



Appendix 5a

16.4 Review of Council Policies


CP008: Fraud Prevention

Ordinary Meeting of Council

Wednesday 27 October 2021 at 7:00pm

Via Videoconference (Zoom)

COUNCIL POLICY

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| Fraud Prevention | Adopted By Council: | 05/08/03 |  |
| | Date/s Revised: | 17/06/09; | |
| | | 16/12/09; 18/10/11, 18/03/13; 29/04/15; 01/03/18; xx/xx/21 | |
| | Next Review Date: | XX/2024 | |
| | Document No: | CP008 | |
| | Directorate: | Finance & Corporate Services | |
| | Responsible Officer: | Manager Finance & Corporate Services | |

CONTEXT

Compliance with this fraud policy is designed to protect public money and assets from attempts by any person or legal entity, including contractors, agents, intermediaries, Councillors or employees to gain financial or other benefits by deceit, dishonest conduct or improper conduct. It is also aimed at protecting the integrity, security and reputation of the Council, its management and employees and the services it provides to the community.

A current Fraud Prevention policy is one of 24 items included in the governance and management checklist forming part of the mandatory Local Government Performance Reporting Framework applicable from 1 July 2014.

PURPOSE

The purpose of this policy is to demonstrate the Borough of Queenscliffe's commitment to the prevention, deterrence, detection, investigation and reporting of all forms of fraud.

The aim of this policy is to ensure that all Councillors and staff have a clear understanding of their responsibilities in regard to fraud prevention.

DEFINITIONS

Improper conduct Includes:

- (a) corrupt conduct, as defined in the *Independent Broad-based Anti-corruption Commission Act 2011*; or
- (b) specified conduct, including:
 - i. conduct of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body;
 - ii. conduct of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body;
 - iii. conduct of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust;

- iv. conduct of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or
- v. conduct that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (i), (ii), (iii) or (iv)—
- vi. a substantial mismanagement of public resources;

that is not corrupt conduct but that, if proved, would constitute a criminal offence or reasonable grounds for dismissing or dispensing with, or otherwise terminating, the services of the officer who was, or is, engaged in that conduct.

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| Employees | include Council employees (Including full-time, part-time, temporary and casual), Contractors, Volunteers or the employees of any body providing services on Council's behalf. |
| Fraud | is characterised by dishonest conduct or misuse of position or authority in order to obtain unjust advantage, the theft of funds assets or information, or the unauthorised use of Council assets for personal gain. Most acts of fraud are criminal offences. |
| Fraud Prevention | is the process by which the Council, its management and employees manage risks to prevent fraud. |
| Persons | are individuals or legal entities, who can be inside and/or outside the organisation. |

POLICY

1. Responsibility for Fraud Prevention

1.1 Council and Audit and Risk Committee Responsibility

Council is the body responsible for the good governance of the municipality. It is responsible for setting the highest standards of honesty and integrity in the provision of services to the community and the management of the organisation.

Council will ensure that Management has appropriate measures in place to detect and prevent fraud and will support all policies and measures taken to prevent, deter, detect, investigate and report suspected instances of fraud.

Section 53 of the Local Government Act 2020 requires Council to establish an Audit and Risk Committee. Monitoring and providing advice on risk management and fraud prevention systems and controls is one of the functions and responsibilities of the Audit and Risk Committee.

1.2 Management Responsibility

Management is responsible for:

- the coordination, monitoring, ongoing review and communication of the Council's fraud prevention policy;
- implementing the fraud prevention strategy;
- exercising due diligence and control to prevent, detect and report suspected acts of fraud; and
- setting an example and advising employees of the acceptability or otherwise of any particular conduct that may compromise this policy.

1.3 Employee Responsibility

Employee responsibilities are summarised in the Employee Code of Conduct. Employees must understand, agree to and sign off on the Employee Code of Conduct before commencing employment, and are also required to understand, agree to and sign off on updated versions of the Employee Code of Conduct following regular reviews of the Code.

Position descriptions of key personnel and senior management include reference to fraud and corruption control as a primary accountability.

Employees are responsible for:

- acting with propriety in all Council activities;
- ensuring they do not use their position with the Council to gain personal advantage or to confer undue advantage, or disadvantage, on any other person or entity;
- the safeguarding of Council assets against theft, mis-use or improper use; and
- reporting any suspected fraud.

1.4 Audit Responsibility

Internal Audit

The role of internal audit is to assist Management, Audit and Risk Committee and Council to achieve sound managerial review and control over all Council assets and activities, a key element in fraud control.

Internal audit is not involved in the day to day internal checking systems but is an independent and objective assurance and consulting activity. It helps the organisation accomplish its objectives by bringing a systematic, disciplined approach to:

- evaluating checking and control systems
- improving the effectiveness of management and corporate governance.

Specifically, the main objectives of internal audit are to assess and report on whether:

- a) there are sufficient internal controls in place to safeguard the Council's assets and integrity of information
- b) there is adequate compliance with relevant laws/statutes and with Council's policies and procedures
- c) functional areas are being operated efficiently and effectively.

The internal auditor, in carrying out the above functions, will consider both the fraud policy adopted by Council and the risk register. Observations that require action will be raised with Council's Audit and Risk Committee, of which meetings are held three times per annum. The internally staffed Risk & Governance Committee will have responsibility for following up on any actions identified.

External Audit

External audit is conducted by the Victoria Auditor General's Office to verify the Council's annual reported financial performance. External audit also has a role in the process of achieving fraud control by reviewing internal policies and procedures and testing systems via specific guidelines developed in accordance with relevant legislation, Accounting Standards and the Auditor-General's code of ethics.

For the fraud prevention controls to be effective, the responsibility for the policy must not be one staff member or a group of staff members, but must include Council, management, employees and Auditors.

2. Fraud Prevention Strategy

The following fraud minimisation measures and procedures will be applied:

- Management is to monitor and investigate deviations from the Council's Adopted Budget. Significant variances may warrant independent reviews.
- Periodic reviews of Council operations and assessments of exposure to risk are undertaken.
- Management applies a range of internal controls including separate authorisations, separation of functions and regular spot checking of processes and transactions.
- Most frauds occur because a perpetrator has been excluded from checks and control processes. Management and employees accept that checks and controls will apply without exception.
- An ongoing internal audit process. Strong internal controls supported and tested by regular internal audit reviews minimise the exposure to risk and identify and include new and emerging areas of risk.
- External audit review focuses on accountability of financial systems and the reporting process.
- Strict recruitment practices and confirmation of all employee details and references (including employment references, qualifications, police checks and working with children checks as required) and the awareness of this policy to all new or prospective employees.
- Internal penalties apply to any fraud that has been proven. Council's disciplinary procedure applies.
- Training of management and relevant employees in identifying fraud risks and indicators is undertaken.
- All vulnerable assets are properly accounted for and physically checked on a regular basis.
- Suppliers and contractors are informed of expected standards of conduct.
- Work practices that may be open to collusion or manipulation are identified and monitored.
- Procedures are in place relating to any external or private use of Council assets.
- Council and Management comply with the appropriate disclosure of interest laws.

3. Fraud Risk Assessments

The Chief Executive Officer will ensure that structured fraud risk assessments are conducted so as to cover all relevant functions and operations.

The review will establish the level, nature and form of the Council's fraud risk exposure. Recommendations generated from the assessments subsequently define areas where specific action is required.

The Risk & Governance Committee will review fraud risk assessments for endorsement by the Executive Management Team at least annually.

Fraud risk is to be included within the risk register, with the overall risk register being a standing agenda item for monthly meetings of the Compliance Committee.

Fraud risk is included in Council's risk register as it relates to each program area, thereby ensuring accountability for all program leaders.

Some areas of fraud risk that can be included in assessments are:

- Theft, embezzlement or other misapplication of funds or assets
- Bribery or kick-backs
- Unauthorised use of facilities such as telephones, mobile phones, information technology
- Misuse/misappropriation of Corporate credit cards and cash
- Misuse or unauthorised selling of Council's intellectual property or data
- False claims for reimbursement
- Forgery or alteration of documents
- Destruction or concealment of records or assets
- Profiting on insider knowledge
- Collusive tendering or rigging of tenders
- Tendering inducements
- Unauthorised use of assets or equipment
- Electronic fraud
- Payroll fraud
- Financial statement fraud (deliberate misrepresentation of the financial condition of an entity)
- Elements with substantial delegated spending authority
- Human relationships that could bypass controls and checks
- Individuals, program areas or entities that are semi-autonomous, geographically isolated or not under daily supervision

4. Fraud Awareness Training

An ongoing (at least biennial) awareness of this policy and strategy is promoted to identify issues of fraud prevention, detection and reporting, to maintain the attention of management and employees.

Detailed training is provided to the Executive Management Team and program leaders. Staff with particular functional responsibilities such as cash handling, purchasing authority, payroll and account payable, will be given more comprehensive training relative to the inherent level of fraud risk in the job function. Depending on the level of risk, either annual or biennial refresher training will be provided. Updated policies and training materials/notes are included on the Intranet so they may be accessed by all staff.

Fraud awareness or prevention provisions will be included in relevant employee contracts, employee orientation, contract documentation, service agreements and other documents where employee conduct is defined.

There is an assurance of confidentiality where employees can feel comfortable in reporting any suspicion of fraud and be protected from possible victimisation or discrimination.

Fraud committed against the Council will be pursued to the fullest legal extent possible.

The Council also promotes an honest, ethical and businesslike approach in all its dealings by the adherence to good governance practices and protocols.

5. Reporting and Investigation of Fraud

All Council employees who suspect fraud have an obligation to report it by notifying the Fraud Control Officer or the Chief Executive Officer – as appropriate in the circumstances. Anonymous reports can be made by employees, in writing and addressed to the Fraud Control Officer / Chief Executive Officer.

The Fraud Control Officer / Chief Executive Officer will decide what form of investigation will ensue unless the disclosure relates to the suspected improper conduct of the Chief Executive Officer.

A disclosure of suspected improper conduct of the Chief Executive Officer may be made by an employee to the Victorian Ombudsman or to the Independent Broad-based Anti-Corruption Commission (IBAC) in accordance with the Public Interest Disclosures Act 2012 and the CP0025 Public Interest Disclosures Policy.

The Public Interest Disclosures Act 2012 is designed to protect employees who make disclosures of improper conduct by public officers, public bodies and other persons, including reporting instances of known or suspected fraud and malpractice. Council and senior management encourage reporting of suspected fraud, to enable an investigation to take place as appropriate.

The Fraud Control Officer / Chief Executive Officer will inform the Chair of the Audit and Risk Committee immediately, when a suspected fraudulent activity has been reported.

The Fraud Control Officer will keep a record of details relating to Fraud and Corruption incidents, including:

- description of the incident / property and its estimated value
- reason for the loss
- action to be taken- i.e. Investigation and by whom, referral to IBAC
- details of approval for writing off the loss, if relevant.

A report is tabled at every Audit and Risk Committee if there has been any unethical behaviour, fraud and corruption reported or suspected since the last Audit and Risk committee meeting and a progress update about any ongoing investigation / prosecution process.

5.1 Purpose of Fraud Investigation

- To determine if in fact a fraud has been committed.
- Identify the person(s) responsible for the fraud.
- Discover the extent of the fraud and determine the action to be taken.
- Provide the basis of any insurance claim and obtain evidence for prosecution.
- Identify how long the fraud has been occurring and the reasons for the failure of internal controls.

5.2 Initial reaction when a fraud is discovered

- Discretion and confidentiality are essential at all stages during a fraud investigation.
- Establishing the necessary proof and evidence that may be best referred to the Police CIU before any other action is taken.

5.3 Fraud Investigation Process

- When a fraud investigation takes place, it must be undertaken in a methodical and comprehensive manner.
- The Fraud Control Officer / Chief Executive Officer will decide how and by whom the investigation will be conducted and whether the Police or any external assistance will be employed.
- Any investigation should be conducted using the principles of investigation and being mindful of the legalities involved.
- All contributing factors are to be identified and contributions determined, as part of the investigation process. Each contributing factor will be reviewed and remedial actions identified, in order to minimise recurrence of the loss, with any remedial actions monitored for effective completion.

5.4 Prosecution of Offenders

- The Council does not condone fraudulent behaviour and will institute disciplinary procedures in respect of any employee involved in fraudulent activities. In this instance the provisions of the Council's disciplinary procedure will apply.
- In addition to any action to the fullest legal extent possible supported by the Council and in cooperation with Council's insurers, court action will also be taken to recover losses including all costs associated with investigation and prosecution processes.

5.5 Incident Analysis

- All contributing factors are to be identified and contributions determined, as part of the investigation process. Each contributing factor will be reviewed and remedial actions identified, in order to minimise recurrence of the loss, with any remedial actions monitored for effective completion.
- A separate incident reporting form is used specifically for the purpose of recording fraud incidents.
- All incidents of fraud must be recorded using this separate fraud incident form, which is located on the corporate network as follows:
<J:\Corporate Support\Risk Management\Risk Register\FRAUD INCIDENT INVESTIGATION FORM.docx>
- This form must be completed and provided to the Fraud Control Officer within one month of the fraud investigation being completed.
- The Risk & Governance Committee is responsible for assessing the reported incident and providing recommendations, for approval by the Executive Management Team, regarding corrective action to prevent recurrence. This must take place within one month of having received the incident form.
- A report on any such fraud incident must also be included on the agenda for the next Audit and Risk Committee meeting. If the next meeting is more than one month following the assessment of a fraud incident by the Compliance Committee, then a written report should be provided to Councillors and Council's Audit and Risk Committee members, within one month of the Risk & Governance Committee assessment of the fraud incident.

CONTINUOUS IMPROVEMENT

This policy will be reviewed as a minimum every three years from the date of adoption, and as required.

OTHER REFERENCES

CP017 Risk Management
Borough of Queenscliffe Risk Register
Protected Disclosures Act 2012
Australian standard - AS 8001-2003 - fraud and corruption control

END