

POLICY LOCATION	Corporate Services	POLICY TITLE	Fraud and Corruption Reporting
POLICY NUMBER	CA17	DATE ADOPTED	9 Feb 2022
REVISION NUMBER	3	REVISION DATE	Feb 2024

Purpose

The Council has a firm commitment to maintaining the highest standards of ethics and accountability and good governance practice. Council does not tolerate fraudulent or corrupt activities by its Workers, nor the taking of reprisals against those who come forward to disclose such conduct. Council will commence disciplinary action in respect of any person involved in fraudulent or corrupt activities.

Council expects Workers to act with propriety in all Council activities and is committed to educating Workers on their responsibilities for mitigating fraud and corruption risks and providing an organisational culture, supported by policies and procedures, to minimise, deter, detect, report, and investigate suspected fraudulent or corrupt incidents.

The purpose of this policy is to:

- Clearly document Council’s commitment to protecting Council property, assets, and public money against internal and external fraud and corruption;
- Provide a framework for the mitigation and control of fraud and corruption; and
- Facilitate reporting to Council of suspected fraudulent and corrupt activities.

This document represents the current policy of Council until it is revised or rescinded.

Scope

This Policy applies to all Workers of any organisation providing goods or services on behalf of Council and other approved users of Council assets.

This Policy encourages the making of protected disclosures of improper conduct to the Independent Broad-based Anti-corruption Commission (IBAC) in accordance with the *Public Interest Disclosures Act 2012 (Vic)* and Council’s Public Interest Disclosure Policy and Procedures. This Policy further facilitates the reporting to Council of suspected fraudulent and corrupt activities, where disclosure to IBAC is not appropriate or chosen. This Policy therefore operates in conjunction with those documents but does not restate the provisions contained within them.

Definitions

In this policy –

“Corruption” means a dishonest activity that is against the interests of Council and the abuse of a position to achieve personal gain or advantage for oneself or others.

Examples of corruption include:

- Asking for, payment of or receiving money, gifts and bribes for personal gain;
- Accepting favours for preferential treatment;
- A serious conflict of interest that is not managed and which may influence a decision;
- Manipulation of procurement processes so as to favour one tenderer over another;
- Nepotism, where an individual is appointed to a role due to their existing relationships, rather than on merit.

For the purposes of this policy, Corruption includes activities which may not constitute corrupt conduct within the meaning of the *Independent Broad-based Anti-corruption Commission Act 2011 (Vic)*, but for which the conduct still constitutes a dishonest activity that is against the interests of Council.

“Employee” means an employee of Council.

“Ethics” are the principles, morals and beliefs which guide us in our actions.

“Fraud” means a dishonest act involving the use of deception that causes actual or potential financial loss to Council.

Examples of fraud include, but are not limited to:

- Misappropriation of Council revenue in the form of cash, money orders, cheques or electronic funds transfer;
- Misuse of position to gain a financial advantage, including improperly obtaining allowances;
- Misuse or theft of Council data and information, including selling information;
- Private use of Council property, buildings, plant, equipment, vehicles or other Council assets and inventory;
- Misuse of fleet or corporate cards;
- Theft of Council assets including but not limited to property, plant, equipment or vehicles;
- Falsifying travel expenses and overtime claims on timesheets;
- False invoicing of goods or services not received or delivered, or inflating the value of the goods and services;
- Alteration or destruction or forgery of data for fraudulent purposes or misappropriation of software owned or licensed by Council;
- Business identity fraud which occurs when commercially sensitive information is used without permission to obtain credit, goods or other services fraudulently;
- Misuse of one’s position to gain a financial advantage; and
- Misrepresentation of qualifications in order to secure a particular position of employment. Fraud also includes but is not limited to dishonest activity that is sufficient to constitute an offence under the *Crimes Act 1958 (Vic)*.

“Risk Management” the principles, framework and processes in place for managing risk effectively.

“Risk” the effect (both positive and negative) of uncertainty on objectives.

“Workers” means a Council employee, contractor, volunteer, Councillor, Chief Executive Officer or work experience student.

Policy Statement

Council acknowledges the importance of demonstrating to the residents and ratepayers of the Buloke Shire that Council is managing its business efficiently, effectively, and ethically to deliver results, including through:

- The adoption of a risk management approach to fraud and corruption;
- The minimisation and deterrence, detection, investigation, and prosecution of cases of fraud and corruption; and
- The promotion and maintenance of a high standard of ethical behaviour and fraud and corruption awareness.

Fraud and corruption control is concerned with the effective utilisation of resources and the minimisation of waste, mismanagement and fraudulent or corrupt activity.

Measures to mitigate fraud and corruption should be continually monitored, reviewed, and developed, particularly as new systems or arrangements are introduced or modified.

Council will actively seek to minimise and deter fraud and corruption at its origin through the development and maintenance of an effective integrity framework. The framework provides oversight on matters including but not limited to conflicts of interest, employment, procurement, misuse of information, assets and resources, delegations and authority, and unlawful/inappropriate conduct.

Fraud and corruption flourishes in an environment where there are insufficient controls to mitigate waste, abuse, and mismanagement. Council believes an emphasis on fraud and corruption mitigation, rather than fraud and corruption investigation, will lead to a reduction of these opportunities for waste, abuse, and mismanagement.

Prompt action does, however, need to be taken when fraud and/or corruption are detected, both to bring the fraud and/or corruption to an end and to discourage others who may be inclined to commit similar actions.

Fraud is a crime which is punishable by law under the *Crimes Act 1958 (Vic)* which can result in loss or detriment to Council's reputation, damage to business relations, a decline in staff working morale and external investigation.

This Policy is committed to and guided by the principles of:

- The highest standards of legal, ethical and moral behaviour;
- Ensuring the organisational culture and embedded controls effectively mitigate fraud and corruption;
- Natural justice; and
- Ensuring compliance with the *Public Interest Disclosures Act 2012 (Vic)* and Council's Public Interest Policy and Procedures.

Council is committed to protecting property, assets and public money against internal and external fraud and corruption. Key elements of this involve:

- Implementing effective internal control structures and procedures which aim to eliminate the opportunity for fraud and corruption to occur. This can be achieved by analysing operational risks to proactively identify potential opportunities for fraudulent acts and implementing internal controls and separating roles and functions;

- Development and maintenance of Council's risk register and fraud register in documenting risks to Council and current and proposed controls;
- Requiring all new Employees to undertake fraud and corruption awareness training during their induction and facilitating ongoing fraud awareness modules on a regular basis by the relevant Officer;
- Encouraging all Workers to report suspected fraud-related or corruption-related activity or behaviour, considering confidentiality requirements and protection for the person reporting the suspected fraud or corruption either informally or in accordance with the *Public Interest Disclosures Act 2012 (Vic)*, as applicable;
- Confirming Council's ongoing commitment to a policy of minimisation and deterrence, detection, investigation and prosecution of individual cases of fraud and corruption, including formal discipline and/or referral to the Victorian Police and/or IBAC (where applicable); and
- Establishing reporting protocols which require all Workers to report suspected fraud and corruption.

Guidelines

Reporting Fraud and Corruption

1. All Workers have a responsibility to identify and act on fraud and corruption risks and report incidents of suspected fraud or corruption encountered during work activities.
2. Where a member of the public reports alleged fraudulent or corrupt activities of a Worker, such report shall be treated in accordance with Council's Public Interest Policy and any associated procedures.
3. Any Worker who becomes aware, or has grounds to suspect, fraud or corruption has been carried out by another Worker, must report the matter as soon as possible to their immediate Supervisor or Director or in accordance with Council's Public Interest Disclosure Policy and any associated procedures, as applicable.
4. Any Worker who becomes aware, or has grounds to suspect, fraud or corruption has been carried out by the Chief Executive Officer, must report the matter as soon as possible to the Mayor.
5. Any Worker who becomes aware, or has grounds to suspect, fraud or corruption has been carried out by a Councillor, must report the matter as soon as possible to the Chief Executive Officer or the Mayor.
6. In the event of an alleged fraudulent or corrupt activity, the person against whom the allegations are made shall be notified at the earliest available opportunity. Any such person shall have a support person and/or receive assistance and support under Council's Employee Assistance Program policy and procedures during an investigation into any such conduct but is not obliged to do so.
7. Workers do have the option to report suspected fraud or corruption directly to an external agency and should make themselves aware of Council's Fraud and Corruption Reporting Procedure and Public Interest Disclosure policy and any associated procedures, as applicable.

Investigating Fraud and Corruption

1. The Chief Executive Officer or his or her delegate will decide how any investigation into fraud or corruption will be conducted, including whether any external assistance is to be sought. However where an allegation is made against the Chief Executive Officer into fraud or corruption, the Mayor is responsible for reporting such allegations. All decisions shall be recorded and the response (if any) recorded. The provisions of the *Public Interest Disclosures Act 2012* will otherwise be followed, as appropriate.
2. Council respects the civil rights of individuals, including Workers, and is committed to natural justice and the protection of those making protected disclosures. In circumstances where the allegation of fraud or corruption carries the imputation of criminal conduct, then such a Worker's right to silence shall be recognised.

Responsibility

1. The Councillor Code of Conduct and Staff Code of Conduct provides guidance to Workers regarding accepted practice and behaviour. Council values also reinforce ethical behaviour.
2. The Chief Executive Officer is the Officer responsible for fraud and corruption control within Council.
3. Councillors, the Chief Executive Officer and Senior Managers are responsible for creating an environment within their departments which makes active fraud and corruption control a responsibility of all Workers.
4. Councillors, the Chief Executive Officer and Senior Managers are responsible for ensuring there are clear standards and procedures to minimise and deter fraud and corruption.
5. Senior Managers have responsibility for undertaking a risk assessment and identifying potential risk areas within their Department and establishing and monitoring controls to eliminate or reduce the fraud and corruption risk. Such controls must be documented and reviewed.
6. Senior Managers are to display a commitment to help set high standards, be vigilant about identifying problems and ethical dilemmas, and will request Workers to come forward about potential problems or concerns.
7. Senior Managers and Supervisors will ensure all contractors engaged within their department are aware of Council's Fraud and Corruption Reporting Policy and Procedures and reference to these are incorporated into contracts to ensure contractors and their employees are aware of their responsibilities and acceptable behaviours.
8. All Workers must familiarise themselves with the Fraud and Corruption Reporting Policy and Procedures.
9. All Workers have a responsibility to safeguard Council assets against misuse or improper use or the appearance of misuse or improper use and must not use their position with Council to improperly gain personal advantage or confer advantage or disadvantage on any other person.
10. A review of this Policy and an evaluation of fraud and corruption control arrangements is to be undertaken every two years as a minimum.

Breach of this Policy

Council may take disciplinary action against an Employee who is found to breach this policy and its associated procedures in accord with Council's Disciplinary Action policy. Such disciplinary action will be separate to any actions taken by external agencies such as Victoria Police or IBAC.

Suspected breaches of this policy by all other Workers will be referred to the Chief Executive Officer in accord with Council's mandatory notification requirements.

References

This Policy was developed in accord with:

- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Crimes Act 1958 (Vic)*
- *Freedom of Information Act 1982 (Vic)*
- *Independent Broad-based Anti-corruption Commission Act 2011 (Vic)*
- *Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019 (Vic)*
- *Local Government Act 2020 (Vic)*
- *Privacy and Data Protection Act 2014 (Vic)*
- *Public Interest Disclosures Act 2012 (Vic)*
- *Public Interest Disclosures Regulations 2019 (Vic)*
- Buloke Shire Public Interest Disclosure Framework
- Buloke Shire Councillor Code of Conduct
- Buloke Shire Council Staff Code of Conduct
- Buloke Shire Council Employee Assistance Program Policy
- Buloke Shire Council Procurement Policy