



Fraud, Corruption, Misconduct and Maladministration Policy

Strategic Reference	Provide leadership, good governance, and efficient, effective and responsive Council services
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Applicable Legislation	Local Government Act 1999
Related Policies	Employee Code of Conduct Policy Risk Management Framework Risk Management Policy Public Interest Disclosure Policy
Related Procedures / Documents	

1. Purpose

1.1. The purpose of this Policy is to ensure Council

- properly fulfils its responsibilities under the *Independent Commissioner Against Corruption Act 2012 (ICAC Act)*;
- takes appropriate steps towards compliance with relevant legislation, policies and instruments;
- provides a clear statement to all employees through practices, policies and procedures that fraudulent conduct, misconduct and/or maladministration is not acceptable and will not be tolerated;
- protects Council assets, interests and reputation from the risks associated with fraudulent conduct, misconduct and/or maladministration;
- outlines the Council's approach to the prevention, detection and response to Fraud, Corruption, Misconduct and Maladministration; fosters an ethical environment and

culture which is conscious of, actively discourages, does not tolerate and appropriately deals with Fraud, Corruption, Misconduct and Maladministration;

- identifies the relevant responsibilities of council members, employees, the Chief Executive Officer, managers and the Audit and Risk Committee;
- educates employees and council members about their obligations to report conduct reasonably suspected of being Fraud, Corruption, Misconduct and/or Maladministration;
- evaluates practices, policies and procedures it has in place in order to further advance Council systems for preventing or minimising Fraud, Corruption, Misconduct and Maladministration; and

2. Policy statement

Council has zero tolerance towards activities that are fraudulent or corrupt. The District Council of Yankalilla is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity, accountability and transparency, which are all key components of good governance and Council's Corporate Values.

Council recognises the Fraud, Corruption, Misconduct and Maladministration in Public Administration have the potential to cause significant financial loss and/or reputational damage, and that it is essential for the prevention and control of these risks to feature within Council's systems and procedures.

2.1. General Principles

Council is committed to the prevention, detection, response to and reporting of Fraud, Corruption, Misconduct and Maladministration by:

- 2.1.1. Fostering a culture of honesty, integrity and respect and promoting an environment in which Fraud, Corruption, Misconduct and Maladministration is not tolerated.
- 2.1.2. Educating Public Officers on their obligations to prevent, detect, respond and report Fraud, Corruption, Misconduct and Maladministration within Council.
- 2.1.3. Taking appropriate steps to comply with relevant legislation, policies and instruments.
- 2.1.4. Generating awareness of Council's commitment to preventing Fraud, Corruption, Misconduct and Maladministration.
- 2.1.5. Applying risk management principles and techniques in the identification, mitigation, assessment and monitoring of Fraud, Corruption, Misconduct and Maladministration risks.
- 2.1.6. Establishing and maintaining an effective system of internal controls and fostering an environment in which proactive control is the responsibility of all Public Officers.

- 2.1.7. Evaluating the practices, policies, procedures, and controls in place in order to further advance council's systems for preventing or minimising, detecting, responding to and reporting of Fraud, Corruption, Misconduct and Maladministration.
- 2.1.8. Implementing a proactive and robust internal audit program that focuses on high-risk areas.

2.2. Prevention and Detection

Council recognises that the occurrence of Fraud, Corruption, Misconduct and Maladministration will be more likely to prevail in an administrative environment where opportunities exist for waste and abuse.

Council recognises that the most effective preventative action Council can take is to promote an ethical environment in which internal controls have been implemented.

Council expects employees and council members will assist in preventing Fraud, Corruption, Misconduct and Maladministration by:

- 2.2.1. Understanding their responsibilities, familiarising themselves with Council's policies and procedures and adhering to them.
- 2.2.2. Understanding what behaviour constitutes Fraud, Corruption, Misconduct and Maladministration and being vigilant to the potential for their occurrence.
- 2.2.3. Demonstrating a high level of integrity and ethical behaviour in all dealings.
- 2.2.4. Identifying and implementing appropriate internal controls to minimise Fraud, Corruption, Misconduct and Maladministration risks.
- 2.2.5. Reporting reasonably suspected or actual occurrences of Fraud, Corruption, Misconduct and Maladministration in accordance with this Policy.

2.3. Risk and Assessment Process

Council's main objective in the prevention and control of Fraud, Corruption, Misconduct and Maladministration is to minimise the likelihood of such occurrences. This objective will be achieved by:

- 2.3.1. Identifying risks and documenting them (where appropriate) in relevant risk registers.
- 2.3.2. Determining and observing risk management strategies to control risks.
- 2.3.3. Defining responsibility for and the timeframe within the strategies will be implemented.
- 2.3.4. Regularly reviewing, monitoring, and reporting of risks.

Corporate Leaders must uphold and monitor control strategies, initiatives, and systems within their area of responsibility. They must be alert to the possibilities of Fraud, Corruption, Misconduct and Maladministration occurring within their business areas, assess risks

associated with their particular activities and actively manage those risks within Council's Risk Management Framework and in accordance with Council's Risk Management Policy.

2.4. Reporting and Investigation

- 2.4.1. A Public Officer must report to the Office of Public Integrity (OPI) any matter that reasonably suspect involves corruption in public administration unless the Public Officer knows that the conduct has already been reported to the OPI, in accordance with any relevant Directions and/or Guidelines.
- 2.4.2. Where a Public Officer or Volunteer has or acquires knowledge of actual or suspected Fraud, Corruption, Misconduct and Maladministration or other similar conduct, this should be reported to their Corporate Leader or Council's Responsible Officer under Council's Public Interest Disclosure (PID) Policy. Such a disclosure may be protected under the PID Act.
- 2.4.3. Unless otherwise directed by OPI or SAPOL, an investigation into the alleged Fraud, Corruption, misconduct or Maladministration will be undertaken to determine the cause for the breakdown in controls and identify (if any) recommendations as to changes in policies, procedures or internal controls should be made to the Council. The investigation should:
 - Occur as soon as practicable after the alleged incident; and
 - Not impose on or detract from any investigation being undertaken by the OPI and SAPOL
 - Have regard to any recommendations in any report received from the Commissioner or SAPOL on the incident.
- 2.4.4. The CEO will, in conducting the investigation and deciding whether or how to report on the investigation to Council, have regards to the provisions of the Public Interest Disclosure Policy, and any confidentiality requirements under the PID Act and ICAC Act.
- 2.4.5. Action taken following an investigation into alleged Fraud, Corruption, Misconduct and Maladministration, may include disciplinary action against any employee involved in the incident.
- 2.4.6. A person knowingly makes a false disclosure or a false or misleading statement in a complaint or report will be guilty of an offence under the ICAC Act and the PID Act.
- 2.4.7. A Council employee who makes a false disclosure may also face disciplinary action which may include dismissal from employment.
- 2.4.8. Relevant summary reporting on Fraud, Corruption, Misconduct and Maladministration initiatives or similar will be reported to the Executive Leadership Team on a periodic basis.

2.5. Specific Responsibilities

Elected Members

Elected Members as a decision-making body re responsible for:

- 2.5.1. Promoting Council's commitment to the prevention of Fraud, Corruption, Misconduct and Maladministration, to employees, volunteers and the community.
- 2.5.2. Reporting any suspected or actual occurrences of Fraud, Corruption, Misconduct and Maladministration, and
- 2.5.3. Complying with the Code of Conduct for Council Members (or equivalent).

Chief Executive Officer

The CEO, as the Officer who is responsible for the efficient and effective operation of the organisation, will:

- 2.5.4. Promote Council's commitment to the prevention of the Fraud, Corruption, Misconduct and Maladministration to Council's employees, volunteers, contractors and the community.
- 2.5.5. Establish and implement processes and systems to assist with the prevention, detection, response to and reporting of Fraud, Corruption, Misconduct and Maladministration.
- 2.5.6. Regularly review the effectiveness of Council's processes and systems to ensure they are adequate, current and legislatively compliant, and

Corporate Leaders

Corporate Leaders are responsible for:

- 2.5.7. Leading by example to promote and foster a culture of ethical behaviour both generally and in their respective departments.
- 2.5.8. Promoting awareness of the ethical conduct and mechanisms to prevent Fraud, Corruption, Misconduct and Maladministration.
- 2.5.9. Creating an environment in which Fraud, Corruption, Misconduct and Maladministration is discouraged and readily reported.
- 2.5.10. Identifying, assessing, controlling, and documenting in relevant risk registers, Fraud, Corruption, Misconduct and Maladministration risks in their area of responsibility.
- 2.5.11. Identifying and implementing appropriate controls and risk management strategies and ensuring these are reflected in relevant documents.
- 2.5.12. Ensuring compliance with this Policy and promoting it.

- 2.5.13. Reporting any suspected or actual occurrences of Fraud, Corruption, Misconduct and Maladministration.
- 2.5.14. Ensuring all employees and volunteers for whom they are responsible have received Fraud and Corruption awareness training/education, including in relation to the standard of the conduct expected as outlined in the Employee Code of Conduct Policy.
- 2.5.15. Ongoing monitoring, reviewing, and reporting of risks.
- 2.5.16. Facilitating cooperation in any relevant investigation undertaken.

Employees and Volunteers

Employees and Volunteers are responsible for:

- 2.5.17. Demonstrating their commitment to the awareness, prevention, detection, and reporting of any actual or suspected Fraud, Corruption, Misconduct and Maladministration by behaving in a manner consistent with the Employee Code of Conduct Policy, Volunteer Code of Conduct and Council's Values and any other relevant Directions and/or Guidelines.
- 2.5.18. Adhering to this Policy and other Council procedures that have been established to prevent Fraud, Corruption, Misconduct and Maladministration (particularly those that have implications for IT Security)
- 2.5.19. Taking care and ensuring the security of the Council's property and information.
- 2.5.20. Maintaining and enhancing Council's reputation.
- 2.5.21. Remaining diligent in their use of Council's information, assets, funds, property, goods and/or services.
- 2.5.22. Understanding their delegations and ensuring decisions are made strictly in accordance with such delegations, and
- 2.5.23. Participating in any required awareness and education training.
- 2.5.24. Cooperating in any relevant investigations undertaken.

Audit and Risk Committee

Council's Audit and Risk Committee is an advisory body that plays a pivotal role in Council's Risk Management Framework. It provides independent oversight in the areas of risk, internal control, compliance, audit, and financial reporting. The Audit and Risk Committee will:

- 2.5.25. Review this Policy and make any recommendations as appropriate.
- 2.5.26. Review the approach to maintaining an effective internal control framework to seek to ensure it is sound and internal controls are being consistently applied.
- 2.5.27. Evaluate associated controls in relation to the risk of Fraud, Corruption, Misconduct and Maladministration as part of the Risk Management process.

2.6. Confidentiality

A person who receives information knowing that it is connected with a matter that forms or is the subject of a complaint, report, assessment, investigation, referral or evaluation under the ICAC Act must not disclose that information, other than in the limited circumstances set out in the section 54(3) of the ICAC Act. A failure to comply with the requirements in this part can constitute an offence.

A Council employee who fails to comply with these requirements may also face disciplinary action which may include termination of employment.

In addition to the requirements in this part, Public Officers, should also be mindful of the confidentiality provisions in Council's Public Interest Disclosure Policy.

2.7. Increasing Awareness

Council will increase awareness by:

- 2.7.1. Promoting Council's initiatives and policies regarding the control, prevention, detection, investigation and reporting of Fraud, Corruption, Misconduct and Maladministration.
- 2.7.2. Educating new Employees and Volunteers as part of its induction process.
- 2.7.3. Facilitating public access to this policy and related documents.

3. Definition

3.1. For the purpose of this policy the following definitions apply:

CEO

Refers to the Chief Executive Officer (including their delegate) of the District Council of Yankalilla.

Commissioner

The person appointed under the ICAC Act as the Independent Commissioner against corruption.

Corporate Leader

Means any employee who directly supervises other employees or volunteers and is responsible for the management of a Council Department.

Corruption (in Public Administration)

Is defined in Section 5(1) of the ICAC Act and means conduct that constitutes:

- An offence against Part 7 Division 4 (Offences relating to Public Officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:

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- Bribery or Corruption of Public Officers
- Threats or reprisals against Public Officers
- Abuse of Public Office
- Demanding or requiring benefit on the basis of Public Office, and
- Offences relating to appointment to the Public Office.
- Any other offence (including an offence against Part 5 (Offences of dishonesty) of the Criminal Law Consolidation Act 1935 committed by a Public Officer while acting in his or her capacity as a Public Officer or by a former Public Officer and related to his or her former capacity as a Public Officer, or by a person before becoming a Public Officer and related to his or her capacity as a Public officer, or an attempt to commit such an offence: and
 - Any of the following in relation to an offence referred to in a preceding paragraph:
 - Aiding, abetting, counselling or procuring the commission of the offence
 - Including, whether by threats or promises or otherwise, the commission of the offence.
 - Being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence.
- Conspiring with others to effect the commission of the offence.

Council

Is the District Council of Yankalilla.

Employee

Any person who is employed by Council, whether they are working in a full-time, part-time or casual capacity.

False Disclosure

Refers to a disclosure of information relating to Fraud, Corruption, Maladministration or Misconduct that is made by a person who knows the information to be false.

Fraud

Includes an international dishonest act or omission done with the purpose of deceiving.

There is no statutory or agreed common law definition of Fraud. Offences addressed under Part 5 and Part 6 of the Criminal Law Consolidation Act 1935 are considered to constitute Fraud offences. An ordinary or lay meaning of Fraud is 'to obtain dishonestly that which the person is not entitled to'. Fraud is a broad label applicable to conduct / practices that involve knowingly dishonest or deceitful behaviour meant to obtain an unjust benefit. Dishonesty is

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the key element in fraudulent behaviour, as provided for under section 131 of the Criminal Law Consolidation Act 1935.

ICAC

Independent Commissioner against Corruption as appointed under the ICAC Act.

ICAC Act

Independent Commissioner against Corruption Act 2012.

Maladministration in Public Administration

is defined in section 5(4) of the ICAC Act and means:

- i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
- ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and

includes conduct resulting from impropriety, incompetence or negligence; and

is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

Misconduct in Public Administration

is defined in section 5(3) of the ICAC Act and means:

- i) contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or
- ii) other misconduct of a public officer while acting in his or her capacity as a public officer.

Office for Public Integrity (OPI)

is the office established under the ICAC Act that has the function to:

- i) receive and assess complaints about public administration from members of the public;
- ii) receive and assess reports about corruption, misconduct and maladministration in public administration from inquiry agencies (including the Ombudsman), public authorities (including the Council) and public officers;
- iii) refer complaints and reports to inquiry agencies, public authorities and public officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated;

- iv) give directions or guidance to public authorities in circumstances approved by the Commissioner;
- v) perform other functions assigned to the Office by the Commissioner

PID Act

Means the Public Interest Disclosure Act 2018.

Public Administration

Defined in section 4 of the ICAC Act and means (without limitation) an administrative act within the meaning of the Ombudsman Act 1972 taken to be carried out in the course of Public Administration. For the purposes of this Policy, references to Fraud and Corruption are taken to mean references to such conduct in Public Administration.

Public Authorities and Public Officers

Are for the purposes of the ICAC Act, those authorities and officers listed in Schedule 1 of the ICAC Act. Relevant in the context of this Policy:

- Public Authority – includes the Council in addition to:
 - The Governor
 - Both Houses of Parliament
 - South Australian Government Departments, Agencies and Statutory Bodies, and
 - Other local Councils
- Public Officer – includes:
 - An Elected Member of Council, including the Mayor
 - An Independent Member of a Council Committee or Subsidiary of Council
 - A Member of a Council Regional Subsidiary
 - An Officer or Employee of Council (including a person performing contract work)
 - An Officer or Employee of the Local Government Association of South Australia.

Responsible Officer

Refers to a person who has completed any training courses approved by the Commissioner for the purposes of the Public Interest Disclosure Regulations 2019 and has been designated by the Council as a responsible officer under Section 12 of the PID Act.

4. Legislative Framework

There is no legislative requirement for Council to have a policy relating to this area: however, it is considered best practice and consistent with principles of good governance.

The following legislation applies to this Policy:

- Independent Commissioner against Corruption Act 2012
- Local Government Act 1999 (section 125- Internal Controls)
- Public Interest Disclosure Act 2018
- Criminal Law Consolidation Act 1935
- Freedom of Information Act 1991
- Summary Offences Act 1953

5. Further Information

This policy will be available for inspection at the Council office listed below during ordinary business hours and provided to interested parties as per Council's Fees and Charges Register. Copies are available to be downloaded, free of charge, from Council's website: www.yankalilla.sa.gov.au/policies

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6. Grievances

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

7. Review Cycle

This document is subject to review in three (3) years from the date of authorisation.

8. Document History

Date	Version	Council Resolution No.	Description of changes
December 2012	1.0	C	Adoption of Policy
December 2019	1.1	C19059	Review of Policy
June 2023	2.0	C23109	Review of Policy, Change of name, update to current template.