applies to all public officers as provided in Schedule 1 of the Independent Commissioner Against Corruption Act including Elected Members, Independent Members of a Council Committee and Employees (including Contractors or Volunteers) of the City of Port Adelaide Enfield.

Any breach of this policy that would be considered to be 'misconduct' or 'maladministration' will be considered to be a breach of the relevant Code of Conduct and may incur disciplinary action in accordance with that code.

Any breach of this policy that would be considered to be corruption, serious or systemic misconduct or maladministration must be referred to the Office of Public Integrity (OPI). This may incur action from the Independent Commission Against Corruption (ICAC) or any other authorised agency of the ICAC. (Refer to the Public Integrity – Complaints & Investigations Council Policy).

PRINCIPLES

The Council is committed to acting in the best interests of the community and to upholding the principles of honesty, integrity and transparency, which are all key components of good governance.

The Council recognises that fraud and corruption may occur in an administrative environment where opportunities exist for waste, abuse and maladministration; and Council believes that an effective way to prevent the occurrence of fraud and corruption is to promote:

- Responsibilities of Public Officers.
- Identify and communicate expectations for achievement of goals with the community.
- Set clear policy positions to assist in consistent and fair decision making.
- Create procedures which reflect realistic achievement of tasks.
- Reporting honestly and truthfully on the achievement of goals.
- Implementing internal control mechanisms to identify where an error has occurred.
- Identify risks and implement mitigation and minimisation measures.

POLICY

The Council will take proactive steps towards ensuring that the wider community is aware of the Council's zero-tolerance stance towards fraud and corruption by:

- promoting the Council's initiatives and policies regarding the control and prevention of Fraud and Corruption on the Council's website and at the Council's offices;
- make reference to the Council's fraud and corruption initiatives in the Council's Annual Report; and
- facilitating public access to all of the documents that constitute the Council's Fraud and Corruption Policy and associated Codes and Policies.

1. Fraud Prevention

The Council expects that Public Officers will assist in preventing fraud and corruption within the Council by:

- understanding the responsibilities of their position;
- familiarising themselves with the Council's policies and procedures and adhering to them;
- understanding what behaviour constitutes fraudulent and/or corrupt conduct;
- maintaining an awareness of the strategies that have been implemented by the Council to minimise fraud and corruption;
- being continuously vigilant to the potential for fraud and/or corruption to occur; and
- reporting suspected or actual occurrences of fraud or corruption in accordance with Part 7 of this Policy.

2. Fraud Controls

The Council will not tolerate fraudulent or corrupt activity and is committed to its control and prevention by:

- complying with the requirements of the ICAC Act 2012;
- establishing and maintaining an effective system of internal controls and enforcing compliance with those controls;
- regularly undertaking risk assessments to identify circumstances in which fraud and corruption could potentially occur;
- implementing fraud and corruption prevention and mitigation strategies in its day to day operations;
- taking appropriate action in response to allegations of fraudulent and/or corrupt activity including, reporting allegations in accordance with the ICAC Act 2012 and the Directions and Guidelines document;
- where allegations are substantiated, in addition to applicable criminal sanctions, may take disciplinary action in accordance with the relevant Codes of Conduct or employment or appointment contract;
- ensuring all Council Public Officers are aware of their obligations in regards to the prevention of fraud and corruption within the Council and the inclusion of preliminary education in any induction process;
- active participation in education and evaluation of practices relevant to fraud and corruption;
- fostering an ethical environment in which dishonest and fraudulent behaviour is actively discouraged; and
- generating community awareness of the Council's commitment to the prevention of fraud and corruption.

2.1 Managers will be required to assess the effectiveness of the fraud and corruption controls that are in place when the following events occur:

- changes to Council delegations, subdelegations or appointment of authorised officers;
- introduction or amendment of legislation;
- implementation of cost cutting measures;
- contracting out and outsourcing;
- the impact of new technology; and
- changes to risk management practices.

Please note – these areas have been determined to be areas of fraud and corruption vulnerability.

3. Fraud and Corruption Risk Assessment Process

In an effort to minimise the occurrence of fraud and corruption, risk assessments will be conducted by Managers to:

- identify fraud and corruption risks;
- determine strategies to control those risks; and
- define responsibility for and, the time frame within which the strategies will be implemented.

4. Specific Responsibilities

4.1 Collectively, as the decision making body of the Council, **Council Members** are responsible for ensuring that the **Council**:

- promotes community awareness of the Council's commitment to the prevention of fraud and corruption;
- provides adequate security for the prevention of fraud and corruption. This includes the provision of secure facilities for storage of assets, and procedures to deter fraudulent or corrupt activity from occurring;

4.2 The CEO is responsible for:

- providing mechanisms for receiving allegations of fraud or corruption, including by ensuring a Responsible Officer is appointed;
- ensuring that, where appropriate, proper investigations are conducted into allegations that involve fraud or corruption;
- making reports in accordance with this Policy and the Public Integrity – Complaints & Investigations Policy and facilitating cooperation with any investigation undertaken by an external authority (such as the South Australian Police (SAPOL), OPI or the ICAC Commissioner);
- ensuring that all employees are aware of their responsibilities in relation to fraud and corruption through the provision of appropriate and regular training;
- promoting a culture and environment in which fraud and corruption is actively discouraged and is readily reported should it occur; and
- undertaking a fraud and corruption risk assessment on a regular basis.

4.3 Managers are responsible for:

- any property and equipment under their control and, will be required to manage or put in place processes and practices to manage this safely and securely to avoid opportunity for fraud or corruption to occur;
- reporting any instance of fraud or corruption in accordance with this Policy and the Public Integrity – Complaints & Investigations Policy;
- creating an environment in which fraud and corruption is discouraged and readily reported by employees. Such an environment shall be fostered by the Manager's own attitude and behaviours to fraud and corruption and, by the accountability and integrity they both display and encourage from other employees;
- ensuring that new employees for whom they are responsible are aware of their responsibilities in relation to fraud and corruption and, of the standard of conduct expected from all employees as outlined in the Code of Conduct for Council Employees and this Policy;
- identifying potential fraud and corruption risks; and
- leading by example to promote ethical behaviour.

4.4 Employees are responsible for:

- performing their functions and duties with care, diligence, honesty and integrity;
- conducting themselves in a professional manner at all times;

- adhering to these guidelines and other Council procedures that have been established to prevent fraud or corruption;
- taking care for Council's property which includes avoiding the waste or misuse of the Council's resources;
- maintaining and enhancing the reputation of the Council;
- remaining scrupulous in the use of Council information, assets, funds, property, goods or services; and
- reporting any matters which may be considered to be fraudulent or corrupt in accordance with this policy and the Public Integrity – Complaints & Investigations Policy.

Reporting Fraud and Corruption

The details relating to the reporting of fraud and corruption can be found within the Public Integrity – Complaints & Investigations Council Policy.

Please Note:

It is recommended that any person who wishes to or is required to make a disclosure should become familiar with the Public Interest Disclosure Act 2018, Local Government Act 1999, the ICAC Act 2012 and all relevant Council Codes and Policies, specifically the Public Integrity – Complaints and Investigations Council Policy.

Nothing in this section is intended to prevent an Employee or Council Member from reporting Corruption in public administration internally to a Responsible Officer in accordance with the Council's Public Integrity – Complaints and Investigations Policy.

Where an internal report relating to Corruption in public administration is received by the Responsible Officer the matter must be reported to the OPI in accordance with this Policy and the Public Integrity – Complaints and Investigations Policy.

DEFINITIONS

For the purposes of this Policy the following definitions apply:

CEO is the Chief Executive Officer.

Corruption in public administration means:

- a) an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
 - (i) bribery or corruption of public officers;
 - (ii) threats or reprisals against public officers;
 - (iii) abuse of public office;
 - (iv) demanding or requiring benefit on basis of public office;
 - (v) offences relating to appointment to public office.

- b) any other offence (including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence (see Appendix 1 for examples of offences under the *Local Government Act 1999*, *Local Government (Elections) Act 1999* and *Development Act 1993*); or

- c) any of the following in relation to an offence referred to in a preceding paragraph:
- (i) aiding, abetting, counselling or procuring the commission of the offence;
 - (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
 - (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
 - (iv) conspiring with others to effect the commission of the offence.

Directions and Guidelines is a reference to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act 2012, which are available on the Commissioner's website (www.icac.sa.gov.au).

A **False Disclosure** is a disclosure of information relating to Fraud or Corruption that is made by a person who knows the information to be false or, who is reckless as to whether it is false.

Fraud is an intentional dishonest act or omission done with the purpose of deceiving. (Note: unlike 'corruption' there is no statutory definition of 'fraud'. Fraud is a style of offending. The offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences).

Independent Commissioner Against Corruption (Commissioner) means the person holding or acting in the office of the Independent Commissioner Against Corruption.

Manager means any Employee of the Council who is responsible for the direct supervision of other Employees, and/or, for the management of a Council Department. This includes (but is not limited to) Directors, Managers, Supervisors and Team Leaders.

Office for Public Integrity (OPI) is the office established under the *ICAC Act 2012* that has the function to:

- (a) receive and assess complaints about public administration from members of the public;
- (b) receive and assess reports about Corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;
- (c) make recommendations as to whether and by whom complaints and reports should be investigated;
- (d) perform other functions assigned to the Office by the Commissioner.

Public administration defined at section 4 of the *ICAC Act 2012* means without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.

Public Officer defined under Schedule 1 of the *ICAC Act 2012* includes a Council Member and an Employee or Officer of the Council or any person engaged in contract work with Council, including Volunteers.

A **Responsible Officer** is a person (or persons) designated by the Chief Executive Officer pursuant to section 12 of the *Public Interest Disclosure Act 2018* who is (are) authorised to receive and act upon disclosures of public interest information reported to him/her.