



Fraud and Corruption Prevention Policy

DOCUMENT AUTHORISATION

RESPONSIBLE OFFICER:		MANAGER OF GOVERNANCE, RISK AND CORPORATE PLANNING			
REVIEWED BY:		MANEX			
REVIEW DUE DATE:		February 2024			
DOCUMENT NUMBER:		NA			
VERSIONS	DATE	RESOLUTION NO	DESCRIPTION OF AMENDMENTS	AUTHOR / EDITOR	REVIEW / SIGN OFF
6	25/02/2021	14.02/21	Substantial amendments have been made to the Policy to exclude the procedural aspects which are to be incorporated into a Fraud and Corruption Control Plan. Further amendments have been carefully included to bring the Policy directly into line with the Australian Standard – AS 8001-2008.	Manager of Governance, Risk and Corporate Planning	Council
5	28/09/2017	15.09/17	Several changes have been made to comply with the guidance provided in the Fraud Control Improvement Kit as promoted by the Audit Office of New South Wales.	Manager of Risk and Compliance	Council
4	22/10/2015	13.10/15	Two (2) changes were made. The Risk Management Policy was added as a "Related Document" and an Implementation / Communication section was included.	Manager of Risk and Compliance	Council

Note: Document Control continued at Appendix A

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 General Manager

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 29/3/21
 Date

PURPOSE

The purpose of this Policy is to:

- Assist Council in identifying and dealing effectively with fraud and corruption occurrences;
- Protect public funds and assets; and
- Protect the integrity, security and reputation of Council and its staff by providing thorough civic leadership.

APPLICABILITY

This Policy applies to all Council staff, Councillors, volunteers, Section 355 Committee office bearers and committee members, key stakeholders such as suppliers, contractors and consultants, customers and relevant third parties regarding functions and operations undertaken for or on behalf of Council.

OUTCOMES

Glen Innes Severn Council is committed to fostering an environment that discourages fraud and corruption and focuses on its prevention through the implementation of an effective fraud control framework.

This commitment is based upon:

- A commitment to the prevention, detection, investigation, and prosecution of individual cases of fraud and corruption;
- Provision of a suitable environment for Councillors, staff members and third parties to report matters of a fraudulent and/or corrupt nature;
- Reinforcing a culture of awareness that fraud and corruption within Council will never be tolerated;
- Preventing fraud and corruption by targeting its causes through promotion of an ethical culture as demonstrated in Council's values of **RESPECT, INTEGRITY, COURAGE, HONESTY AND TRANSPARENCY**;
- The utilisation of an enterprise risk management system to assess fraud and corruption risks and provide robust internal controls aimed at mitigating the risk of fraud and corruption from being committed within the organisation; and
- Respect of the civil rights of employees and citizens and a commitment to natural justice.

ROLES AND RESPONSIBILITIES

Council

The Council will:

- Allocate enough resources to support the continuing function of fraud and corruption control processes and procedures; and
- Review this Policy from time to time to ensure that it complies with current legislation, follows Australian standards, emulates best practice and is achieving the Policy's aims.

General Manager

The General Manager will:

- Ensure that all allegations of fraudulent and/or corrupt behaviour are dealt with through the Code of Conduct complaint system;
- Where there is reasonable suspicion that corrupt conduct has occurred report this to the **Independent Commission Against Corruption (ICAC)**;
- Monitor the effectiveness of the Policy and the Fraud Control Plan operationally and authorise changes to improve compliance with this Policy; and
- Report to Council any issues that arise out of this Policy.

Executive Management Team (MANEX)

MANEX is responsible for:

- The implementation and ongoing operation of the Policy and Fraud Control Plan.

(Note: Primary responsibility will fall to the MANEX member responsible for corporate administration.)

All Council Leaders

Council directors, managers and supervisors will:

- Provide leadership for good governance in their respective departments and areas;
- Actively promote, including through example, the Code of Conduct for Council Staff;
- Ensure that fraud and corruption mitigation controls are in place, are relevant based on regular risk assessments, in line with this Policy and the Fraud Control Plan, and audited to ensure their effectiveness;
- Report promptly any fraud and/or corruption issues when they occur and pre-empt and proactively mitigate any potential issues before opportunity arises; and
- Ensure that external contractors, consultants, or volunteers are aware of and have access to this Policy and Council's Statement of Business Ethics.

All Staff

All staff:

- Must act with respect, integrity, courage, honesty, and transparency in all their dealings internally and externally;
- Must act lawfully and in accordance with the principles contained in the Code of Conduct for Council Staff; and
- Must report all unethical, corrupt and/or fraudulent practices, or practices that may potentially lead to such, to their supervisor or next available Council leader.

Governance Staff

In addition to the above, Council's governance staff will provide risk management advice to all Council staff, councillors, contractors, and volunteers as and when required.

Internal Audit

Internal Audit provides independent, objective assurance and consulting activity designed to add value and improve Council's operations. It helps Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, internal controls, and governance processes. The Internal Audit Charter defines Internal Audit's purpose, authority, and responsibility. Internal Audit is responsible for obtaining relevant data on fraudulent activities, for example ICAC reports, which can be used to inform Council's business processes. For example, an alleged or actual fraud may highlight weaknesses that may also exist in Council's systems. Internal audit is also responsible for examining the adequacy of Council's internal controls over high-risk processes and evaluating the potential for fraud and corruption to occur.

Internal audit also undertakes specific assignments on the adequacy of the fraud and corruption control framework and provides corruption prevention and probity advice.

External Audit

External Audit is responsible for obtaining reasonable assurance that the financial report is free from material misstatement, whether caused by fraud and corruption or error. When obtaining reasonable assurance, the External Auditor is responsible for maintaining professional scepticism throughout the audit, considering the potential for management override of controls and recognising the fact that audit procedures that are effective for detecting error may not be effective in detecting fraud and corruption.

The Audit, Risk and Improvement Committee promotes good governance by providing independent, objective assurance and assistance to Council on compliance, risk management, **fraud control**, governance, implementation of the strategic plan, delivery program, service reviews, collection of performance data by Council, and any other matters prescribed by the *Local Government (General) Regulation 2005*.

DEFINITIONS

Council: means Glen Innes Severn Council.

Council official: Includes Councillors, members of Council staff, Council Committee members, conduct reviewers and delegates of Council (including, but not limited to, volunteers, consultants and contractors performing Council works).

Corruption: Corruption is defined under the *Independent Commission Against Corruption Act 1988 (ICAC Act) No 35 (8)* as follows:

- (1) *Corrupt conduct is:*
 - (a) *any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority; or*
 - (b) *any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions; or*
 - (c) *any conduct of a public official or former public official that constitutes or involves a breach of public trust; or*
 - (d) *any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.*
- (2) *Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:*
 - (a) *Official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition);*
 - (b) *Bribery;*
 - (c) *Blackmail;*
 - (d) *Obtaining or offering secret commissions;*
 - (e) *Fraud;*
 - (f) *Theft;*
 - (g) *Perverting the course of justice;*
 - (h) *Embezzlement;*

- (i) *Election bribery;*
- (j) *Election funding offences;*
- (k) *Election fraud;*
- (l) *Treating;*
- (m) *Tax evasion;*
- (n) *Revenue evasion;*
- (o) *Currency violations;*
- (p) *Illegal drug dealings;*
- (q) *Illegal gambling;*
- (r) *Obtaining financial benefit by vice engaged in by others;*
- (s) *Bankruptcy and company violations;*
- (t) *Harbouring criminals;*
- (u) *Forgery;*
- (v) *Treason or other offences against the Sovereign;*
- (w) *Homicide or violence;*
- (x) *Matters of the same or a similar nature to any listed above, and*
- (y) *Any conspiracy or attempt in relation to any of the above.*

(2A) *Corrupt Conduct is also any conduct of any person (whether or not a public official) that impairs, or that could impair, public confidence in public administration and which could involve any of the following matters--*

- (a) *collusive tendering;*
- (b) *fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources;*
- (c) *dishonestly obtaining or assisting in obtaining, or dishonestly benefiting from, the payment or application of public funds for private advantage or the disposition of public assets for private advantage;*
- (d) *defrauding the public revenue;*
- (e) *fraudulently obtaining or retaining employment or appointment as a public official.*

Fraud: The Australian Standard on Fraud and Corruption Control (AS8001 – 2008) 1.7.8, defines Fraud as:

Dishonest activity causing actual or potential financial loss to any person or entity including theft of monies 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 the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit.

The theft of property belonging to an entity by a person or persons internal to the entity by where deception is not used is also considered 'fraud' for the purposes of this Standard.

Examples of Fraud could include, but are not limited to:

- Misappropriating Council's assets including use of Council assets for private purposes;
- Abuse of Council time;
- False invoicing, and /or invoicing for goods or services never rendered;
- Providing false or misleading information;
- Misuse of sick leave or carers leave; and
- Theft of cash, equipment, or tools.

Bribe: The act of paying a secret commission to another individual. It is also used to describe the secret commission itself.

Conflicts of Interest: The conflict between the public duty and private interest of a public official where the public official has private interests which could improperly influence his or her official duties and responsibilities.

Evidence: Oral testimony given in legal proceedings or which a witness indicates he or she is prepared to give under oath or affirmation in legal proceedings and documents of any description that can be legally admitted in a Court of Law.

Investigation: A search or collation of evidence connecting or tending to connect a person (or body corporate) with conduct that infringes the criminal law or policies, codes and standards set by Council.

Risk: The chance of something happening that will have an impact (positive or negative) on Council's objectives. A risk is often specified as an event or circumstance and the consequences that may flow from that. Risk is measured in terms of the consequences and their impact on Council's objectives and the possible and probable likelihood of the event happening.

Risk analysis: Systematic process to understand the nature of a risk and deduce its level of risk, which provides the basis for risk mitigation decisions.

Risk assessment: The complete process of risk identification, analysis, evaluation, control, and review.

The Policy (or, this Policy): Glen Innes Severn Council's Fraud and Corruption Prevention Policy.

POLICY STATEMENT

General Principles

- a) Fraudulent and/or corrupt acts against Council are unacceptable, may constitute a criminal offence, and may be prosecuted.
- b) Council asserts that proactive prevention (of fraud and corruption), rather than just reactive investigation, will lead to a greater reduction of opportunities for waste, abuse and/or mismanagement.
- c) All Councillors and Council managers are responsible for nurturing a culture of respect, integrity, courage, honesty and transparency, making fraud and corruption prevention a responsibility for all staff, and for issuing clear policies, standards and procedures to encourage, educate and enforce (where necessary) the minimisation and deterrence of fraud and corruption.
- d) Measures to prevent and detect fraud and corruption will be continually monitored, reviewed, developed, and reported.
- e) Council will investigate all reported instances of fraud and/or corrupt conduct thoroughly and with a commitment to procedural fairness.
- f) Depending on the specific circumstances of any reported fraud and/or corrupt conduct, an internal investigation may be undertaken, or the matter may be referred to an external body, such as the NSW Police, ICAC or the NSW Ombudsman.
- g) Any action taken against staff depends on the severity, scale, and significance of the fraudulent and/or corrupt activity and must be determined in accordance with any industry instruments, legislation, or contracts.
- h) Actions taken against delegates, members of Council Committees and/or volunteers depends on the severity, scale and significance of the fraudulent and/or corrupt activity and may include censure, counselling, referral to the NSW Police for prosecution for any breach of the law, removing or restricting the person's delegation and/or removing the person from membership of the relevant Council Committee.
- i) A breach of this Policy amounts to a breach of Council's (applicable) Code of Conduct.
- j) Council is committed to the recovery of financial losses caused by fraudulent and/or corrupt activity, balancing the value of reducing the potential benefits to fraudsters and any deterrent effect against the cost of recovering losses where they exceed the value of that loss.
- k) Council may, at its discretion, exercise any remedy under law against those found to be engaged in corrupt or fraudulent activity against Council.

A basic test for fraud could include the following questions:

- Was deceit employed?
- Was the action unlawful?
- Did it result in money/benefits being received to which the person was not entitled?

Some examples of fraud resulting in financial benefit include:

- Unauthorised use of Council plant and/or equipment;
- Theft of money and/or goods from Council or its customers;
- Claiming unworked time on timesheets;
- Providing confidential Council information to unauthorised people or organisations;
- Allowing contractors to not meet contract requirements; and
- Using false identity and/or false qualifications.

Corrupt conduct must also meet the conditions set out in section 9 of the ICAC Act.

These conditions are that the conduct could constitute or involve:

- a criminal offence; or
- a disciplinary offence; or
- constitute reasonable grounds for dismissing or otherwise terminating the services of a public official; or
- in the case of a member of the NSW Parliament or local government councillor, a substantial breach of an applicable Code of Conduct.

Some examples of corrupt conduct include, but are not limited to:

- Bribery;
- Obtaining or offering secret commissions;
- Collusive tendering;
- Defrauding the public revenue;
- Voting on a development matter in which the Councillor has an undisclosed financial interest;
- Selling confidential information; and
- Election fraud.

Reporting Corrupt Conduct

Council's Internal Reporting Policy defines the internal reporting procedure as follows:

- Disclosure officers – responsible for receiving, forwarding, or dealing with reports [see Appendix A of the *Internal Reporting Policy – Public Interest Disclosures (Guidelines and Procedures)*];
- Disclosure Coordinator;
- General Manager/Mayor; or
- ICAC.

Any breach of this Policy will be dealt with in accordance with the Internal Reporting Policy, relevant Code of Conduct, and relevant disciplinary procedures. The General Manager will sign off on all reports of suspected fraud and corruption and, in accordance with the ICAC Act, will report such matters to Council, the ICAC, and depending on the severity of the conduct, report the matter to the Police.

LEGISLATION AND SUPPORTING DOCUMENTS

Relevant Legislation, Regulations and Industry Standards include:

- *Independent Commission Against Corruption Act 1988*;
- *Local Government Act 1993*;
- *Local Government (General) Regulation 2005*;
- *Crimes Act 1900 (NSW)*;
- *Finance and Audit Act 1983*;
- *Protected Disclosures Act 1994*;
- *Public Interest Disclosures Act 1994*;
- *Public Finance and Audit Act 1983 (PF&A Act)*;
- *Local Government Amendment (Governance and Planning) Act 2016*;
- Australian Standard: AS 8001-2008 Fraud and Corruption Control; and
- Audit Office of New South Wales | Fraud Control Improvement Kit | February 2015.

Relevant Council Policies & Procedures include:

- Fraud Control Plan (once adopted);
- Code of Conduct;
- Procurement Policy;
- Privacy Policy;
- Internal Reporting Policy, Guidelines and Procedures;
- Risk Management Policy; and
- Statement of Business Ethics.

VARIATION AND REVIEW

This Fraud and Corruption Prevention Policy will be reviewed every three (3) years, or earlier if deemed necessary, to ensure that it meets the requirements of legislation and the needs of Council. The term of this Policy does not expire on the review date, but will continue in force until superseded, rescinded or varied either by legislation or a new resolution of Council.

Appendix A

Document Control – Continued

VERSIONS:	DATE:	RESOLUTION NO:	DESCRIPTION OF AMENDMENTS:	AUTHOR / EDITOR:	REVIEW / SIGN OFF:
3	24/10/2013	11.10/13	A new section was added - Section 9: Council Fraud and Corruption Responsibility Structure.	Manager of Risk and Compliance	Council
2	24/06/2010	8.06/10	Significant change to Section 8: Reporting of Suspected Corruption/Fraud. This section was updated to reflect the adoption of Council's Internal Reporting Policy in March 2009.	Director of Corporate & Community Services	Council
1	26/06/2008	7.06/08	The policy was developed because of guidelines produced by the Independent Commission Against Corruption (ICAC), and it is also a requirement within the Best Practice guidelines for Local Government in New South Wales to have such a policy.	Director of Corporate & Community Services	Council