



Policy Document

FRAUD AND CORRUPTION POLICY

FIN010

SCOPE

This policy applies to all Council delegates, being - Councillors, Council employees (including temporary employees and work experience placements), contractors, consultants, suppliers, volunteers, committee members and other delegates.

OBJECTIVE

Lachlan Shire Council (Council) aims to ensure a robust and sustainable ethical culture across the organisation. Council recognises the importance of implementing and maintaining an integrity framework, including preventative systems, to eliminate and prevent fraud and corruption against Council, be it by internal or external parties.

Fraudulent and corrupt behaviour are inevitable risks to any organisation, including Council, and can have detrimental consequences such as:

- Financial loss,
- Waste or misuse of resources
- Reputational damage,
- Impact on staff morale, productivity, management objectives, and
- Loss of community confidence in the integrity of Council

In cases where such preventative systems fail it is important to detect instances of fraud and corruption through constant monitoring, risk assessment, and a confidential reporting mechanism. Responding to instances in a timely manner will assist in upholding Council's reputation, minimise financial losses, instil confidence amongst staff, councillors and the community on the integrity and governance frameworks of Council.

POLICY

This policy aims to protect Council's revenue and assets, protect the integrity, security and reputation of Council and maintain a high level of services to the community by limiting Council's exposure to fraudulent or corrupt activities of any nature. This policy complements NSW government legislation, council policies, guidelines and controls as described in section 3.

Lachlan Shire Council has adopted values that reflect who we are, what we do and what we promote as an organisation.

- **Cooperative** – Team work is the key, all working together toward a common goal.
- **Responsive** – Committed to the needs of the Organisation and the Community.
- **Respect** – We treat others with kindness, fairness and tolerance in all our professional and personal interactions.
- **Effective** – we accomplish a purpose, we produce the expected result and are effective workers without wasting time and effort.

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- **Proud** – we take pride in our work and doing the best job we can. We are proud of Council and its achievements.

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1. Principles

- 1.1. Fraud and corruption control is one of the integral parts of Council's integrity framework. The existence of a comprehensive fraud and corruption policy is critical in mandating Council's position on fraud and corruption. As per Council's *Code of Conduct/s* adopted by Council, Council is committed to maintaining high standards of legal, ethical and moral behavior and has a zero tolerance to fraud and corruption. Council officials are required to comply with the standards of conduct expected of them, fulfill their statutory duty, and act in a way that enhances public confidence in local government. Any act of fraud or corrupt behavior will be dealt with accordingly by the Council and disciplinary action may be taken against anyone who engages in such activity.
- 1.2. Council's principles and frameworks established to control and prevent corruption are intended to achieve:
 - Staff awareness,
 - Prevention and deterrence,
 - Detection mechanisms to monitor fraud and corruption and an easily accessible and confidential reporting system for internal & external parties,
 - Response and report approach through investigations and actions taken, and
 - Deliver confidence in the integrity of the Council.
- 1.3. Whilst fraud and corruption can occur anywhere or at any time, identified high risk areas include:
 - Financial operations,
 - Property and resources,
 - Customer interactions,
 - Staffing, and
 - Information and documentation
- 1.4. Council officials are expected to complete and maintain accurate records of all business dealings and ensure they are recorded in the appropriate Information Management System, use Council resources in an acceptable manner, maintain transparency and act with probity and accountability during procurement of goods and services, declare conflicts of interest in order to manage them appropriately, respect confidentiality, and use information and Council resources for work related purposes only.
- 1.5. All staff, councillors, consultants, contractors or volunteers for Council have a responsibility to refrain from any form of fraudulent and corrupt behavior. It is also their responsibility to report any such activity, if detected within Council premises or external works associated with Council.

2. Definitions

- 2.1. For the purpose of this policy **Fraud** is defined in *AS 8001-2008 Fraud and Corruption Control, 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 where deception is used at the time, immediately before or immediately following the activity.

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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 personal financial benefit”.

2.2. For the purpose of this policy **Corruption** is defined in *AS 8001-2008 Fraud and Corruption Control, 2008* as:

“Dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity. The concept of ‘corruption’ within this standard can also involve corrupt conduct by the entity, or a person purporting to act on behalf of and in the interests of the entity, in order to secure some form of improper advantage for the entity either directly or indirectly”.

3. Related legislations, policies, controls and guidelines

- Local Government Act 1993 No. 30
- Local Government Amendment (Governance and Planning) Act 2016
- Government Information (Public Access) Act (GIPA Act)
- Public Interest Disclosures Act 1994 No. 92 (PID Act)
- Independent Commission Against Corruption Act 1988 No. 35
- A 8001-2008 Fraud and Corruption Control
- NSW Audit Office Fraud Control Improvement Kit, 2015
- Code of Conduct for Council Staff, 2019
- Code of Conduct for Councillors, 2019
- Internal Reporting Policy
- Corporate Credit Card Policy
- Recruitment Policy
- Interaction between Councillors and Staff Policy
- Procurement and Disposal Policy
- Statement of Business Ethics Statement
- Gifts, Benefits and Bribes Policy
- Payment of Expenses and provision of Facilities to Mayor and Councillors Policy
- Complaints Management Framework
- Information Services Security Policy

4. Roles and Responsibilities

4.1. All Employees/Councillors and Council staff (referred to as employees)

- a. The Code of Conduct is fundamental in establishing an ethical framework whereby employees acknowledge and adhere to the Code at all times by acting *‘lawfully and honestly and exercise a reasonable degree of care and diligence in carrying out functions’* (Section 439 of the *Local Government Act*).
- b. It is the responsibility of all employees to adhere to this policy and execute their work with integrity, accountability and transparency in order to prevent incidences of fraud

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or corruption in areas within their workplace. This will promote awareness amongst other colleagues as such and will consequently act as a deterrence.

- c. It is also the responsibility of all employees to report any alleged or actual incidences of fraud and corrupt behavior using relevant mechanisms in accordance with the *Internal Reporting Policy*.
- d. All employees must ensure they undertake any relevant training relating to prevention, detection and action on fraud and corruption. Training is provided to employees during the onboarding process. For employees working in high risk areas such as procurement, payroll, accounts and planning – ongoing fraud and corruption awareness training is provided.

4.2. Managers

Managers are responsible for implementing Code of Conduct and ensuring prevention of fraud and corruption in areas within their control. This must be achieved through:

- a. Completing training as and when required,
- b. Promoting awareness of ethical conduct,
- c. Leading by example,
- d. Providing guidance and support to staff as necessary,
- e. Ensuring access to relevant policies and procedures,
- f. Ensuring reports of fraud and corruption are referred appropriately and without any delay,
- g. Maintaining confidentiality in accordance with *Public Disclosure Act 1994*,
- h. Ensuring staff who report are protected from reprisal, and
- i. Complying with actions taken by or required by investigating parties.

4.3. Governance Manager

Governance Manager together with the Audit, Risk and Improvement Committee (ARIC) are responsible for ensuring the fraud and corruption resources work collectively, are coordinated effectively, and ensuring control outcomes are delivered. Other responsibilities include:

- a. Implementing, reviewing, maintaining, and updating policies on fraud and corruption,
- b. Development of resources,
- c. Investigations of alleged or actual fraud and corruptions, and
- d. Ongoing monitoring and improvement.

4.4. Disclosures Coordinator and Disclosures Officers

The **Disclosures Coordinator** has a central role in the Council’s internal reporting system. The Disclosures Coordinator can receive and assess reports and is the primary point of contact in the Council for the reporter. The Disclosures Coordinator has a responsibility to:

- a. Assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the general manager).
- b. Deal with reports made under the Council’s code of conduct,
- c. Coordinate the Council’s response to a report,
- d. Acknowledge reports and provide updates and feedback to the reporter,
- e. Assess whether it is possible and appropriate to keep the reporter’s identity confidential,
- f. Assess the risk of reprisal and workplace conflict related to or likely to arise out of the report, and develop strategies to manage any risk identified,

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- g. Where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any person who is the subject of a report,
- h. Provide advice to Disclosure Officer/s, where the reporter has opted for the Disclosures Officer/s to be the point of contact
- i. Ensure the Council complies with the *PID Act*, and
- j. Provide any required reports in accordance with section 6CA of the *PID Act*.

Disclosures Officers are additional points of contact within the internal reporting system. They can provide advice about the system and the *Internal Reporting Policy*, receive reports of wrongdoing and assist employees in making reports.

Disclosures Officers have a responsibility to:

- a. Document in writing any reports received verbally, and have the document signed by the reporter,
- b. Make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary, away from the workplace,
- c. Discuss with the reporter any concerns they may have about reprisal or workplace conflict,
- d. Carry out preliminary assessment and forward reports to the Disclosures Coordinator or General manager for full assessment, and
- e. Remain the point of contact for the reporter, should the reporter so request.

4.5. Internal Audit

While fraud and corruption control is a management responsibility, an Internal Audit acts as an effective mechanism in identifying indicators of fraud and corruption using systematic and disciplined approaches including:

- a. Evaluating the potential for the occurrence of fraud and how the Council manages fraud and corruption risks, and
- b. Keeping the General Manager and the ARIC informed on any significant matters relating to potential occurrences of fraud and corruption, how such risks can be managed within Council and its external entities, and any investigations into suspected fraudulent or corrupt behavior.

In instances where fraud or corruption is detected, the Internal Auditor and line management will reassess the control measures in place to identify adequacy and effectiveness of such control measures. The Internal Auditor will then consider whether improvements are required and ensure suggested recommendations are implemented as soon as possible and reported back to the ARIC.

4.6. Audit, Risk and Improvement Committee (ARIC)

As set in the ARIC Charter the objective of the Committee is to promote good corporate governance at Lachlan Shire Council. This is achieved by ensuring the services provided to people of Lachlan are executed effectively, efficiently and delivered with integrity.

Fraud and corruption prevention is one of the key areas for which the Committee provides independent assurance and assistance to Council in accordance with the *Local*

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Government Amendment Act 1993. The Committee oversees at a high level the Council’s fraud and corruption prevention strategies.

4.7. General Manager

Under Section 11 of the *Independent Commission Against Corruption Act 1988* the General Manager is “*under a duty to report to the Commission any matter that the person suspects on reasonable grounds concerns or may concern corrupt conduct*”.

It is also the responsibility of the General Manager to:

- a. Encourage ethical culture by promoting zero tolerance to any form of fraudulent and corrupt behavior,
- b. Endorse policies, strategies and procedures pertaining to the prevention of fraud and corruption,
- c. Maintain legislative and regulatory compliance,
- d. Have oversight of the risk assessments and mitigations,
- e. Represent Council values and image, and
- f. Respond to Stakeholders on behalf of the Council.

5. Fraud & Corruption Prevention and Regular Risk Assessments

Whilst internal controls such as policies and procedures act as the first line of defence in preventing fraud and corruption, regular risk assessments will act as second line defence. Conducting regular risk assessments will also enable Council to identify new areas of risk that may not previously existed.

Council will regularly monitor and review changes to the risk environment to identify any risks challenging the effectiveness and efficiencies of the prevention control measures currently in place and implement further preventive controls as required.

Council ensures robust risk assessments are conducted where fraud and corruption risks together with other risks are identified and addressed promptly.

6. Reporting Mechanisms

6.1. Internal reporting system

Any fraudulent or corrupt act whether alleged or actual must be reported immediately in accordance with the *Code of Conduct* and provisions of the *Public Interest Disclosures Act 1994 (PID Act)* for staff and councillors to report any alleged or actual wrongdoing without fear of reprisal. The Internal reporting Policy provides information on the purpose and context, who can make a report, Council’s complaint handling mechanisms, what will be dealt under this policy, and any exceptions.

6.2. Who can report?

The Internal Reporting Policy applies to:

- a. Council staff,
- b. Councillors,
- c. Consultants,
- d. Contractors working for council,
- e. Employees of contractors working for council,
- f. Volunteers, and
- g. Public officials of another Council or public authority.

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6.3. What should be reported?

There are five categories of actual and alleged wrongdoing that should be reported. These are:

- a. Serious misconduct or corrupt conduct,
- b. Maladministration,
- c. Serious and substantial waste of public money,
- d. Breach of the *Government Information (Public Access) Act (GIPA Act)*, and
- e. Local government pecuniary interest contravention

Complaints that do not fall under the above category should be reported to your Supervisor in order to be dealt with under relevant internal policies and procedures.

6.4. How to report?

Unlike general complaints that can be reported to your Supervisor, reports of alleged or actual fraudulent or corrupt behavior must be reported to the General Manager, Mayor (for reports about the General Manager only), the designated Disclosures Coordinator or Disclosures Officer/s. Staff are encouraged to report such behavior in writing using the Internal Reporting Form. Details of Disclosures Coordinator and Disclosures Officer/s and other reporting methods, as outlined below, can be found within the Internal Reporting Policy, available on the Council website.

- a. Verbal reports,
- b. By email,
- c. By phone
- d. Anonymous reports. In situations where the reporter decides to remain anonymous, reports can still be submitted. Although these reports will still be dealt with, it is recommended that staff or councillors identify themselves in order to provide necessary protection and support under the *PID Act*.

7. Investigation Protocols

Council is committed to acting promptly and has policies and procedures to deal with fraud and corrupt behavior either by detection mechanisms or reporting. Once identified the primary objective is to assess the allegations, establish an investigation plan and make recommendation in accordance with the procedures under the Code of Conduct or any other Council policy such as a disciplinary policy. Further objectives may include:

- a. Identifying fraud and corruption vulnerabilities and initiate corrective action, and
- b. If necessary, initiate recovery action through insurance or through criminal courts on behalf of Council.

Investigations are conducted by qualified and experienced staff and at times may result in Council engaging external resources.

The Fraud and Corruption register captures all detections and reports of wrongdoing, progress of investigations, outcomes, and actions taken. This register is maintained by the Governance Manger and information will be submitted to the ARIC.

Council’s conduct policies can be found on Council’s website.

7.1. Feedback to Staff and Councillors who report

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Staff and Councillors who report alleged or actual fraudulent or corrupt behavior will be provided with an acknowledgement within ten business days by the Disclosures Coordinator or Designated Officer. If the report fits the criteria of a public interest disclosure, then the statutory time frames under the legislation will be adhered to.

7.2. Maintaining Confidentiality

The identity of the person who is making a public interest disclosure will be dealt with confidentially and will be protected where possible during and after an investigation to any matter disclosed by that person. Where possible these same protections will be provided to any reporter/discloser of fraud and corruption regardless if the matter is considered a public interest disclosure.

It is therefore imperative the person making a report of fraudulent and corrupt behavior under public interest disclosure only report such information to the designated bodies.

7.3. Protection against reprisal and detrimental action

It is an offence under the *PIC Act* 1994 to take “*detrimental action by a person against another person that is substantial in reprisal for making public interest disclosure*” and is guilty of engaging in conduct that “*constitutes misconduct in the performance of the duties as public official*”. Such offence(s) will result in:

- a. Disciplinary action taken against any public official who takes detrimental action against another person,
- b. Compensation for reprisal, and
- c. Injunctions to prevent reprisals.

7.4. Support for those reporting

In addition to protection from reprisal and detrimental action, staff and councillors who report actual or alleged fraudulent or corrupt behavior will also have access to any professional support if in need. These options can be discussed with the Disclosures Coordinator or Disclosures Officers at any stage of the investigation process.

Staff and Councillors can also seek support from Council’s Employee Assistance Program (EAP) Converge International. Converge International provides free and confidential counselling to all staff.

7.5. Rights of the persons who are the subject of a report

Council is committed to extend fair and reasonable treatment to those who are subjects of reports of actual and alleged fraudulent or corrupt behavior. This includes maintaining confidentiality of any person or report where appropriate and applicable. Any public official who is subject of a report will be advised of:

- a. The details of the allegations made,
- b. The rights and obligations under relevant policies and procedures,
- c. Progress during an investigation,
- d. Reasonable opportunity to respond to allegations,
- e. Outcomes to any investigation including decision, and
- f. Further action if necessary.

7.6. Actions

Council will ensure the reports are handled and investigated according to the *Internal Reporting Policy* and *PID Act* and in accordance with the procedures of the Code of Conduct. If allegations are substantiated or evidence of fraud is detected, Council has the power to discipline staff (including summary dismissal).

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Furthermore, Council will initiate recovery action where necessary and there is clear evidence of fraud or corruption and benefits obtained.

More serious matters will also be reported to relevant regulatory bodies such as the Independent Commission Against Corruption (ICAC), NSW Ombudsman, Office of the Local Government (OLG), NSW Audit Office, and Information Commissioner. Substantial fraudulent and corrupt acts that also constitute criminal behavior will be reported to police and any other regulatory body.

8. External Reporting

Whilst the above listed reporting mechanisms are internal in nature, anyone can report alleged/ actual fraudulent or corrupt behavior to the below external investigation agencies:

- a. **Independent Commission Against Corruption (ICAC)** Section 10 of the *ICAC Act* states that “Any person may make a complaint to the Commission about a matter that concerns or may concern corrupt conduct”. Furthermore, according to section 11 of the Act the General Manager is under a duty to report to the Commission suspected corrupt conduct.
- b. **NSW Ombudsman** has jurisdiction over local councils, councillors and council staff to:
 - a. Look into the conduct of councillors and council employees and the administrative conduct to the council,
 - b. Promote awareness of PID Act and monitor its operations,
 - c. Provide advice and guidance to public sector staff who are contemplating reporting maladministration.
- c. **Office of the Local Government** has authority to examine:
 - a. Complaints on breaches of the pecuniary interest provisions within the *Local Government Act 1993*,
 - b. Public interest disclosures made to the General Manager under the *Public Interest Disclosures Act 1994*, and
 - c. Complaints of alleged misconduct by Councillors
- d. **NSW Audit Office** has the power to investigate disclosures made under *PID Act* by a public official regarding serious and substantial waste of public money.
- e. **Information Commissioner** can look into non-compliance with the *Government Information (Public Access) Act (GIPA)*.
- f. **Members of Parliament or Journalist** staff and councillors can make a public interest disclosure to a Member of Parliament or a journalist only in limited circumstances as outlined in Council’s *Internal Reporting Policy* and *PID Act*.

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GENERAL MANAGER

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