



## ***Fraud and Corruption Prevention Policy***

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<b>Related Policies or Documents:</b>	<i>Code of Conduct for Council Members (2013)</i> <i>Code of Conduct for Council Employees (2018)</i> Code of Conduct for Elected Council Members Policy Code of Conduct for Elected Members (Gifts & Benefits) Policy Code of Conduct for Elected Council Members Procedure Code of Conduct for Council Employees (Gifts & Benefits) Policy Complaints Against Council Employees Policy Complaints Against Council Employees Procedure Public Interest Disclosure Procedure Council Members Allowances and Benefits Policy Risk Management and Internal Control Procedures
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## **Fraud and Corruption Prevention Policy**

### **1. Preamble**

1.1. Council will not tolerate fraudulent or corrupt activity as evidenced by its commitment to:

1.1.1. Uphold the principles of honesty, integrity and transparency and minimising the opportunity for fraudulent and/or corrupt acts to be undertaken by a person(s) against the Kangaroo Island Council by fostering and maintaining the highest standards of ethical behaviour by establishing a culture that promotes a high degree of honesty and integrity.

1.1.2. Prevent, detect and report fraud and/or corruption against the Kangaroo Island Council;

1.1.3. Ensure a robust operational environment through the adoption of controls that minimise the risk of fraudulent or corrupt acts being committed against it.

1.1.4. Protect its revenue, expenditure, resources and assets from any attempt by a person to gain, by deceit, financial or other benefits.

1.1.5. Promote accountability as a key value of the Kangaroo Island Council.

### **2. Purpose**

2.1. This Policy:

2.1.1. Outlines Council's approach to the prevention, control and reporting of fraudulent and/or corrupt activity.

2.1.2. Outlines the processes surrounding the prevention, control, reporting and investigation of fraudulent and/or corrupt activity.

2.1.3. Defines the responsibilities and obligations in preventing instances of fraud and/or corruption within the Kangaroo Island Council.

2.1.4. Details the reporting requirements for the Council, as a public authority, and its public officers if they reasonably suspect fraud and/or corruption against the Council.

2.1.5. Is designed to protect public funds and assets and the integrity, security and reputation of Council

2.1.6. Outlines the Council's approach to the prevention or minimisation, detection and control of fraudulent and/or corrupt activity and, summarises the associated responsibilities of Council Members and Council Employees.

### **3. Scope**

3.1. This policy applies to any person who has, or previously had, or proposes to have, any legal interest or interaction with the Kangaroo Island Council, e.g.. Employees, Council Members, contractors, volunteers, all persons acting on behalf of the Council, those seeking to contract with the Council etc.

- 3.2. This Policy is intended to complement and be implemented in conjunction with other Council policies, including those related policies listed at commencement of this Policy.

#### 4. Definitions

- 4.1. **Commission** means the Independent Commission Against Corruption.
- 4.2. **Commissioner** means the person holding or acting in the office of the Independent Commissioner Against Corruption.
- 4.3. **Corruption** in public administration is defined at section 5 of the *Independent Commission Against Corruption Act 2012 (ICAC Act)* and 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) an offence against the *Public Sector (Honestly and Accountability) Act 1995* or the *Public Corporations Act 1993*, or an attempt to commit such an offence; or
  - c) an offence against the *Lobbyists Act 2015*, or an attempt to commit such an offence; or
  - d) 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.
- 4.4. **Deception** means deceiving another to obtain a benefit or to cause detriment to a person.
- 4.5. **Employee** means any person who is employed by the Council, but also includes any contractors, volunteers and consultants undertaking work for, or on behalf of Council.
- 4.6. **False Disclosure** means a disclosure of information involving actual or suspected 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.
- 4.7. **Fraud** means the use of misrepresentations, deception or dishonest conduct in order to obtain an unjust advantage over another or to cause detriment to the Council. Examples of fraudulent conduct include:
- theft of assets;
  - unauthorised and/or illegal use of assets, information or services for private purposes;
  - misappropriation of funds; and/or
  - falsification of records.

- 4.8. **Maladministration** in public administration is defined at section 4 of the *Ombudsman Act 1972 (Ombudsman Act)* and,
- a) means:
    - i. conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
    - ii. conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and
  - b) includes conduct resulting from impropriety, incompetence or negligence; and
  - c) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.
- 4.9. **Manager** means any Employee of the Council who is responsible for the direct supervision of other Employees.
- 4.10. **Misconduct** in public administration defined at section 4 of the Ombudsman Act and means an intentional and serious contravention of a code of conduct by a public officer while acting in their capacity as a public officer that constitutes a ground for disciplinary action against the officer.
- 4.11. **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 inquiry agencies, public authorities and public officers;
  - (c) to refer complaints and reports to inquiry agencies, public authorities and public officers or to determine to take no action in accordance with section 17 of the ICAC Act.
- 4.12. **PID Act** means the *Public Interest Disclosure Act 2018*.
- 4.13. **Public administration** is defined at section 4 of the ICAC Act and 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.
- 4.14. **Public Officer** is defined under Schedule 1 of the ICAC Act and includes:
- a Council Member;
  - an Employee or Officer of the Council; and
  - a contractor performing contract work for and on behalf of the Council.
- 4.15. **Relevant Authority** means a person or body which receives an appropriate disclosure of public interest information for the purposes of the PID Act, and includes a Responsible Officer (see Council's Public Interest Disclosure Procedure).
- 4.16. **Responsible Officer** means a person (or persons) designated as a responsible officer under section 12 of the PID Act (see Council's Public Interest Disclosure Procedure).

4.17. **SAPOL** means the South Australian Police Force.

4.18. **Waste** refers to the waste of public resources (including public money), which occurs as a result of the irregular or unauthorised use of public money or substantial mismanagement of public resources.

## 5. Policy Statement

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

- a) complying with the requirements of the ICAC Act;
- b) complying with the procedures in place under the PID Act;
- c) establishing and maintaining an effective system of internal controls and enforcing compliance with those controls;
- d) regularly undertaking risk assessments to identify circumstances in which fraud and corruption could potentially occur;
- e) implementing fraud and corruption prevention and mitigation strategies in its day to day operations;
- f) taking appropriate action in response to allegations of fraudulent and/or corrupt activity including, reporting allegations in accordance with the ICAC Act and the reporting systems established by the OPI under Part 3 Division 2 of the ICAC Act and where allegations are substantiated, in addition to applicable criminal sanctions, may take disciplinary action in accordance with the Council's Codes of Conduct or other applicable policies, or, if relevant, a Council Employee's contract of employment with the Council;
- g) ensuring all Council Employees and Council Members are aware of their obligations with regards to the prevention of fraud and corruption within the Council and the inclusion of preliminary education in any induction process;
- h) active participation in education and evaluation of practices relevant to fraud and corruption;
- i) fostering an ethical environment in which dishonest and fraudulent behaviour is actively discouraged; and
- j) generating community awareness of the Council's commitment to the prevention of fraud and corruption.

## 5.2. Prevention

5.2.1. The Council recognises that:

- a. the occurrence of fraud and corruption will prevail in an administrative environment where opportunities exist for waste, abuse and maladministration and misconduct in public administration; and
- b. 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.

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

- a. understanding the responsibilities of their position;
- b. familiarising themselves with the Council's procedures and adhering to them;
- c. understanding what behaviour constitutes fraudulent and/or corrupt conduct, as well as maladministration and misconduct in public administration;
- d. maintaining an awareness of the strategies that have been implemented by the Council to minimise fraud and corruption;
- e. being continuously vigilant to the potential for fraud and/or corruption to occur; and
- f. reporting suspected or actual occurrences of fraud, or corruption, maladministration or misconduct in public administration, in accordance with the Officer's reporting requirements under the ICAC Act and the Ombudsman Act, whichever is applicable, or in the absence of any specific reporting requirement, to either a Relevant Authority (such as a Responsible Officer) or directly to SAPOL.

### 5.2.3. Specific Responsibilities

- a. Collectively, as the decision-making body of the Council, **Council Members** are responsible for ensuring that the Council:
  - i. promotes community awareness of the Council's commitment to the prevention of fraud and corruption;
  - ii. 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;
  - iii. ensures that, where appropriate, proper investigations are conducted into allegations that involve fraud or corruption;
  - iv. forwards information relating to the occurrence of fraud or corruption to SAPOL or to the OPI (as required) and facilitates cooperation with any investigation;
  - v. promotes a culture and environment in which fraud and corruption is actively discouraged and is readily reported should it occur; and
  - vi. undertakes a fraud and corruption risk assessment on a regular basis.
- b. The **Chief Executive Officer**, in addition to having those responsibilities which apply to all Managers and Employees pursuant to this Policy, is responsible for:
  - i. exercising and fulfilling the functions and responsibilities of the Council's principal officer under the PID Act, including appointing Responsible Officers and ensuring that relevant procedures are prepared and maintained in accordance with applicable guidelines under the PID Act;
  - ii. ensuring that all Employees are aware of their responsibilities in relation to fraud and corruption through the provision of appropriate and regular training.

- c. **Managers** are responsible for:
- i. the conduct of any Employees whom they supervise and, will be held accountable for such;
  - ii. any property under their control and, will be held accountable for such;
  - iii. reporting any suspected or actual occurrences of fraud, or corruption, maladministration or misconduct in public administration within the Council in accordance with any mandatory reporting obligations under the ICAC Act or the Ombudsman Act, or, in the absence of any specific reporting requirement, to the Chief Executive Officer, or, if the disclosure falls within the ambit of the PID Act, to a Relevant Authority (such as a Responsible Officer);
  - iv. 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;
  - v. 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 Council's Code of Conduct for Employees and this Policy;
  - vi. identifying potential fraud and corruption risks; and
  - vii. leading by example to promote ethical behaviour.
- d. **Employees** are responsible for:
- i. performing their functions and duties with care, diligence, honesty and integrity;
  - ii. conducting themselves in a professional manner at all times;
  - iii. adhering to this Policy and other Council procedures that have been established to prevent fraud or corruption;
  - iv. taking care of Council's property which includes avoiding the waste or misuse of the Council's resources;
  - v. maintaining and enhancing the reputation of the Council;
  - vi. remaining scrupulous in their use of the Council's information, assets, funds, property, goods or services;
  - vii. understanding their reporting obligations pursuant to the ICAC Act, the Ombudsman Act and the PID Act; and
  - viii. reporting any suspected or actual occurrences of fraud, or corruption, maladministration or misconduct in public administration within the Council, in accordance with any mandatory reporting obligations under the ICAC Act or the Ombudsman Act, whichever is applicable, or, in the absence of any specific reporting requirement, to a Manager or the Chief Executive Officer, or, if the disclosure falls within the ambit of the PID Act, to a Relevant Authority (such as a Responsible Officer).

### 5.3. Fraud and Corruption Risk Assessment Process

5.3.1. The Council strives to minimise and where possible eliminate the occurrence of Fraud and Corruption within the Council. This objective is generally achieved by:



- a) identifying Fraud and Corruption Risks;
- b) determining strategies to control those risks; and
- c) defining responsibility for and the time frame within which the strategies will be implemented.

5.3.2. Managers must be alert to the potential of fraud and corruption to occur and remain wary of factors which may leave the Council vulnerable to fraud and corruption, including:

- a) changes to Council delegations;
- b) implementation of cost cutting measures;
- c) contracting out and outsourcing;
- d) the impact of new technology; and
- e) changes to risk management practices.

#### **5.4. Reporting and Investigation**

5.4.1. Managers and other Employees who are aware of fraudulent or corrupt activity within the Council are required to report this information in a manner recognised by this Policy, being in accordance with the mandatory reporting requirements established by the ICAC Act or otherwise to either a Manager or the Chief Executive Officer or otherwise in a manner consistent with the provisions of the PID Act and Council's Public Interest Disclosure Procedure. As necessary, the Chief Executive Officer and/or Responsible Officer will ensure the Council complies with any reporting obligations as required by the OPI.

5.4.2. Any Council Member who is aware of fraudulent or corrupt activity within the Council is required to report this information in accordance with any mandatory reporting obligations established by the ICAC Act or otherwise to the Mayor and/or the Chief Executive Officer and/or a Responsible Officer. If the report is made to the Mayor, the Mayor must immediately make known the report to the Chief Executive Officer (unless such disclosure might compromise any investigation in circumstances where the report concerns the Chief Executive Officer).

5.4.3. The Chief Executive Officer must report any allegations involving fraud or corruption, to the Anti-Corruption branch of SAPOL or to the OPI in accordance with the Council's reporting requirements.

5.4.4. Appropriate disclosures of public interest information that fall within the ambit of the PID Act should be reported to a Responsible Officer. Reports of fraud or corrupt activity received by any person who is not a Responsible Officer, are to be forwarded to the Responsible Officer. The Responsible Officer will ensure that any allegations of fraud or corruption are, in the first instance, referred to the Anti-Corruption branch of SAPOL, or otherwise dealt with in accordance with the Council's obligations under the ICAC Act and the PID Act (as required).

5.4.5. When the Anti-Corruption branch of SAPOL or the OPI refer a report of alleged fraudulent or corrupt activity back to the Council, because SAPOL or the OPI have formed the view that the activity does not amount to fraud or corruption, the Council will conduct a review of the report in accordance with its own internal

investigation procedure and will report any findings of the review and provide recommendations (if any) to the Council.

5.4.6. Following any investigation undertaken by the Anti-Corruption branch of SAPOL (or ICAC), the Chief Executive Officer will ensure a review into any area in which the fraud or corruption occurred is undertaken 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.

5.4.7. Following consideration of a report provided to the Council in accordance with either of the two previous paragraphs, the Council will determine the action that is required to be taken to prevent any recurrence of the alleged or actual fraud and/or corrupt activity (if any).

5.4.8. In the event that allegations of fraudulent and/or corrupt activity are substantiated, the Council may take disciplinary action against any Council Employee who was involved, which may include the termination of employment.

5.4.9. In receiving and investigating reports made under the Policy, the Council will also take into account that:

- a. any Council Member, Manager or Employee may not identify that the information they have provided constitutes a public interest disclosure for the purposes of the PID Act;
- b. however, any Council Member, Manager or Employee who makes an appropriate disclosure of public interest information need not invoke the provisions of the PID Act, to be afforded the protections under that Act; and
- c. each report received by the Council under this Policy will be assessed so as to determine whether the provisions under the PID Act apply, and in which case, the Council will apply the process and procedures set out under its Public Interest Disclosure Procedure in the receipt, assessment and management of the complaint.

5.4.10. If there is any inconsistency between this Policy and the Council's Public Interest Disclosure Procedure, the Public Interest Disclosure Procedure will prevail to the extent of the inconsistency.

## **5.5. Educating for Awareness**

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

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

5.5.3. The Council will increase community awareness by:

- a. promoting the Council's initiatives and policies regarding the control and prevention of fraud and corruption on the Council website and its Council offices;
- b. making reference to the Council's fraud and corruption initiatives in the Council's Annual Report; and
- c. facilitating public access to all of the documents that constitute the Council's fraud and corruption framework.

## **5.6. Confidentiality and Publication Prohibitions**

5.6.1. A person who receives information knowing that the information 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(2) of the ICAC Act.

5.6.2. A person must not, except as authorised in writing by the Commissioner or the Director of OPI, or by a person approved by the Commissioner or the Director of OPI to give an authorisation, or by a court hearing proceedings for an offence against the ICAC Act, publish or cause to be published any of the following:

- a. information tending to suggest that a particular person is, has been, may be, or may have been, the subject of a complaint, report, assessment, investigation or referral under the ICAC Act;
- b. information that might enable a person who has made a complaint or report under the ICAC Act to be identified or located;
- c. the fact that a person has made or may be about to make a complaint or report under the ICAC Act;
- d. information that might enable a person who has given or may be about to give information or other evidence under the ICAC Act to be identified or located;
- e. the fact that a person has given or may be about to give information or other evidence under this Act; or
- f. any other information or evidence which is prohibited by the Commission.

5.6.3. 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 dismissal from employment.

5.6.4. In addition to the requirements in this part, Council Members and Employees should also be mindful of the confidentiality provisions in the Council's Public Interest Disclosure Procedure.

## **5.7. Action by the Chief Executive Officer**

5.7.1. Unless otherwise directed by OPI, the Ombudsman or SAPOL, the Chief Executive Officer will investigate how the alleged Corruption, Fraud, Misconduct or Maladministration occurred 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:

- a. occur as soon as practicable after the alleged incident; and
- b. not impose on or detract from any investigation being undertaken by the OPI, the Ombudsman or SAPOL;
- c. have regard to any recommendations in any report received from the Commission, the Ombudsman or SAPOL on the incident.

5.8. The Chief Executive Officer 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 Procedure, and any confidentiality requirements under the PID Act, the Ombudsman Act and/or ICAC Act.

5.9. Action taken by the Chief Executive Officer following an investigation into alleged Corruption, Fraud, Misconduct or Maladministration may include disciplinary action against any Employee involved in the incident, up to and including the termination of employment.

#### **5.10. False Disclosure**

5.10.1. A person who knowingly makes a false or misleading statement in a complaint or report under the ICAC Act or Ombudsman Act, or makes a disclosure of public interest information knowing that it is false or misleading for the purposes of the PID Act, is guilty of an offence.

5.10.2. An Employee who makes a false disclosure, in addition to being guilty of an offence as above, will be in breach of their obligations as an employee under the *Local Government Act 1999* and may face disciplinary action, which may include the summary termination of their employment.

5.10.3. Council Members who make a false disclosure, in addition to being guilty of an offence, may face disciplinary action pursuant to the Code of Conduct for Council Members.

### **6. Availability**

6.1. This policy is available for inspection via Council's website:  
[www.kangarooisland.sa.gov.au](http://www.kangarooisland.sa.gov.au)

6.2. Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer, Kangaroo Island Council, PO Box 121, Kingscote SA 5223

SIGNED:



Chief Executive Officer

**History:**

Date Reviewed:	Version:	Reason for Amendment:
17 August 2011	Version 1	Adopted by Council. Minute Book Reference
11 February 2013	Version 2	Minor amendments, format and layout
08 December 2015 Minute Ref: C433:2015	Version 3	Mandatory review post Local Government Election and inclusion of new logo and new <i>Act</i> and Policy influence.
14 August 2018	Version 4	Periodic Review Minute Ref# C266:2018
October 2019	Version 5	Review following introduction of PID Act
8 February 2022	Version 6	New template and full review including legislation changes to the ICAC Act and Ombudsman Act.