

# Fraud and Corruption Policy



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Responsible Manager	Manager Governance and Policy
Other key internal stakeholders	Manager Finance and Rating Services Manager Organisational Development
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## 1. PURPOSE

The purpose of this Policy is to:

- 1.1 Outline Council's approach to the prevention, detection, response to and reporting of fraudulent or corrupt activity
- 1.2 Outline responsibilities and obligations surrounding the prevention, control, reporting and investigation of conduct reasonably suspected of being Fraud or Corruption
- 1.3 Adopt risk management strategies for the identification, mitigation and monitoring of Fraud and Corruption risks.

## 2. POLICY

Council has zero tolerance towards activities that are fraudulent or corrupt. The City of Tea Tree Gully is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity, accountability and transparency, which are all key components of good governance and Council's Corporate Values.

Council recognises that Fraud, Corruption, Misconduct and Maladministration in Public Administration have the potential to cause significant financial loss and/or reputational damage, and that it is essential for the prevention and control of these risks to feature within Council's systems and procedures.

This policy applies to all Public Officers of Council.

### 2.1 General Principles

Council is committed to the prevention, detection, response to and reporting of Fraud and Corruption by:

- 2.1.1 Fostering a culture of honesty, integrity and respect and promoting an environment in which Fraud and Corruption is not tolerated
- 2.1.2 Educating Public Officers on their obligations to prevent, detect, respond and report Fraud and Corruption within Council
- 2.1.3 Taking appropriate steps to comply with relevant legislation, policies and instruments
- 2.1.4 Generating awareness of Council's commitment to preventing Fraud and Corruption
- 2.1.5 Applying risk management principles and techniques in the identification, mitigation, assessment and monitoring of Fraud and Corruption risks
- 2.1.6 Establishing and maintaining an effective system of internal controls, and fostering an environment in which proactive control is the responsibility of all Public Officers
- 2.1.7 Evaluating the practices, policies, procedures and controls in place in order to further advance Council's systems for preventing or minimising, detecting, responding to and reporting of Fraud and Corruption
- 2.1.8 Implementing a proactive and robust internal audit program that focuses on high risk areas.

## 2.2 Prevention and Detection

Council recognises that the most effective preventative action Council can take is to promote an ethical environment in which internal controls have been implemented.

Council expects that all Public Officers will assist in preventing Fraud and Corruption by:

- 2.2.1 Demonstrating a high level of integrity and ethical behaviour in all dealings
- 2.2.2 Understanding what behaviour constitutes Fraud and Corruption and being vigilant to the potential for their occurrence
- 2.2.3 Understanding their responsibilities, familiarising themselves with Council's policies and procedures and adhering to them
- 2.2.4 Identifying and implementing appropriate internal controls to minimise Fraud and Corruption risks
- 2.2.5 Reporting reasonably suspected or actual occurrences of Fraud and Corruption as envisaged by this Policy.

## 2.3 Risk Assessment Process

Council's main objective in the prevention and control of Fraud and Corruption is to minimise the likelihood of such occurrences. This objective will be achieved by:

- 2.3.1 Identifying risks and documenting them (where appropriate) in relevant risk registers
- 2.3.2 Determining and observing risk management strategies to control risks
- 2.3.3 Defining responsibility for and the timeframe within which the strategies will be implemented
- 2.3.4 Regularly reviewing, monitoring and reporting of risks.

Corporate Leaders must uphold and monitor control strategies, initiatives and systems within their area of responsibility. They must be alert to the possibilities of Fraud and Corruption occurring within their business areas, assess risks associated with their particular activities and actively manage those risks within Council's Enterprise Risk Management Framework and in accordance with Council's Risk Management Policy.

## 2.4 Reporting and Investigation

- 2.4.1 A public officer must report to the Office of Public Integrity (OPI) any matter that they reasonably suspect involves corruption in public administration unless the public officer knows that the conduct has already been reported to the OPI, in accordance with any relevant Directions and/or Guidelines
- 2.4.2 Where a Public Officer or volunteer has or acquires knowledge of actual or suspected Fraud, Corruption or other similar conduct, this should be reported to their Corporate Leader or Council's Responsible Officer under Council's Public Interest Disclosure (PID) Policy. Such a disclosure may be protected under the PID Act.

- 2.4.3 Unless otherwise directed by OPI or SAPOL, an investigation into the alleged Corruption or Fraud will be undertaken to determine the cause for the breakdown in controls and identify (if any) recommendations as to changes in policies, procedures or internal controls should be made to the Council. The investigation should:
- occur as soon as practicable after the alleged incident; and
  - not impose on or detract from any investigation being undertaken by the OPI or SAPOL
  - have regard to any recommendations in any report received from the Commissioner or SAPOL on the incident.
- 2.4.4 The CEO will, in conducting the investigation and deciding whether and how to report on the investigation to Council, have regard to the provisions of the Public Interest Disclosure Policy, and any confidentiality requirements under the PID Act and ICAC Act.
- 2.4.5 Action taken following an investigation into alleged Corruption or Fraud, may include disciplinary action against any employee involved in the incident.
- 2.4.6 A person who knowingly makes a false disclosure or a false or misleading statement in a complaint or report will be guilty of an offence under the ICAC Act and the PID Act.
- 2.4.7 A Council employee who makes a false disclosure may also face disciplinary action which may include dismissal from employment.
- 2.4.8 Relevant summary reporting on fraud and corruption initiatives or similar will be reported to the Executive Leadership Team on a periodic basis.

## 2.5 Specific Responsibilities

### Elected Members

Elected Members as a decision-making body are responsible for:

- 2.5.1 Promoting Council's commitment to the prevention of Fraud and Corruption, to employees, volunteers and the community
- 2.5.2 Reporting any suspected or actual occurrences of Fraud and Corruption, and
- 2.5.3 Complying with the Code of Conduct for Council Members (or equivalent).

### CEO

The CEO, as the officer who is responsible for the efficient and effective operation of the organisation, will:

- 2.5.4 Promote Council's commitment to the prevention of Fraud and Corruption to Council's employees, volunteers, contractors and the community
- 2.5.5 Establish and implement processes and systems to assist with the prevention, detection, response to and reporting of Fraud and Corruption
- 2.5.6 Regularly review the effectiveness of Council's processes and systems to ensure they are adequate, current and legislatively compliant, and

## Corporate Leaders

Corporate Leaders are responsible for:

- 2.5.7 Leading by example to promote and foster a culture of ethical behaviour both generally and in their respective departments
- 2.5.8 Promoting awareness of ethical conduct and mechanisms to prevent Fraud and Corruption
- 2.5.9 Creating an environment in which Fraud and Corruption is discouraged and readily reported
- 2.5.10 Identifying, assessing, controlling and documenting in relevant risk registers Fraud and, Corruption risks in their area of responsibility
- 2.5.11 Identifying and implementing appropriate controls and risk management strategies and ensuring these are reflected in relevant documents
- 2.5.12 Ensuring compliance with this Policy and promoting it
- 2.5.13 Reporting any suspected or actual occurrences of Fraud and Corruption
- 2.5.14 Ensuring all employees and volunteers for whom they are responsible have received Fraud and Corruption awareness training/education, including in relation to the standard of conduct expected as outlined in the Employee Conduct Policy
- 2.5.15 Ongoing monitoring, reviewing and reporting of risks
- 2.5.16 Facilitating cooperation in any relevant investigation undertaken.

## Employees and Volunteers

Employees and volunteers are responsible for:

- 2.5.17 Demonstrating their commitment to the awareness, prevention, detection and reporting of any actual or suspected Fraud and Corruption by behaving in a manner consistent with the Employee Conduct Policy, Volunteer Code of Conduct (in the Volunteer Handbook) and Council's Values and any other relevant Directions and/or Guidelines
- 2.5.18 Adhering to this Policy and other Council procedures that have been established to prevent Fraud and Corruption (particularly those that have implications for IT security)
- 2.5.19 Taking care and ensuring the security of Council's property and information
- 2.5.20 Maintaining and enhancing Council's reputation
- 2.5.21 Remaining diligent in their use of Council's information, assets, funds, property, goods and/or services
- 2.5.22 Understanding their delegations and ensuring decisions are made strictly in accordance with such delegations, and
- 2.5.23 Participating in any required awareness and education training.
- 2.5.24 Cooperating in any relevant investigations undertaken.

## Audit Committee

Council's Audit Committee is an advisory body that plays a pivotal role in Council's risk management framework. It provides independent oversight in the areas of risk, internal control, compliance, audit and financial reporting. The Audit Committee will:

- 2.5.25 Review this Policy and make recommendations for amendments as appropriate
- 2.5.26 Review the approach to maintaining an effective internal control framework to seek to ensure it is sound and internal controls are being consistently applied
- 2.5.27 Evaluate associated controls in relation to the risk of Fraud and Corruption as part of the risk management process.

## 2.6 Confidentiality

A person who receives information knowing that it is connected with a matter that forms or is the subject of a complaint, report, assessment, investigation, referral or evaluation under the ICAC Act must not disclose that information, other than in the limited circumstances set out in section 54(3) of the ICAC Act. A failure to comply with the requirements in this part can constitute an offence.

A Council employee who fails to comply with these requirements may also face disciplinary action which may include termination of employment.

In addition to the requirements in this part, Public Officers should also be mindful of the confidentiality provisions in Council's Public Interest Disclosure Policy.

## 2.7 Increasing Awareness

Council recognises that the success of this Policy will largely depend upon how effectively it is communicated throughout the organisation and beyond.

Council will increase awareness by:

- 2.7.1 Promoting Council's initiatives and policies regarding the control, prevention, detection, investigation and reporting of Fraud and Corruption,
- 2.7.2 Educating new employees and volunteers as part of its induction process
- 2.7.3 Facilitating public access to this policy and related documents.

## 3. DEFINITIONS

For the purposes of this policy the following definitions apply:

### CEO

Refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully.

### Commissioner

The person appointed under the ICAC Act as the Independent Commissioner against Corruption.

### Corporate Leader

Means any employee who directly supervises other employees or volunteers, and is responsible for the management of a Council Department.

### Corruption (in Public Administration)

Is as defined in section 5(1) of the ICAC Act and means conduct that constitutes:

- An offence against Part 7 Division 4 (Offences relating to Public Officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:
  - Bribery or Corruption of Public Officers
  - Threats or reprisals against Public Officers
  - Abuse of public office
  - Demanding or requiring benefit on the basis of public office, and
  - Offences relating to appointment to public office.
- 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; and
  - Any of the following in relation to an offence referred to in a preceding paragraph:
    - Aiding, abetting, counselling or procuring the commission of the offence
    - Inducing, whether by threats or promises or otherwise, the commission of the offence
    - Being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence
- Conspiring with others to effect the commission of the offence.

### Council

Is the City of Tea Tree Gully.

### Employee

Any person who is employed by Council, whether they are working in a full-time, part-time or casual capacity.

### False disclosure

Refers to a disclosure of information relating to Fraud, Corruption, Maladministration or Misconduct that is made by a person who knows the information to be false.

### Fraud

Includes an intentional dishonest act or omission done with the purpose of deceiving. Offences addressed under Part 5 and Part 6 of the Criminal Law Consolidation Act 1935 are considered to constitute Fraud offences. An ordinary meaning of Fraud is 'to obtain dishonestly that which the person is not entitled to'. Fraud is a broad label applicable to conduct / practices that involve knowingly dishonest or deceitful behaviour meant to obtain an unjust benefit.

### ICAC

Independent Commissioner against Corruption as appointed under the ICAC Act.

### ICAC Act

Independent Commissioner against Corruption Act 2012

### PID Act

Means the Public Interest Disclosure Act 2018.

### Public Administration

Defined in section 4 of the ICAC Act and means (without limitation) an administrative act within the meaning of the Ombudsman Act 1972 taken to be carried out in the course of Public Administration. For the purposes of this Policy, references to Fraud and Corruption are taken to mean references to such conduct in Public Administration.

### Public Authorities and Public Officers

Are for the purposes of the ICAC Act, those authorities and officers listed in Schedule 1 of the ICAC Act. Relevant in the context of this Policy:

- Public Authority – includes the Council in addition to:
  - The Governor
  - Both Houses of Parliament
  - South Australian government departments, agencies and statutory bodies, and
  - Other local councils
- Public Officer - includes:
  - An Elected Member of Council, including the Mayor
  - An Independent Member of Council's Development Assessment Panel
  - An Independent Member of a Council Committee or subsidiary of Council
  - A member of a Council regional subsidiary
  - An officer or Employee of Council (including a person performing contract work)
  - An officer or Employee of the Local Government Association of South Australia.



### Responsible Officer

Refers to a person who has completed any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* and has been designated by the Council as a responsible officer under section 12 of the *PID Act*.

### SAPOL

South Australian Police.

## 4. LEGISLATIVE FRAMEWORK

There is no legislative requirement for Council to have a policy relating to this area; however, it is considered best practice and consistent with principles of good governance.

The following legislation applies to this Policy:

- *Independent Commissioner against Corruption Act 2012*
- *Local Government Act 1999 (section 125 – internal controls)*
- *Public Interest Disclosure Act 2018*
- *Criminal Law Consolidation Act 1935*
- *Freedom of Information Act 1991*
- *Summary Offences Act 1953*

### 4.2 Other references

Council's document including:

- a. Employee Conduct Policy
- b. Gift registers
- c. Risk Management Framework
- d. Risk Management Policy
- e. Public Interest Disclosure Policy
- f. Volunteer Handbook

External document including:

- a. Code of Conduct for Council Members (or similar)
- b. OPI Directions and Guidelines
- c. Australian Standard AS8001:2008 Fraud and Corruption Control - This Standard provides guidance regarding the control of Fraud and Corruption that is applicable to all entities (including local government) that engage in business or business-like activities.

## 5. STRATEGIC PLAN/POLICY

### 5.1 Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
<i>Decision making is informed, based on evidence and is consistent</i>	Any fraud or corruption investigation, and associated implications will be based on evidence and will be consistent

### 5.2 Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of customer care, learning & growth, future capability and sustainable operations. The key theme most relevant to this policy is sustainable operations, in ensuring that we make consistent, informed decisions which are evidence based.

## 6. POLICY IMPLEMENTATION

This Policy will be implemented by the Chief Executive Officer or relevant portfolio director and managed in accordance with Council's scheme of delegations.