



BOROONDARA
City of Harmony

Fraud and Corruption Control Policy and Related Principles 2021

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1. Introduction

The City of Boroondara is committed to the prevention, mitigation and deterrence of all forms of fraud and corrupt conduct. An incident of fraud and corrupt conduct has the potential to adversely impact the Council including financial impact (including both actual cost and cost of investigation and recovery), material breach of legislation or regulation and reputation.

1.1. Purpose

Council Objective

The objective of this policy is to outline Council's approach to fraud and corruption prevention, deterrence and detection. Council is committed to meeting its legislative obligations under the *Local Government Act 2020* (Vic) including: ensuring that resources are maintained in a responsible and accountable manner'.

Council's commitment to fraud control will be met by ensuring an environment in which fraudulent or corrupt conduct is discouraged, and conflicts of interest are avoided. Council is committed to the values of 'integrity, customer service, respect, work together as one, own it follow through, and explore better ways' as demonstrated by the relaunch of the common corporate values including 'how we work' and 'how we lead'.

This policy is consistent with, and supported by, Council's legislative obligations and Council's formal Code of Conduct.

1.2. Scope

This policy statement applies to all Councillors, employees, contractors and volunteers. Councillors are also obliged to maintain standards as mandated by the Local Government Act. Relevant training on legislative obligations is provided at Councillor induction sessions. Section 5.1 contains further guidance on Councillor's responsibilities under this policy.

2. Background

2.1. Context

Elected Councillors and Council's administration are committed to policies and practices that prevent, deter and detect fraudulent and corrupt behaviour in the performance of Council activities. The Victorian Auditor-General has recommended all Councils adopt specific fraud control policies that address the risk of fraud and corrupt conduct. Boroondara has established an internal group known as the Fraud Control Group which monitors, reports and guides the implementation of this policy. The Fraud Control Group provides an annual report on its activity to Council's Audit and Risk Committee.

2.2. Consultation

This policy has been developed following consultation with the Executive Leadership Team, Fraud Control Group, Manager Governance and Legal, Risk and Assurance, Internal Auditors and internal legal advisors.



This Policy's contents are communicated across the organisation through articles on council's Intranet site, presentations to department and team meetings and via the contents of a mandatory e-learning module.

2.3. Corporate Framework

This policy is informed by the Boroondara Community Plan (BCP) 2017-27, our key strategic document. The BCP guides our decision making and directly informs the Council Plan, our budgets, strategies, policies and actions. Of particular relevance is:

Civic Leadership and Governance Strategic Objective 7: "Ensure that ethical, financial and socially responsible decision making reflect community needs and are based on principles of accountability, transparency, responsiveness and consultation".

Additionally, this policy supports Council's Mission and Vision by addressing the following objective in the Council Plan 2017-21:

"Ensure Council is open, transparent, inclusive and accountable to the community by having sound processes for making and implementing decisions.

3. Policy Statement

Elected Councillors and Council's administration are committed to preventing, deterring and detecting fraudulent and corrupt behaviour in the performance of all Council activities.

This commitment shall be met by:

- Identification of business processes which are potentially at risk of exposure to fraud and corrupt conduct;
- Controls to mitigate the risk of exposure;
- Procedures to investigate allegations of fraudulent or corrupt conduct;
- Implementation of procedures to appropriately manage incidents of fraud and corrupt conduct;
- Provision of training, awareness and enforcement of Codes of Conduct to ensure employees and contractors are aware of their responsibilities in the prevention and management of fraud and corrupt conduct;
- Ensuring an environment in which fraudulent or corrupt conduct is discouraged.

In order to meet this commitment, any evidence of fraudulent or corrupt conduct must be brought to the attention of management as detailed in section 4 below.¹

4. Procedures

4.1. Investigations of Allegations

Council will implement procedures to facilitate investigation of allegations of fraudulent and corrupt conduct. Where such allegations are substantiated, Council will respond by either reporting the incident to relevant authorities or undertaking disciplinary action under the Code of Conduct.

A flow chart outlining the process to be followed is contained in Appendix 1.

¹ This policy must be read in conjunction with the Council's Public Interest Disclosure Guidelines, which provides the reporting process required in accordance with the Public Interest Disclosure Act 2012.



The confidentiality of persons who raise such concerns will be preserved. In the absence of the complaint being about the Chief Executive Officer, the Chief Executive Officer shall determine the resources to be engaged for the purpose of conducting an investigation. Investigation of matters raised will be conducted by the Internal Auditor, or where more appropriate, a suitably qualified external advisor.

4.2. Conduct and Discipline

Council is committed to ensuring a corporate culture of honesty and integrity in which Councillors, staff and contractors are assured that fraud, corruption, dishonest acts and conflicts of interest will be detected and investigated.

Councillors

Council's Code of Conduct notes the *Local Government Act 2020* has specific provisions that prohibit Councillors from certain conduct. This conduct relates to:

- Misuse of Position
- Improper Direction and Improper Influence
- Confidential Information
- Conflict of Interest
- Electoral Conduct

Any allegation of a breach of the requirements of the Code of Conduct shall be handled in accordance with the process set out in that code.

Employees

Where any matter is investigated and an incident of fraud or corrupt conduct in respect of an employee is affirmed, employment ramifications, including termination will be considered on a case by case basis in accordance with the Performance Improvement and Disciplinary Policy 2018.

4.3. External Notification

Council is committed to ensuring that all allegations, breaches of the Code of Conduct or this policy which are considered to be prima facie cases supported by evidence of fraudulent or corrupt conduct are notified to the appropriate law enforcement or regulatory agency for investigation.

Under the *Public Interest Disclosures Act 2012*, persons can make disclosures to Council and IBAC about improper conduct and detrimental action in relation to the activities and functions of Council. This is encouraged where any person wishes to access the protections afforded by the Act.



4.4. IBAC Mandatory Notification

Mandatory notifications of public sector corruption were introduced in December 2016. This obligation is set out in section 57 of the [Independent Broad-based Anti-corruption Commission Act 2011](#) (the IBAC Act), requiring 'principal officers'² of a Public Sector body to notify IBAC on reasonable grounds of any matter they suspect is occurring or has occurred constituting corrupt conduct.

There is no legislative obligation for relevant principal officers to search out corrupt conduct, only report it when suspected. To meet the threshold for notification to IBAC, the conduct must:

1. Be corrupt conduct as defined in section 4 of the IBAC Act; and
2. Be an indictable offence or a prescribed common-law offence committed in Victoria; and
3. Lead a reasonable person to suspect that corrupt conduct has occurred or is occurring (reasonable suspicion).

² Principal Officer is defined in s3 of the IBAC Act as 'the public sector body head within the meaning of s4(1) of the *Public Administration Act 2004*'.

5. Implementation & Monitoring

5.1. Accountabilities

The assignment of responsibility for the various elements of Fraud and Corruption Control is a critical prerequisite for the establishment of a successful fraud and corruption control strategy.

The ultimate responsibility for ensuring compliance with this policy (except where an allegation is made against the Chief Executive Officer) rests with the Chief Executive Officer (principal officer). The Manager Governance and Legal, shall promulgate and update the policy. All levels of management are expected to take responsibility for compliance within their area of responsibility.

To facilitate the implementation of this policy a Fraud Control Group (FCG) is established. The FCG shall comprise:

- Chair – Integrity Coordinator (and FCG Coordinator)
- Executive Manager, People Culture and Development
- Manager, Governance and Legal
- Chief Information Officer
- Cyber Security Officer
- Manager, Arts and Culture
- Manager, Liveable Communities Health Active Ageing and Disability Services
- Manager, Civic Services
- Chief Customer Officer
- Team Leader Risk and Assurance
- Senior Coordinator Active Ageing and Disability Services
- Manager Traffic and Transport
- Chief Financial Officer
- Other members of the Senior Management Group shall be rotated through the group to provide expertise and broaden the communication of the group's goals.

- As required, outside experts shall be invited to make presentations to the Fraud Control Group.

The FCG shall meet at least four times a year. The role of the FCG shall include but not be limited to:

- Fraud risk assessment updates
- Fraud awareness training
- Fraud research
- Reviewing the outcomes and lessons of any investigation of events of fraud or corrupt conduct
- Compliance with fraud control and Public Interest Disclosure requirements.

The chair or (delegate appointed by the Chair) shall report directly to the Chief Executive Officer on the operations and activities of the group.

At the conclusion of each financial year, the Chair shall provide a report to the Audit and Risk Committee on the operations and activities of the Fraud Control Group.

The assignment of responsibility for the various elements of fraud and corruption control is a critical prerequisite for the establishment of a successful fraud and corruption control strategy.

Fraud and corruption control responsibilities within Council are summarised below:

Councillor responsibility entails:

- Ensuring an appropriate Fraud and Corruption Control Policy is adopted;
- Maintaining compliance with the Conflict of Interest obligations pursuant to the *Local Government Act 2020* ;
- Facilitating accountability at all levels within the Council for fraud and corruption control by ensuring appropriate resources are provided to ensure suitable fraud and corruption information and reporting systems are maintained.
- Maintaining awareness of this policy and its applicability to elected Councillors.

Chief Executive Officer responsibility:

- The CEO has ultimate accountability for fraud and corruption control within Council and ensuring policies and procedures are followed and that appropriate governance structures are in place and are effective.
- Expeditiously reporting to IBAC, relevant agencies and the Audit and Risk Committee in accordance with this policy.

The Fraud Control Group (FCG) is responsible for:

- Establishing and maintaining an overall fraud and corruption management function to manage the requirements of the Policy;
- Raising awareness, of the Fraud and Corruption Control Policy, its principles and related procedures;
- Reviewing the outcomes and lessons of any investigation or incidents of fraud or corruption;
- Reviewing records which are capable of identifying trends in fraudulent or corrupt activity;
- Providing management with guidelines and standards for safeguarding Council's assets;



- Notifying management of any potential fraud risk exposures identified during the course of investigation work in order that current procedures can be reviewed for adequacy.

Fraud Control Group Co-ordinator will:

- Assist the FCG and Management to develop policies, procedures, and processes to effectively manage the risk of fraud and corrupt conduct;
- Maintain and update the Fraud and Corruption Control Policy;
- Coordinate contact point for fraud advice on significant matters;
- Facilitate the circulation of best fraud control practices across Council;
- Assist and consult management in the conduct of fraud and corruption investigations;
- Investigate or coordinate investigations of reported instances of fraud or corrupt conduct;
- Work closely with Risk and Assurance Team Leader and Internal Audit to target high fraud risk areas;
- Assist PCD in the development of fraud training and other ongoing awareness material;
- Notify management of any potential fraud risk exposures identified during the course of investigation work in order that current procedures can be reviewed for adequacy.
- Maintain and update the Fraud Risk Register.

Employees and Officers are responsible for:

- Maintaining compliance with the requirements of this Policy, and all relevant supporting procedures;
- Maintaining awareness of Fraud Prevention and Control responsibilities under this Policy;
- Maintaining awareness of protocols regarding inducements, gifts and incentives in the Acceptance of Gifts and Hospitality Guidelines applicable to Councillors;
- Maintaining compliance with the Gifts and Benefits Policy applicable to all Officers;
- Maintaining compliance with the Conflict of Interest obligations pursuant to the *Local Government Act 2020* and Council's internal Code of Conduct;
- Reporting breaches or suspected breaches of this policy and Code of Conduct to the Manager, Governance and Legal (or the Public Interest Disclosures Co-ordinator if appropriate);
- Reporting to the Manager, Governance and Legal, as soon as possible, improvements or updates required to this policy or control procedures as a result of a new or changed business process impacting this policy.

External Audit responsibility, whilst not responsible for fraud detection, will:

- In accordance with Australian Auditing Standards, identify and assess the risks of material misstatement due to fraud at the financial report level.
- Ensure Audits of the Financial Statements are planned, and procedures designed, to provide reasonable assurance that the financial statements are free from material misstatement due to fraud;
- In the event the external auditor identifies a misstatement, evaluate whether such a misstatement is indicative of fraud. If there is such an indication, the external auditor shall evaluate the implications of the misstatement in relation to other aspects of the audit;



- In the event the external auditor identifies or suspects a fraud, the external auditor shall determine whether there is a responsibility to report the occurrence or suspicion to a party outside the entity. Although the auditor's professional duty to maintain the confidentiality of client information may preclude such reporting, the external auditor's legal responsibilities may override the duty of confidentiality in some circumstances.

Internal Audit responsibility:

- Internal Audit supports fraud prevention by reviewing conformance with internal controls and providing necessary inputs into Council's responses to fraud.

5.2. Financial Implications

The implementation of this policy is funded from within existing departmental operating budgets.

5.3. Fraud Risk Controls

Council's commitment to the mitigation of fraud and corrupt conduct is supported by Council's implementation of controls and risk mitigation improvement strategies in connection with the enterprise risk framework including the organisation's strategic and organisational risk registers. The potential risk of fraud and corrupt conduct is inherent in all risk assessments and internal audit reviews, allowing the implementation of controls to mitigate the risk of exposure, further strengthening the organisation's ability to resist fraud and corrupt conduct.

5.4. Employee, Customer and Community Awareness

Council's commitment to fraud and corruption control will be accompanied by providing appropriate staff 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.

5.5. Fraud, Corruption and Conflict of Interest Reporting

Council is committed to encouraging staff, customers or community to report suspicious activity at the first available opportunity, to an appropriate reporting point within the Council or where necessary to an outside authority.

6. References

6.1. Definitions

Fraud

For the purpose of this policy: fraud means an "intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage".³

For the purpose of this policy fraud is not restricted to tangible benefits only and includes intangibles such as information.

A fraudulent act can also be committed by an act of omission, dishonesty or deceitful and misleading behaviour.



Corrupt Conduct

For the purpose of this policy Corrupt Conduct is defined as per section 4 (1) of *the Independent Broad-Based Anti-corruption Commission Act 2011* as conduct:

- (a) *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; or*
- (b) *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; or*
- (c) *of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or*
- (d) *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.*

Examples of fraudulent or corrupt conduct include:

- Theft, embezzlement, misappropriation of Council assets including cash
- False claims for reimbursement
- False claims on time sheets
- Forgery or alteration of documents
- Collusive tendering
- Unauthorised use of Council assets or equipment
- Misuse of position to gain personal advantage
- Sale or use of Council information for personal gain.

Conflict of Interest

For the purpose of this policy Conflict of Interest has the same meaning as in the *Local Government Act 2020*.

Principal Officer

A relevant principal officer is defined in the IBAC Act to include:

- the Chief Executive Officer of a council;
- the Chief Executive Officer of Court Services Victoria; and
- the public sector body Head (as set out in the Public Administration Act 2004).

Related Documents

Performance and Improvement and Disciplinary Policy 2018.

³Auditing Standard ASA 240, 2009



7. Policy Responsible Officer and Contact Details

Manager Governance and Legal is the designated responsible officer of this Policy. The responsible officer coordinates the implementation, maintenance and review of this Policy and ensures that stakeholders are aware of their accountabilities.

For further information or queries or feedback on this Policy, please contact the above responsible officer.

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INVESTIGATION OF ALLEGATIONS

Appendix 1

