



FRAUD AND CORRUPTION PREVENTION POLICY

Adopted: 25 February 2015

TRIM 244591.2014



FRAUD AND CORRUPTION PREVENTION POLICY

1. LEGISLATIVE REQUIREMENTS

Independent Commission Against Corruption Act 1988

Local Government Act 1993

2. PURPOSE/ OBJECTIVES

This policy:

- a) Sets out Liverpool City Council's commitment to the prevention of fraudulent or corrupt conduct in any form;
- b) Seeks to demonstrate Council's efforts to protect public monies and assets and to enhance the good reputation of Council and members of its staff.

3. DEFINITIONS

the Act means the *Local Government Act 1993*

CEO refers to the Chief Executive Officer of Council.

Corrupt conduct is defined in accordance with Section 8 of the *Independent Commission Against Corruption Act 1998* as conduct:

- a) Of any person (whether or not a public official) that adversely affects, or that could adversely affect, 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) Of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions; or
- c) Of a public official or former public official that constitutes or involves a breach of public trust; or;
- d) 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 for his or her benefit or for the benefit of any other person.

Corrupt conduct also includes the conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials, or any public authority. It could involve, but is not limited to:

- a) Blackmail;
- b) Bribery;
- c) Fraud;

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- d) Obtaining or offering secret commissions;
- e) Official misconduct;
- f) Theft.

Corrupt conduct is also any conduct of any person (whether or not a public official) that impairs, or that could impair, public confidence in public administration and which could involve any of the following matters:

- a) Collusive tendering;
- b) Fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources;
- c) Dishonestly obtaining or assisting in obtaining, or dishonestly benefiting from, the payment or application of public funds for private advantage or the disposition of public assets for private advantage;
- d) Defrauding the public revenue;
- e) Fraudulently obtaining or retaining employment or appointment as a public official.

Disclosures Coordinator is the coordinator to assess, receive and refer public interest disclosures under Council's Ethical Governance: Internal Reporting (Public Interest Disclosures) Policy.

Disclosure refers to informing, exposing, or revealing known or suspected acts of corruption, maladministration or serious and substantial waste by public officials of Council. A public interest disclosure can be made internally in accordance with the process set out in Council's Ethical Governance: Internal Reporting (Public Interest Disclosures) Policy or externally. An external disclosure can be made:

- a) In the case of corruption: to the Independent Commission Against Corruption (ICAC);
- b) In the case of a government information contravention: to the Information and Privacy Commission;
- c) In the case of local government pecuniary interest contravention or serious and substantial waste in local government to the Office of Local Government;
- d) In the case of maladministration and serious or substantial waste: to the NSW Ombudsman.

Fraud can include deceit, trickery, sharp practice, or a breach of confidence, by which it is sought to gain some unfair or dishonest advantage. Examples of fraud include (but are not limited to):

- a) Conducting the affairs of a private business or undertaking in working hours;
- b) Conspiring unfairly with others to manipulate a tender or quotation outcome or procure services;

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- c) Falsifying timesheets;
- d) Falsifying travel claims or other vouchers;
- e) Inappropriately manipulating allowance payments;
- f) Stealing equipment or supplies from work;
- g) Turning a blind eye to a service provider who does not provide an appropriate service;
- h) Unauthorised private use of motor vehicles;
- i) Using Council money or resources for private benefit.

Government information contravention is a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009*. For example, this could include:

- a) Destroying, concealing or altering records to prevent them from being released;
- b) Directing another person to make a decision that is contrary to the legislation;
- c) Knowingly making decisions that are contrary to the legislation;

Investigating Authority refers to ICAC, the Information and Privacy Commission, the NSW Ombudsman and the Office of Local Government.

Maladministration is defined in the *Public Interest Disclosures Act 1994*, as being conduct that involves action or inaction of a serious nature that is:

- a) Based wholly or partly on improper motives;
- b) Contrary to law; or
- c) Unreasonable, unjust, oppressive or improperly discriminatory.

Members of Council staff, for the purpose of this policy, include permanent employees of Council, casual employees, trainees, and consultants and contractors who are engaged in employment with Council.

Serious and substantial waste is defined in accordance with the definition provided by the NSW Auditor-General as "*the uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss/wastage of public funds/resources*". Types of serious and substantial waste include:

- a) **Absolute**: serious and substantial waste might be regarded in absolute terms where the waste is regarded as significant, for example \$500,000;
- b) **Systemic**: the waste indicates a pattern which results from a system weakness within the public authority;
- c) **Material**: the serious and substantial waste is/was material in terms of the public authority's expenditure or a particular item of expenditure or is/was material to such an extent so as to affect a public authority's capacity to perform its primary functions;

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- d) Material by nature not amount: the serious and substantial waste may not be material in financial terms but may be significant by nature. That it may be improper or inappropriate.

4. POLICY STATEMENT

- 4.1 Residents and ratepayers of the City of Liverpool have a justifiable expectation that the Council, Councillors and members of Council staff should conduct themselves in a manner that fulfils their responsibility to protect public money and property. Therefore, it is vital that Council can demonstrate its commitment to developing and maintaining organisational practices which minimise opportunities for fraud or corruption to occur within Council.
- 4.2 Council does not accept or tolerate the occurrence of fraud or corrupt conduct. Its commitment to deter and to prevent the occurrence of such matters is aligned to the organisational values of:
 - a) Valuing staff;
 - b) Showing leadership at all levels;
 - c) Working together;
 - d) Respecting people by encouraging an honest, courteous, ethical, fair and equitable workplace;
 - e) Communicating effectively by providing open, accessible and honest communication with all stakeholders.
- 4.3 Council is committed to the implementation of controls to minimise the risks of fraud and corruption in Council operations, and to maximise the opportunity for fraud and corruption to be detected. Such controls shall include:
 - a) Fostering an ethical culture, where staff and councillors strive to work together on the basis of honesty and integrity;
 - b) Implementation of policies and procedures which require Council officials to conduct their business with integrity and consistency;
 - c) Management information which provides the basis for sound decision making;
 - d) Oversight by Council staff members in leadership roles to minimise the occurrence of errors or wrongdoing;
 - e) Physical protection of resources;
 - f) Provision of training in systems and procedures so that error can be avoided;
 - g) Rotation of duties, so that no one function becomes the sole domain of a particular staff member;
 - h) Separation of duties, so that no one person has sole control of duties involving the handling of money, purchasing goods and services etc.;
 - i) Supervision to ensure that Council staff members are performing their duties to the highest standards possible.

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4.4 It is the responsibility of Council directors to ensure that these controls are maintained within their directorates to their best of their ability.

4.5 All members of Council staff have a responsibility to manage fraud and corruption risks in the workplace. These responsibilities are summarised as follows:

4.5.1 **Members of Council staff**

All members of Council staff are responsible for:

- a) Preventing corruption, maladministration and waste;
- b) Reporting all instances of suspected corrupt conduct, maladministration and waste.

4.5.2 If members of Council staff suspect fraud or corruption, they should report to one of the following.

- a) Their supervisor/ team leader/ coordinator or their manager;
- b) The CEO;
- c) The director responsible for their area;
- d) A public interest disclosure officer; or
- e) The Independent Commission Against Corruption.

4.5.3 **Supervisors/ team leaders/ coordinators**

Supervisors/ team leaders/ coordinators are responsible for:

- a) Ensuring that all reports of suspected fraud or corruption, maladministration, serious and substantial waste and reprisal action are referred to the CEO, or the appropriate director, without delay. (If a report is received orally, it must be clearly documented and accurate records kept.);
- b) Ensuring that members of Council staff under their supervision have access to advice from a disclosures officer in relation to a possible public interest disclosure;
- c) Maintaining strict confidentiality in relation to the identity of persons making a disclosure, and the subject matter of such a disclosure;
- d) Receiving reports of suspected corrupt conduct, maladministration and serious and substantial wastage;
- e) Receiving allegations of reprisal action taken against people who have reported in accordance with Council's Ethical Governance: Internal Reporting (Public Interest Disclosures) Policy;
- f) Taking all responsible steps to ensure that members of Council staff who have made a report relating are not disadvantaged or suffer detrimental action.

4.5.4 **Managers**

Managers are responsible for:

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- a) Establishing systems of control to minimise corruption, maladministration and waste;
- b) Ensuring that members of their staff understand the standards of expected behaviour as outlined in Council's Code of Conduct and relevant policies and procedures;
- c) Ensuring that members of Council staff under their supervision have access to advice from a disclosures officer in relation to a possible public interest disclosure;
- d) Ensuring that, where evidence indicates that members of Council staff have been involved in fraud or corrupt conduct, the matter is brought to the immediate attention of both their director and the CEO. (If a report is received orally, it must be clearly documented and accurate records kept);
- e) Maintaining strict confidentiality in relation to the identity of any person making a disclosure, and the subject matter of any such disclosure.

4.5.5 Directors

Directors are responsible for:

- a) Ensuring that Council's fraud and corruption controls are maintained and monitored within their directorate;
- b) Ensuring that all matters reported are made known to the CEO, and are investigated or dealt with appropriately, as directed by the CEO;
- c) Liaising and cooperating with Council's Internal Audit Unit to ensure that fraud and corruption risks are properly identified and managed within their directorate;
- d) Liaising and cooperating fully with the NSW Police and other investigative agencies in relation to any investigation matters;
- e) Receiving allegations of fraud and corruption and reprisal action;
- f) Seeking the cooperation of members of Council staff within their directorate with any investigation(s) into any allegation(s) of suspected fraud, corrupt conduct and reprisal action.

4.5.6 Disclosure Coordinator

The Disclosures Coordinator is responsible for:

- a) Assessing all public interest disclosures received from disclosures officers;
- b) Ensuring that Council staff members making public interest disclosures receive adequate support from Council, including protection from possible reprisal action;
- c) Keeping Council staff members making public interest disclosures informed as to the progress of the relevant investigation in accordance with the Ethical Governance: Internal Reporting (Public Interest Disclosures) Policy;
- d) Referring the investigation of reports made as public interest disclosures to the Manager Internal Audit for investigation.

4.5.7 Disclosures officers

Disclosures officers are responsible for:

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- a) Assisting Council staff members who are seeking advice regarding possible public interest disclosures in accordance with the Ethical Governance: Internal Reporting (Public Interest Disclosures) Policy;
- b) Forwarding all completed disclosure forms to the Disclosures Coordinator for assessment and investigation;
- c) Maintaining confidentiality in relation to Council staff members seeking advice and/or making public interest disclosures.

4.5.8 Internal Audit

The Internal Audit Unit is responsible for:

- a) Carrying out appropriate investigations of any allegation of fraud, corruption, government information contravention, maladministration and serious or substantial waste, as directed by the CEO;
- b) Keeping the Disclosures Coordinator informed as to the progress of the relevant investigation in accordance with the Ethical Governance: Internal Reporting (Public Interest Disclosures) Policy;
- c) Managing Council's Internal Audit program in a manner that best enables instances of fraud and corruption to be detected;
- d) Providing regular updates on the progress of any investigation to the CEO;
- e) Providing, at the conclusion of an investigation, the investigation report and all information collected during the course of the investigation to the CEO.

4.5.9 The CEO

The CEO is responsible for:

- a) Dealing with any allegation of reprisal action taken against any member of Council staff who has made a public interest disclosure in accordance the Ethical Governance: Internal Reporting (Public Interest Disclosures) Policy;
- b) Directing an investigation of any allegation, as may be appropriate;
- c) Ensuring that all reports of suspected fraud or corruption, maladministration, serious and substantial waste and reprisal action are referred to ICAC as required under section 11 of the *Independent Commission Against Corruption Act 1989*;
- d) Receiving final investigation reports, as described in clause 4.5.6b) and determining what, if any, action should be taken in relation to such matters;
- e) Receiving reports of any suspected corrupt conduct, government information contravention, maladministration and serious and substantial waste;
- f) Reporting any suspected criminal activity by a member of Council staff to the NSW Police Force.

4.5.10 The Audit and Risk Committee

The Audit and Risk Committee is responsible for:

- a) Assessing and dealing with issues related to fraud control, as the need arises and as identified by the Internal Audit Unit or other sources;

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- b) Endorsing Council's overall approach to fraud control.

4.5.11 The Governance and Legal Services Unit

The Governance and Legal Services Unit is responsible for:

- a) Developing and reviewing Council's ethical governance policies;
- b) Fostering training opportunities for members of Council's staff, in collaboration with Council's People and Organisation Development Unit, in relation to Council's ethical governance policies;
- c) Promoting awareness of Council's ethical governance policies within Council.

4.6 The channels for making disclosures through Council's internal reporting system are set out in the following table:

Discloser	Nominated Person	Nature of Disclosure
Member of Council staff	CEO or disclosures officer	Corruption, maladministration, serious and substantial waste (general matters)
Member of Council staff	Disclosures officer or Mayor	Corruption, maladministration, serious and substantial waste involving the CEO
Member of Council staff	Disclosures officer or CEO	Corruption, maladministration, serious and substantial waste involving a Councillor
Councillor	CEO	Corruption, maladministration, serious and substantial waste involving Council administration and management (general matters)
Councillor	Mayor	Corruption, maladministration, serious and substantial waste involving the CEO
Councillor	Mayor	Corruption, maladministration, serious and substantial waste, involving another Councillor
Councillor	CEO or Disclosures Coordinator	Corruption, maladministration, serious and substantial waste, involving the Mayor

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- Note 1:** A member of Council staff who wishes to make a public interest disclosure which involves a Councillor may do so by means of an alternative channel rather than the internal reporting system, for example, directly to the CEO, or an investigating authority (ICAC, NSW Ombudsman, or Office of Local Government).
- Note 2:** A Councillor who wishes to make a public interest disclosure which involves a Councillor may do so by means of an alternative channel rather than the internal reporting system, for example, to the CEO or an investigating authority (ICAC, NSW Ombudsman, or Office of Local Government).
- Note 3:** If the Mayor wishes to make a public interest disclosure, she/he may do so by channels provided under the *Public Interest Disclosures Act 1994*, for example, to the CEO or to an investigating authority (ICAC, NSW Ombudsman or Office of Local Government).

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COUNCIL FRAUD AND CORRUPTION RESPONSIBILITY STRUCTURE						
ETHICS AND AUDIT COMMITTEE / COUNCIL	CHIEF EXECUTIVE OFFICER	<ul style="list-style-type: none"> Culture Policy and Strategy Business Risk Corporate/ Ethical Governance Compliance (legislative, regulatory, community) Stakeholder value Image 				
		DIRECTORS AND MANAGERS	<ul style="list-style-type: none"> Develop and implement fraud and corruption prevention strategies for directorates/ work units Identify and mitigate actual potential corruption risks in the workplace Monitor and review the effectiveness of mechanisms implemented to minimise and detect corruption Demonstrate ethical conduct in all business dealings Implement, monitor and review fraud and corruption prevention controls in place Promote awareness of fraud and corruption prevention and ethical conduct in the workplace Lead by example 			
			COORDINATORS, SUPERVISORS AND TEAM LEADERS	<ul style="list-style-type: none"> Promote awareness of ethical conduct and mechanisms to prevent corruption Provide input to policies, procedures and instructions that relate to areas of risk Drive compliance with corruption prevention controls in their teams Monitor the ongoing effectiveness of corruption prevention controls 		
		MEMBERS OF COUNCIL STAFF		<ul style="list-style-type: none"> Ethical behaviour Report suspected incidents of fraud and corruption Compliance with fraud and corruption prevention controls including the Fraud and Corruption Prevention Policy 		

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AUTHORISED BY

Council Resolution

EFFECTIVE FROM

25 February 2015

DEPARTMENT RESPONSIBLE

Corporate Services (Governance and Legal Services)

REVIEW DATE

25 February 2017

VERSIONS

Version	Amended by	Changes made	Date	TRIM Number
1	Council Resolution	None	17 March 2008	005517.2009
2	Council Resolution	Complete review and updating	25 February 2015	244591.2014

THIS POLICY HAS BEEN DEVELOPED IN CONSULTATION WITH

Corporate Services (People and Organisational Development)

Ethics and Audit Committee

Internal Audit Unit

REFERENCES

Department of Local Government: Pecuniary Interest Guidelines 2006

Independent Commission Against Corruption and Crime and Misconduct Commission

Queensland: Managing Conflicts of Interest in the Public Sector 2006

Liverpool City Council: Code of Conduct

Liverpool City Council: Code of Conduct Procedures

Liverpool City Council: Ethical Governance: Conflicts of Interest Policy

Liverpool City Council: Ethical Governance: Gifts and Benefits Policy

Liverpool City Council: Ethical Governance: Internal Investigations Policy

Liverpool City Council: Ethical Governance: Internal Reporting (Public Interest Disclosures) Policy

Liverpool City Council: Ethical Governance: Secondary Employment Policy

Liverpool City Council: Use of Council-Branded Administrative Resources Policy

NSW Ombudsman: Good Conduct and Administrative Practice: Guidelines for state and local government (2nd edition) 2009