



Ashfield Council

Fraud and Corruption Prevention Policy

November 2015

This policy will be reviewed biennially by: Governance
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Document Title:	Fraud and Corruption Prevention Policy
Summary:	This policy summarises the responsibility of staff in regard to the prevention of fraud and corruption.
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Relevant References:	
Main Legislative or Regulatory References:	<i>Independent Commission Against Corruption Act 1988. Public Interest Disclosures Act 1994 (PID); Local Government Act 1993 (LGA).</i>
Applicable Delegation of Authority:	General Manager
Related Ashfield Council Policy/documentation:	<ul style="list-style-type: none"> • Ashfield Council Code of Conduct • Ashfield Corruption Prevention Plan • Ashfield Council ICAC Reporting of Possible Corrupt Conduct • Ashfield Council Conflict of Interests Policy • Statement of Business Ethics • Returns of Disclosures of Interest • Ashfield Council Gifts and Benefits Policy (Internal) • Delegations Register • Ashfield Council Tendering Policy 2008 • Ashfield Council Purchasing Procedures – Goods and Services under \$150,000 Procedure • Internet and Email Policy • Public Interest Disclosures Policy

Policy Background

Fraud and corruption may have a significant impact across Council activities and programs. Accordingly this policy has been developed in response to Ashfield Council's Corruption Prevention Plan (December 2010) which outlines Council's systematic response in preventing corruption and fraud across the organisation.

Ashfield Council is committed to preventing fraud and corruption across the organisation as such activities have an impact on Council resources and reputation. Senior Council employees and Councillors have a key ongoing role in the prevention of fraud and corruption and the fostering of an ethical and accountable environment at Council.

Policy Purpose

This policy outlines the expected standards of ethical behaviour at Council and is aimed at ensuring appropriate mechanisms and processes are in place to prevent, detect and respond to fraud and corruption.

Policy Scope

The Fraud and Corruption Prevention Policy is to apply to Ashfield Council employees, Councillors and external parties, including contactors, community representatives and consultants.

Policy Principles

The Fraud and Corruption Prevention Policy assists in building a corruption resistant culture at Council by promoting ethical behaviour and encouraging accountability and transparency in Council processes and dealings with external parties.

Ashfield Council will not tolerate corrupt conduct by employees, Councillors or external parties.

Ashfield Council is committed to:

- Minimising the opportunities for corrupt conduct by employees, members of the public, Councillors, contractors and clients.
- Detecting, investigating and disciplining/prosecuting corrupt conduct
- Reporting corrupt conduct to appropriate external authorities
- Developing and implementing a fraud and corruption risk assessment strategy to assist in the identification and management of corruption risks across Council.

Policy Objectives

This policy aims to educate and inform staff about their responsibilities and obligations in preventing and reporting instances of fraud and corruption within Council, create awareness about what constitutes unethical conduct and reduce and prevent the risk of internal and external fraud and corruption.

Definitions

Fraud

The NSW Audit Office defines fraud as ‘a deliberate and premeditated turn of events which involves the use of deception to gain advantage from a position of trust and authority. The type of events include: acts of omission, theft, the making of false statements, evasion, manipulation of information and numerous other acts of deception’.¹

Fraud and corruption can be committed solely by one person or in collusion with others. Such persons may be:

- An employee or employees of Council;
- Councillors
- Volunteers
- External individuals or companies; or
- External contractors or service providers

Corruption

For conduct to be considered corrupt, under the Independent Commission Against Corruption Act 1988 (ICAC Act 1988) , it must involve or affect a NSW public official or public authority. A public official is defined, in Section 3 of the ICAC Act 1988 as an individual having public official functions or acting in a public official capacity, and includes an individual who constitutes or is a member of a public authority (Section 3 ICAC Act 1988).

The *Independent Commission Against Corruption Act 1988* (NSW) provides a definition of corruption which includes but is not limited to:

- a) any conduct of any person (whether or not a public official) that adversely affects, or 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.

¹ The Audit Office of NSW, *Fraud Control: Volume 1 – Conceptual Framework*, NSW Government 1994, pp.5-6.

Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or 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 which could include²:

- Official misconduct (including breach of trust, fraud, oppression, extortion or imposition)
- Bribery
- Blackmail
- Obtaining secret commissions
- Fraud
- Election bribery, election funding offences and election fraud

Implementation

Fraud and Corruption Prevention Responsibilities

Councillors

Councillors are elected representatives and comprise the governing body of Council. This governing body has the role of directing and controlling the affairs of the Council in accordance with the Local Government Act 1993, ss222, 223.

As councillors are members of the Council's governing body, they are required to perform civic duties and fulfil a leadership role for the community. This includes an obligation to:

- (1) report possible fraud and corruption related activities to the General Manager, Mayor, Disclosures Officer or relevant external agencies;
- (2) promote Council's commitment to the prevention of fraud and corruption throughout the community and among Council employees and
- (3) comply with the Ashfield Council Code of Conduct by acting in an ethical manner.

General Manager

The General Manager is responsible for the efficient and effective operation of Council as an organisation. The General Manager is to play a prominent role by taking a proactive stance on preventing fraud and corruption within Council by acting to, and through the promotion of, the high standard of ethical behaviour which is expected across Council. In this way, as part of this leadership role, the General Manager is responsible for ensuring that Council's Code of Conduct and associated policies are extended to all Council employees and Councillors and promoting Ashfield Council's commitment to preventing fraud and corruption to the local community.

² For further information, including examples of what may constitute corruption, please see s8 of the *Independent Commission Against Corruption Act 1988*.

The General Manager also has the responsibility to fully investigate allegations of wrongdoing and to report to relevant external agencies of any allegations of fraudulent or corrupt conduct that have been identified at Council. In the same way, the General Manager has a duty under s11 ICAC Act to report to ICAC any matter that he or she suspects on reasonable grounds concerns or may concern corrupt conduct.

Directors and Managers

Directors and Managers are to actively promote Council's Fraud and Corruption Prevention Policy and lead by example by demonstrating ethical decision making and act with honesty and integrity in dealings with others. Managers and Team Leaders are to promptly report instances of suspected or actual fraud. Directors and Managers are to play a supervisory role in the implementation of the Fraud and Corruption Prevention Policy. This includes ensuring that employees within their area of responsibility receive fraud and corruption awareness training, regularly endorse Ashfield Council's position of zero-tolerance of corrupt behaviour and reinforce the expectations of the Ashfield Council Code of Conduct and Public Interest Disclosures Policy.

Similarly, Directors and Managers have an integral role in the identification of fraud risks and the implementation of this Policy by providing input into fraud and corruption risk assessments.

Supervisors and Team Leaders

Supervisors and Team Leaders are responsible for the proactive promotion and dissemination of this policy and the standards of ethical behaviour expected of employees as outlined in the Ashfield Council Code of Conduct to employees in their area. Similarly, supervisors and team leaders are to regularly reinforce to employees their role in preventing and detecting fraud and corruption within the organisation and promote an environment of compliance with this policy and other Council policies. Supervisors and team leaders also have an important role in ensuring that the policy is operating effectively and contributing to fraud and corruption risk assessments.

Employees

All Council employees are reminded of the obligation to comply with the Council Code of Conduct and conduct themselves in an ethical manner including concerning the use of Council assets and resources. Under this Code of Conduct, Council employees must not participate in wrongdoing including fraudulent and corrupt activities. Council employees are required to report any activity which may comprise fraudulent and corrupt conduct in accordance with the Council's Public Interest Disclosures Policy.

Internal Audit Committee

Council's Internal Audit Committee plays a pivotal role in the governance framework. It provides Council with independent oversight in the areas of risk, control, compliance and financial reporting. The Internal Audit Committee consists of two Councillors and three independent members of the public.



Responsibility Structure

COUNCIL FRAUD AND CORRUPTION RESPONSIBILITY STRUCTURE					
COUNCIL	GENERAL MANAGER	<ul style="list-style-type: none"> • Culture • Policy and Strategy • Business Risk • Corporate Governance • Compliance (legislative, regulatory, community) • Stakeholder value • Image 			
		DIRECTORS AND MANAGERS	<ul style="list-style-type: none"> • Develop and implement fraud and corruption prevention strategies for Directorates • Identify and mitigate actual potential corruption risks in the workplace • Monitor and review the effectiveness of mechanisms implemented to minimise and detect corruption • Demonstrate ethical conduct in all business dealings • Monitor and review fraud and corruption prevention mechanisms in place • Promote awareness of fraud and corruption prevention and ethical conduct in the workplace • Lead by example 		
			SUPERVISORS AND TEAM LEADERS	<ul style="list-style-type: none"> • Promote awareness of ethical conduct and mechanisms to prevent corruption • Provide input to policies, procedures and instructions that relate to areas of risk • Drive the Corruption Prevention Plan • Monitor the integrity of the Corruption Prevention Plan 	
		EMPLOYEES		<ul style="list-style-type: none"> • Ethical behaviour • Report suspected incidents of fraud and corruption • Compliance with fraud and corruption prevention controls including the Fraud and Corruption Prevention Policy 	

Fraud Prevention

In accordance with the Corruption Prevention Plan, Council will implement the strategies and policies identified in the action plan.

In implementing this policy, Council will undertake a risk assessment across the organisation, with a particular focus on fraud and corruption risks. This risk assessment will assist in identifying areas of high risk of fraud and corruption within Council and in turn, assist in the development of management strategies in response to such risks.

Procedures for reporting fraud and corruption

Internal Reporting of fraud and corruption

Council will provide support to persons who report instances of fraud, corruption and wrongdoing in accordance with the Ashfield Council's Public Interest Disclosures Policy. The Code of Conduct also establishes responsibility for staff to report breaches (refer to Part 8 of the Code). For more information regarding procedures for reporting fraud and corruption, please refer to Ashfield Council's Internal Reporting Policy (Public Interest Disclosures).

The Public Interest Disclosures Act 1994

The Public Interest Disclosures Act 1994 affords persons who have reported suspected or actual wrongdoing in good faith with protection. The object of the *Public Interest Disclosures Act* are stated in the legislation as:

- (1) to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration, serious and substantial waste and government information contravention in the public sector by:*
- (a) enhancing and augmenting established procedures for making disclosures concerning such matters, and*
 - (b) protecting persons from reprisals that might otherwise be inflicted on them because of those disclosures, and*
 - (c) providing for those disclosures to be properly investigated and dealt with.*
- (2) Nothing in this Act is intended to affect the proper administration and management of an investigating authority or public authority (including action that may or is required to be taken in respect of the salary, wages, conditions of employment or discipline of a public official), subject to the following:*
- (a) detrimental action is not to be taken against a person if to do so would be in contravention of this Act, and*
 - (b) beneficial treatment is not to be given in favour of a person if the purpose (or one of the purposes) for doing so is to influence the person to make, to refrain from making, or to withdraw a disclosure.*

A separate Council policy details the provisions and procedures covered by the Public Interest Disclosures Act 1994.

External Reporting

Council has an internal reporting system which is outlined in its Internal Reporting Policy (Public Interest Disclosures). This policy also outlines the different external authorities which are the most appropriate agency to report instances of fraud and corruption. These include:

Independent Commission Against Corruption (ICAC)

ICAC is responsible for investigating allegations and complaints of corrupt conduct involving or affecting public authorities or public officials and exposing instances of corrupt conduct in public authorities and public officials.

ICAC also has an advisory function and provides recommendations to prevent corruption in public authorities and actively educating public authorities, public officials and members of the public about corruption.

NSW Ombudsman

The NSW Ombudsman is an independent complaint handling body for public authorities including local councils. The NSW Ombudsman also investigates the administrative practices of a local council and the conduct of councillors and council employees with a view to ensuring council processes are fair and just. The Ombudsman also has oversight responsibility for the Public Interest Disclosures Act 1994.

Audit Office of NSW

The Audit Office is one of the investigating authorities defined by the Public Interest Disclosures Act 1994 (the PID Act) for referral of matters by public officials.³ Reports about the serious and substantial waste of public money should be made to the Audit Office.

The Auditor-General, subject to the provisions of the Public Finance and Audit Act 1983, may conduct an inspection, examination or audit of the 'serious and substantial waste' of public money.

Office of Local Government (OLG)

The OLG is responsible for local government across NSW, and provides best practice advice to local councils in such areas as policy and legislation with an investigative focus on finance, governance, performance and community engagement. It is the key advisor to the NSW Government on Local Government matters. Suspected breaches about pecuniary interest provisions should be reported to the OLG.

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³ Audit Office of NSW – External Public Interest Disclosures Policy Pt 3