

FRAUD AND CORRUPTION PREVENTION POLICY

Policy Type:	Council Policy
Responsible Department:	Office of the Chief Executive Officer
Responsible Officer:	Group Manager Governance & Risk
Related Policies and Procedures	<ul style="list-style-type: none"> • Whistleblowers' Protection Policy • Risk Management Policy and Framework • Internal Control Procedures • Code of Conduct for Council Employees • Code of Conduct for Council Members • Council Members Allowances and Benefits Policy • Fraud and Corruption Prevention Reporting Procedure
Date Adopted	C1072, 11/03/2014
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1. POLICY STATEMENT

The City of Unley ("the Council") is committed to acting in the best interest of the community and to upholding the principles of honesty, collaboration, integrity and transparency, which are all key components of good governance.

The Council recognises that Fraud and Corruption in Public Administration have the potential to cause significant financial and reputational harm and that therefore, the prevention and control of Fraud and Corruption should feature predominantly within the systems and procedures of a responsible Council.

2. COMMUNITY GOAL

O5.3 Good governance & legislative framework

3. PRINCIPLES

This Policy is intended to complement and be implemented in conjunction with other Council policies, including:

- Whistleblowers' Protection Policy

- Risk Management Policy and Framework
- Internal Control Procedures
- Code of Conduct for Council Employees
- Code of Conduct for Council Members, and
- Elected Members Allowances and Benefits Policy.

This Policy applies to all disclosures that relate to the actual or suspected occurrence of Fraud and/or Corruption within the Council.

4. POLICY OBJECTIVES

This Policy is designed to protect public funds and assets and the integrity, security and reputation of the Council.

This Policy outlines the 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 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* (ICAC Act)
- 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:
 - (i) reporting allegations in accordance with the ICAC Act and the reporting system established by the Independent Commissioner Against Corruption (ICAC) under section 20 of the ICAC Act, and
 - (ii) where allegations are substantiated, in addition to applicable criminal sanctions, disciplinary action may be taken in accordance with the Codes of Conduct for Council Members and Council Employees or, if relevant, a Council Employee's contract of employment with the Council
- ensuring all Council Employees and Council Members 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.

5. PREVENTION

The Council recognises that:

- the occurrence of Fraud and Corruption will prevail in an administrative environment where opportunities exist for waste, abuse and maladministration, and
- the most effective way to prevent the occurrence of Fraud and Corruption is to promote an ethical environment in which internal control mechanisms have been implemented.

In general, 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 the Fraud and Corruption Prevention Reporting Procedure.

Specific Responsibilities

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 data, and procedures to deter fraudulent or corrupt activity from occurring
- provides mechanisms for receiving allegations of Fraud or Corruption, including by ensuring a Responsible Officer is appointed
- ensures that, where appropriate, proper investigations are conducted into allegations that involve Fraud or Corruption
- makes reports and facilitates cooperation with any investigation undertaken by an external authority (such as SAPOL or the Commissioner)
- ensures that all Employees are aware of their responsibilities in relation to Fraud and Corruption through the provision of appropriate and regular training
- promotes a culture and environment in which Fraud and Corruption is actively discouraged and is readily reported should it occur, and
- undertakes a Fraud and Corruption risk assessment on a regular basis.

Managers are responsible for:

- the conduct of any Employees whom they supervise and, will be held accountable for such
- any property under their control and, will be held accountable for such

- reporting in accordance with the Fraud and Corruption Prevention Reporting Procedure
- 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, monitor and report potential Fraud and Corruption risks, and
- leading by example to promote ethical behaviour.

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 of 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 in accordance with the Fraud and Corruption Prevention Reporting Procedure.

6. DEFINITIONS

For the purposes of this Policy the following definitions apply:

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 to the Fraud and corruption reporting procedure 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.
- d) The AS8001:2008 Fraud and Corruption Control standard defines *corruption* as:

‘Dishonest activity where an employee or external third party acts contrary to the interests of the Council by abusing their position of trust in order to achieve personal gain or advantage for themselves or for another person or entity. The concept of ‘corruption’ within this definition can also involve corrupt conduct by the Council, or a person purporting to act on behalf of and in the interest of the Council, in order to secure some form of improper advantage for the Council either directly or indirectly’.

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).

Employee is any person who is employed by the Council, but also includes any contractors, volunteers and consultants undertaking work for, or on behalf of the Council.

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. The AS8001:2008 Fraud and Corruption Control standard defines fraud as:

‘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 where deception is used at the time, immediately before or immediately following the activity. This also includes deliberate falsification, concealment, destruction or use of falsified documentation or intended for use for a normal business purpose or the improper use of information or position for personal benefit financial or otherwise.’

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.

Local government body defined at Section 4 of the *ICAC Act 2012* means a council or a subsidiary of a council established under the *Local Government Act 1999*.

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.

Office for Public Integrity (OPI) is the office established under the *ICAC Act* 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 the *ICAC Act 2012* includes:

- a Council Member, and
- an Employee or Officer of the Council, and
- a member of a local government body.

A 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*.

7. LEGISLATION

Local Government Act 1999
Independent Commissioner Against Corruption Act 2012 (ICAC Act)
Criminal Law Consolidation Act 1935
Whistleblowers' Protection Act 1993

8. POLICY DELEGATIONS

Full information about the sub-delegated powers and duties is contained in the Council Delegations Register.

9. AVAILABILITY OF POLICY

The Policy is available for public inspection during normal office hours at;

The Civic Centre,
181 Unley Road, Unley SA 5061.

A copy may be purchased for a fee as determined annually by Council.

It is also available for viewing, download and printing free of charge from the Council's website www.unley.sa.gov.au.

10. DOCUMENT HISTORY

Date	Council / Committee / Internal	Comment
12/11/2013	A&G 75	New policy
11/02/2014	A&G 80	
11/03/2014	Council 1072	
26/06/2017	Council 887	