

# FRAUD AND CORRUPTION FRAMEWORK APRIL 2024

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# CONTENTS

|  |           |
|--|-----------|
| Introduction.....  | 4         |
| Scope .....  | 4         |
| Objectives.....  | 4         |
| Relevant Guidelines .....  | 5         |
| Relevant Legislation .....   | 5         |
| Relevant Council Policies and Documents .....                      | 5         |
| Responsibility Structure.....                                      | 6         |
| Principals of the Framework.....                                   | 9         |
| <b>Prevention .....</b>  | <b>10</b> |
| Fraud and Corruption Control Policy.....                           | 10        |
| Responsibility Structure.....                                      | 10        |
| Fraud & Corruption Risk Assessment .....                           | 10        |
| Employee and Councillor Awareness.....                             | 11        |
| Customer and Community Awareness.....                              | 11        |
| <b>Detection .....</b>   | <b>12</b> |
| Detection Systems .....  | 12        |
| Notification Systems (Reporting Suspected Fraud & Corruption)..... | 12        |
| External Notification Systems.....                                 | 13        |
| <b>Investigation .....</b>   | <b>16</b> |
| Guiding Principles .....   | 16        |
| Investigation Systems .....  | 16        |
| Conduct & Disciplinary Systems .....                               | 19        |
| <b>Implementation .....</b>  | <b>20</b> |
| <b>Monitor and Review.....</b>                                     | <b>21</b> |
| Framework Review.....  | 21        |
| Health Checks and Improvement Workshops .....                      | 21        |
| Fraud and Corruption Risk Assessments.....                         | 21        |
| Code of Conduct .....  | 22        |
| Annexure A - Top 10 Attributes of Fraud .....                      | 23        |

## References

- *Standards Australia AS 8001-2008 - Fraud and Corruption Control.*
- Independent Commission Against Corruption
- *AS/NZS ISO 31000:2018 - Risk Management.*
- Audit Office of NSW - "*Fraud Control Improvement Kit February 2015): Managing Your Fraud Control Obligations*".
- ICAC - "*A Guide to Conducting Internal Investigations*" - Fact Finder 2009

## **Executive Summary**

Warren Shire Council has zero tolerance for corrupt conduct or fraudulent activities. Council is committed to preventing, deterring and detecting fraudulent and corrupt behaviour in the performance of Council activities.

This Fraud and Corruption Control Framework clearly documents Council's approach to controlling fraud and corruption at both strategic and operational levels and is to be read in conjunction with Council's Fraud and Corruption Policy, other relevant Councils policies and documents as well as related legislation and guidelines.

Council expects the co-operation of Councillors, staff members and key stakeholders, including customers and members of the community, in the successful implementation of this Control Plan in the pursuit of an environment that is free of fraudulent and corrupt behaviour at all levels of the organisation.

Gary Woodman  
**General Manager**

## Definitions

The following definitions are provided for key terms and phrases used in this Framework:

**Corruption** – is defined in Section 8 and 9 of the *Independent Commission Against Corruption Act 1988*. **Corrupt Conduct** is:

- Conduct of a person (whether or not a public official) that adversely affects, or could affect the honest and impartial exercise of public official functions; or
- Conduct of a public official that involves the dishonest or partial exercise of any of his or her public official functions; or
- A breach of public trust; or
- The misuse of information or material acquired in the course of a public official's functions.

Corrupt conduct can also include the conduct of any person (whether or not a public official) that adversely affects or could affect the exercise of official functions and involves conduct such as bribery, blackmail, fraud, forgery and various other crimes.

For conduct to be corrupt it must be covered by one of the conditions above and also any one of the following:

- A criminal offence; or
- A disciplinary offence; or
- Reasonable grounds for dismissal or dispensing or terminating the services of a public official.

**Fraud** – Fraud can be defined as a deliberate and premeditated turn of events which involves the use of deception to gain advantage from a position of trust and authority. The type of events include: acts of omission, theft, the making of false statements, evasion, manipulation of information and numerous other acts of deception (Audit Office of NSW).

**Maladministration** - Maladministration is defined as conduct that involves action or inaction of a serious nature that is contrary to law; or unreasonable, unjust, oppressive, improperly discriminatory; or based wholly or partly on improper motives (*Public Interest Disclosure Act 1994*). Refer Council Public Interest Disclosures Policy

**Serious or substantial waste** - refers to the uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss/wastage of public funds/resources.

**Code of Conduct** - is Councils adopted code of conduct policy.

**Control (also 'internal control')** - is an existing process, policy, device, practice or other action that acts to minimise negative risks or enhance positive opportunities.

**Fraud & Corruption Risk Assessment** - is the application of risk management principles and techniques in the assessment of the risk of fraud and corruption within an entity.

## Introduction

Council's adopted *Fraud & Corruption Control Policy* confirms Council's commitment to proactive and effective prevention, detection and investigation of fraud and corruption.

This Framework draws together all of the governance, policy and procedural elements to be applied throughout the organisation to manage the risk of fraud and corruption within and against Council, and details the responsibilities of Councillors, Senior Management and all staff members.

## Scope

This Framework applies to all Council staff members; Councillors; volunteers; Section 355 Committees; key stakeholders such as suppliers, contractors and consultants; customers; members of the community; and relevant third parties with regard to functions and operations undertaken for or on behalf of Council.

## Objectives

The objectives of this Framework are to:

- To support the overarching Governance Framework of Warren Shire Council;
- Eliminate or reduce opportunities for fraudulent or corrupt activities within or against Council;
- Promote an organisational environment that encourages professionalism, integrity and ethical conduct;
- Uphold a commitment to accountable and transparent decision making;
- Ensure that the identification and management of fraud and corruption risks are undertaken in line with the principles and procedures detailed in Council's Enterprise Risk Management Policy and Framework;
- Support the identification and implementation of appropriate internal controls, including procedures and policies, which support the prevention and detection of fraudulent or corrupt activities;
- Support the implementation and maintenance of effective reporting disclosure systems and investigation and disciplinary procedures for suspected or actual fraudulent or corrupt behaviour;
- Clearly define the responsibilities of Councillors, Senior Management, all staff and Committees of Council in relation to the prevention, detection, reporting and investigation of fraud and corruption; and
- Provide Councillors, Senior Management and all staff with the necessary tools and understanding to meet their responsibilities in this regard.

## Relevant Guidelines

This Framework aligns with the following 'Best Practice' guidelines:

- *AS8000-2003 - Corporate Governance Standards Set, including AS 8001-2008 - Fraud and Corruption Control;*
- *AS/NZS ISO 31000:2018 - Risk Management; and*
- *NSW Audit Office Fraud Control Improvement Kit (2015).* Specifically the ten (10) fraud control attributes developed by the Audit Office of NSW as below and detailed at [Annexure A](#):
  1. Leadership;
  2. Ethical Framework;
  3. Responsibility Structures;
  4. Fraud Control Policy;
  5. Prevention Systems;
  6. Fraud Awareness;
  7. Third Party Management Systems;
  8. Notification Systems;
  9. Detection Systems; and
  10. Investigation Systems.

## Relevant Legislation

This Framework links with the following legislation:

- *Local Government Act 1993;*
- *Local Government (General) Regulation 2021;*
- *Independent Commission Against Corruption Act 1988; and*
- *Public Interest Disclosures Act 1994.*

## Relevant Council Policies and Documents

The following Council policies and procedures support this Framework:

- Fraud and Corruption Control Policy;
- Code of Conduct;
- Public Interest Disclosures Policy;
- Audit Office of NSW Fraud Control Improvement Kit;
- Risk Management Policy and Framework;
- Statement of Business Ethics and
- Grievance and Dispute Resolution Policy and Procedure.

## Responsibility Structure

Council has clearly defined responsibilities for implementing and monitoring actions associated with fraud and corruption control across Council and in relation to this Framework. These responsibilities will be clearly communicated to Councillors, staff, management and relevant Council Committees and will be detailed in position descriptions and committee charters so that there is a common understanding of fraud and corruption control responsibilities and expectations.

### All Staff

All Council staff are responsible to:

- Prevent and mitigate fraud, corruption, maladministration and waste within their area of operation and responsibility by, at a minimum, implementing and abiding by relevant internal controls and adhering to this Framework;
- Operate systems of internal control to prevent and detect fraud or corruption in accordance with instructions and established procedures;
- Report all instances of suspected or attempted fraudulent or corrupt conduct in accordance with Council's internal reporting procedures;
- Protect colleagues who have made reports of fraud or corruption from detrimental action;
- Have regard to fraud and corruption related risks when undertaking risk assessments in relation to Council's daily functions and operations, when specific projects or events are planned, or when changes to Council's systems, processes or functions occur;
- Provide co-operation and assistance to investigators or officials investigating suspected or reported fraud or corruption; and
- Undertake any responsibilities allocated to them in other relevant Council policies.

### Managers, Co-ordinators, and Team Leaders

In addition to their responsibilities as Council staff members, Managers, Co-ordinators, and Team Leaders will:

- Assess the risks of fraud and corruption and the effectiveness of internal controls in place to mitigate such risks within their areas of operation and responsibility;
- Implement recommendations arising from fraud and corruption detection systems and internal audits;
- Monitor their workplaces to identify and address situations that are likely to raise ethical dilemmas or place staff in compromising situations (i.e. by establishing good procedural guidance for decision- making, including the exercise of discretion);
- Be available and support staff that require guidance on ethical dilemmas;
- Foster a work environment free of harassment, discrimination, victimisation, corruption, fraud, maladministration and waste;
- Ensure that staff are aware of the principles contained in Council's Code of Conduct and the established systems and procedures for addressing ethical problems;
- Support and protect staff who report, in good faith, instances of potentially unethical, fraudulent or corrupt practices;
- Ensure that staff are treated fairly, equitably and in accordance with legislation and policy (eg. access to training and other development possibilities); and
- Ensure that contractors, consultants, suppliers, and the like, engaged within their area of operation are aware of and have an understanding of Council's Fraud and Corruption Policy and Framework and related Council policies and procedures and that these documents are readily available to them.

## Executive Services Section

In addition to their responsibilities as Council staff members, Council's Executive Services Section is responsible to:

- Develop, implement and review fraud and corruption related Council policies, procedures and training proposals, including this Framework;
- Maintain a register of all reported actual or suspected fraudulent or corrupt activities and investigations and periodically report the register to Council's Audit, Risk and Improvement Committee (ARIC);
- Liaise with internal and external investigators;
- Ensure a high quality of fraud and corruption investigation procedures and reports; and
- Undertake internal reporting responsibilities in accordance with Council's *Internal Reporting (under Public Interest Disclosures Act 1994) Policy*. Council's Divisional Manager Finance and Administration is Council's nominated Disclosures Co-ordinator.

## Management Executive Team (Manex)

In addition to their responsibilities as Council staff members (Manex) is responsible for actively fostering an ethical culture and supporting and promoting the objectives of this Framework throughout the organisation by:

- Setting an example of observable adherence to Council's Code of Conduct, Fraud and Corruption Framework and related Council policies and procedures;
- Supporting and promoting ongoing identification, analysis, mitigation and review of fraud and corruption risks and internal controls;
- Setting an example of internal control adherence in relation to identified fraud and corruption risks;
- Implementing recommendations arising from fraud and corruption detection systems and internal audits;
- Supporting fraud and corruption awareness programs for Councillors and staff;
- Supporting the continued operation of Council's Audit, Risk and Improvement Committee in the pursuit of successful enterprise risk management;
- Foster a work environment free of harassment, discrimination, victimisation, corruption, fraud, maladministration and waste; and
- Undertake internal reporting responsibilities in accordance with Council's *Internal Reporting (under Public Interest Disclosures Act 1994) Policy* and notify the Divisional Manager Finance and Administration of all fraud and corruption matters reported via the various channels.

## General Manager

In addition to responsibilities as a Council staff member, the General Manager is responsible to:

- Implement Council's Fraud and Corruption Policy and Framework;
- Promote ethical behaviour and awareness that fraud and corruption will not be tolerated;
- Receive reports of suspected fraud and corrupt conduct, maladministration and serious and substantial wastage; and receive allegations of reprisal action, in accordance with *Council's Internal Reporting (under Public Interest Disclosures Act 1994) Policy*;
- Ensure that all reports of suspected fraud or corruption, maladministration, serious and substantial wastage are referred to the ICAC as required. *Refer section 11 ICAC Act*;
- Keep the Council informed in line with ICAC directions about confidentiality;
- Make decisions about reporting criminal matters to the New South Wales Police Force;
- Receive summary information about investigations undertaken into suspected fraud and corruption;



- Ensure that Council's Fraud and Corruption Framework and related policies and procedures are adequate and that regular reviews and checks are undertaken to detect irregularities. The ARIC may assist in this process;
- Make decisions regarding restitution and criminal charges in all cases of fraud and corruption and
- Decide what disciplinary action is appropriate for employees involved in fraud and corruption.

### **The Council**

The Council is responsible for:

- Implementing and promoting Council's overall approach to fraud and corruption control;
- Assessing and dealing with issues related to fraud and corruption control as the need arises; and
- Decide what disciplinary action is appropriate for Councillors involved in fraud and corruption in cases where it is not decided by the relevant Officer of the Office of Local Government.

### **Audit, Risk and Improvement Committee (ARIC)**

Council's Audit, Risk and Improvement Committee is responsible to:

- Oversee Council's fraud and corruption control program;
- Approve reviews of the Fraud and Corruption Framework;
- Review and Council's Fraud and Corruption Risk Assessment and Register;
- Advise Councillors of all breaches of Fraud;
- Recommend Fraud and Corruption Control Health Checks and Improvement Workshops at least once every three years; and
- Other relevant responsibilities in accordance with the Audit, Risk and Improvement Committee Charter.

### **Internal Auditor**

Council recognises that internal audit is an effective part of the overall control environment.

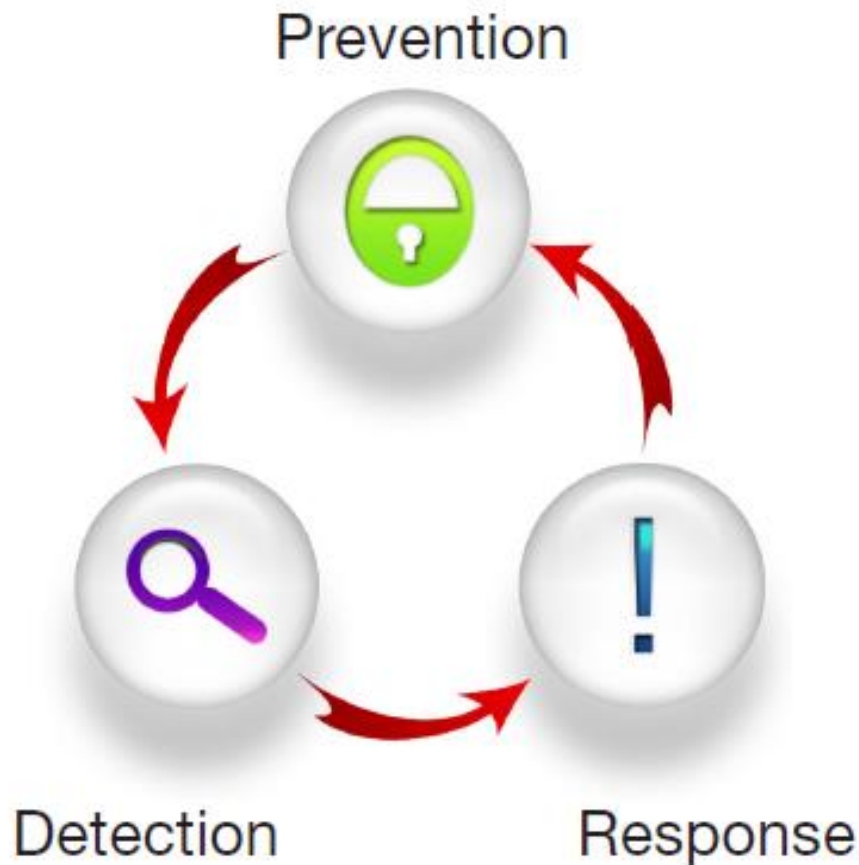
Whilst undertaking audits within Council the Internal Auditor is responsible to:

- Examine and evaluate the effectiveness of internal controls;
- Make recommendations to Council management to further enhance internal control design and effectiveness; and
- Make notifications of actual or suspected instances of fraud and corruption in accordance with relevant reporting procedures.

## Principals of the Framework

The principals of the framework are shown in the figure below and detailed in the following pages. They are:

1. Prevention
2. Detection
3. Response



Audit Office “Fraud Control and Improvement Kit” 2015

These principals are further guided by the ten attributes as detailed in the Audit Office of NSW Fraud Control Improvement Kit (February 2015), Managing your fraud control obligations.

1. Leadership
2. Ethical Framework
3. Responsibility Structures
4. Fraud Control Policy
5. Prevention Systems
6. Fraud Awareness
7. Third Party Management Systems
8. Notification Systems
9. Detection Systems
10. Investigation Systems

# Prevention

This section of the document details the strategies that are in place to identify and prevent fraud and corruption risks within or against Council.

## Fraud and Corruption Control Policy

Council's adopted *Fraud and Corruption Policy* reinforces Council's commitment to fraud and corruption prevention by providing guidance regarding Council's actions and expectations in relation to fraud and corruption. The Policy also confirms that fraud and corruption prevention is the responsibility of Councillors, Senior Management and every Council employee.

## Responsibility Structure

The organisational responsibilities for implementing and managing Council's Fraud & Corruption Framework; and Councillor, staff and Senior Management responsibilities in relation to the prevention, detection and investigation of fraud and corruption; are clearly defined earlier in this document.

In addition, Council's *Public Interest Disclosures Policy* (under *Public Interest Disclosures Act 1994*) identifies the responsibilities of staff and Councillors, and provides procedures for reporting and handling of Public Interest Disclosures.

Fraud and corruption control responsibilities will be communicated to all levels of the organisation to ensure that there is a common understanding of fraud and corruption responsibilities and expectations. Further details of the responsibility structure is outlined in the Fraud and Corruption Policy.

## Fraud & Corruption Risk Assessment

Council will undertake high level Fraud and Corruption Risk Assessment workshops in relation to the various functions and operations of Council. These workshops will:

- Identify specific fraud and corruption risks;
- Rate the likelihood and consequence of each fraud and corruption risk with and without existing controls;
- Review the adequacy of existing internal controls; and
- Develop action plans to treat the identified risks.

Council's identified fraud and corruption risks, internal controls and proposed risk treatment action plans will be documented and recorded in Council's Corporate Risk Register.

Council will continue to assess fraud and corruption risks periodically as part of Council's enterprise wide approach to risk management. Furthermore, as resources and budget permits, Council will identify high fraud and corruption risk areas and activities and conduct a more detailed risk assessment involving key staff in each section.

A review of Council's Fraud & Corruption Risk Register will be undertaken on an annual basis to ensure that additional fraud and corruption risks are identified as they emerge and that Council's operations and functions, particularly those with a high predisposition to fraud and corruption, are subject to ongoing and effective internal controls.

Council recognises that internal audit complements internal assessment of fraud and corruption related risks and controls and therefore independent identification and assessment of Council's

fraud and corruption risks will be arranged with Council's Internal Auditor and ARIC as warranted.

## Employee and Councillor Awareness

Council will make the following clear to staff, Councillors, volunteers and contractors:

- The ethical behaviours expected of them in the workplace; and
- That the organisation will not tolerate corruption, including fraudulent dealings, and that people are encouraged to provide information if they suspect corruption is occurring.

Council has the following processes in place to ensure awareness of Council's position in respect to fraud and corruption:

- Induction training that includes elements of fraud and corruption;
- Provision of Fraud and Corruption Control Training for Managers and Team Leaders;
- Provision of Code of Conduct training to ensure an understanding of the ethical behaviour expected in the workplace and the types of activities that may constitute fraudulent or corrupt behaviour and Council's response to this type of activity;
- Public Interest Disclosure Training for all staff; and
- Making Council's Fraud and Corruption Framework and related policies and procedures readily available.

## Customer and Community Awareness

Council will communicate the following to key stakeholders, including customers and members of the general and business community, to ensure confidence in the integrity of the organisation:

- That Council will not tolerate fraudulent and corruption behaviour and perpetrators will be prosecuted; and
- That key stakeholders are encouraged to provide information if they suspect fraud or corruption is occurring and that there are channels available for them to do so.

Council will communicate the above principles via the following:

- **Statement of Business Ethics**  
Council's Statement of Business Ethics outlines expected behaviour, key code of conduct principles, Council expectations, conflict of interest protocols, gifts and benefits protocols and how to report corruption, maladministration and wastage.

Council's Statement of Business Ethics is:

- Available on Council's website; and
  - Incorporated into and referred to in tender invitations and/or contract documentation.
- **Policy Register**
    - Council's website includes a Policy Register of all key Council policies.

# Detection

This section of the Framework deals with Council's approach to the early detection of fraudulent and corrupt behaviour within or against the organisation.

It is noted that Council's Fraud & Corruption Risk Assessment and Responsibility Structure detailed earlier in the document also support this part of Council's Framework.

## Detection Systems

Council recognises the importance of early warning systems to alert possible fraud and corruption and that the implementation and maintenance of a rigorous system of internal controls is the first line of defence against fraud and corruption within and against Council.

Council therefore requires all organisational activities to be designed with an awareness of the fraud and corruption risks that may arise and management controls to be put in place to reduce the risk to an acceptable level.

Council has identified a number of existing internal controls relevant to the fraud and corruption risks faced by Council. These controls include:

- Review by a senior officer;
- Segregation of duties;
- Authorisation / approval by a senior person;
- Supervisor checks;
- Visual inspections;
- Audit trails;
- Audits; and
- Reconciliations.

Council will review its internal controls in conjunction with its fraud and corruption risk assessment review on at least an annual basis in consultation with relevant Council staff to ensure that internal controls remain in place and effective and that additional internal controls are identified and recorded.

## Notification Systems (Reporting Suspected Fraud & Corruption)

Council recognises that ignoring fraud or corruption is tantamount to endorsement of the activity. As such Council will create and foster an organisational culture and environment:

- That supports reporting of suspect actions and behaviour.
- Where staff, volunteers and contractors feel comfortable reporting matters; and
- That promotes confidence in the fact that Council will address complaints genuinely and protect anyone who reports such an activity from reprisal.

The following policies, procedures, documents and systems establish and facilitate the notification of suspected or actual fraudulent and corrupt behaviour to Council.

### **Internal Reporting (under *Public Interest Disclosures Act 1994*) Policy**

Council's adopted *Public Interest Disclosures Policy (under Public Interests Disclosures Act 1994)* complements normal communication channels between Council supervisors and staff members by providing the following:

- Appropriate avenues for reporting fraudulent and corrupt conduct internally and detailing options available for reports to be made to external authorities;
- An assurance that any person who makes disclosures receives protection from reprisals;

and

- Confirming Council's commitment to appropriately investigating matters raised in public interest disclosures.

Council's Policy also details the responsibilities of Council's nominated Disclosure Co-ordinator, Disclosure Officers, General Manager and Mayor in relation to Council's Internal Notification and Reporting Systems.

### **Statement of Business Ethics**

Council's Statement of Business Ethics is required to be written into the contracts of third parties dealing with Council, and those who may be seen by the public as representing Council, such as suppliers, consultants and contractors.

The statements makes third parties aware that they, and their employees, must adhere to Council's ethical standards; report any suspected or alleged fraud or corruption involving the Council to the General Manager; and that breaches of the Statement may result in penalties being imposed and possible cancellation of their contract.

### **Code of Conduct**

Council's Code of Conduct establishes the standard of ethical behaviour expected of all Council staff and Councillors and therefore supports the objectives of this Framework.

Code of Conduct training is provided to Councillors and all staff upon induction and periodically throughout their term of employment to ensure awareness in this regard.

It is noted that in some cases a breach of Council's Code of Conduct may constitute fraudulent or corrupt behaviour. Such breaches will be investigated in accordance with relevant sections of this Framework and any relevant Human Resources policies and procedures. Where deemed necessary, Council will take the appropriate disciplinary action.

### **Complaints Management**

Council's *Complaints Management Policy* sets out Council's approach and procedures for receiving and effectively and positively handling complaints from any person, group or organisation (or their representative) that uses Council's services or is impacted by Council's decisions, actions or lack of actions.

The Policy also details the avenues available for the lodgement of complaints to Council and reinforces that complainants will not be subject to disadvantage or victimisation.

### **Grievance Handling Procedure**

Council's Grievance Procedure provides avenues for Council staff to report grievances and the manner in which such reports will be managed by Council.

The Procedure reinforces that Council will apply equity and confidentiality in dispute resolution processes and work towards expediting a return to productive and harmonious workplace relations for all involved.

## **External Notification Systems**

Council recognises that it has a legal obligation to:

- Report fraudulent conduct to the police;
- Report suspected corruption to the Independent Commission against Corruption (ICAC); and
- Notify other external authorities as appropriate.

The following policies and procedures detail Council's approach to notifying external authorities. Other external bodies may also be relevant in particular situations (eg. ATO) and will be notified where necessary.

#### **Internal Reporting (under *Public Interests Disclosures Act 1994*) Policy**

Council's adopted *Public Interest Disclosures Policy (under Public Interests Disclosures Act 1994)* details the procedures for external reporting to the Independent Commission Against Corruption (ICAC), NSW Ombudsman and Office of Local Government. It also defines the responsibilities of Council's nominated Disclosure Co-ordinator, Disclosure Officers, General Manager and Mayor in relation to external notification systems and associated procedures.

#### **Independent Commission Against Corruption (ICAC)**

Under section 11 of the *Independent Commission Against Corruption Act 1988*, the principal officer of a public authority has a duty to report to the Commission any matter that the officer suspects on reasonable grounds concerns, or may concern, corruption.

The *principal officer* is defined as the person who is the head of the authority, its most senior officer or the person normally entitled to preside at its meetings. The Council's *principal officer* is the General Manager.

When another person acts as the General Manager during periods of leave or other absence, the duty applies to that person who is acting.

The reference to *suspects on reasonable grounds*, according to ICAC means that there is a real possibility that corrupt conduct may be involved. Proof is not necessary.

The ICAC encourage organisations to contact the Commission to discuss particular matters if they are unsure about whether or not to report, and to seek clarification about other issues related to reporting.

Section 11 applies despite any duty of secrecy or other restriction on disclosure.

The requirement to report suspected corruption to ICAC does not affect the obligations to report or refer matters to other bodies, such as the Police, the Ombudsman, or to carry out disciplinary procedures as required.

The Independent Commission Against Corruption (ICAC) has stated that reporting criminal matters to the Commission should not delay the matter being reported to the Police.

ICAC has advised that the following items should be included in reports:

- details of the allegations;
- the name and position of any public official/s alleged to be involved;
- the name and role of any other people relevant to the matter;
- when the alleged conduct occurred;
- whether the alleged conduct appears to be a one-off event or part of a wider pattern or scheme;
- when the allegation was made or you became aware of the alleged conduct;
- what your organisation has done about the suspected conduct, including notification to any other agency;
- what further action is proposed;
- an indication of the estimated amount of money (if any) involved;
- any other indicators of seriousness; and

- any other relevant information.

The Commission may use the matters reported to ICAC in the following ways:

- all information is assessed in terms of the contribution it may make to the work of the Commission;
- a small number of reports are selected for full investigation by ICAC;
- reports may form the basis of corruption prevention advice and project work; and
- reports may be referred to more appropriate investigative authorities.

### **Police**

Where the General Manager reasonably believes that a Council employee, Councillor or related party has committed a criminal offence, the matter will be referred to the police.

According to Section 316 of the *Crimes Act 1900*, concealing a serious offence is a criminal offence:

*If a person has committed a serious offence and another person who knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for it fails without reasonable excuse to bring that information to the attention of a member of the Police Force or other appropriate authority, that other person is liable to imprisonment for 2 years.*

Where any other Council employee or Councillor suspects on reasonable grounds that a crime has been committed, this will be reported in accordance with Council's adopted *Public Interest Disclosures Policy (under Public Interests Disclosures Act 1994)*.



# Response (Investigation)

Council will deal fairly with all parties in the course of investigating allegations of fraud or corruption, however if fraud or corruption is proven Council will apply the appropriate sanctions.

## Guiding Principles

The overall guiding principles of any investigation into alleged improper conduct will be independence, impartiality and objectivity; however it is noted that matters referred to the Independent Commission Against Corruption (ICAC) or NSW Police may lead to criminal proceedings.

Council's investigation standards are clearly documented in various Council policies and procedures, including Council's *Fraud & Corruption Control Policy*, *Code of Conduct*, *Public Interest Disclosures Policy (under Public Interests Disclosures Act 1994)* and *Workplace Investigations Policy and Procedure*.

## Investigation Systems

### Internal Investigations Procedures

The investigation procedure undertaken by Council will ensure fairness and consistency in accordance with the rules of natural justice and with respect for the civil rights of staff members and citizens.

All Councillors, staff members and stakeholders are expected to fully co-operate in relation to such investigations.

When an allegation of fraud is made against an employee, the General Manager and / or Director(s), will discuss the matter with the person making the allegation. This person may be asked to make a written statement regarding the allegations.

The staff member alleged to have committed the fraud may be interviewed during this preliminary stage. Staff members can be accompanied during the interview by their manager or other nominated member of staff.

The applicable Divisional Manager or Manager will organise a preliminary assessment of the allegation and provide details to the General Manager on the findings. If the matter concerns the General Manager than it shall be reported to be public officer who will deal with the matter in accordance with the code of conduct complaints handling procedures.

If the allegation is serious enough and / or the evidence is compelling, then the matter may warrant a full investigation.

If a full investigation is to be followed, the General Manager/independent investigator will need to determine whether the matter is referred to an external agency such as the Police, ICAC or the Ombudsman. The General Manager/independent investigator may wish to refer it to the Code of Conduct Complaints Coordinator and have the matter referred to using the Code of Conduct Investigation procedures.

Where the matter concerns a Councillor the General Manager will refer the complaint to an independent investigator.

## **Responsibilities**

Internal investigations into potential fraud and corruption related activities will be undertaken by Council's suitably authorised and trained staff in accordance with Council's *Public Interest Disclosures Policy (under Public Interests Disclosures Act 1994)* and investigation procedures detailed in *AS8001- 2008 Fraud and Corruption Control* and ICAC's "*Guide to Conducting Internal Investigations*". This would normally be by Council's Divisional Managers, Managers or General Manager or if appropriate an independent investigator.

It is noted that when potential internal investigators have conflicts of interest, an external consultant will be engaged to assist with the conduct of the investigation. All persons engaged will be appropriately qualified by reason of formal qualifications and relevant experience.

## **Record Keeping and Information Protection**

Council recognises that the manner in which evidence is collected and stored in relation to any fraud or corruption investigation will have a critical impact on its value as evidence in any later inquiries or court proceedings.

Council officers involved in internal investigations will keep records in accordance with Council's record keeping policies and procedures, the *State Records Act 1998 (NSW)* and the following procedure:

1. Investigation files and reports should be kept securely locked when not in use. They should not be left unattended on desks even for short periods;
2. Evidence collected will be stored and labelled systematically, and kept confidential. Additionally original documents will not be altered or annotated in any way;
3. Access to files and reports should only be given to people for official purposes and on a needs basis;
4. People to whom access is given must observe the same security procedures. This should be explained to them;
5. The name of the person suspected of the conduct should not be mentioned on the cover of any files;
6. The name of the person who reported the suspected conduct should not be mentioned on the cover of any file;
7. No information from the investigation report is to be attached to any employee's personnel file;
8. The Disclosure Co-ordinator is responsible for maintaining a record (Investigation Register) of any investigation conducted as a result of suspected instances of fraud and corrupt conduct being reported;
9. The Disclosure Co-ordinator is responsible for all investigation files dealing with suspected fraud, corruption, maladministration and wastage; and
10. All investigation files and related records will be retained and destroyed by Council in accordance with the *State Records Act 1998 (NSW)* and related Council record keeping policies and procedures.

## **Investigation Register**

Council's Disclosure Co-ordinator (Director of Corporate and Community) will maintain a register of all investigations conducted as a result of suspected or actual instances of fraud and corruption being reported.

The Investigation Register will include the following information in relation to every reported fraud and corruption incident:

- Date and time of report;

- Date and time that incident was detected;
- How the incident came to the attention of management (e.g. anonymous report, normal report, supplier report);
- The nature of the incident;
- Value of loss (if any) to the entity; and
- The action taken following discovery of the incident.

Each case will stay on the schedule and not be reported until all action is finalised. Once all action for a case is finalised, including all managerial action, it will be reported as finalised.

All investigation action, including any managerial disciplinary action, if applicable, is expected to be completed within 3 months of the allegation being received.

All preventative action, if any, required by management as recommended and agreed with the investigator, is to be implemented within 3 months of the investigation being completed.

The Disclosure Co-ordinator is responsible for analysing and undertaking trend analysis of information contained on the register/database, e.g. by location, by investigation type.

### **Investigation Results**

Details of investigations will be communicated to the General Manager by the Disclosures Co-ordinator as per Council's *Public Interest Disclosures Policy (under Public Interests Disclosures Act 1994)* or by the Relevant Director. It is acknowledged that in many cases the General Manager may have been part of the investigation.

The General Manager will have access to:

- Council's Fraud and Corruption Risk Register; and
- Council's Management Investigation Report.

The General Manager shall also report to the Audit Risk and Improvement Committee all breaches of the Fraud and Corruption Policy in accordance with privacy and confidentiality requirements.

The General Manager will take relevant fraud and corruption information into account when reviewing Council's Fraud and Corruption Control Framework.

## **Conduct & Disciplinary Systems**

Fraud and corruption will not be tolerated by Council and perpetrators will face disciplinary action and will be prosecuted if necessary.

Where crimes have been committed Council will report the matters to the police and where appropriate criminal prosecution will be undertaken. Civil and administrative action may also be instituted to recover any losses to Council.

To support a sound conduct and disciplinary system, Council's related policies and procedures will ensure that staff members and Councillors understand that:

- Fraud is a crime and will not be tolerated;
- The rules and requirements, values and behaviour expected of them; and
- Those committing fraud or corruption will be prosecuted.

### **Disciplinary Standards**

In all cases of fraud and corruption, consideration will be given to restitution and criminal charges. The General Manager is responsible for making the decision about these matters.

The General Manager will be responsible for deciding what disciplinary action is appropriate for staff members involved in fraud and corruption.

The Council and/or the relevant Officer of the Office of Local Government is responsible for deciding what disciplinary action is appropriate for Councillors involved in fraud and corruption.

Council's *Public Interest Disclose Policy (under Public Interests Disclosures Act 1994)* details Council's approach to the notification of instances of fraud and corruption to external authorities.

## Implementation

The successful implementation and the achievement of Council's Fraud and Corruption Framework objectives relies heavily on the provision of effective staff and Councillor education and training.

Any person employed by Council and Councillors will be required to undertake training in relation to Council's Fraud and Corruption Framework, Code of Conduct; *Public Interest Disclosures Policy (under Public Interest Disclosures Act 1994)* and *Complaints Management Policy*. A copy of these documents will be provided to staff at that time.

Fraud and corruption investigation training will also be provided to relevant Council staff as appropriate.

Council undertakes regular culture surveys and it should be noted that if Council's observable ethical culture falls below acceptable levels, remedial action, including a broad-based communication and training program, will be undertaken as a matter of priority.

Council's Fraud and Corruption Framework, along with related Council policies and procedures, will be made readily available including at induction to Council staff, Councillors and stakeholders. Such availability will ensure a continued awareness and understanding of what constitutes fraudulent and corrupt conduct, reinforce Council's approach should such behaviour be suspected or substantiated, and ensure the continued promotion of ethical and professional conduct throughout the organisation.

Council will develop and maintain an Implementation Action Plan to ensure the appropriate implementation of this Framework.

## Monitor and Review

Monitoring and reviewing Council's Fraud and Corruption Framework and associated procedures and systems will ensure effective ongoing implementation and improvement of all aspects of the Framework across the organisation, and in particular will:

- Identify specific work areas where implementation of some elements of the Framework may need modification or improvement;
- Identify elements of this Framework that may need attention across the entire organisation;
- Develop a targeted plan for improving implementation of this Framework;
- Monitor the ongoing extent of the implementation of the Framework across all areas within Council;
- Identify resourcing requirements and, in particular, ensuring that the anti-fraud and anti-corruption human resources are appropriately senior and skilled for the role and that they have a sufficient allocation of time to discharge their responsibilities; and
- Ensure Council meets its legislative obligations.

### Framework Review

Council's Fraud & Corruption Framework will be reviewed at minimum of once every two years by Council's Divisional Manager Finance and Administration to ensure it remains current and effective. During such reviews, regard will be given to the results of Council's fraud and corruption "Health Checks" and "Improvement Workshops".

### Health Checks and Improvement Workshops

Council will undertake fraud and corruption "Health Checks" at least once every 3 years in all work areas across the organisation, in line with the requirements of the Audit Office of NSW, Better Practice Guide *"Fraud Control Improvement Kit"*. A Health Check may also be undertaken more regularly as deemed necessary by the Audit, Risk and Improvement Committee, particularly in areas that present a higher level of fraud and corruption related risks. Council may engage its Internal Auditor to conduct these health checks.

The results of the Health Check will be considered by Council's Audit, Risk and Improvement Committee and the results will assist in the identification of the areas of Council that require a fraud and corruption control "Improvement Workshop" to be undertaken. Such workshops will be undertaken in line with the requirements of the Audit Office of NSW, Better Practice Guide *"Fraud Control Improvement Kit"*.

### Fraud and Corruption Risk Assessments

Council's enterprise wide fraud and corruption risk assessment will be reviewed on an annual basis by Council's Management Executive (Manex) Team and reported to Council's Audit, Risk and Improvement Committee, in order to ensure:

- Additional fraud and corruption related risks are identified and managed appropriately;
- Ensure the ongoing effectiveness of fraud and corruption prevention and detection related controls utilised throughout the organisation; and
- The ongoing awareness and commitment of Manex to fraud and corruption control throughout the organisation.

It is recommended that within their area of operations and responsibility, Managers continually monitor their fraud and corruption related risks to ensure that appropriate measures are being implemented to reduce those risks and that any amendments are reflected within Council's Corporate Risk Register.

## **Code of Conduct**

The Code is required to be revised on a regular basis to ensure that it remains relevant, comprehensive and continues to meet the standards of the Model Code of Conduct issued by the Office of Local Government.

## Annexure A - Top 10 Attributes of Fraud

The "critical factors for success" (top 10 attributes) suggested under the *"Fraud Control Improvement Kit (February 2015): Managing Your Fraud Control Obligations"* developed by the Audit Office of NSW, that underpin Council's Fraud and Corruption Control Framework are outlined below.

| EVENTION      |   |  |
|---------------|---|--|
| Attribute No. |   | Aim of Attribute is to ensure that:  |
| 1.            | <b>Leadership</b>   | <ul style="list-style-type: none"> <li>▪ Senior Management commitment is demonstrated through behaviour and allocation of resources.</li> </ul>  |
| 2.            | <b>Ethical Framework</b>  | <ul style="list-style-type: none"> <li>▪ A suite of Policies and procedures have been developed to establish a standard of behaviour; and</li> <li>▪ A strong governance framework has been developed and is entrenched in ethical and transparent decision making</li> </ul>  |
| 3.            | <b>Responsibility Structure</b>                                     | <ul style="list-style-type: none"> <li>▪ There is a clear accountability and responsibility for implementation and monitoring of the Fraud and Corruption Control Framework;</li> <li>▪ This accountability is well known by all staff at all levels and in all sections of the organisation; and</li> <li>▪ There is a common understanding that everyone in the organisation has a role to play in effective fraud management.</li> </ul>  |
| 4.            | <b>Fraud &amp; Corruption Policy</b>                                | <ul style="list-style-type: none"> <li>▪ Council has in place the necessary policies, systems and procedures to minimise fraud and corruption in all sections, and at all levels of an organisation; and</li> <li>▪ Policies, systems and procedures respond, and are proportionate, to the fraud risks faced by Council.</li> </ul>   |
| 5.            | <b>Prevention Systems</b>   | <ul style="list-style-type: none"> <li>▪ Proactive and integrated fraud risk assessments are conducted and reviewed in a timely manner;</li> <li>▪ High Risk areas are an organisational focus; and</li> <li>▪ There is a commitment to planning, accountability and reporting.</li> </ul>   |
| 6.            | <b>Fraud Awareness (Employees, Councillors &amp; the Community)</b> | <ul style="list-style-type: none"> <li>▪ All employees understand the ethical behaviours required of them in the workplace;</li> <li>▪ Training programs in ethical behaviours are in place across the organisation;</li> <li>▪ Training deals with the fraud risks faced by individuals in their workplaces;</li> <li>▪ Employees understand that fraud will not be tolerated and that perpetrators will face disciplinary action;</li> <li>▪ Employees have access to written information to assist them understand their ethical obligations; and</li> <li>▪ Approaches will be developed that are consistent with both perceived risks and the organisation's approach to human resources management.</li> </ul> |
| 7.            | <b>Third Party Management Systems</b>                               | <ul style="list-style-type: none"> <li>▪ Effective third party controls are in place particularly in the area of procurement and engaging contractors;</li> <li>▪ A secondary employment policy is implemented and communicated to third parties; and</li> <li>▪ A statement of business ethics sets expectations and mutual obligations</li> </ul>  |



| <b>DETECTION</b>                |                              |   |
|---------------------------------|------------------------------|---|
| <i>Attribute No.</i>            |                              | <i>Aim of Attribute is to ensure that:</i>  |
| <b>8.</b>                       | <b>Notification Systems</b>  | <ul style="list-style-type: none"> <li>▪ There is a culture within the organisation that supports and encourages reporting of actual and suspected fraud and corruption;</li> <li>▪ Reporting under section 11 of the ICAC Act is undertaken;</li> <li>▪ Policies, systems and procedures are in place to encourage the reporting of suspect behaviours;</li> <li>▪ Council has policies which clearly identify the nature of suspect actions which require reporting to the Police, the ICAC, the Ombudsman, etc;</li> <li>▪ External notification takes place as required in light of the above legal and policy requirements;</li> <li>▪ Fraud notification systems give the complainant the opportunity to report the suspect behaviours anonymously; and</li> <li>▪ "Whistle-blowers" are protected by the organisation Policies, systems and procedures and give equal opportunities to managers, staff, contractors, consultants, customers, suppliers etc. to notify the organisation of suspect behaviours.</li> </ul> |
| <b>9.</b>                       | <b>Detection Systems</b>     | <ul style="list-style-type: none"> <li>▪ Available data is thoroughly monitored and reviewed to ensure that irregularities and warning signals are picked up at a very early stage and flagged for further detailed review;</li> <li>▪ Internal audits regularly examine samples of medium and high risk financial decision making across the organisation;</li> <li>▪ The ARIC make decisions and recommendations, based on risk, about key systems and decisions to be audited;</li> <li>▪ Outcomes of audits are reported to executive management on a quarterly basis;</li> <li>▪ A separate fraud risk assessment is undertaken by the organisation;</li> <li>▪ The fraud risk assessment quantifies the level, nature and form of the risks to be managed; and</li> <li>▪ Actions will be taken by the organisation to mitigate the risks identified in the fraud risk assessment.</li> </ul>   |
| <b>RESPONSE / INVESTIGATION</b> |                              |   |
| <i>Attribute No.</i>            |                              | <i>Aim of Attribute is to ensure that:</i>  |
| <b>10.</b>                      | <b>Investigation Systems</b> | <ul style="list-style-type: none"> <li>▪ Procedures and other appropriate support (including training, where required) is provided to staff undertaking investigation activity on behalf of the organisation;</li> <li>▪ Investigation actions undertaken should be consistent with commonly used investigation standards;</li> <li>▪ Where appropriate expertise is not available internally, then external assistance should be sought;</li> <li>▪ All investigations consider what improvements can be made to policies, systems and procedures within the organisation; and</li> <li>▪ All investigation reports are referred to the ARIC or an equivalent, and the organisation's senior executive, for action.</li> </ul>   |