

Fraud and Corruption Control Policy

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1. Purpose

- To promote an organisational culture that will not tolerate any action of fraud or corruption
- To ensure high standards of ethical and accountable conduct
- To protect public funds and assets
- To protect the integrity, security and reputation of Council and its staff

This Policy forms part of Federation council's governance, risk and compliance processes and supports the achievement of Community Strategic Objective 5.6 "Provide operational efficiency and effectiveness to ensure a resilient and responsive organisation".

2. Background

The Federation Council has a zero tolerance for fraud and corrupt conduct and is committed to preventing, detecting and responding to corruption. This Fraud and Corruption Control Policy aims to foster an environment that actively discourages fraudulent and corrupt activities in order to protect Federation Council assets, interests and reputation, and to provide a transparent framework for reporting and investigating matters.

Preventing and reporting fraud and corrupt activities is the responsibility of all staff and all levels of management. Any instances of fraud or corrupt activity will be assessed and investigated and referred to the NSW Independent Commission Against Corruption (ICAC). Suspected criminal fraud will also be reported to the NSW Police.

3. Scope

This Policy applies to all Councillors, Council staff (full-time, part-time, temporary and casual), volunteers, contractors, consultants, outsourced service providers and customers of Federation Council.

4. Definitions

Council: means Federation Council.

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

Fraud: Section 192E, NSW Crimes Act 1900

192E Fraud

(1) A person who, by any deception, dishonestly:

(a) obtains property belonging to another, or

(b) obtains any financial advantage or causes any financial disadvantage,

is guilty of the offence of fraud.

Maximum penalty: Imprisonment for 10 years.

(2) A person's obtaining of property belonging to another may be dishonest even if the person is willing to pay for the property.

- (3) A person may be convicted of the offence of fraud involving all or any part of a general deficiency in money or other property even though the deficiency is made up of any number of particular sums of money or items of other property that were obtained over a period of time.
- (4) A conviction for the offence of fraud is an alternative verdict to a charge for the offence of larceny, or any offence that includes larceny, and a conviction for the offence of larceny, or any offence that includes larceny, is an alternative verdict to a charge for the offence of fraud.

Corruption: Corrupt conduct is defined in Sections 8 and 9 of the Independent Commission Against Corruption Act 1988 and is broadly:

- (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
- (b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his/her official functions
- (c) any conduct by a public official or former public official that constitutes or involves a breach of public trust,
- (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.

5. Policy Statement

General Principles:

- i. Fraudulent or corrupt acts against Council are unacceptable, may constitute a criminal offence and may be prosecuted
- ii. Council is committed to preventing fraud and corruption at its origin. Council believes that an emphasis on fraud and corruption prevention rather than investigation will lead to a reduction of opportunities for waste, abuse and mismanagement
- iii. All Councillors and Council managers are responsible for fostering an environment that makes active fraud and corruption control a responsibility of all staff and for issuing clear standards and procedures to encourage the minimisation and deterrence of fraud and corruption
- iv. Council recognises that fraud and corruption prevention requires the maintenance of an ethical climate that encourages all staff to be active in protecting Council's funds and assets, and in reporting any breaches of accepted standards
- v. Measures to prevent and detect fraud and corruption shall be continually monitored, reviewed, developed and reported
- vi. Council will investigate all reported instances of fraud or corrupt conduct as thoroughly as possible, with a commitment to following procedural fairness
- vii. Depending upon the circumstances of the fraud or corrupt conduct, an internal investigation may be undertaken or the matter may be referred to an external body, such as the NSW Police, the ICAC or the Ombudsman
- viii. Any action taken against staff depends on the severity, scale and significance of the fraudulent or corrupt behaviour and must be determined in accordance with any relevant industrial instruments or contracts
- ix. Action taken against delegates and/or members of Council committees or volunteers depends on the severity, scale and significance of the fraudulent corrupt activity and may include censure, counselling, 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
- x. A breach of this Policy amounts to a breach of Council's Code of Conduct.

- xi. Criminal action may be taken against any person found to be in breach of any relevant legislation.
- xii. Council is committed to the recovery of financial losses caused by fraudulent and 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

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 a person was not entitled?

Some examples of fraud resulting in financial benefit include, but are not limited to:

- Unauthorised use of Council plant and equipment
- Theft of money 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 fully meet contract requirements
- Obtaining benefits by use of a false identity 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
- Election fraud

A fraud and corruption risk assessment(s) shall be undertaken on the key risk areas and a Fraud and Corruption Control Plan will be developed.

Reporting corrupt conduct

Council's Code of Conduct defines the internal reporting procedure as follows:

- Staff member's immediate supervisor; or
- Disclosure co-ordinator; (Manager Corporate Services) or
- General Manager/Mayor; or
- ICAC

Any breach of this Policy by Council staff will be dealt with by Senior Management in accordance with Council disciplinary procedures. Breaches by Councillors will be referred to the Mayor for further action.

6. Responsibilities

Council

- Council will allocate sufficient human and financial resources to support the ongoing operation of fraud and corruption control processes and procedures
- Council will review this policy from time to time to ensure it complies with current legislation and is achieving Council's intent.

General Manager

- Shall ensure the development of Fraud & Corruption Control Plan Procedures and Guidelines that conforms to Council's Policy.
- Shall monitor the effectiveness of the Fraud & Corruption Control Plan Procedures and Guidelines in operation and authorise changes to improve the procedures to conform to Council's Policy.
- Shall report to Council any issues that arise out of the Policy.

Director and staff

- The Director, Finance and Organisational Development, and appropriate departmental staff, are responsible for the implementation and ongoing operation of the Policy and supporting Control Plan Procedures and Guidelines

Staff

- Shall implement and carry out the actions listed in the Policy, Control Plan Procedures and Guidelines.
- Shall report regularly to the General Manager on the effectiveness of the Fraud & Corruption Control Plan Procedures and Guidelines.
- All Managers/Supervisors are responsible for ensuring, upon engagement, that external contractors, consultants or volunteers are aware of, and have access to, this Policy.

Risk Unit Staff

- Shall provide risk management advice to all Federation council staff, Councillors, volunteers and contractors as and when required.

7. References & Associated Documents

Relevant Legislation, Regulations and Industry Standards

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Independent Commission Against Corruption Act 1988
- Australian Standard AS 8001-2008 Fraud and Corruption Control
- Australian Standard AS/ISO 19600:2015 Compliance Management - Guidelines
- Public Interest Disclosures Act 1994

Relevant Council Policies & Procedures including other Operational Policies, Procedures & Information

- Code of Conduct
- Procurement Policy
- Public Access to Information Policy
- Complaints Handling Policy
- Gifts and Benefits Policy
- Protected Public Interest Disclosure Policy
- Risk Management Policy
- Risk Management Strategy, Framework and Plan documents
- Related Parties Disclosure Policy
- Employee Handbook (as updated from time to time)
- Draft Induction Policy, Procedure and Forms/Checklists

8. Policy History

Version	Date	Changes / Amendments
C1.0	September 2006	Former Corowa Shire Council Policy
1.0	11/09/2017 commenced	Review completed – Council resolved 20 November 2018 to place on Public Exhibition for a minimum of 28 days and to consider the adoption of the Policy at the next available meeting.
	19/02/2019	Adopted by Council following public exhibition

9. Reviews

This procedure is to be reviewed every 2 years, or as required to comply with legislative requirements. This review will be coordinated in consultation with: MANEX and the Audit, Risk and Improvement Committee.

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