



**Bayside Council**

Serving Our Community

# **Fraud & Corruption Prevention Policy**

**12 June 2019**



© Bayside Council

Fraud & Corruption Prevention Policy  
File: F11/439.002 Document: 18/170604[v2]  
Policy Register: F16/951 Policy No.: PP18/24  
Class of document: Council Policy

Enquiries: Manager Governance & Risk



Telephone Interpreter Services - 131 450 Τηλεφωνικές Υπηρεσίες Διερμηνέων بخدمة الترجمة الهاتفية 電話傳譯服務處 Служба за преведување по телефон

# Contents

<b>1</b>	<b>Introduction</b> .....	<b>4</b>
1.1	Title & commencement of policy .....	4
1.2	Definitions .....	4
1.3	Purpose of policy .....	4
1.4	Scope.....	5
1.5	Statement of commitment.....	5
1.6	Council's Values .....	5
1.7	Code of Conduct.....	6
<b>2</b>	<b>Definition of corruption</b> .....	<b>6</b>
<b>3</b>	<b>Types of corruption / corrupt behaviour</b> .....	<b>7</b>
<b>4</b>	<b>General obligations</b> .....	<b>7</b>
4.1	Reporting of suspected corruption.....	7
4.2	Adherence to Council's ethical and other policies .....	7
4.3	Corruption Prevention Strategy .....	8
<b>5</b>	<b>Additional obligations – management</b> .....	<b>8</b>
5.1	Duty to report – ICAC Act 1988 (Section 11).....	8
5.2	Training and support (including communication) .....	8
<b>6</b>	<b>Investigations</b> .....	<b>9</b>
<b>7</b>	<b>Responsibilities</b> .....	<b>9</b>
7.1	Councillors .....	9
7.2	General Manager .....	9
7.3	Directors .....	10
7.4	Manager Governance & Risk.....	10
7.5	Managers / Coordinators .....	10
7.6	Staff and other council officials .....	10
7.7	Members of the public .....	10
<b>8</b>	<b>Document control</b> .....	<b>10</b>
8.1	Related Documents .....	10
8.2	Review .....	11
8.3	Version history .....	11

## ***Corruption Prevention Summary***

*Corruption committed by Council officials and/or staff will not be tolerated in any form.*

*All staff and other Council officials are required to report all observed or suspected significant maladministration and corruption within Council to the General Manager, Disclosures Coordinator or other external party (i.e. ICAC, NSW Ombudsman) in accordance with Council's Public Interest Disclosures Policy.*

*If employees and other stakeholders are in any way in doubt as to whether their actions could be perceived as being corrupt they are required to consult Council's Disclosure Coordinator or their Manager.*

# 1 Introduction

## 1.1 Title & commencement of policy

This policy is entitled the *Fraud & Corruption Prevention Policy*. It takes effect from the date of adoption and remains in force until further amended.

## 1.2 Definitions

### ***Council***

means Bayside Council and its associated entities

### ***Fraud***

means an intentional dishonest act or omission done with the purpose of gaining an advantage, usually a financial benefit from a position of trust and authority.

### ***Misconduct***

means conduct by a Council official, which constitutes a ground for disciplinary action whilst acting in their capacity as a Council official; where such conduct contravenes Council's Code of Conduct.

### ***Staff***

means any paid employee, volunteer whether in a part time or full time capacity engaged on council business or the provision of council services

### ***Stakeholders***

means any other person engaged on or somehow involved in Council business

### ***Contractors***

any person engaged on council business under contract to provide goods or services

### ***Consultants***

any person engaged in the provision of goods, advice or services to Council under an accepted proposal or engagement

### ***Council officials***

means Councillors, Administrator, staff members, independent conduct reviewers, members of Council committees, delegates of Council, volunteers

### ***Public***

means a member of the general public receiving or requesting Council services

### ***Corruption***

means Corruption as defined in Section 8 of the Independent Commission Against Corruption (ICAC) Act 1988. In brief, corruption is any deliberate or intentional wrongdoing that is improper, dishonest or fraudulent.

### ***ICAC Act***

means Independent Commission Against Corruption Act 1988.

## 1.3 Purpose of policy

- This policy is designed to compliment and be utilised in conjunction with Council's Risk Management Policy. The purpose of this policy is to assist

Council to: Manage the risk and incidence of perceived or actual fraud, corruption and maladministration activity across Council.

- Provide guidance to all Council officials and other stakeholders in relation to the requirements and expectations of Council Management and the Executive towards the management of corruption including but not limited to the prevention, detection and investigation of suspected corruption within Council.
- Define the requirements of Council to manage corruption in order to meet NSW and local government requirements.

## **1.4 Scope**

This policy is applicable to all Council officials, contractors, consultants, any other person engaged in the delivery of Council services and business or otherwise involved in the operations of Council.

## **1.5 Statement of commitment**

Council is committed to the comprehensive control of corruption within the organisation and views adequate management of corruption prevention as paramount to the success of Council. Council is committed to the prevention, detection and management of corruption within Council and, where necessary and appropriate, will take disciplinary or legal action against any Council official, or contractor/consultant found to be involved in corruption. Council encourages all officials to be actively involved in the prevention and detection of corruption across the organisation.

Bayside Council is committed to ensuring:

- An ethical workplace, free of corruption, maladministration and waste and a culture that is based upon the highest standards of ethical conduct;
- The Support its Council officials who disclose wrongdoing and corruption within Council as outlined in the Public Interest Disclosures Policy;
- The establishment of policies, procedures, programs and functions which support the prevention, detection and investigation of fraud and corruption within Council;
- The provision of relevant and suitable training and awareness programs to increase the understanding of staff of the risks and symptoms of fraud and corruption;
- Maintenance of current best practice knowledge in managing the risk of fraud and corruption across Council;
- Investigating and acting upon reported conduct in accordance with Council requirements; and
- Sufficient information is provided to our customers, suppliers and business partners on the expectations and responsibilities when conducting business with Council

## **1.6 Council's Values**

Bayside Council demonstrates the following values in its work:

### **Visionary Leadership**

We are all leaders - decisive, outward focused and forward thinking, setting the vision for Bayside Council today and into the future.

### **Empowered People**

We are courageous and innovative - committed to making a difference in our work

### **Meaningful Relationships**

We support and invest in each other - creating a strong collaborative culture

### **Exceptional Service**

We go above and beyond – delivering an outstanding customer experience every time

## **1.7 Code of Conduct**

Staff are required to consider and accept Council's Code of Conduct, which establishes the requirements and expectations of conduct for Council officials in carrying out their official functions, or otherwise impacting on the operations of Council.

## **2 Definition of corruption**

Council adopts the Independent Commission Against Corruption (ICAC) definition in respect of corruption which is defined in *Section 8 of the ICAC Act 1988* as:

### **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 and 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, 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 obtain 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 of similar nature to any listed above
y	any conspiracy or attempt in relation to any of the above.

### 3 Types of corruption / corrupt behaviour

Corruption can arise in almost any area of Council's operations. Typical areas of potential corruption include:

- Bribes / bribery
- Gifts and benefits
- Improper use of resources or theft
- Conflict of interest / pecuniary interest
- Inappropriate tender management and procurement
- Release of confidential information
- Improper and undue influence of public officials.

## 4 General obligations

### 4.1 Reporting of suspected corruption

All Council officials, contractors, consultants and suppliers who observe or become aware of potential or suspected corruption have an obligation to report the matter to the Council in accordance with Council's Public Interest Disclosures Policy.

Reporting also may be made where a Council official honestly believes on reasonable grounds that information shows or tends to show corrupt conduct.

### 4.2 Adherence to Council's ethical and other policies

Council officials are to at all times act in a professional manner, with honesty and integrity. Council officials are expected to abide by and act in accordance with Council's Code of Conduct and other supporting policies including but not limited to:

- Conflict of Interests Policy
- Secondary Employment Policy
- Gifts & Benefits Policy
- Expenses & Facilities Policy

Council officials are also expected to read, understand and abide by the contents of this and other policies such as:

- Public Interest Disclosures Policy
- Electronic Communications Policy
- Motor Vehicle policies
- Procurement Policy

### **4.3 Corruption Prevention Strategy**

This policy is supported by a Corruption Prevention Strategy, which includes a range of strategies, actions, timeframes and responsibilities that give effect to the principles and commitments contained in this policy.

Refer also to 'Responsibilities'.

## **5 Additional obligations – management**

In addition to the obligations of staff, Council management has a number of specific responsibilities common with other public sector agencies including the following:

### **5.1 Duty to report – ICAC Act 1988 (Section 11)**

Under Section 11 of the ICAC Act, a principal officer (General Manager or delegated representative) of Council has a duty to report to the Commission any matter where there is a reasonable suspicion that corrupt conduct has occurred or may occur.

Reasonable grounds for suspicion means there is a real possibility that corrupt conduct is, or may be, involved. No proof is required.

Reports to the ICAC must be completed with no significant delay as the ICAC Act contains no provision permitting delay in reporting. To delay can result in the loss of investigative opportunities to the ICAC.

The duty to report overrides any duty of confidentiality. As it is a statutory duty, a principal officer is protected in making such a report from any civil or criminal liability.

Principal Officers who report a matter to the ICAC under section 11 must also consider any obligations to report the matter to bodies such as the NSW Police Force, Office of Local Government or NSW Ombudsman or to be prepared to carry out any warranted disciplinary action.

If a matter is declined to be investigated by the ICAC, Principal Officers are then required to bring resolution to the matter either via an internal investigation or other suitable action.

### **5.2 Training and support (including communication)**

Council provides periodic corruption and ethics based training deemed necessary and based on the level of assessed risk; to Councillors, staff and committee members.

Council ensures that all staff attend such training and acknowledgements of attendance and acceptance of policies are retained.

Council ensures that all changes to ethical policies and procedures are adequately communicated to Councillors, staff and committee members.

Council ensures that all relevant ethical requirements of doing business with Council are communicated to suppliers, contractors and consultants prior to the engagement of services.

## **6 Investigations**

Any investigation of corruption allegations is to be authorised by the General Manager prior to the commencement of the investigation.

Any investigation undertaken is to be in accordance with a defined Investigations process and procedure (such as those set out in the Code of Conduct) by suitably trained staff with skills in the conduct of investigations or outsourced to an external provider with investigation services.

Internal investigations should not commence until such time as the ICAC has been provided the opportunity to undertake the investigation to avoid tainting the evidential process.

Investigations conducted by Council (including outsourced) are to be completed with regard to the rules of natural justice and procedural fairness.

## **7 Responsibilities**

### **7.1 Councillors**

All Councillors are required to abide by the provisions of this policy and to take all practical steps within their authority to prevent, detect and report corrupt conduct. The Mayor is responsible for assessing complaints of alleged breaches of the Code of Conduct or corruption by the General Manager and determining actions to be taken in accordance with relevant policies and legislation.

### **7.2 General Manager**

The General Manager is required to abide by the provisions of this policy and to take all practical steps within his/her authority to prevent, detect, deal with and report corrupt conduct. The General Manager is also responsible for receiving disclosures under this policy and determining the actions to be taken in respect of each report of corruption or suspected corrupt activity that requires determination under relevant policies and legislation.

The General Manager is responsible for approving the associated Corruption Prevention Strategy and any required variations, following consideration by the Executive Committee.

### **7.3 Directors**

Directors are required to abide by the provisions of this policy and to take all practical steps within their authority to prevent, detect, deal with and report corrupt conduct. Directors are also responsible to ensure that their staff are aware of this policy, its intent and the associated procedures, and to be available to give advice on its interpretation.

### **7.4 Manager Governance & Risk**

The Manager Governance & Risk is:

- accountable and responsible for the review, update and general maintenance of this policy
- authorised to receive disclosures that show or tend to show corrupt conduct in accordance with Council's policies
- provides advice to Council officials in relation to the issues covered by this policy
- also has roles of Public Officer, Disclosures Coordinator (Public Interest Disclosures Policy) Complaints Coordinator (Code of Conduct Policy).

### **7.5 Managers / Coordinators**

Managers and Coordinators and others supervising staff are required to abide by the provisions of this policy and to take all practical steps within their authority to prevent, detect, deal with and report corrupt conduct . They are also responsible to ensure that their staff are aware of this policy, its intent and the associated procedures, and to be available to give advice on its interpretation.

### **7.6 Staff and other council officials**

All Council officials are required to abide by the provisions of this policy and to take all practical steps within their authority to prevent, detect and report corrupt conduct Staff are also required to be aware of this policy and to be available for appropriate training.

### **7.7 Members of the public**

All members of the public who, in their dealings with Council, become aware of potential corrupt behaviours by Council officials are requested to make a report of these matters to the General Manager or Mayor.

Members of the public are also advised that it is contrary to Council's policy for Council officials to accept gifts, benefits or bribes which may influence or attempt to influence them in the course of their public duties.

## **8 Document control**

### **8.1 Related Documents**

This document should be read in conjunction with:

- Local Government Act 1993
- Local Government (General) Regulation 2005

- Independent Commission Against Corruption Act 1988
- ICAC Managing Gifts & Benefits in the Public sector – Toolkit 2006
- Council’s Code of Conduct
- Council’s Public Interest Disclosures Policy
- Council’s Expenses and Facilities Policy
- Council’s Gifts & Benefits Policy
- Council’s Conflict of Interests Procedure (for staff)

## 8.2 Review

A review of the policy is required to be undertaken each Council term to ensure its currency.

## 8.3 Version history

<b>Version</b>	<b>Release Date</b>	<b>Author</b>	<b>Reason for Change</b>
1.0	20/11/2018	Coordinator Governance	Harmonised document with minor amendments; approved for publication by Manager Governance & Risk
2.0	12/06/2019	Coordinator Governance	External review and update of some minor elements