

FILE NO: PSC2009-02488

TITLE: FRAUD AND CORRUPTION CONTROL POLICY

POLICY OWNER: GOVERNANCE MANAGER

PURPOSE:

Port Stephens Council (Council) recognises that it has a responsibility to develop, encourage and implement sound financial, legal and ethical decision-making and organisational practices.

Port Stephens Council is committed to protecting its revenue, expenditure and property from any attempt, either by members of the public, contractors, elected Councillors or its own employees, to gain by deceit, financial or other benefits. This policy is designed to protect public funds and other assets, protect the integrity, security and reputation of Council and its employees and assist in maintaining high levels of service to the community.

This Fraud and corruption control policy represents Council's commitment to effective fraud and corruption risk management and prevention. The desired outcome of this commitment is to minimise the potential for fraud and corruption against Council.

This policy draws together Council's fraud and corruption prevention and detection initiatives into one document. It forms part of Council's risk management framework and has three major components:

- Prevention – initiatives to deter and minimise the opportunities of fraud and corruption;
- Detection – initiatives to detect fraud and corruption as soon as possible if it occurs; and
- Response – initiatives to deal with detected or suspected fraud and corruption.

The desired outcome of this policy is the elimination of fraud and corruption against Council involving employees and other persons external to Council. While the elimination of all instances of fraud and corruption may not realistically be achievable, it remains Council's ultimate fraud and corruption prevention objective.

CONTEXT/BACKGROUND:

The policy was developed in 2011 as part of Council's review of fraud and corruption control. The policy framework provides Council's position with respect to the overall management of fraud and corruption.

This Fraud and corruption control policy represents the commitment of the Council to effective fraud and corruption risk management. It also requires the commitment, co-operation and

involvement of all Councillors, staff, contractors and the public in preventing, detecting and responding to all instances of fraud and corruption.

SCOPE:

1 Attitude to fraud and corruption

- a) The Council has a zero tolerance to fraud and corruption.
- b) Council is committed to minimising the incidence of fraud and corruption through the development, implementation and regular review of fraud and corruption prevention, detection and response strategies.

2 Council’s approach to fraud and corruption control

- a) Council will ensure that Council officials are aware of the fraud and corruption reporting procedures and are actively encouraged to report suspected fraud and corruption through the appropriate channels.
- b) Council has adopted a clear framework and approach to fraud and corruption detection and prevention, This approach is based on the Australian standard for fraud and corruption control AS 8001:2008. In particular, the following fraud and corruption control strategies are pursued by Council:

Prevention Strategies	Detection Strategies
<ul style="list-style-type: none"> ▪ Integrity framework – Code of conduct 	<ul style="list-style-type: none"> ▪ Council and external agency reviews
<ul style="list-style-type: none"> ▪ Fraud and corruption control management directive (including allocation of fraud and corruption prevention responsibilities) 	<ul style="list-style-type: none"> ▪ Management reports and internal audit reviews
<ul style="list-style-type: none"> ▪ Fraud and corruption awareness training 	<ul style="list-style-type: none"> ▪ Staff induction and fraud and corruption awareness training sessions
<ul style="list-style-type: none"> ▪ Fraud and corruption risk assessments 	<ul style="list-style-type: none"> ▪ Clear reporting channels and internal audit reviews
<ul style="list-style-type: none"> ▪ Robust internal controls 	<ul style="list-style-type: none"> ▪ Public Interest disclosures and internal reporting
<ul style="list-style-type: none"> ▪ Pre-employment screening 	<ul style="list-style-type: none"> ▪ Police checks and references

- c) All information received by Council in relation to suspected fraudulent or corrupt conduct will be collected, classified and handled appropriately having regard to privacy, confidentiality, legal professional privilege and the requirements of natural justice.

- d) If fraud or corruption against Council is detected, the General Manager will make all decisions on the appropriate communications protocol by nominating one person to be the authorised spokesperson. Any communications relating to a fraud or corrupt incident by a person other than the General Manager or authorised spokesperson will be considered a breach of this policy. Any breach of any policy is dealt with under the provisions of the Enterprise agreement and/or the terms of contract; and/or the Code of conduct.

3 Reporting

Under the Code of Conduct there is an obligation for each Council official to report any improper conduct, which includes suspected fraudulent or corrupt behaviour. An individual may report the matter either internally or externally as outlined below.

Council officials should report any suspicions to only those people who absolutely need to know. This protects people from allegations that may not be proven and prevents the possible destruction of evidence.

3.1 Internally

Councillors, Council officials and delegates of Council must report as soon as possible any suspected fraudulent or corrupt behaviour to:

- Governance Manager;
- General Manager; or
- Mayor.

Supervisors and managers or the internal auditors have an obligation to immediately pass on the reports of suspected fraudulent or corrupt behaviour or breaches of the policy to the General Manager.

The only exception to this is where the General Manager is suspected of conduct relating to fraud or corruption, in which case the matter should be reported to the:

- Mayor;
- Governance Manager; or
- The relevant external agency. (See 3.2 below)

Council's Public Interest Disclosure Internal Reporting Policy provides protection to council officials who report fraudulent or corrupt behaviour.

3.2 External Agencies

Matters relating to suspected fraudulent or corrupt activities can also be reported to the following external agencies:

- Independent Commission Against Corruption (ICAC) – telephone 1800 463 909 (in the case of allegations of fraud or corruption);
- Office of Local Government – telephone 4428 4100 (in the case of allegations relating to pecuniary interests);
- NSW Police – telephone 4983 7599 (in the case of allegations relating to fraud); and
- NSW Electoral Commission – telephone 1300 135 736 (in the case of allegations relating to election fraud).

4 Responsibilities

Council will ensure that:

- Relevant exposure of significant risks to the Council are identified. The evaluation of risk is a critical determinant in Council's approach to fraud and corruption prevention and detection;
- Relevant legal obligations are monitored to ensure that operating procedures and conditions meet these obligations;
- The Code of Conduct and associated policies and procedures are developed and publicised;
- Appropriate fraud and corruption prevention and detection controls are incorporated when developing and maintaining computer and/or other systems;
- Employees are properly trained and understand relevant Council policies and the legislative requirements of protection for informants under the *Public Interest Disclosures Act 1994*;
- An environment exists in which fraud and corruption related activity is discouraged; and
- Effective investigations of allegations are undertaken, and notified to the NSW Police, the ICAC, the NSW Electoral Commission and/or the Office of Local Government, for investigation and/or prosecution as required.

There are a number of specific responsibilities associated with the prevention of fraud and corruption related activity. These specific responsibilities are to be included in the Fraud and Corruption Control management directive.

5 Record keeping, confidentiality and privacy

Council will maintain effective record keeping systems to demonstrate due process has been followed for all actions and decisions arising out of the implementation of this policy. All investigative documentation will comply with relevant legislative provisions, will remain strictly

confidential and will be retained in accordance with the *State Records Act 1998* and Council's Access to Information policy.

DEFINITIONS:

An outline of the key definitions of terms included in the policy.

Council officials Means Port Stephens Council employees, consultants and contractors

Corruption For the purpose of this management directive, corruption and corrupt conduct will have the same meanings as defined in the Independent Commission Against Corruption (ICAC) Act 1988, which is set out in Appendix B.

In summary, corrupt conduct means any conduct, which could affect the honest or impartial exercise of official functions, may be a breach of trust, or may involve the misuse of any Council information by any Council official.

Council Means Port Stephens Council

Fraud Fraud is defined in Australian Standard AS 8001: 2008 as:

“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 whether or not 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 the purpose of this management directive, fraud is not restricted to tangible benefits only and includes intangibles such as information, which may not be in documentary form.

ICAC Independent Commission Against Corruption.



POLICY STATEMENT:

Council is committed to:

- 1) Adopting measures to minimise risk;
- 2) Serving, representing and promoting community needs, interests and aspirations;
- 3) Protecting community assets and resources; and
- 4) Exercising its powers and engage in initiatives that add value to and capitalise on the community's assets and resources.

To achieve its fraud and corruption prevention objectives Council will:

- 1) Identify fraud and corruption risks and regularly review and update the Fraud and corruption control policy;
- 2) Provide fraud and corruption awareness training to those staff who are identified as being in positions that require fraud and corruption awareness training;
- 3) Ensure all Councillors, staff, contractors and the public are aware of Council's fraud and corruption control policy;
- 4) Encourage and promote professional and ethical business practice;
- 5) Identify any weaknesses in Council's control processes through regular review of Council's operations;
- 6) Clearly communicate how suspected instances of fraud and corruption can be reported;
- 7) Investigate alleged or suspected instances of fraud or corruption using professionals with experience in investigation techniques;
- 8) Take appropriate action to deal with instances of actual, suspected or alleged fraud or corruption, including by recommending prosecution of persons and/or organisations for fraud or corruption offences where and when appropriate; and
- 9) Use all practicable avenues to recover money or property lost through fraudulent or corrupt activity.

POLICY RESPONSIBILITIES:

- 1) The General Manager, Group Managers and Governance Manager is responsible for implementing, complying with the policy.
- 2) The Governance Manager is responsible for monitoring, evaluating, reviewing and providing advice on the policy.
- 3) Council officials are required to comply with the policy.

RELATED DOCUMENTS:

- *Local Government Act 1993 and Local Government (General) Regulations 2005;*
- *Environmental Planning and Assessment Act 1979*
- *Independent Commission Against Corruption Act 1988*
- *Public Interest Disclosures Act 1994*
- *Crimes Act 1990*
- *State Records Act 1998*
- Australian Standard AS8001:2008
- Code of conduct;
- Public Interest disclosures internal reporting policy;
- Grievance and dispute resolution process; and
- Access to information policy.

CONTROLLED DOCUMENT INFORMATION:

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RM8 container No	PSC2009-02488	RM8 record No	17/164405
Audience	Council officials		
Process owner	Governance Manager		
Author	Governance Manager		
Review timeframe	Two years	Next review date	31 July 2019
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VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	12 April 2011	Corporate Services Group Manager	Original version adopted by Council.	111
2.0	26 November 2013	Executive Officer	Review completed and adopted by Council.	346
3.0	14 April 2015	Governance Manager	Review completed and adopted by Council.	088
4.0	11 July 2017	Governance Manager	Transferred the policy into the new template. Reviewed the policy. Updated contact telephone numbers.	175