

## BARCOO SHIRE COUNCIL POLICY FRAUD AND CORRUPTION PREVENTION

Policy Number: CFS-005	Version:2a
Classification:	Section: Corporate-Financial Sustainability
Date Adopted by Council: 19.06.2017	Resolution Number: 2017.06.24
Responsible Officer: Manager HR Communications and Governance	<p>Review: Note: This Policy is reviewed when any of the following occur:</p> <ol style="list-style-type: none"> <li>1. The related information is amended or replaced.</li> <li>2. Other circumstances as determined from time to time by the Chief Executive Officer.</li> </ol> <p>Notwithstanding the above, this Policy is to be reviewed at intervals of no more than two years.</p>
Legislation: <i>Local Government Act 2009; Local Government Regulation 2012; Public Interest Disclosure Act 2010;</i>	

### PURPOSE

The purpose of this policy is to clearly state Council's commitment to preventing, detecting and responding to any matter relating to fraud and corruption, while establishing a consistent approach across all areas of Council.

### OBJECTIVE

The objective of this policy is to:

- Promote public confidence in the way suspected corrupt conduct is dealt with by Council;
- Provide guidance about what constitutes fraud and corruption;
- Provide a clear statement that fraud and corruption is unacceptable;
- Provide clear responsibilities and accountabilities for preventing fraud and corruption within council's operations;
- Provide assurance to Council that reports of fraud and/or corruption are properly investigated or referred to appropriate external authorities as necessary;
- Present an integrated approach to fraud and corruption prevention and control that includes proactive measures designed to enhance system integrity (prevention measures) and reactive responses (reports, detecting and investigating activities).

### SCOPE

This policy applies to all Councillors, employees, volunteers and individuals conducting business for Council and/or acting for or on behalf of Council at any given point in time. The policy also applies to both actual and suspected occurrences of fraud and corruption.

### DEFINITIONS

Corrupt Conduct - Under the Crime and Corruption Act 2001 (14), includes:

- Neglect, failure and inaction
- Conspiracy to engage in conduct
- Attempt to engage in conduct

Corrupt conduct is conduct by any person that meets the four elements stipulated in the Crime and Corruption Act 2011, and described below.

1. Effect of the conduct Corrupt conduct adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—
  - a unit of public administration (UPA); or
  - an individual person holding an appointment in a UPA.
2. Result of the conduct Corrupt conduct results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned above in a way that—
  - is not honest or is not impartial;
  - involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly;
  - Involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment.

*In relation to a breach of trust:*

- knowingly can be taken to mean that the subject officer knew that his or her actions were a breach of the trust placed in him or her;
  - Recklessly can be taken to mean that, while the subject officer did not necessarily know that his or her actions were a breach of trust, he or she was aware that there was a real and apparent risk that the conduct would amount to a breach of the trust and he or she nevertheless without justification persisted with the conduct.
3. Benefit or detriment arising from the conduct Corrupt conduct is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person. The CC Act defines:
    - benefit as property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person, whether or not it has any inherent or tangible value, purpose or attribute;
    - Detriment as including detriment caused to a person's property.
  4. Criminal offence or disciplinary breach Corrupt conduct would, if proved, be—
    - a criminal offence; or
    - a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were a holder of an appointment.

**Fraud** - A dishonest activity causing actual or potential financial loss to a person or entity, including theft of moneys or other property by employees or other persons, whether or not deception is used at the time, immediately before or immediately following the activity. This 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.

**Public Interest** - The public interest refers to the 'common wellbeing' or 'general welfare' of the community and government affairs.

**Public Interest Disclosure (PID)** - A PID is a disclosure made to a proper authority about a public interest matter including: corrupt conduct; maladministration that adversely affects a person's interests in a substantial and specific way; or a substantial misuse of public resources.

*Note: the public interest refers to the 'common well-being' or 'general welfare' of the community and government affairs;*

*Note: the proper authority for all disclosures relating to the Council and its controlled entities is the Council*

## POLICY STATEMENT

Barcoo Shire Council is committed to a zero tolerance approach to fraud and corruption and acting in the best interest of the community and upholding the principles of honesty, integrity and transparency.

To facilitate this approach Council will implement the following internal controls:

- *Risk Management Policy*

This policy will ensure that the risks of fraud and corruption are identified and necessary mitigation strategies are implemented and monitored. This process will be used to provide the best protection against these actions.

- *Education and Training*

Council is committed to ensuring that all Councillors and employees are fully aware of fraud and corruption issues, and are equipped with the knowledge of how to identify, deal with and report any issues, concerns or events of this nature.

- *Reporting*

Council provides and promotes the avenues for complaints of fraud and/or corruption to be reported. All reports of this type will be confidential. All Councillors and employees must report concerns or suspicions of fraudulent and/or corrupt activities as per the fraud and corruption control plan.

- *External Reporting*

Fraud and corruption are serious criminal matters and as such and complaints are required to be reported to various external agencies including the Police, the Crime and Corruption Commission (CCC), the Minister and the Queensland Audit Office.

- *Public Interest Disclosure*

Public Interest Disclosures are any disclosures of information which are made in accordance with the Public Disclosure Act 2010. Council's Public Interest Disclosure Policy and procedure provide further information on Council's approach to this matter.

- *Investigations*

All allegations of fraud and/or corruption will be appropriately investigated as per Council's investigation procedures that are included in the fraud and corruption control plan.

- *Appropriate recruitment and screening policies and procedures*

All new employees undergo a screening process prior to commencing work.

- *Specific accounting responsibilities for staff which include separation of duties and incorporation of checks and balances*

- *Internal Audit Committee*

- *Periodic or monthly reconciliations and stocktakes*

- *Physical access controls and security measures*

## RESPONSIBILITIES

All Councillors and employees have a role in identifying areas of risk and reporting actual or suspected fraud and corruption. The Chief Executive Officer has identified the Director of Corporate Services to lead the way for prevention of fraud and corruption and coordinate the actions and procedure of the fraud and corruption plan.

## REPORTING OF FRAUD OR CORRUPTION

1. An employee/Council officer should report a suspicion of fraud or corruption in the first instance to their supervisor or if they are not comfortable to do this, to the relevant Director.
2. Contractors should report an incident or suspected fraud or corruption to the employee who has been appointed to manage their project.
3. If it is inappropriate to report to the Director, the employee should report to the Chief Executive Officer; if it is the Director reporting, then they should report to the Chief Executive Officer.
4. If the matter involves the Chief Executive Officer, then the Director should report directly to the Mayor.
5. If the incident of suspected fraud or corruption is likely to result in disciplinary action, the Chief Executive Officer and Director should also be notified.
6. The rights of reporters of fraud or corruption are protected by legislation including the *Public Interest Disclosure Act 2010*, the *Information Privacy Act 2009*, the *Corruption Act 2001* and the *Public Sector Ethics Act 1994*.

## INVESTIGATION OF FRAUD AND CORRUPTION

Investigation into incidents of fraud and corruption will be undertaken with reference to Public Interest Disclosure Act 2010 and the Information Privacy Act 2009 as well as Council's Code of Conduct and other relevant policies and procedures. Confidentiality and natural justice will be maintained. All reports will be assessed by the Director or Chief Executive Officer.

If there is to be an investigation, the Chief Executive Officer will appoint an appropriately skilled and experienced person who is independent of the business unit where the alleged fraud or corruption has taken place. The independent investigator may be an external law enforcement agency in which case that agency will be in charge of the investigation, or an external consultant operating under the direction of the Chief Executive Officer who will ensure that the investigator is aware of and complies with relevant legislative provisions. Where a Council employee is the subject of the investigation, the relevant Director will be consulted as to requirements of Council's disciplinary procedures and relevant industrial laws.

Any person contacted by the investigator must cooperate with the investigator.

On completion of the investigation a report will be provided to the Director and Chief Executive Officer.

In consultation with the HR Manager, the Directors, the Chief Executive Officer will make a determination as to the action required which may include:

- disciplinary proceedings, including summary dismissal
- referral to another external agency for further investigation
- civil action
- criminal proceedings

The Chief Executive Officer, in consultation with the Director, will consider avenues for recovery of any funds lost or compensation for other fraud losses. Due consideration will be given to the likely benefit of recovery exceeding the cost of such action to recover.

All proven incidents of fraud or corruption shall be reported to the Internal Audit Committee.

In relation to fraud and corruption, suspected or proven, no person other than the Chief Executive Officer or the Mayor shall make any public comment. Where it is deemed necessary to make a medical statement, legal advice shall be sought.

#### **RELATED POLICIES AND DOCUMENTS**

This policy is to be implemented in conjunction with the following council Policy and Procedures:

- Enterprise Risk Management Policy
- Public Interest Disclosure Policy
- Complaints, Customer Requests and Feedback Policy
- Employee Code of Conduct
- Delegations policy and a delegations register
- Procurement Policy
- Corporate Credit Card Policy
- Cash Handling Policy
- Community Grants Policy
- Public Interest Disclosure Policy

#### **RELEVANT LEGISLATION AND STANDARDS**

- *Australian Standard 'Fraud and Corruption Control' (AS8001-2008)*
- *Crime and Corruption Commission "Corruption in Focus"*
- *Crime and Corruption Commission "Corruption and Fraud Control – Guidelines for best practice 2005"*
- *Crime and Corruption Commission, Queensland Ombudsman, and Public Service Commission "Managing a Public Interest Disclosure Program. A Guide for Public Sector Organisations 2011"*
- *Crime and Corruption Act 2001*
- *Criminal Code Act 1899*
- *Criminal Proceeds Confiscation Act 2002*
- *Local Government Act 2009*
- *Public Interest Disclosure Act 2010*
- *Ombudsman: Public Interest Disclosure Standard No.2 2014*
- *Public Service Ethics Act 1994*