



ANTI-FRAUD AND CORRUPTION POLICY

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RELATED STRATEGIC DOCUMENTS, POLICIES OR PROCEDURES: Enterprise Bargaining Agreement section Prevention and Settlement of Disputes
Staff and Contractors Code of Conduct
Councillor Code of Conduct
Protected Disclosure (Public Interest) Disclosure Policy
Risk Management Policy
Procurement Policy
Councillor Gift Policy
Community Asset Committee Policy
Fraud and Corruption Event Register

RELATED LEGISLATION: Local Government Act 2020
Independent Broad-Based Anti-Corruption Commission Act 2011
Protected Disclosure Act 2012
Department of Health and Human Services Fraud and Corruption Framework, (section 4.4.2 Reporting of suspected fraud by funded agencies) November 2016

EVIDENCE OF APPROVAL:

Signed by Chief Executive Officer

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This document is available in alternative formats (e.g. larger font) if requested.

1 PURPOSE

The purpose of this policy is to establish Loddon Shire Council's position in preventing fraud and corruption, and to demonstrate that Council is committed to the prevention, detection, and response of any such occurrences.

2 SCOPE

This policy applies to Councillors, staff, volunteers, suppliers, contractors, Audit and Risk Committee members and Community Asset Committees members.

3 POLICY

Council will not tolerate fraud in any form and will implement controls to prevent the likelihood of fraud and corruption occurring.

To support this position Council will implement a fraud and corruption prevention framework in accordance with Australian Standard *AS8001-2021 Fraud and Corruption Control* as a best practice approach to managing prevention of fraud and corruption.

The fraud and corruption framework will apply the prevention, detection and response approach, as per AS8001-2021, to underpin prevention of fraud and corruption and to create an environment that supports:

- ensuring that Councillors, staff and volunteers are educated about fraud prevention and detection
- promoting ethical and honest behaviour of Councillors, staff and volunteers
- expecting Councillors, staff and volunteers to report instances of fraud when they become aware of it
- handling matters relating to fraud in the strictest confidence
- ensuring that Councillors, staff and volunteers have the qualifications that they assert they have
- promoting the principles of good corporate governance
- communicating Council's intention to:
 - o suspend or dismiss anyone involved in fraudulent or corrupt activity
 - o report fraudulent or corrupt activity to Victoria Police, or other external parties as required
 - o prosecute parties found to be involved in fraudulent or corrupt behaviour
 - o pursue recovery of any financial loss due to fraudulent or corrupt behaviour.

Council will:

- implement internal controls that seek to minimise the opportunity for fraudulent or corrupt activity and detect fraud as soon as possible after it occurs
- work closely with the internal auditors and the Audit and Risk Committee to ensure internal controls are tested
- investigate fraud related incidents, relevant to the particular circumstances, which may include referral to Victoria Police and/or mandatory reporting
- maintain a record of conflict of interest disclosures in accordance with the Councillor and Staff Codes of Conduct.

4 CONFIDENTIALITY AND FAIR TREATMENT

The highest degree of confidentiality will be applied to reporting and investigating fraud. Confidentiality of those who report fraud is guaranteed, and the reputation of those accused will be subject to the highest level of protection until a definite decision is reached. There are significant penalties under the Protected Disclosure Act 2012 for breach of confidentiality, to protect those who report fraudulent activity.

In order to avoid damaging the reputations of innocent persons initially suspected of wrongful conduct, and to protect the Council from potential civil liability, the results of the audits or investigations will be disclosed or discussed only with those persons who require knowledge of each such investigation in the proper performance of their office or function.

Where appropriate, Council will seek legal advice to ensure that appropriate documentation of the facts has been achieved in order to permit:

- appropriate personnel action
- protection of innocent persons
- appropriate civil or criminal actions
- documentation of claims against Council's insurers
- preservation of the integrity of any criminal investigation and prosecution
- avoidance of any unnecessary litigation.

Council will treat reported cases of suspected fraud with seriousness and confidentiality at all times. Employees who make complaints will not be victimised or disadvantaged. The person against whom the complaint is made will be treated with procedural fairness.

Any person who feels they have been victimised as part of this process has recourse to Council's dispute resolution processes, and to the Protected (Public Interest) Disclosure Procedure.

5 OBLIGATIONS OF REPORTING FRAUD AND/OR CORRUPTION BY FUNDED ORGANISATIONS OR PORTFOLIO AGENCIES

5.1 IBAC

From 1 December 2016, heads of departments and Council CEOs (among other 'Relevant Principal Officers') must notify IBAC of any matter which they suspect on reasonable grounds that corrupt conduct has occurred or is occurring.

The obligation to report suspected corrupt conduct rests with the Relevant Principal Officer. This obligation cannot be delegated. Where another person is acting as the Relevant Principal Officer, the obligation applies to that person and vicariously the organisation.

The Relevant Principal Officer must notify IBAC of all instances of suspected corrupt conduct occurring in their own organisation, and suspected corrupt conduct occurring in other organisations where it is connected with the Relevant Principal Officer's duties, functions and exercise of powers.

There is no legislative obligation for Relevant Principal Officers to search out corrupt conduct, only to report it when suspected.

The Chief Executive Officer will use IBAC's *Directions* for making mandatory notifications of suspected corruption to assess whether there is a requirement to report. If so, IBAC's *Mandatory Notification Form* for Relevant Principal Officers will be completed by the Chief Executive Officer and submitted to IBAC.¹

As per Section 4 of this policy, confidentiality and procedural fairness will receive the highest priority.

5.2 Funded Organisations or Portfolio Agencies

Some funding agencies, as a requirement of funding provided to organisations, require notification to the relevant Government department of any notification of suspected fraud or corruption within or concerning Council.

Any knowledge of suspected fraud or corruption related to funding will be notified as a priority to the relevant funding department.

As per Section 4 of this policy, confidentiality and procedural fairness will receive the highest priority.

6 DEFINITIONS OF TERMS AND ABBREVIATIONS USED

Term	Definition
Fraud	<p>As per the Australian Standard on Fraud and Corruption control (AS8001):</p> <ul style="list-style-type: none"> Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and where deception is used at the time, immediately before or immediately following the activity. This also includes 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 but where deception is not used is also considered 'fraud' for the purposes of this Standard.
Examples of fraud	<p>Examples of fraud which occur in Australian business and therefore fall within the intended scope of the Standard are:</p> <ul style="list-style-type: none"> Theft of plant and equipment by employees. Theft of inventory by employees. False invoicing (involving a staff member of the entity or a person external to the entity creating a fictitious invoice claiming payment for goods or services not delivered or exaggerating the value of goods delivered or services provided). Theft of funds other than by way of false invoicing.

¹ <https://www.ibac.vic.gov.au/reporting-corruption/notifications>

- [Directions](#): set out the types of matters that must be notified and the form, content and method of notifications.
- [Frequently Asked Questions](#) provide further guidance.
- [Mandatory notification form](#): to be used by Relevant Principal Officers when making notifications. Use additional [Part B](#) and [Part C](#) forms if required.

Term	Definition
	<ul style="list-style-type: none"> • Theft of cash usually involving some form of concealment. • Accounts receivable fraud (misappropriation or misdirection of remittances received by an entity from a debtor). • Credit card fraud involving unauthorised use of a credit card or credit card number issued to another person or the use of stolen or fraudulently generated credit card numbers by merchants. • Theft of intellectual property or other confidential information. □ Financial reporting fraud (falsification of the entity's financial statements with a view to obtaining some form of improper financial benefit). • Release or use of misleading or inaccurate information for the purposes of deceiving, misleading, or to hide wrongdoing. • Misuse of position by senior executives or Councillor in order to gain some form of financial advantage.
Corruption	<p>As per the Australian Standard on Fraud and Corruption control (AS8001):</p> <ul style="list-style-type: none"> • Dishonest activity in which a Councillor, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses their position of trust in order to achieve some personal gain or advantage for their self or for another person or entity. • The concept of 'corruption' within this standard can also involve corrupt conduct by the entity, or a person purporting to act on behalf of and in the interests of the entity, in order to secure some form of improper advantage for the entity either directly or indirectly.
Examples of corruption	<p>Examples of corruption to which Australian entities are subject and which are therefore within the intended scope of a corruption control program contemplated by this Standard include:</p> <ul style="list-style-type: none"> • Payment or receipt of secret commissions (bribes), which may be paid in money or in some other form of value to the receiver and may relate to a specific decision or action by the receiver generally. • Release of confidential information for other than a proper business purpose in exchange for some form of non-financial benefit or advantage accruing to the employee releasing the information. • Collusive tendering (the act of multiple tenderers for a particular contract colluding in preparation of their bids). • Payment or solicitation of donations for an improper political purpose. • Serious conflict of interest involving a Councillor or senior executive of an entity or other entity acting in their own self-interest rather than the interests of the entity to which they have been appointed (failing to declare to a Board an interest in a transaction the entity is about to enter into or excessive payment of remuneration to Councillors and senior executives). • Serious nepotism (favouritism towards relatives) or cronyism (favouritism towards friends or colleagues) where the appointee is inadequately qualified to perform the role to which they have been appointed. • Manipulation of the procurement process by favouring one tenderer over others or selectively providing information to some tenders. This frequently involves allowing tenders to resubmit a

Term	Definition
	<p>'non-complying' tender after being provided with the details of other bids.</p> <ul style="list-style-type: none"> • Gifts or entertainment intended to achieve a specific or general commercial outcome in the short or long-term – an essential element rendering conduct of this type corrupt would be that it is in breach of the entity's values, behavioural code or gifts policy or that was done without the appropriate transparency within one or more of the entities affected. Bribing officials in order to secure a contract for the supply of goods or services.
Corrupt conduct	<p>For the purposes of the Independent Broad-based Anti-corruption Commission Act 2011 corrupt conduct means conduct—</p> <ul style="list-style-type: none"> (a) of any person that adversely affects the honest performance by a public officer or public body of their, or its functions as a public officer or public body; or (b) of a public officer or public body that constitutes or involves the dishonest performance of their, or its functions as a public officer or public body; or (c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or (d) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of their, or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or (da) of a person (the first person) intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and result in the first person or an associate of the first person obtaining— <ul style="list-style-type: none"> (i) a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or (ii) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or (iii) a financial benefit or real or personal property; or (iv) any other direct or indirect monetary or proprietary gain— that they would not have otherwise obtained; or (e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c), (d) or (da)— being conduct that would constitute a relevant offence.
Procedural fairness	<p>Natural justice (procedural fairness) is a legal requirement that applies to administrative decision-making. It imposes a code of procedure to ensure that decision-making is fair and reasonable.</p>

Term	Definition
	Whether a decision complies with natural justice depends not on whether the decision itself was fair and reasonable, but on whether a fair and proper procedure was followed in making the decision. ²
Suspects on reasonable grounds	Means there is a real possibility of corrupt conduct. 'Suspicion' is something less than belief, but requires more than idle speculation. It must be based on facts and circumstances that would be sufficient to make a reasonable person suspect corrupt conduct had occurred or was occurring. However, proof is not necessary, nor is it required that an individual or individuals be identified.

7 STATEMENTS

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights Act.

Loddon Shire Council is committed to consultation and cooperation between management and employees. The Council will formally involve employee Health and Safety Representatives in any workplace change that may affect the health and safety of any of its employees.

A Gender Impact Assessment of this policy has been undertaken with no negative gendered impacts identified.

8 REVIEW

The Director Corporate will review this policy for any necessary amendments no later than 3 years after adoption of this current version.

² <https://www.ombudsman.vic.gov.au/About/Our-accountability/Code-of-Conduct>, Accessed 01/11/2019