



COUNCIL POLICY NO:-

CNG CP304 – FRAUD, CORRUPTION AND MISCONDUCT**GOVERNANCE INFORMATION**

Procedure Link:	NA	Administrative Policy Link:	NA
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ADMINISTRATION INFORMATION

Version:		CP089	OCM	26/07/18	Res: 251-18	Synopsis:	Policy created.
Version:	2	CNG CP304	OCM	30/09/20	Res: 270-20	Synopsis	Reviewed and Adopted by Council

1. RESPONSIBLE DIRECTORATE

Executive

2. PURPOSE OR OBJECTIVE

This Policy has been established to communicate the Council's zero tolerance approach and response actions to fraudulent and corrupt conduct within the performance of its functions and interactions with contractors and suppliers, the community and all other stakeholders of the Council.

This Policy applies to :

- Elected Members;
- Committee Members;
- All workers whether by way of appointment, secondment, contract, agency staff, temporary arrangement or volunteering;
- Any external party involved in providing goods or services to the Council such as contractors, consultants and outsourced service providers.

3. REFERENCE DOCUMENTS

Local Government Act 1995
 Shire of Dardanup Code of Conduct
 Corruption, Crime and Misconduct Act 2003
 Public Interest Disclosure Act 2003

4. DEFINITIONS

"fraud" - Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and where 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 the improper use of information or position for personal financial benefit.

The theft of property belonging to an entity by a person or persons internal to the entity but where deception is not used is also considered 'fraud'. (Australian Standard AS8001:2008 Fraud and Corruption Control)

"corruption" - Dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests 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. The concept of corruption can also involve corrupt conduct by the entity, or a person purporting to act on behalf and in the interests of the entity, in order to secure some form of improper advantage for the entity either directly or indirectly. (Australian Standard AS8001:2008 Fraud and Corruption Control)

"serious misconduct" – Serious misconduct occurs when:

- a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or
- b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or

- c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by two or more years' imprisonment. (Corruption, Crime and Misconduct Act 2003)

“minor misconduct” – Minor misconduct occurs if a public officer engages in conduct that:

- a) adversely affects the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or
- b) involves the performance of functions in a manner that is not honest or impartial; or
- c) involves a breach of the trust placed in the public officer; or
- d) involves the misuse of information or material that is in connection with their functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person; and
- e) constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person's office or employment. (Corruption, Crime and Misconduct Act 2003)

“public interest information” - means information that tends to show, in relation to its public function a public authority, a public officer, or a public sector contractor is, has been, or proposes to be, involved in:

- a) improper conduct; or
- b) an act or omission that constitutes an offence under a written law; or
- c) a substantial unauthorised or irregular use of, or substantial mismanagement of, public resources; or
- d) an act done or omission that involves a substantial and specific risk of –
 - (i) injury to public health; or
 - (ii) prejudice to public safety; or
 - (iii) harm to the environment;or
- e) a matter of administration that can be investigated under section 14 of the Parliamentary Commissioner Act 1971. (Public Interest Disclosure Act 2003)

“public officer” – Includes a member, officer, or employee of an authority, board, corporation, commission, local government, Council, committee or other similar body established for a public purpose under an Act. (Corruption, Crime and Misconduct Act 2003)

“public authority” – Includes an authority, board, corporation, commission, Council, committee, local government, regional local government or similar body established under a written law. (Corruption, Crime and Misconduct Act 2003)

5. POLICY

The Council expects its Elected Members, Committee Members and employees to act in compliance with the Code of Conduct and behave ethically and honestly when performing their functions and during their interactions with each other, the community and all stakeholders of the Council.

A zero tolerance attitude is taken to fraudulent or corrupt conduct which will be thoroughly investigated and the appropriate reporting, disciplinary, prosecution and recovery actions initiated.

5.1 Fraud Control Framework

The Council's organisational structure provides clearly defined responsibilities and appropriate segregation of duties and controls within systems, particularly financial and procurement, that inhibits opportunities for fraud to occur. The zero tolerance tone is set by the Chief Executive Officer and the Executive Management Team. The structure also includes an independent external audit function and a proactive internal audit process which provides reports to the Chief Executive Officer on the appropriateness and effectiveness of internal control, legislative compliance and risk management.

5.2 Policies and Procedures

A Code of Conduct is prepared and adopted by Council as required by section 5.103 of the Local Government Act 1995. The Code sets out the principles and standards of behaviour. Elected Members, Committee Members and employees must observe when performing their duties and is intended to promote accountable and ethical decision making. The Code provides for the reporting of breaches or suspected breaches of the Code.

The Risk Management Policy and the Risk Management Framework outlines the Council's commitment and approach to managing risks and all employees within the Council are encouraged to develop an understanding and awareness of risk and contribute to the risk management process.

The Purchasing Policy and the associated Purchasing Protocols commit the Council and officers to developing and maintaining purchasing systems and practices that ensure goods are obtained in an equitable and transparent manner that complies with applicable legislation.

5.3 Prevention and Detection

Systems and processes, including the Purchasing Protocols, are designed in such a way to help prevent fraud occurring and to detect it if it does occur. This includes adequate segregation of duties, financial and compliance reports and appropriate reporting lines with management oversight. The Purchasing Protocols are subject to regular review and will be updated whenever appropriate.

The Annual Internal Audit Plan includes audits of high risk areas to ensure controls are adequate and are working as intended. Audit reviews are carried out by the Council's Internal Auditor who reports the results of the audits directly to the Deputy CEO or Chief Executive Officer. Whenever necessary, independent external auditing companies may be engaged by the Council to carry out audits.

5.4 Response Strategies

All incidents of fraud, or suspected incidents of fraud, will be thoroughly investigated and whenever necessary the appropriate reporting and notification lines followed, including to external investigative and/or oversight agencies.

5.5 Chief Executive Officer's Duty to Notify

As a principal officer of a notifying authority the Council's Chief Executive Officer is required by the Corruption, Crime and Misconduct Act 2003 to notify the Corruption and Crime Commission or the Public Sector Commission in writing of any matter that they suspect, on reasonable grounds, concerns either serious or minor misconduct by a public officer.

5.6 Reporting Serious or Minor Misconduct

A public officer or any other person may report to the Corruption and Crime Commission or the Public Sector Commission any matter which that person suspects on reasonable grounds concerns or may concern serious or minor misconduct that:

- (a) has or may have occurred; or
- (b) is or may be occurring; or
- (c) is or may be about to occur; or
- (d) is likely to occur.

5.7 Public Interest Disclosure

Any person may make an appropriate disclosure of public interest information to a proper authority (includes a local government). The legislation which governs such disclosures is the Public Interest Disclosure Act 2003.

A disclosure can be made by anyone and may be made anonymously. If disclosures are made in accordance with the Act, the person making them is protected from reprisal. This means that the person enjoys immunity from civil or criminal liability and is protected from any disciplinary action or dismissal.

The Act requires local governments to appoint a person, known as the Public Interest Disclosure Officer (PID Officer), to whom disclosures may properly be made. The PID Officer should be consulted when considering whether to make a disclosure.

Information on public interest disclosures and the Council's PID Officer (Deputy CEO) are maintained on the Council's public website.

5.8 Disciplinary and Recovery Action

On all occasions the Council will seek to recover any losses it may have suffered through fraudulent or corrupt conduct, which for an employee may include the termination of their employment.