



NAME OF POLICY: Fraud, Corruption, Misconduct & Maladministration Prevention Policy

POLICY MANUAL: Governance

BACKGROUND

The City of Norwood Payneham & St Peters ("the Council") is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency, which are all key components of good governance.

The Council recognises that Fraud, Corruption, Misconduct and Maladministration in Public Administration have the potential to cause significant financial and non-financial harm and that therefore, the prevention and control of Fraud, Corruption, Misconduct and Maladministration should feature predominantly within the systems and procedures of a responsible Council.

This Policy outlines the Council's approach to the prevention and control Fraud, Corruption, Misconduct and Maladministration and, outlines the responsibilities of Elected Members, Council Employees and Volunteers and contractors of the Council.

This Policy is intended to complement and be implemented in conjunction with other relevant Council policies, including:

- Public Interest Disclosure Policy & Procedure;
- Risk Management Policy;
- Internal Control Policy;
- Behaviour Standards Policy & Code of Conduct for Council Staff; and
- Code of Conduct for Council Members.

KEY PRINCIPLES

The key purpose of this Policy is to ensure that the Council:

- fulfils its responsibilities under the *Independent Commissioner Against Corruption Act 2012* (ICAC Act);
- establishes and maintains an effective system of internal controls to prevent Fraud, Corruption, Misconduct and Maladministration and enforces compliance with those controls;
- regularly undertakes risk assessments and evaluation of the Council's policies and procedures to identify circumstances in which Fraud, Corruption, Misconduct or Maladministration could occur;
- provides a clear statement and fosters an environment that actively discourages and does not tolerate Fraud, Corruption, Misconduct and Maladministration
- ensures all Elected Members, Council Employees, Volunteers and contractors are aware of their obligations in relation to prevention and control of Fraud, Corruption, Misconduct and Maladministration;
- protects Council assets, interests and reputation from the risks associated with Fraud, Corruption, Misconduct and Maladministration; and
- generates community awareness of the Council's commitment to the prevention of Fraud, Corruption, Misconduct and Maladministration.

POLICY

1. Prevention

The Council recognises that:

- the occurrence of Fraud, Corruption, Misconduct and Maladministration will be more likely to prevail in an administrative environment where opportunities exist for waste and, abuse; and
- the most effective way to prevent the occurrence of fraud and corruption is to promote an ethical environment and culture of acting lawfully, ethically and in a socially responsible manner, and to support this with the implementation of appropriate internal control.

In general, the Council expects that Elected Members, Employees, Volunteers and contractors will assist in preventing Fraud, Corruption, Misconduct and Maladministration within the Council by:

- understanding the responsibilities of their position;
- familiarising themselves with the Councils policies and procedures and adhering to them;
- understanding what behaviour constitutes Fraud and/or Corrupt conduct;
- maintaining an awareness of the strategies that have been implemented by the Council to minimise Fraud, Corruption, Misconduct and Maladministration;
- being continuously vigilant to the potential for Fraud, Corruption, Misconduct and Maladministration to occur; and
- reporting suspected or actual occurrences of Fraud, Corruption, Misconduct and Maladministration, in accordance with Part 5 of this Policy.

2. Specific Responsibilities

The roles and responsibilities of key individuals and groups within the Council with respect to prevention and control of Fraud, Corruption, Misconduct and Maladministration are outlined in the Table contained within **Attachment A**.

3. Fraud and Corruption Risk Assessment Process

The Council's main objective in the prevention and control of Fraud, Corruption, Misconduct and Maladministration is to minimise the occurrence of Fraud, Corruption, Misconduct and Maladministration within the Council. This objective is generally achieved by:

- identifying Fraud, Corruption, Misconduct and Maladministration risks;
- determining strategies to control those risks; and
- defining responsibility for and, the timeframe within which the strategies will be implemented.

Managers must be alert to the potential of Fraud, Corruption, Misconduct and Maladministration to occur in day-to-day operations and remain wary of factors which may leave the Council vulnerable to Fraud, Corruption, Misconduct and Maladministration, including, for example:

- changes to Council delegations;
- implementation of cost-cutting measures;
- contracting out and outsourcing;
- the impact of new technology; and
- changes to risk management practices.

4. Education and Awareness

The Council recognises that the successful implementation of this Policy will largely depend upon how effectively it is communicated throughout the organisation and beyond.

The Council will, therefore, take proactive steps to ensure that all Elected Members, Council Employees, Volunteers and contractors are aware of and educated regarding their obligations in relation to prevention and control of Fraud, Corruption, Misconduct and Maladministration, and (where appropriate) to ensure that the broader community is aware of the Council's zero-tolerance stance towards Fraud, Corruption, Misconduct and Maladministration.

5. Reporting Corruption or Serious or Systemic Misconduct and Maladministration

- a) Any Public Officer who has or acquires knowledge of actual or suspected Corruption, or Systematic or Serious Misconduct or Maladministration in the Council or in other public administration must report this information to the OPI as soon as practicable in accordance with the ICAC Act. For Council Employees, Volunteers or contractors, this can be reported to a Manager, General Manager or the Chief Executive Officer, and for Elected Members, to the Mayor or Chief Executive Officer, who must then report this information to the OPI.

A report to the OPI must be made in accordance with the Commissioner's Directions and Guidelines and using the online report form available at: <https://icac.sa.gov.au/opi>.

Note: Particulars of what a report should include are available in the ICAC Directions and Guidelines, available at: www.icac.sa.gov.au.

- b) When reporting actual or suspected Corruption, or Systematic or Serious Misconduct or Maladministration, in the Council or in other public administration, to the OPI under the ICAC Act, any requirements of other documents that form part of the Council's Fraud, Corruption, Misconduct and Maladministration framework (including those documents identified in the Background section of this Policy) should also, to the extent possible, be adhered to.
- c) Nothing in this section is intended to prevent a Public Officer from reporting suspected Corruption or Systematic or Serious Misconduct or Maladministration in the Council or in other public administration to a Relevant Authority, including the Council's Responsible Officer, for the purposes of the PID Act. Such a disclosure may be protected under the PID Act and, if made to the Council's Responsible Officer, will be managed in accordance with the Council's *Public Interest Disclosure Policy and Procedure*. Public Officers are encouraged to have regard to the Council's *Public Interest Disclosure Policy & Procedure* when determining where to direct a disclosure.
- d) Further information about reporting requirements is available at the ICAC website: <https://icac.sa.gov.au>.

6. Reporting Fraud, Misconduct or Maladministration

Where an Elected Member, Employee, Volunteer or contractor has or acquires knowledge of actual or suspected Fraud, or other similar conduct that does not constitute Corruption or *Systematic or Serious Misconduct* or Maladministration (and is therefore not required to be reported to OPI), that knowledge should be reported to the Council's Responsible Officer. Such a disclosure may be protected under the PID Act and will be managed in accordance with the Council's *Public Interest Disclosure Policy & Procedure* (where relevant).

7. Action by the Chief Executive Officer

- a) Unless otherwise directed by the OPI or SAPOL, the CEO will investigate how the alleged Corruption, Fraud, Misconduct and Maladministration occurred (including where the OPU or SAPOL have formed the view that the activity does not amount to Corruption, Fraud, Misconduct or Maladministration) to determine the cause for the breakdown in controls and to identify if any recommendations as to changes in policies, procedures or internal controls should be made to the Council. The investigation should:
 - i. occur as soon as practicable after the alleged incident;
 - ii. not impose on or detract from any investigation being undertaken by the OPI or SAPOL; and

- iii. have regard to any recommendations in any report received from the Commissioner or SAPOL in the incident.
- b) The CEO will, in conducting the investigation and deciding whether and how to report on the investigation to Council, have regard to the provisions of the Council's *Public Interest Disclosure Policy & Procedure* (where relevant) and any confidentiality requirements under the PID Act and/or the ICAC Act.
- c) Action taken by the CEO following an investigation into alleged Corruption, Fraud, Misconduct or Maladministration may include disciplinary action against any Employee involved in the incident.

8. Confidentiality and Publication Prohibitions

- a) A person who received information knowing that the information is connected with a matter that forms or is the subject of a complaint, report, assessment, investigation, referral or evaluation under the ICAC Act must not disclose that information, other than in the limited circumstances set out in Section 54(3) of the ICAC Act.
- b) A person must not, other than as authorised by the Commissioner or a court, publish or cause to be published any of the following:
 - i. information tending to suggest that a particular person is, has been, may be, or may have been, the subject of a complaint, report, assessment, investigation or referral under the ICAC Act;
 - ii. information that might enable a person who has made a complaint or report under the ICAC Act to be identified or located;
 - iii. the fact that a person has made or may be about to make a complaint or report under the ICAC Act;
 - iv. information that might enable a person who has given or may be about to give information or other evidence under the ICAC Act to be identified or located;
 - v. the fact that a person has given or may be about to give information or other evidence under this Act; or
 - vi. any information or evidence which the Commissioner has prohibited from publication.
- c) A failure to comply with the requirements in this Part 8 can constitute an offence. A Council Employee who fails to comply with these requirements may also face disciplinary action which may include dismissal from employment.
- d) In addition to the requirements in this part, Elected Members, Employees, Volunteers and contractors should also be mindful of the confidentiality provisions in the PID Act and the Council's *Public Interest Disclosure Policy & Procedure* (where relevant).

9. False Disclosure

A person who knowingly makes a false disclosure or a false or misleading statement in a complaint or report to the OPI or otherwise in accordance with this Policy will be guilty of an offence under the *ICAC Act* and the PID Act.

An Employee who makes a false disclosure, in addition to being guilty of an offence, may face disciplinary action that may include dismissal from employment.

REVIEW PROCESS

The Council will review this Policy within 36 months of the adoption date of the Policy.

INFORMATION

The contact officer for further information at the City of Norwood Payneham & St Peters is the Council's General Manager, Governance & Community Affairs, telephone 8366 4549 or via email: Imara@npsp.sa.gov.au.

ADOPTION OF THE POLICY

This Policy was endorsed by the Audit Committee on 26 October 2015.
This Policy was adopted by the Council on 2 November 2015.
This Policy was endorsed by the Audit Committee on 24 October 2016.
This Policy was adopted by the Council on 7 November 2016.
This Policy was reviewed by the Council on 1 June 2020.

TO BE REVIEWED

June 2023.

DEFINITIONS

For the purposes of this Policy the following definitions apply:

Corruption in public administration, as provided for in Section 5(1) of the ICAC Act, means conduct that constitutes:

- (a) an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
 - (i) bribery or corruption of public officers;
 - (ii) threats or reprisals against public officers;
 - (iii) abuse of public office;
 - (iv) demanding or requiring benefit on basis of public office;
 - (v) relating to appointment to public office.
- (b) an offence against the *Public Sector (Honesty and Accountability) Act 1995* or the *Public Corporations Act 1993*, or an attempt to commit such an offence; or
- (c) an offence against the *Lobbyist Act 2015*, or an attempt to commit such an offence; or
- (d) any other offence (including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence; or
- (e) any of the following in relation to an offence referred to in a preceding paragraph:
 - (i) aiding, abetting, counselling or procuring the commission of the offence;
 - (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
 - (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
 - (iv) conspiring with others to effect the commission of the offence.

Directions and Guidelines means the Directions and Guidelines issued by the Commissioner and as in force from time-to-time pursuant to Section 20 of the ICAC Act and/or Section 14 of the PID Act, which are available on the Commissioner's website (www.icac.sa.gov.au).

An **Employee** is any person who is employed by the Council, whether they are working in a full-time, part-time or casual capacity.

A **False Disclosure** is a disclosure of information relating to Fraud, Corruption, Maladministration or Misconduct that is made by a person who knows the information to be false or, who is reckless as to whether it is false.

Fraud includes an intentional dishonest act or omission done with the purpose of deceiving in order to obtain an unjust advantage or benefit or, to cause detriment to the Council. Examples of Fraud may include (without limitation):

- theft of assets;
- unauthorised and/or illegal use of assets, information or services for private purposes;
- misappropriation of funds; and/or
- falsification of records.

ICAC Act means the *Independent Commissioner Against Corruption Act 2012 (SA)* (as amended from time-to-time).

Independent Commissioner Against Corruption (Commissioner) means the person holding or acting in the office of the Independent Commissioner Against Corruption as per Section 4 of the ICAC Act, who has the powers and functions described at Section 7 of the ICAC Act.

Maladministration in public administration is defined at Section 5(4) of the ICAC Act and;

(a) means:

- (i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
- (ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and

(b) includes conduct resulting from impropriety, incompetence or negligence; and

(c) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

Misconduct in public administration is defined at Section 5(3)4 of the *ICAC Act* and means:

- a) contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or
- b) other misconduct of a public officer while acting in his or her capacity as a public officer.

Manager means any Employee of the Council who is responsible for the direct supervision of other Employees, and/or, for the management of a Council Department.

Office for Public Integrity (OPI) is the office established under the ICAC Act that has the function to:

- a) receive and assess complaints about public administration from members of the public;
- b) receive and assess reports about Corruption, Misconduct and Maladministration in public administration from inquiry agencies (including the Ombudsman), public authorities (including the Council) and Public Officers;
- c) refer complaints and reports to inquiry agencies, public authorities and Public Officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated; perform other functions assigned to the Office by the Commissioner.

PID Act means the *Public Interest Disclosure Act 2018 (SA)* (as amended from time-to-time).

Public administration is defined at section 4 of the *ICAC Act* and means, without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.

Note: For the purposes of this Policy, references to Corruption, Misconduct and Maladministration are taken to mean references to such conduct in public administration.

Public Officer is defined under Section 4 and Schedule 1 of the ICAC Act and includes:

- an Elected Member; and
- an Employee or officer of the Council.

Note: 'Officer' includes Volunteers and contractors of the Council.

Publish is defined in Section 4 of the ICAC Act and means publish by:

- newspaper, radio or television;
- internet or other electronic means of creating and sharing content with the public or participating social networking with the public; or
- any similar means of communication with the public.

Relevant Authority is defined at Section 5(5) of the PID Act and means the person or entity that receives and appropriate disclosure of public interest information in accordance with the PID Act, and includes (but is not limited to):

- where the information relates to a Public Officer, a person who is responsible for the management or supervision of the Public Officer, or a Responsible Officer; and
- where the information relates to a location within the area of the Council, a member, officer or employee of the Council.

A **Responsible Officer** is a person (or persons) who has completed any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* and who has been designated by the Council as a responsible officer under Section 12 of the PID Act.

SAPOL means the South Australian Police Force.

Waste refers to the waste of public resources (including public money), which occurs as a result of the substantial mismanagement, irregular or, unauthorised use of public resources.

For the purpose of the ICAC Act, Misconduct or Maladministration is public administration will be taken to be **serious or systematic** if the misconduct or maladministration;

- is of such a significant nature that it would undermine public confidence in the relevant public authority, or in public administration generally; and
- has the significant implications for the relevant public authority or for public administration generally (rather than just for the individual public officer concerned).

Note: further information about serious or systemic misconduct or maladministration is available at the ICAC website: <https://icac.sa.gov.au/glossary>

Attachment A

Roles and Responsibilities for Prevention and Control of Fraud, Corruption, Misconduct and Maladministration

Responsibility		Elected Members	Chief Executive Officer	General Managers & Managers	Employees	Audit and Risk Committee
Governance and Ethics						
1	Comply with this policy and any related legislation, policy, protocol or procedure (including, without limitation, the ICAC Act and the PID Act).	✓	✓	✓	✓	✓
2	At all times in the performance of duties or in association with their role with Council, act in an ethical manner.	✓	✓	✓	✓	✓
3	Promote a culture and environment in which Fraud, Corruption, Misconduct and Maladministration is discouraged and not tolerated.	✓	✓	✓	✓	<input type="checkbox"/>
4	Display integrity and honesty in the use of Council information, assets, funds, property, goods or services (Council Members, Employees, Volunteers and contractors engaged by the Council will be held accountable for any such Council Assets under their control).	✓	✓	✓	✓	✓

Attachment A

Roles and Responsibilities for Prevention and Control of Fraud, Corruption, Misconduct and Maladministration

Responsibility		Elected Members	Chief Executive Officer	General Managers & Managers	Employees	Audit and Risk Committee
Awareness and Training						
1	Promote community awareness of the Council's commitment to the prevention of Fraud, Corruption, Misconduct and Maladministration.	✓	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Executive employees and managers ensure all Employees, Volunteers and contractors engaged by the Council and under their supervision have been educated regarding Fraud, Corruption, Maladministration and Misconduct (including relevant legislative requirements and Council policies).	<input type="checkbox"/>	✓	✓	<input type="checkbox"/>	<input type="checkbox"/>
3	Undertake awareness training or education regarding Fraud, Corruption, Maladministration and Misconduct (as required).	✓	✓	✓	✓	✓
4	Develop and deliver training to employees, volunteers and contractors engaged by the Council to promote ethical conduct and an ethical culture.	<input type="checkbox"/>	✓	✓	<input type="checkbox"/>	<input type="checkbox"/>

Attachment A

Roles and Responsibilities for Prevention and Control of Fraud, Corruption, Misconduct and Maladministration

Responsibility		Elected Members	Chief Executive Officer	General Managers & Managers	Employees	Audit and Risk Committee
Awareness and Training						
5	Act in an ethical manner at all times in the performance of duties, and comply with ethical obligations in accordance with any relevant Council or legislated code or policy regarding conduct and behaviour (including the Behaviour Standards Policy & Code of Conduct for Council Staff, and the Code of Conduct for Council Members).	✓	✓	✓	✓	✓
6	Adopt and model constructive behaviours and approaches to work which promote ethical behaviours in other Council Members, Employees, Volunteers and contractors engaged by the Council.	✓	✓	✓	✓	✓

Attachment A

Roles and Responsibilities for Prevention and Control of Fraud, Corruption, Misconduct and Maladministration

Responsibility		Elected Members	Chief Executive Officer	General Managers & Managers	Employees	Audit and Risk Committee
Fraud Prevention						
1	Provide adequate security, including the provision of secure facilities for storage of assets, to assist in the prevention of Fraud, Corruption, Misconduct and Maladministration.	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Develop procedures to deter fraudulent or corrupt activity from occurring, and review regularly.	✓	✓	✓	<input type="checkbox"/>	<input type="checkbox"/>
3	Ensure appropriate internal controls are in place and operating effectively to minimise the risks of fraudulent or corrupt activity from occurring.	✓	✓	<input type="checkbox"/>	<input type="checkbox"/>	✓
4	Ensure effective screening (e.g. criminal history) of Employees, prospective Employees, Volunteers (as relevant) and contractors engaged by the Council is undertaken, including by use of appropriate and effective contractual arrangements.	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attachment A

Roles and Responsibilities for Prevention and Control of Fraud, Corruption, Misconduct and Maladministration

Responsibility	Elected Members	Chief Executive Officer	General Managers & Managers	Employees	Audit and Risk Committee	
Fraud Prevention						
5	Ensure all powers and authorities are appropriately delegated (and exercised in accordance with approved delegations) in order to minimise the risk of Fraud, Corruption, Misconduct or Maladministration in accordance with Part 7 of this Policy.	✓	✓	✓	<input type="checkbox"/>	<input type="checkbox"/>

Attachment A

Roles and Responsibilities for Prevention and Control of Fraud, Corruption, Misconduct and Maladministration

Responsibility		Elected Members	Chief Executive Officer	General Managers & Managers	Employees	Audit and Risk Committee
Detection and Investigation						
1	Ensure that investigations are conducted into allegations of Fraud, Corruption, Misconduct or Maladministration, in accordance with Part 7 of this Policy.	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Facilitate cooperation with any investigations undertaken by an external authority.	<input type="checkbox"/>	✓	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Undertake risk assessments and evaluations of the Council's policies and procedures to identify circumstances in which Fraud, Corruption, Misconduct or Maladministration could occur.	✓	✓	<input type="checkbox"/>	✓	<input type="checkbox"/>
4	Cooperate as required with any investigations undertaken whether internally or by an external authority.	✓	✓	✓	✓	✓

Attachment A

Roles and Responsibilities for Prevention and Control of Fraud, Corruption, Misconduct and Maladministration

Responsibility		Elected Members	Chief Executive Officer	General Managers & Managers	Employees	Audit and Risk Committee
Reporting						
1	Report all instances of conduct known or reasonably suspected to be Fraud, Corruption, Misconduct or Maladministration in accordance with Part 5 and 6 of this Policy.	✓	✓	✓	✓	✓
2	Develop mechanisms for receiving reports of Fraud, Corruption, Misconduct or Maladministration under this Policy.	✓	✓	✓	✓	✓