

STRATHFIELD COUNCIL

# PREVENTION OF FRAUD & CORRUPT CONDUCT POLICY

**June 2021**

# PREVENTION OF FRAUD & CORRUPT CONDUCT POLICY

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| <b>RESPONSIBILITY</b>         | <b>Corporate Services</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |               |        |
| <b>DATE ADOPTED</b>           | 2 June 2015                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>MINUTE</b> | 168/15 |
| <b>REVISED</b>                | June 2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>REVIEW</b> | 2023   |
| <b>ECM No</b>                 | 1352111                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |               |        |
| <b>ASSOCIATED POLICIES</b>    | <p>Strathfield Council Acceptable Use Policy</p> <p>Strathfield Council Acceptable Use of Communication Equipment Policy</p> <p>Strathfield Council Business Ethics Policy</p> <p>Strathfield Council Code of Conduct</p> <p>Strathfield Council Code of Meeting Practice</p> <p>Strathfield Council Complaints Handling Policy</p> <p>Strathfield Council Councillors Expenses and Facilities Policy</p> <p>Strathfield Council Disposal of Council Assets Policy</p> <p>Strathfield Council Enterprise Risk Management Policy</p> <p>Strathfield Council Use of Mobile Communication Devices Policy</p> <p>Strathfield Council Procurement Policy</p> <p>Strathfield Council Public Interest Disclosures and Internal Reporting System Policy</p> <p>Strathfield Council Records Management Policy</p> |               |        |
| <b>ASSOCIATED LEGISLATION</b> | <p><i>Local Government Act 1993</i></p> <p><i>Local Government (General) Regulations 2005</i></p> <p><i>Crimes Act 1900</i></p> <p><i>Environmental Planning and Assessment Act 1979</i></p> <p><i>Independent Commission against Corruption Act 1988 (NSW)</i></p> <p><i>Public Interest Disclosures Act 1994</i></p> <p><i>State Records Act 1998</i></p> <p><i>Privacy and Personal Information Protection Act 1998</i></p> <p><i>Health Records Information Privacy Act 2002</i></p>                                                                                                                                                                                                                                                                                                                 |               |        |

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| <p><b>ASSOCIATED DOCUMENTS</b></p> | <p>Strathfield Council Procedures for the Administration of the Model Code of Conduct</p> <p>Strathfield Council Prevention of Fraud and Corrupt Conduct Plan</p> <p>Strathfield Council Fraud Prevention Register</p> <p>Strathfield Council Delegations Registers</p> <p>Strathfield Council Purchasing and Tendering Guidelines</p> <p>Strathfield Council Contracts Register</p> <p>Strathfield Council Bonds Register</p> <p>Strathfield Council Returns of Interests of Councillors, Designated Persons and Delegates</p> <p>Strathfield Council Enterprise Risk Management Strategy</p> <p>Strathfield Council Enterprise Risk Management Procedures</p> <p>Strathfield Council Audit Risk and Improvement Committee Charter</p> <p>Strathfield Council Internal Audit Plan</p> <p>Audit Office of NSW Fraud Controls in Local Government 2018</p> <p>Audit Office of NSW Fraud Control Improvement Kit 2015</p> <p>Office of Local Government Internal Audit and Risk Management Framework</p> |
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## Introduction

### 1.0 Background and Purpose

Strathfield Council is committed to the prevention of fraud and corruption through the promotion of good governance and ethical behaviours in order to deliver responsible, transparent, effective and accountable local government.

Council has a zero tolerance for corrupt conduct or fraudulent activities and is committed to the prevention, detection and response of all forms of fraud and corruption.

Fraud and corrupt conduct are ongoing and pervasive risks faced by all organisations. Fraud and corrupt conduct are more likely to flourish in an environment of ignorance and neglect, therefore fraud and corruption control must be an ongoing activity.

Fraud and corruption control are key components of good governance.

### 1.1 Objective

The objective of this Policy is the protection of Council revenue, expenditure and property from any attempt (either by the public, contractors, or employees) to gain

benefit by deceit, financial or other benefits.

## 1.2 Coverage

This Policy applies to councillors, council employees, volunteers, consultants and contractors.

## 1.3 Definitions

**Corrupt conduct** is defined in section 8 of the *Independent Commission Against Corruption Act (ICAC) 1988* and may include conduct such as:

- (a) *any conduct of any person (whether or not a public official) that adversely affects, 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 his or her benefit or for the benefit of any other person.*

**Corruption** defined in the Australian Standard AS 8001-2008 "Fraud and Corruption", as:

*"Dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interest 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."*

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| <b>Fraud</b>                        | a type of corruption, is also defined in the above standard as:<br><br><i>“Dishonest activity causing actual or potential financial loss to any person or entity including theft of money or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or improper use of information or position”</i> |
| <b>Maladministration</b>            | as per <i>Public Interest Disclosures Act 1994</i> :<br><br><i>Conduct that involves action or inaction of a serious nature that is contrary to law; or unreasonable, unjust. Oppressive, improperly discriminatory; or based wholly or partly on improper motives.</i>                                                                                                                                                                                                                                                                                                                   |
| <b>Serious or substantial waste</b> | refers to the uneconomical, inefficient or ineffective use of resources, authorized or unauthorized, which results in a loss/wastage of public funds/resources.                                                                                                                                                                                                                                                                                                                                                                                                                           |

## 1.4 Implementation strategies

The Strategies below will be used to support the implementation of this Policy:

- 1.4.1 Council will provide Code of Conduct and Fraud and Corruption Prevention training on induction and on a periodic basis as refresher for staff and councillors.
- 1.4.2 Council has adopted a Public Interest Disclosure and Internal Reporting System Policy and has appointed positions within Council to receive disclosures.
- 1.4.3 Council has established an Audit, Risk and Improvement Committee which includes external representatives and an independent Chairman.
- 1.4.4 Council will implement a check of the organisation’s compliance with this Policy using the Fraud Control Health Check provided by the NSW Audit’s office.
- 1.4.5 Council will develop a Prevention of Fraud and Corrupt Conduct Plan and support its ongoing implementation and resourcing.
- 1.4.6 Council will distribute fraud and corruption prevention information through

management meetings, newsletters and other internal publications

- 1.4.7 Council will appropriate Council Officers to take active participation in the fraud and corruption risk assessment reviews and other audit activities regularly undertaken by the Council's internal and external processes.

## Policy Statement

This Policy is designed to protect public funds and assets, the integrity, security and reputation of the Council and its employees, and maintain a high level of services to the community.

Strathfield Council is committed to:

- maintaining an effective system of internal controls and compliance with those controls aimed at preventing and detecting fraud and corruption.
- regularly undertaking fraud risk assessments to identify opportunities for fraud, and implementing prevention and minimisation procedures in day to day operations.
- establishing standards and formal procedures to record and investigate allegations of dishonest and/or fraudulent behaviour
- investigating allegations and reporting outcome of inquiries to the Chief Executive Officer for consideration of actions including disciplinary action and/or for referral to external authorities as appropriate.
- ensuring all Councillors and Council employees are aware of their obligations in combating dishonest and fraudulent behaviour by providing induction and refresher training and information sessions on a regular basis.
- cultivating and maintaining an environment in which dishonest and fraudulent behaviour is actively discouraged by encouraging staff and Councillors to report suspected fraud and corruption either against Council or within Council.
- providing public awareness of Council's commitment to fraud and corruption prevention, and encourage public reporting of suspected fraud and corruption by Council officials or against Council.

## 2.0 Examples of fraudulent activities and corrupt activities

### 2.01 Theft

The most common types of property stolen include:

- stationery and office supplies
- construction and maintenance equipment and tools

- communication devices eg laptop computers, mobile phones etc
- technical equipment
- cash
- intellectual property, including documents and data
- unauthorised use of credit cards and petrol cards.

## **2.02 Gifts, benefits and bribes**

Gifts, benefits and bribes are usually intended to influence the way the recipient carries out their official functions or to encourage active participation by employees in a fraudulent or corrupt activity. Exposure to offers of gifts, benefits or bribes is particularly common for Council employees who:

- approve or can influence decisions
- procure goods or services
- carry out regulatory work
- provide customer or client service
- carry out work with the private sector

## **2.03 Misuse of Council resources for inappropriate private purposes**

Examples of misuse of council resources for inappropriate private purposes include:

- using a council truck to deliver tonnes of gravel to a friend's property and remove a tree
- performing paid work for another employer during working hours
- an council worker running a landscaping business using council equipment and materials, and falsifying timesheets to cover up his private use
- excessive use of council facilities such as phones and internet for non-work purposes

## **2.04 Zoning and development**

Activities associated with planning, zoning and development have been identified as high risk areas of fraud and corruption, which can involve offering of bribes, non-disclosures of conflicts of interest, harassment of council staff. Examples include:

- coercion, intimidation and harassment of Council staff dealing with development applications and planning or zoning proposals



- inducements from developers to modify approved development applications or conditions.

## **2.05 Regulatory compliance**

Acceptance of bribes and favours by Council's compliance and regulatory staff, including council rangers, that allow illegal and unauthorised activities.

## **2.06 Procurement, tendering and contract management**

Activities associated with procurement, tendering and contract management have traditionally been very susceptible to fraud and corruption. They normally result from bribes, commissions or conflicts of interests. Examples of the type of fraud and corruption risk exposures include:

- order splitting to avoid tendering or obtaining quotes
- collusion with suppliers to provide dummy quotes
- accepting late tenders without justification
- approving fraudulent contract variations
- delegation for order and payment granted to same person

## **2.07 Conflicts of interest**

A conflict of interest can be pecuniary and non-pecuniary (refer to Council's Code of Conduct) and risk exposure can include:

- councillors not declaring conflicts of interest and using their position to vote or obtain confidential information to advantage themselves, family or close associates
- caucusing on development applications to advantage an associate or political donor
- regular contact between developers and councillors and/or council staff (beyond a professional relationship) leading to personal relationships
- Council use of consultants who may have conflicts of interest with external parties that they are negotiating with, regulating or investigating

## **2.08 Information Technology**

The main risk areas of computer fraud are:

- unauthorised electronic transfer of funds
- electronic claims processing
- unauthorised alteration of input data
- misappropriation, destruction or suppression of output data



- alteration of computerised data
- alteration or misuse of software program

## **2.09 Forgery or falsification of records to originate or conceal a fraud**

The falsification of records and processing of a false statement is fraud. Examples include falsification of:

- data on expense claims and receipts
- credit card reimbursement claims
- invoices and timesheets
- job application forms
- leave records
- forgery of a signature on a cheque or document
- creation of fictitious employees on the payroll register
- applicants for positions falsifying career background details

## **Responsibilities**

### **3.0 Councillors**

Councillors are responsible for:

- complying with Council's Code of Conduct and policies relating to ethic conduct
- raising community awareness of the Council's commitment to fraud and corruption prevention
- promoting awareness and compliance with Council's Code of Conduct
- supporting the Chief Executive Officer in the implementation of adequate prevention measures for fraud and corruption
- reporting all instances of suspected or actual fraud or corrupt conduct in accordance with Council's Code of Conduct or Public Interest Disclosures and Internal Reporting System Policy

### **3.1 Council employees**

All Council employees are responsible for:

- performing their functions and duties with skill, care, diligence, honesty, integrity and impartiality
- being aware of their individual responsibilities under this Policy

- complying with fraud and corruption prevention controls including the Prevention of Fraud and Corrupt Conduct Policy
- reporting suspected incidents of fraud and corruption
- ethical behaviours

### 3.2 Chief Executive Officer

The Chief Executive Officer (in legislative terms known as the 'General Manager') is responsible for the proper management of Council resources and the development and implementation of systems and practices to minimise the risk of fraud and corruption, including:

- reporting actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC) as per Section 11 of the *ICAC Act 1988*
- reporting criminal offences to the NSW Police Force
- requiring Councillors and Council Officers to prevent and minimise fraud and corruption by focussing on ethical behaviour, good practice and sound internal controls
- arranging regular fraud and corruption awareness training courses for Councillors and Council Officers
- promoting a workplace culture and environment in which fraud and corruption is actively discouraged and is readily reported should it occur
- undertaking and reviewing a fraud and corruption risk assessment on a regular basis

### 3.3 Deputy CEO's, General Managers, Directors, Managers and Supervisors

Deputy CEO's, General Managers, Directors, Managers and Supervisors (i.e. staff with supervisory responsibility) have the following responsibilities, in addition to their responsibilities as Council employees:

- leading by example and in promoting ethical behaviour within the Council and the areas within their responsibility
- ensuring that new and existing employees within their area of responsibility receive appropriate fraud and corruption awareness training and understand the Council's Code of Conduct
- promote awareness of ethical conduct and mechanisms to prevent corruption and providing ethical advice and support to staff
- identifying and managing potential fraud and corruption risks within their area of responsibility

- ensuring that appropriate internal controls are in place to minimise fraud and corruption risks and that internal controls are operating effectively
- taking reasonable steps to require that contractors who report to them comply with this Policy to the extent that it is relevant to their contractual arrangements and adhere to the ethical standards described in this Policy.

### **3.4 Contractors, consultants, applicants and suppliers**

Strathfield Council requires all contractors, consultant, applicants, suppliers of good and services, owners and applicants of development applications and anyone doing business with Council, to observe Council's Business Ethics Policy and the following principles:

- act ethically and honestly in all dealings with Council
- declare actual or perceived conflicts of interests as soon as the conflict becomes apparent
- comply with Council's procurement policies and procedures
- provide accurate and reliable information when required
- take all reasonable measures to prevent disclosure of confidential Council information.

### **3.5 Members of the public**

Strathfield Council invites customers and residents to support its commitment to preventing and addressing fraudulent and corrupt behaviour.

If a customer or a resident suspect fraud or corruption that involves Council, they should report their suspicions to any of the following:

- Council's Chief Executive Officer
- Independent Commission Against Corruption (in the case of allegations of fraud and corruption)
- Office of Local Government (in the case of allegations relating to pecuniary interests)
- NSW Police Force (in the case of allegations relating to criminal activity)
- NSW Electoral Commission (in the case of allegations relating to election fraud)

### **4.0 Reporting Suspected Fraudulent Activity or Corrupt Conduct**

It is the responsibility of each member of staff, all volunteers and contractors to comply with the provisions outlined in this policy. Failure to comply with the provisions set out in this policy will constitute a breach of the Council's Code of

Conduct and may be considered misconduct and result in disciplinary and/or legal action.

Employees have an obligation to report any suspected fraudulent activity or corrupt conduct to the Public Interest Disclosure Officer or the Chief Executive Officer or to the ICAC. The Chief Executive Officer has an obligation, under Section 11 of the *ICAC Act 1988*, to report those matters to ICAC.

Note - staff members who make disclosures in accordance with the Public Disclosures and Internal Reporting System Policy are protected from reprisals under the *Public Interest Disclosures Act 1994*.

All other instances of suspected corrupt and/or fraudulent activity not covered by Council's Public Disclosures and Internal Reporting System Policy should be notified to the staff member's direct supervisor or, if the suspected behaviour is carried out by the direct supervisor, to the Public Officer, or the staff member may report directly to the Chief Executive Officer. Council's Public Officer is currently Council's Solicitor.

Council encourages members of the public to report possible fraud or corruption direct to the Chief Executive Officer, Mayor, Public Interest Disclosure Officers or directly to ICAC.

## **5.0 Conduct and Discipline**

Councillors and Council employees must carefully read, understand and observe the Code of Conduct. Fraud or corruption is unacceptable and offenders will face disciplinary action in accordance with Council's Code of Conduct.

Council may seek criminal prosecution for any fraud or corruption.

Council may also institute civil or administrative legal proceedings in respect of fraud or corruption, as considered appropriate by the Chief Executive Officer.

## **6.0 Fraud and Corruption Risk Assessment Process**

Council is committed to minimising the occurrence of fraud and corruption within the Council through:

- identifying fraud and corruption risks
- determining strategies to control those risks
- defining responsibility for and the time frame within which the strategies will be implemented

Council will instigate a review of the Council's fraud and corruption risks and control Policy and strategies at least once every three years. The review may be undertaken by a third party independent of Council. Regular internal audits are also undertaken to detect fraud and corruption.

## Document History

| Date           | Details        | Council Meeting Date |
|----------------|----------------|----------------------|
| 2 June 2015    | Policy Adopted | 168/15               |
| 3 July 2017    | Review         | CEO                  |
| September 2020 | Review         | CEO                  |
| June 2021      | Policy Review  | CEO/Mayor            |