

FRAUD & CORRUPTION PREVENTION POLICY	
	Council Policy
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1. POLICY STATEMENT

Port Augusta City Council ("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 and Corruption in Public Administration have the potential to cause significant financial and non-financial harm and therefore the prevention and control of Fraud and Corruption should feature predominantly within the systems and procedures of a responsible Council.

2. PURPOSE

2.1 Purpose

This Policy is designed to protect public funds and assets and ensure the integrity, security and reputation of the Council.

This Policy outlines the Council's approach to the identification, prevention or minimisation and control of fraudulent and/or corrupt activity and summarises the associated responsibilities of Council Members and Council Workers.

2.2 Scope

This Policy applies to all Council staff, Elected Members, contractors and volunteers.

2.3 Definitions

For the purposes of this Policy the following definitions apply:

- 2.3.1 **Commissioner** means the person holding or acting in the office of the Independent Commissioner Against Corruption per section 4 of the *ICAC Act*, who has the powers and functions described at section 7 of the *ICAC Act*.
- 2.3.2 **Corruption** in public administration, has the same meaning as the *ICAC Act*.
- 2.3.3 **Directions and Guidelines** is a reference to the Directions and Guidelines issued pursuant to Section 20 of the *ICAC Act*, which are available on the Commissioner's website (www.icac.sa.gov.au).
- 2.3.4 A **Worker** is any person who is undertaking work for, or on behalf of the Council, including employees, contractors, volunteers and consultants.
- 2.3.5 A **False Disclosure** is a disclosure of information relating to fraud or corruption that is made by a person who knows the information to be false or, who is reckless as to whether it is false.
- 2.3.6 **Fraud** is an intentional dishonest act or omission done with the purpose of deceiving. Note: there is no statutory definition of 'fraud'. Fraud is a style of offending. The offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences.
- 2.3.7 **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 the Ombudsman, the Council and public officers;
- c) make recommendations as to whether and by whom complaints and reports should be investigated;
- d) perform other functions assigned to the Office by the Commissioner; and
- e) give direction or guidance to public authorities in circumstances approved by the Commissioner.

2.3.8 **Public Administration** as defined at Section 4 of the *ICAC Act*.

2.3.9 **Public Officer** defined under the *ICAC Act 2012* includes:

- a) a Council Member; and
- b) a Worker or Officer of the Council.

2.3.10 **Relevant Authority** for the purposes of the PID Act means the person or entity that receives an appropriate disclosure of public interest information in accordance with the PID Act

2.3.11 A **Responsible Officer** is a person (or persons) appointed by the Council pursuant to Section 302B of the *Local Government Act 1999* who is (are) authorised to receive and act upon disclosures of public interest information reported to him/her under the *Public Interest Disclosure Act 2018*.

2.4 Strategic Reference

5 Governance and Financial Sustainability

5.5 We meet or exceed legislative and accreditation requirements for all relevant programs.

3. PRINCIPLES

3.1 The Council will not tolerate fraudulent or corrupt activity and is committed to its control and prevention by:

- a) complying with the requirements of the Independent Commissioner Against Corruption Act 2012 (ICAC Act);
- b) taking appropriate steps towards compliance with relevant legislation, policies and instruments
- c) providing a clear statement to all Council Workers through practices, policies and procedures that fraudulent conduct is not acceptable and will not be tolerated
- d) protecting Councils' assets, interests and reputation for the risks associated with fraudulent conduct
- e) outlining the Council's approach to the prevention, detection, and response to Fraud and Corruption
- f) fostering an ethical environment and culture which is conscious of, actively discourages, does not tolerate and appropriately deals with Fraud and Corruption
- g) identifying the relevant responsibilities of Council Members, Council Workers, the Chief Executive Officer, managers and the Audit and Risk Committee

- h) educating Council Workers and Council Members about their obligations to report conduct reasonably suspected of being Fraud and/or Corruption
- i) evaluating practices, policies and procedures in place in order to further advance Council systems for preventing or minimising Fraud and Corruption, and
- j) developing a consistent approach across the Council through establishing and maintaining effective systems and internal control against Fraud and Corruption.

3.2 Prevention

3.2.1 The Council recognises that:

- a) the occurrence of fraud and corruption will prevail in an administrative environment where opportunities exist for waste, abuse and maladministration; and
- b) the most effective way to prevent the occurrence of fraud and corruption is to promote an ethical, environment in which internal control mechanisms have been implemented.

3.2.2 The Council expects that Public Officers will assist in preventing fraud and corruption within the Council by:

- a) understanding the responsibilities of their position;
- b) familiarising themselves with the Councils procedures and adhering to them;
- c) understanding what behaviour constitutes fraudulent and/or corrupt conduct;
- d) maintaining an awareness of the strategies that have been implemented by the Council to minimise fraud and corruption;
- e) being continuously vigilant to the potential for fraud and/or corruption to occur;
- f) reporting suspected or actual occurrences of fraud or corruption.

3.3 Fraud and Corruption Risk Assessment Process

3.3.1 The Council's main objective in the prevention and control of fraud and corruption is to minimise the occurrence of fraud and corruption within the Council. This objective is generally achieved by:

- a) identifying Fraud and Corruption Risks;
- b) determining strategies to control those risks; and
- c) defining responsibility for and the time frame within which the strategies will be implemented.

3.3.2 Managers must be alert to the potential of fraud and corruption to occur and remain wary of factors which may leave the Council vulnerable to fraud and corruption, including:

- a) changes to Council delegations;
- b) implementation of cost cutting measures;
- c) contracting out and outsourcing;
- d) the impact of new technology; and
- e) changes to risk management practices.

3.4 Reporting Fraud and Corruption

3.4.1 Reports by Workers or Council Members to the OPI

- a) Any Worker or Council Member who has or acquires knowledge of actual or suspected corruption in public administration must report this information to the OPI as soon as practicable.
- b) Where a Worker or Council Member suspects corruption in public administration, that suspicion must be reasonably held. The Directions and Guidelines address what is required to form a reasonable suspicion.
- c) Reports to the OPI must be made in accordance with the reporting obligations contained in the Directions and Guidelines.
- d) When reporting actual or suspected Corruption in the Council to the OPI, under the ICAC Act any requirements in other documents that form part of the Council's Fraud and Corruption Framework, need to be adhered to
- e) For the purposes of the PID Act, nothing in this section is intended to prevent a Public Officer from reporting suspected Corruption to a Relevant Authority. Such disclosure may be protected under the PID Act and will be managed in accordance with the Council's Public Interest Disclosure Policy. Public Officers are encouraged to have regard to the Council's Public Interest Disclosure Policy when determining where to direct a disclosure.

3.4.2 Reporting Fraud

- a) Any Worker or Council Member that has or acquires knowledge of actual or suspected Fraud that:
 - (i) does not constitute corruption in public administration¹; and
 - (ii) impacts or causes detriment (or has the potential to impact or cause detriment) to the Council -must report such information to the Responsible Officer or the Anti-Corruption branch of SAPOL.
- b) A report made under clause 3.4.2 may be made under the *Public Interest Disclosure Act 2018* and managed in accordance with the Council's Public Interest Disclosure Policy.

3.5 Action by the Chief Executive Officer following Report and/or investigation into Fraud or Corruption

- 3.5.1 Following any report to the OPI or SAPOL under this Policy (or the Public Interest Disclosure Policy as the case may be) of which the Chief Executive Officer has knowledge and, subject to the finalisation of any investigation undertaken by the Commissioner or SAPOL, the Chief Executive Officer will undertake a review into the area in which the Fraud or Corruption occurred to determine the cause for the breakdown in controls and will report the findings of the review and provide recommendations (if any) to the Audit and Risk Committee and Council. In undertaking any review the Chief Executive Officer will have regard to any recommendations received from the Commissioner or the Ombudsman. The investigation should:
 - a) occur as soon as practicable after the alleged incident; and

¹ Such conduct may, for example, relate to persons who are not a public officer such as a non elected member of a Council Committee and/or a member of a Council Assessment Panel

- b) not impose on or detract from any investigation being undertaken by the OPI or SAPOL;
- c) have regard to any recommendations in any report received from the Commissioner or SAPOL on the incident.

3.5.2 In the event that allegations of Fraud and/or Corruption are substantiated, the Chief Executive Officer may take disciplinary action against any worker who was involved.

3.5.3 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 Public Interest Disclosure Policy, and any confidentiality requirements under the PID Act and/or ICAC Act.

3.6 **False Disclosure**

3.6.1 A person who knowingly makes a false or misleading statement in a complaint or report under the *ICAC Act* or makes a false or misleading disclosure, under the *Public Interest Disclosure Act 2018*, is guilty of an offence.

3.6.2 A worker who makes a false disclosure, in addition to being guilty of an offence, may face disciplinary action that may include dismissal.

3.7 **Educating for Awareness**

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

3.7.2 The Council will increase awareness by:

- a) promoting the Council's initiatives and policy regarding the control and prevention of fraud and corruption on the Council's website and at the Council's offices;
- b) referring to the Council's Fraud and Corruption initiatives in the Council's Annual Report; and
- c) facilitating public access to all of the documents that constitute the Council's fraud and corruption initiatives and policy.

3.8 **Confidentiality and Publication Prohibitions**

3.8.1 A person who receives information knowing that the information relates to 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*.

3.8.2 A person must not, other than as authorised by the Commissioner or a court, publish any of the following:

- a) information 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*;
- b) information that enables a person who has made a complaint or report under the *ICAC Act* to be identified or located;
- c) the fact that a person has made or may be about to make a complaint or report under the *ICAC Act*;
- d) information that might enable a person who has given or may be about to give information or evidence under the *ICAC Act* to be identified or located;

- e) the fact that a person has given or may be about to give information or evidence under this Act; or
- f) any other information or evidence which the Commissioner has prohibited from publication.

3.8.3 Failure to comply with these requirements can constitute an offence. A Council Worker who fails to comply with these requirements may face disciplinary action, which may include dismissal.

3.8.4 Council Members and Council Workers should be mindful of the confidentiality provisions in the Council's Public Interest Disclosure Policy.

4. RESPONSIBILITY & REVIEW

4.1 Responsible Officer

Director - Corporate & Community Services

4.2 Availability

This policy will be available on Council's website.

4.3 Review

This policy will be reviewed within 12 months of a General Election for Local Government, or as required to meet other obligations.

5. REFERENCES

5.1 Legislation

Public Finance and Audit Act 1987
Independent Commissioner Against Corruption Act 2012
Local Government Act 1999
Public Interest Disclosure Act 2018
Ombudsman Act 1972

5.2 Other References

Financial - Internal Control Policy
Risk Management Policy
Statutory Behaviour Standards for Elected Members
Public Interest Disclosure Policy