

Fraud and Corrupt Conduct Policy

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1. Purpose

The purpose of this policy is to support high standards of professional conduct and ethical practices within Towong Shire Council and outline the procedures to be adhered to. Towong Shire Council will not tolerate fraud or corrupt conduct in any form by Councillors, staff, contractors, suppliers, volunteers, customers or stakeholders.

2. Scope

Council has a corporate responsibility and obligation to all of its stakeholders to ensure that appropriate systems, procedures and management practices are in place to prevent the occurrence of fraudulent and corrupt activities. Accordingly, this Policy is applicable to Towong Shire Council Councillors and staff in all of its operations and functions.

3. Objectives

This policy defines fraud and corrupt conduct, lists the responsibilities of staff and sets out the processes for controlling and reporting fraud and corrupt conduct.

The objective of this policy is to outline the Council's approach to fraud and corruption prevention, deterrence and detection. Council's commitment to fraud control will be met by ensuring an environment in which fraudulent or corrupt activity is discouraged and conflicts of interest are avoided. It is a condition of employment with Council that all staff comply with the *Employee Code of Conduct*, therefore staff are required to read the Code and become familiar with it.

This policy is also consistent with, and supported, by Council's commitment to the provisions of the *Public Interest Disclosures Act 2012* (the Act).

4. Policy Details

4.1. Approach

Council is committed to preventing, deterring and detecting fraudulent and corrupt conduct in the performance of its organisational activities.

Council aims to achieve the objectives of this policy by:

- Identifying activities and processes potentially at risk of exposure to fraud and corruption and implementing risk management;
- Continually monitoring for emerging fraud and corruption related risks;
- Introducing appropriate measures to prevent, deter and detect fraudulent or corrupt conduct;
- Providing appropriate training and promulgating relevant codes of conduct to ensure employees and contractors are aware of their responsibilities in combating fraud and corruption;
- Promoting a culture of ethical behavior, accountability, honesty and integrity;
- Adopting formal procedures to investigate fraud if it is suspected, including referral to the relevant investigative agencies;
- Providing mechanisms for employees to voice their genuine concerns and protecting those who do so; and
- Taking appropriate disciplinary action against any person involved in fraudulent or corrupt conduct.

In order to meet this commitment, any evidence of fraudulent or corrupt activity must be brought to the attention of management. Where a person has acted in good faith in reporting such suspected activity, all reasonable steps will be taken to provide them with protection against discrimination or retaliation.

4.2. Examples of Potential Fraud and Corruption in Local Government

Relevant Area	Examples
Procurement and Contract Management	• Taking inducements, including donations or sponsorships, to award a contract for the provision of goods or services • Negligent or deliberate mismanagement of contracts, including non-compliance with contract requirements, misrepresentation of dates, description of services or identities of contract providers • Submission of fraudulent purchase orders • Misuse of petty cash or Council purchasing cards
Use and Disclosure of Information	• Use or disclosure of personal information for an improper purpose • Unauthorised modification of information

Human Resources	• Submission of exaggerated or wholly fictitious accident, harassment or injury claims • Payment of fictitious employees or suppliers through the Council's payroll or finance systems • Payment to an employee for tasks not performed such as overstating hours worked on a timesheet • Misuse of sick leave or family leave
Information Technology, Assets and Property	• Operation of a private business using Council facilities and time • Misuse or abuse of telephone, fax, computers and other equipment to run a private business, whether for profit or not-for-profit • Unauthorised removal of equipment, parts, software, and office supplies from Council premises • Sharing of usernames and passwords
Conflicts of interest	• Failing to disclose an actual, perceived or potential conflict of interest contrary to Council's Code of Conduct • Allowing a conflict of interest to undermine your independence • Receiving a personal benefit for assisting a person or entity to gain work or business with Council

4.3. Fraud Risk Assessment

Council's commitment to fraud control will be met by identifying opportunities for fraud, and implementing risk avoidance, prevention and minimisation procedures in day-to-day operations. This will be achieved through reporting annually to the Audit and Risk Committee on the Fraud Controls Matrix and the annual review and reporting of the Risk Register.

4.4. Employee, Customer and Community Awareness

Council's commitment to fraud and corruption control will be met by providing appropriate staff training, specifically at induction and through annual refresher training, and utilising existing communication mediums to increase customer and community awareness. Council will also publicise and raise awareness of relevant codes of conduct to ensure employees, contractors, customers and community are aware of their responsibilities or role in combating fraud and corruption and protection of the public revenue.

4.5. Reporting

Set out below are the responsibilities of staff when dealing with allegations of fraud and corrupt conduct.

This procedure applies to all Councillors and staff of Towong Shire Council at all locations and to all activities under the control of Council. Staff are also reminded that it is a condition of employment with Council that all staff comply with the Employee Code of Conduct therefore staff are required to read

the Code and become familiar with it. Councillors are also required to read and comply with their respective Councillor Code of Conduct and become familiar with it.

Staff are encouraged to raise matters at any time with their supervisors, but as an alternative, other options are available.

4.5.1. Reporting under the Public Interest Disclosure Act 2012

For detailed reporting procedures under the Act, please refer to Council's Public Interest Disclosures Policy.

The Act facilitates reports of suspected acts of fraud or corruption made by Council staff and the public. The Act enables statutory protections, including full anonymity, for those who make disclosures and establishes a system for the matters disclosed to be investigated and rectifying action to be taken.

Disclosures concerning a Council officer or employee are to be made directly to the Independent Broad-based Anti-corruption Commission (IBAC) or to the Council Public Interest Disclosure Coordinator. The Public Interest Disclosures Coordinator is the Director Corporate and Organisational Development of the Council. If a public interest disclosure is in relation to the Director Corporate and Organisational Development, the Public Interest Disclosures Coordinator is the Chief Executive Officer.

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Under the Act, any disclosure relating to a Councillor MUST be made direct to the IBAC.

4.5.2. Reporting outside of the Public Interest Disclosure Act 2012

Although Council recommends using the Public Interest Disclosure reporting procedure for cases of fraudulent and corrupt conduct to access the protections provided under the Act, reporting options for Council staff can be conducted through other methods.

Council's Issue Resolution Policy outlines procedures for addressing issues arising in the workplace in relation to behaviors and actions. The following procedures are noted in the Issue Resolution Policy to be considered when addressing fraudulent or corrupt conduct.

- **Internal Escalation**

An issue arises in the workplace that involves fraudulent or corrupt conduct, it must be escalated to the employee's direct supervisor in the first instance or alternatively the Public Interest Disclosures Coordinator if the employee is uncomfortable reporting through their direct chain of management. The supervisor will escalate the issue with the relevant area of expertise, such as the OHS or Human Resources Officers for internal case management processes. For serious cases of fraudulent or corruption conduct, an internal investigation will commence, involving CEO oversight.

- **Arbitration**

The Case Manager of the internal investigation may recommend arbitration as an alternative to formal court proceedings. Arbitration is to be approved by the complainant's Director. The independent arbitrator investigates the facts and looks into the legal aspects of the issue and then makes a decision in which the parties are bound by.

- **Legal Recourse**

Legal recourse may be pursued by recommendation of the Case Manager or independent arbitrator when potentially illegal action has been identified and involves referral to an external investigative body. Referral agencies for fraud and corruption issues may include IBAC or the Victorian Police.

Please refer to Council's Issue Resolution Policy for more detailed actions and procedures.

4.6. Breaches

Council will ensure that all allegations of fraud or corruption are investigated confidentially, promptly and thoroughly in accordance with this policy and any applicable legislation. Investigations will be undertaken in accordance with Issues Resolution Policy, or, if the discloser wishes to seek the protection of the Public Interest Disclosures Act 2012, the Public Interest Disclosures Policy will be used.

Councillors, Council employees and contractors of Council must be aware of Council's intention to:

- Take appropriate action against any person or entity involved in fraudulent or corrupt conduct, including disciplinary action, or termination of their contract of employment in accordance with Council's Code of Conduct;
- Report internal and/or external fraudulent or corrupt conduct to Police or other external bodies as appropriate; and
- Refer to Police for potential prosecution of any party to the matter found to be involved in fraudulent or corrupt conduct.

5. Responsibilities

Management and staff are to be familiar with, and are accountable for, the delivery of this Policy within their areas of responsibility as follows:

Responsibility	Role/Position
The Chief Executive Officer is responsible for managing risk across the Council. On receiving a report of suspected fraud or corrupt conduct the Chief Executive Officer must record details of the report, including the time and date the report is made and details of matters raised. If the report is made under the <i>Public Interest Disclosures Act 2012</i>, the procedures noted in the <i>Public Interest Disclosures Policy</i> will be followed.	Chief Executive Officer

Responsibility	Role/Position
The Director Corporate and Organisational Development is responsible for overseeing the implementation of Council's Risk Management Strategy and providing advice and assistance to all areas on risk management matters, including fraud. All reported incidents of suspected fraud or corrupt conduct must be reported to the Public Interest Disclosures Coordinator immediately and prior to any investigation of such allegations being undertaken. The Coordinator will report any relevant information in accordance with the <i>Public Interest Disclosures Policy</i>.	Public Interest Disclosure Coordinator / Director Corporate and Organisational Development
Where a member of staff suspects that an act of fraud or corrupt conduct is occurring or has occurred, it is the duty of that staff member to report such suspicions to their Manger or Supervisor. Where the member of staff does not feel comfortable reporting their suspicions to their Manager or Supervisor they must report such matters to the Chief Executive Officer or to the Public Interest Disclosures Coordinator. Supervisors are also accountable for the implementation and maintenance of sound risk management within their areas of responsibility.	Council Staff
Members of Council's Audit and Risk Committee are responsible for determining whether management has in place a reviewed and comprehensive risk management framework, system and associated procedures for effective identification and management of Council's business and financial risks, including fraud.	Audit and Risk Committee

6. Human Rights

The policy gives regard to relevant legislation, principles of natural justice and procedural fairness, community values and Council's resource capacity. It is considered that this policy supports the rights identified in the *Charter of Human Rights and Responsibilities Act (2006)*.

7. Relevant Legislation and Policies

This policy should be read in conjunction with all other relevant Council policies and procedures, as well as relevant legislative requirements.

Related legislation includes:

- *Local Government Act 2020*
- *Public Interest Disclosures Act 2012*
- *Protected Disclosures Act 2012*

Other related guidelines or policies include:

- *Employee Code of Conduct*
- *Public Interest Disclosures Policy*
- *Independent Broad-Based Anti-Corruption Commission Victoria (IBAC) guidelines for handling public interest disclosures*

8. Definitions

Term	Definition
Fraud	Dishonest activity with the intent to obtain a benefit, or cause a loss, by deception or other means. 'Benefit' in this definition refers to both tangible items, such as money or objects, and intangible benefits such as power, status or information. Examples of fraudulent activities include theft, improper use of information or position, and/or criminal deception.
Theft	The dishonest appropriation of property belonging to another entity or person.
Corrupt Conduct	Dishonest activity involving the misuse of entrusted power for private gain.
Public Interest Disclosures Coordinator	The Public Interest Disclosures Coordinator is the Council Officer responsible for coordinating the investigation of allegations of fraud and corrupt conduct, including keeping the Chief Executive Officer informed (whilst maintaining appropriate confidentiality as relevant). The Public Interest Disclosures Coordinator is the Director Corporate and Organisational Development of the Council. If an allegation of fraud or corrupt conduct is against the Director Corporate and Organisational Development, the Public Interest Disclosures Coordinator is the Chief Executive Officer. Allegations may also be made directly to the external entities described in Council's Public Interest Disclosure policy, including the Independent Broad-based Anti-corruption Commission, the Victorian Ombudsman and the Victorian Inspectorate.

Conflict of Interest	For the purpose of this policy a Conflict of Interest is defined as: "a Councillor or Council employee who has an interest, pecuniary or otherwise, that could conflict with the proper performance of his or her duties, or has a conflict or incompatibility between their personal interests and the impartial fulfilment of their public or professional duties". Conflicts of Interest can be of two types: General or Material Interests. Sections 127 and 128 of the <i>Local Government Act 2020</i> describes the two types of interests.
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Authorised by: ntaylor.
Narelle Taylor
 Acting Chief Executive Officer