



COUNCIL POLICY

Fraud and Corruption Prevention

Policy Number:	PO148		
Strategic Plan Objective	Meet all legislative and compliance responsibilities		
Policy Owner:	Chief Executive Officer	Record Number:	16/14858[v4]
Responsible Officer:	Governance Officer	Minute Reference:	257/2017 (11/10/2017)
Date Adopted:	11 th October 2017	Next Review Date:	<u>October 2020</u>

1. POLICY OBJECTIVES

Council recognises that fraud and corruption in public administration have the potential to cause significant financial and non-financial harm and is committed to acting in the best interests of the community to uphold the principles of honesty, integrity and transparency; all key components of good governance.

This Policy aims to protect public funds and assets and the integrity, security and reputation of the Council. It outlines the Council's approach to preventing, minimising, identifying and controlling fraudulent/corrupt behaviour.

2. SCOPE

2.1 This policy applies to all:

- i) Elected Members when exercising/performing official functions and duties in all situations, including those outside of normal business hours;
- ii) Employees (includes contractors, volunteers and agency personnel – refer to definition) when exercising/performing official functions and duties in all situations, including those outside of normal business hours.

2.2 All disclosures that relate to actual or suspected fraud/corruption will be managed in accordance with this policy.

3. DEFINITIONS

Definitions are provided in Attachment 1.

4. POLICY STATEMENT

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

- Complying with the requirements of the Independent Commissioner Against Corruption Act 2012;
- Establishing and maintaining an effective system of internal controls and enforcing compliance with those controls;
- Identifying circumstances in which fraud and corruption could potentially occur through risk assessment;
- Implementing fraud and corruption prevention and mitigation strategies in its day to day operations;

- Taking appropriate action in response to allegations of fraudulent/corrupt activity including reporting allegations in accordance with this policy, the ICAC Act and the reporting system established by the ICAC;
- Ensuring all employees and Elected Members are aware of and understand their responsibilities and obligations in regards to the prevention of fraud and corruption;
- Fostering an ethical environment in which dishonest and fraudulent behaviour is actively discouraged;
- Being continually vigilant about the potential for fraud/corruption to occur;
- Ensuring that the community are made aware of this policy and its requirements.

4.1 Specific Responsibilities

All Elected Members and Employees

Elected Members are responsible and accountable for:

- Performing functions and duties with care, diligence, honesty and integrity;
- Reporting any suspected or actual occurrences of fraud or corruption in accordance with this policy;
- Behaving in a professional manner at all times;
- Adhering to this policy and other supporting documentation;
- Taking care of Council property;
- Avoiding waste or misuse of Council's resources;
- Maintaining and enhancing the reputation of the Council;
- Leading by example to promote ethical behaviour;
- Identifying potential fraud and corruption risks;
- Ensuring that they are aware of their responsibilities in relation to fraud and corruption and the standard of conduct expected of them;
- The appropriate use of Council information, assets, funds, property, goods or services.

Elected Members

Elected Members are responsible and accountable for ensuring that:

- The community is aware of the Council's commitment to the prevention of fraud and corruption;
- There are adequate security measures in place for the prevention of fraud and corruption, including secure facilities for storage of assets;
- Adequate processes are in place to deter fraudulent or corrupt activity from occurring;
- Appropriate processes are in place for receiving allegations of fraud/corruption;
- Proper investigations are conducted into allegations that involve fraud or corruption;
- Information is forwarded to the Office for Public Integrity (OPI) as required in the event that fraud/corruption has occurred and that there is cooperation with any investigation;
- All Elected Members and employees are aware of their responsibilities and obligations in relation to fraud and corruption through appropriate and regular training;
- They create and foster an environment where fraud and corruption is discouraged and readily reported;
- Fraud and corruption risks are assessed on a regular basis.

Directors, Managers and Supervisors

Directors, Managers and Supervisors are responsible for:

- The conduct of employees they supervise;
- Property under their control;
- Creating and fostering an environment where fraud and corruption is discouraged and readily reported;
- Ensuring that the employees they supervise, including new employees, are aware of their responsibilities and obligations in relation to fraud and corruption and the standard of conduct expected of them.

4.2 Reporting and Investigation

Corruption

Any Elected Members or employees who have or acquire knowledge of actual or suspected Corruption in public administration must report this information to the OPI as soon as practicable. Reports to the OPI by an Elected Member or employee must be made in accordance with the reporting obligations contained within the ICAC Directions and Guidelines available at www.icac.sa.gov.au or in hard copy upon request from Council's Governance Officer.

Where the Council (i.e. Elected Members collectively) has or acquires knowledge of actual or suspected Corruption in public administration it must report this information to the OPI as soon as practicable after the Council becomes aware of the matter. The Chief Executive Officer (CEO) is responsible for preparing a report to the OPI on behalf of the Council for these purposes. The CEO must prepare the report immediately upon receiving direction from the Council to do so. If the CEO is the subject of the report, the Mayor will then be responsible for preparing the report to the OPI on behalf of the Council immediately upon receiving direction from the Council to do so.

Where the knowledge of Corruption has arisen due to a complaint/report received from another person (the informant), the report to the OPI must not include the informant's details if:

- The report/complaint was made under the Whistleblowers Protection Act 1993; and
- The informant has not consented to the informant's identity being divulged; and
- It is not necessary to divulge the identity of the informant to ensure that the matters to which the report to the OPI relates are properly investigated.

Under Council's Whistleblowers Protection Policy Elected Members and employees can report corruption in public administration internally to a Responsible Officer. Where an internal report relating to Corruption in public administration is received by another under the Whistleblowers Protection Policy the Responsible Officer, under the Whistleblowers Protection Policy, must report the matter to the OPI in accordance with this Policy.

A report to the OPI by an Employee or Council Member must be made on the online report form available at www.icac.sa.gov.au.

Fraud

Any Elected Member or employee that has or acquires knowledge of actual or suspected Fraud that:

- Does not constitute Corruption in public administration; and

- That impacts or causes detriment (or has the potential to impact or cause detriment) to the Council
- Must report the information in accordance with Council's Process for Managing Complaints and Breaches under the Code of Conduct for Council Employees PFC014 or Process for Managing Complaints and Breaches under the Code of Conduct for Council Members PFC123; or
- To Council's Responsible Officer under Council's Whistleblower Protection Policy.

Action by the Chief Executive Officer Following Report and/or Investigation

Following any report under this Policy or the Whistleblower Protection Policy, of which the Chief Executive Officer has knowledge, subject to the finalisation of any investigation undertaken, the CEO will undertake a review where Fraud or Corruption has occurred to determine the cause for the breakdown in controls and, will report the findings of the review and provide recommendations (if any) to the Council. In undertaking any review and preparing the report, the CEO will have regard to any recommendations received from the ICAC or the Ombudsman. Where the CEO is the subject of the report the Mayor will undertake the review.

Misconduct and Maladministration

Complaints relating to misconduct or maladministration will be managed in accordance with Council's Process for Managing Complaints and Breaches under the Code of Conduct for Council Employees PFC014 or Process for Managing Complaints and Breaches under the Code of Conduct for Council Members PFC123.

Elected Members and employees can report Misconduct and Maladministration in public administration to a Responsible Officer under Council's Whistleblowers Protection Policy.

Disciplinary Action

In the event that allegations of Fraud and/or Corruption are substantiated, the Council may take disciplinary action against any Employee who was involved in accordance with Council's Support Disciplinary and Performance Management Policy PO146.

A breach of this policy will also mean that there has been a breach of the respective code of conduct.

4.3 False Disclosure

A person, who knowingly makes a false or misleading statement in a complaint or report under the ICAC Act 2012 or the Whistleblowers Protection Act 1993, is guilty of an offence and will also face disciplinary action.

4.4 Statutory Reporting

Statutory reports will be provided as required in accordance with the ICAC and/or Whistleblowers Protection Act.

Council's Annual Report will make reference to Fraud and Corruption Prevention initiatives.

5. COMPLAINTS

Complaints about this policy can be made in writing to the Governance Officer. Complaints will be managed in accordance with Council's Complaints Policy PO147.

6. REVIEW

This policy will be reviewed every three years and as deemed necessary in consideration of any changes to legislation and relevant standards, codes and

guidelines. Elected Members and employees will actively participate in evaluation processes.

7. TRAINING

Council is committed to supporting Elected Members and employees in complying with this policy.

This policy will be provided to Elected Members and employees during induction. Training needs will be reviewed annually, during individual performance reviews and as necessary in consideration of any changes to legislation and relevant standards, codes and guidelines.

Elected Members and employees will actively participate in training.

8. RELATED COUNCIL POLICIES AND DOCUMENTS

- PO088 Policy Guiding Elected Members use of Council Supplied Electronic Equipment
- PO 089 Provision of Facilities and Services to Elected Members
- PO134 Whistleblowers Policy
- PO146 Support Disciplinary and Performance Management Policy
- PO147 Complaints Policy
- PFC014 Process for Managing Complaints and Breaches under the Code of Conduct for Council Employees
- PFC123 Process for Managing Complaints and Breaches under the Code of Conduct for Council Members
- PO091 Risk Management

9. REFERENCES AND LEGISLATION

- Local Government Act 1999
- Independent Commissioner Against Corruption Act 2012
- ICAC Directions and Guidelines.
- Criminal Law Consolidation Act 1935
- Whistleblowers Protection Act 1993.
- LGA Model Fraud and Corruption Prevention Policy
- Code of Conduct for Council Employees
- Code of Conduct for Council Members

10. COUNCIL DELEGATION

Delegate:	Chief Executive Officer
Sub Delegate:	Nil

11. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Fraud and Corruption Prevention Policy	PO148	10/07/2013	14/05/2014
Fraud and Corruption Prevention Policy	PO148	14/05/2014	11/10/2017
Fraud and Corruption Prevention Policy (Version 3 presented at Council meeting 11/10/2017)	PO148	Draft Only	Draft Only

DEFINITIONS

Council	Yorke Peninsula Council
Employee(s)	All personnel undertaking tasks/duties for and/or on behalf of the Yorke Peninsula Council, including persons employed directly by the Council in a full time, part-time or casual basis under an employment contract, volunteers, contractors, agency personnel and work experience placements.
Corruption in Public Administration	<p>An offence against Part 7 Division 4 (Offences relating to public officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:</p> <ul style="list-style-type: none"> • Bribery or corruption of public officers; • Threats or reprisals against public officers; • Abuse of public office; • Demanding or requiring benefit on basis of public office; • Offences relating to appointment to public office. <p>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 an offence or any of the following in relation to an offence referred to in a preceding paragraph:</p> <ul style="list-style-type: none"> • Aiding, abetting, counselling or obtaining a benefit from the offence; • Encouraging, whether by threats or promises or otherwise, the offence; • Being in any way, directly or indirectly, knowingly involved in, or party to, the offence; • Conspiring with others to commit the offence.
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.
Maladministration in Public Administration	Conduct of a public officer or the practice, policy and procedure of a public authority that results in an irregular or unauthorised use of public money, or the substantial mismanagement of official functions.
Misconduct in Public Administration	Conduct of a public officer that contravenes a code of conduct, which constitutes a ground for disciplinary action, or other misconduct.
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 the ICAC Act 2012 includes: <ul style="list-style-type: none"> • An Elected Member; • A member of a Local Government body (including a subsidiary of a Council established under the Local Government Act 1999); and • An Employee or Officer of the Council;
Responsible Officer	Is a person (or persons) appointed by the Council pursuant to section 302B of the Local Government Act 1999 who is (are) authorised to receive and act upon disclosures of public interest information reported to him/her under the Whistleblowers Protection Act 1993.
Whistleblower	Any person who makes an appropriate disclosure of public interest information under the Whistleblowers Act 1993.
Directions and Guidelines	Is a reference to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act, which are available on the Commissioner's website (www.icac.sa.gov.au).
Independent Commissioner Against Corruption (ICAC)	The ICAC is a law enforcement body. The functions of the office are set out in section 7(1) of the ICAC Act, and include: <ul style="list-style-type: none"> • Identifying corruption in public administration and investigating, or referring for investigation or prosecution • Assisting inquiry agencies and public authorities to identify and deal with misconduct and maladministration in public administration • Conducting or facilitating education programs designed to prevent or

	<p>minimise corruption, misconduct and maladministration.</p>
<p>Office for Public Integrity (OPI)</p>	<p>Is the office established under the ICAC Act that has the function to:</p> <ul style="list-style-type: none"> • Receive and assess complaints about public administration from members of the public; • Receive and assess reports about Corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers; • Make recommendations as to whether and by whom complaints and reports should be investigated; • Perform other functions assigned to the Office by the Commissioner.