

# FRAUD AND CORRUPTION CONTROL

Policy | Governance

This policy outlines Council's commitment to ensuring appropriate mechanisms and processes are in place to prevent, detect and respond to fraud and corruption

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# 1 Background

## 1.1 Title of the Policy and Commencement Date

The Fraud and Corruption Control Policy takes effect from 19 November 2018.

## 1.2 Purpose of the Policy

Singleton Council is committed to preventing, detecting and responding to any fraud and corruption related conduct.

The purpose of this policy is to clearly demonstrate that Council does not and will not tolerate fraudulent practices either by its own staff, contractors or others working for Council and will not tolerate others using fraudulent practices against Council, its staff or the functions and services it provides.

Our community has an expectation that Council will put in place appropriate systems to reduce the risk of fraud and corruption against Council. It is therefore a clear responsibility of the elected Council, our Leadership Team and every employee to prevent fraud and corruption. The consequences of fraud and corruption can result in a significant drain on Council's resources in undertaking investigations and can severely damage its reputation.

# 2 Objective

## 2.1 Objectives and Coverage of the Policy

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.

The key objective of this policy is to influence culture and behaviour by creating a measurable fraud and corruption control environment.

# 3 Application

## 3.1 Application of this Policy

This policy applies to all Council officials. Council officials are defined to include Councillors, members of Council staff and delegates of Council. A delegate of Council is a person or body to whom a function of Council is delegated, such as staff, Councillors, community representatives, volunteers, consultants and contractors.

# 4 Definitions

For the purposes of this policy:

Term	Meaning
Corruption	For the purpose of this Policy, corruption and corrupt conduct will have the same meaning as defined in the <i>Independent Commission Against Corruption Act, 1988</i> which is set out in



	<b>Appendix A.</b> In summary, corrupt conduct means any conduct which could affect the honest or impartial exercise of official functions, or may be a breach of trust, or may involve the misuse of any Council information by any Council Official.
Council	Means Singleton Council.
Fraud	As defined in AS 8001:2008, Fraud means “Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property 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.”
ICAC	The Independent Commission Against Corruption.

## 5 Council’s Approach to Fraud and Corruption Control

Council emphasises its support for better practice processes through the following:

- Development and implementation of a comprehensive Fraud and Corruption Prevention Plan which reflects better practice in local government and complies with Australian Standards, legislation and guidelines issued by other regulatory bodies.
- Appropriate assignment of responsibility for the effective implementation and operation of the Fraud and Corruption Prevention Plan.
- Assessment of fraud and corruption risks and review of the Fraud and Corruption Prevention Plan at least every two (2) years to ensure its effectiveness is maintained.
- Clear communication and integration of fraud and corruption accountabilities into Council’s regular activities and processes.
- Utilisation of the Audit Office of New South Wales – Fraud Control Improvement Kit.

In particular, utilisation of the Fraud Control Improvement Kit provides:

- The Audit, Risk and Improvement Committee with a simple and effective way to review and monitor fraud and corruption risks.
- The Leadership Team with a structured way to meet their fraud and corruption obligations.
- Assistance to the General Manager when making representations about fraud and corruption control.

Through use of the Kit Council will:

- Develop a comprehensive Fraud and Corruption Prevention Plan.
- Monitor the ongoing extent of Council’s Fraud and Corruption Prevention Plan across all Business Units within Council.



## 6 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 in the Code of Conduct or the Public Interest Disclosures (PID) Internal Reporting Policy.

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.

## 7 Relevant Legislation

- *Local Government Act, 1993.*
- *Local Government (General) Regulation, 2005.*
- *Independent Commission Against Corruption (ICAC) Act, 1994.*
- *Crimes Act, 1990.*
- *Public Interest Disclosures Act, 1994.*
- *State Records Act, 1998.*
- *Australian Standard AS8001:2008 Fraud and Corruption Control.*

## 8 Document Information

Related documents and reference information in this section provides a single reference point to develop and maintain site compliance information.

### 8.1 Related Documents

Related documents, listed in **Table 8-1** below, are internal documents directly related to or referenced from this document.

Number	Title
POL/1011	Code of Conduct
POL/1020	Public Interest Disclosures (PID) Internal Reporting Policy
POL/9007	Gifts & Benefits Policy
POL/8006	Information Communication Technology User Policy
POL/8005	Information Management (Recordkeeping) Policy
POL/9008	Integrated Risk Management Policy
POL/6001	Procurement Policy
POL/1019	Internal Audit Policy

Table 8-1 – Related documents

## 9 Responsible Officer / Policy Owner

Ownership of this policy rests with the Coordinator Governance.



## 10 Responsibilities

Parties or Persons	Responsibilities
General Manager and Leadership Team	<ul style="list-style-type: none"> <li>Implement and comply with this policy</li> </ul>
Coordinator Governance	<ul style="list-style-type: none"> <li>Monitor, evaluate, review and provide advice on this policy</li> </ul>
Council Officials	<ul style="list-style-type: none"> <li>Comply with this policy</li> </ul>

## 11 Approval

As per cover sheet.

## 12 Monitoring

This policy will be monitored by the Director Corporate & Community Services Group to ensure compliance.

## 13 Review Date

This policy, once adopted, is to remain in force until it is reviewed by Council. This policy is to be reviewed approximately every two (2) years to ensure that it meets legislative requirements.

## 14 Last Review Date

This policy was last reviewed by Council on 8 February 2010.

## 15 Record Keeping, Confidentiality and Privacy

Council will maintain effective recordkeeping 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*.

This policy is to be made available for public viewing as required under the *Government Information (Public Access) 2009, NSW*.

## 16 Breaches and Sanctions

A breach of the Fraud and Corruption Control Policy amounts to a breach of Council's Code of Conduct. Any such breaches will be referred to the General Manager for appropriate action.



## Appendix A - Definition of Corrupt Conduct from the *Independent Commission Against Corruption Act, 1988*

Corrupt conduct is defined in the *Independent Commission against Corruption Act, 1988* (ICAC Act 1988) as:

### **7 Corrupt conduct**

- (1) *For the purposes of this Act, corrupt conduct is any conduct which falls within the description of corrupt conduct in either or both of subsections (1) and (2) of section 8, but which is not excluded by section 9.*
- (2) *Conduct comprising a conspiracy or attempt to commit or engage in conduct that would be corrupt conduct under section 8 (1) or (2) shall itself be regarded as corrupt conduct under section 8 (1) or (2).*
- (3) *Conduct comprising such a conspiracy or attempt is not excluded by section 9 if, had the conspiracy or attempt been brought to fruition in further conduct, the further conduct could constitute or involve an offence or grounds referred to in that section*

### **8 General nature of corrupt conduct**

- (1) *Corrupt conduct is:*
  - (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, or*
  - (b) *any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or*
  - (c) *any conduct of a public official or former public official that constitutes or involves a breach of public trust, or*
  - (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.*
- (2) *Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:*
  - (a) *official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition),*
  - (b) *bribery,*
  - (c) *blackmail,*
  - (d) *obtaining or offering secret commissions,*
  - (e) *fraud,*
  - (f) *theft,*
  - (g) *perverting the course of justice,*
  - (h) *embezzlement,*
  - (i) *election bribery,*
  - (j) *election funding offences,*
  - (k) *election fraud,*
  - (l) *treating,*
  - (m) *tax evasion,*



- (n) revenue evasion,
- (o) currency violations,
- (p) illegal drug dealings,
- (q) illegal gambling,
- (r) obtaining financial benefit by vice engaged in by others,
- (s) bankruptcy and company violations,
- (t) harbouring criminals,
- (u) forgery,
- (v) treason or other offences against the Sovereign,
- (w) homicide or violence,
- (x) matters of the same or a similar nature to any listed above,
- (y) any conspiracy or attempt in relation to any of the above.

- (3) Conduct may amount to corrupt conduct under this section even though it occurred before the commencement of this subsection, and it does not matter that some or all of the effects or other ingredients necessary to establish such corrupt conduct occurred before that commencement and that any person or persons involved are no longer public officials.
- (4) Conduct committed by or in relation to a person who was not or is not a public official may amount to corrupt conduct under this section with respect to the exercise of his or her official functions after becoming a public official.
- (5) Conduct may amount to corrupt conduct under this section even though it occurred outside the State or outside Australia, and matters listed in subsection (2) refer to:
  - (a) matters arising in the State or matters arising under the law of the State, or
  - (b) matters arising outside the State or outside Australia or matters arising under the law of the Commonwealth or under any other law.
- (6) The specific mention of a kind of conduct in a provision of this section shall not be regarded as limiting the scope of any other provision of this section.

## 9 **Limitation on nature of corrupt conduct**

- (1) Despite section 8, conduct does not amount to corrupt conduct unless it could constitute or involve:
  - (a) a criminal offence, or
  - (b) a disciplinary offence, or
  - (c) reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or
  - (d) in the case of conduct of a Minister of the Crown or a member of a House of Parliament—a substantial breach of an applicable code of conduct.
- (2) It does not matter that proceedings or action for such an offence can no longer be brought or continued, or that action for such dismissal, dispensing or other termination can no longer be taken.
- (3) For the purposes of this section:

**applicable code of conduct** means, in relation to:

- (a) a Minister of the Crown—a ministerial code of conduct prescribed or adopted for the purposes of this section by the regulations, or



*(b) a member of the Legislative Council or of the Legislative Assembly (including a Minister of the Crown)—a code of conduct adopted for the purposes of this section by resolution of the House concerned.*

**criminal offence** means a criminal offence under the law of the State or under any other law relevant to the conduct in question.

**disciplinary offence** includes any misconduct, irregularity, neglect of duty, breach of discipline or other matter that constitutes or may constitute grounds for disciplinary action under any law.

- (4) Subject to subsection (5), conduct of a Minister of the Crown or a member of a House of Parliament which falls within the description of corrupt conduct in section 8 is not excluded by this section if it is conduct that would cause a reasonable person to believe that it would bring the integrity of the office concerned or of Parliament into serious disrepute.*
- (5) Without otherwise limiting the matters that it can under section 74A (1) include in a report under section 74, the Commission is not authorised to include a finding or opinion that a specified person has, by engaging in conduct of a kind referred to in subsection (4), engaged in corrupt conduct, unless the Commission is satisfied that the conduct constitutes a breach of a law (apart from this Act) and the Commission identifies that law in the report.*
- (6) A reference to a disciplinary offence in this section and sections 74A and 74B includes a reference to a substantial breach of an applicable requirement of a code of conduct required to be complied with under section 440 (5) of the Local Government Act 1993, but does not include a reference to any other breach of such a requirement.*

