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	Fraud and Corruption Prevention	Date Adopted:	12 April 2022
		Next Review Due:	April 2026

1. STATEMENT

Council recognises that fraud and corruption in public administration have the potential to cause significant financial and non-financial harm and that, therefore, the prevention and control of fraud and corruption should feature predominantly within the systems and procedures of a responsible Council.

This Policy is designed to protect public funds and assets and the integrity, security and reputation of the Council.

The purpose of this Policy is to clearly define Council's commitment to preventing fraud and corruption, and to outline the methodology in place to minimise fraud and corruption threats.

2. DEFINITIONS

Commissioner means under Section 8 *Independent Commission Against Corruption Act 2012* the person being the Commissioner who holds or is acting in the office of the Independent Commission Against Corruption.

Corruption in public administration means:


- a) Under Section 5 (1) *Independent Commissioner Against Corruption Act 2012* Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
 - i. bribery or corruption of public officers;
 - ii. threats or reprisals against public officers;
 - iii. abuse of public office;
 - iv. demanding or requiring benefit on basis of public office;
 - v. offences relating to appointment to public office.
- b) 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 (see Appendix 1 for examples of offences under the *Local Government Act 1999* and *Local Government (Elections) Act 1999*).
- c) any of the following in relation to an offence referred to in a preceding paragraph:
 - i. Aiding, abetting, counselling or procuring the commission of the offence;
 - ii. Inducing, whether by threats or promises or otherwise, the commission of the offence;
 - iii. Being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
 - iv. Conspiring with others to effect the commission of the offence.

Directions and Guidelines the obligation to prepare directions and guidelines now is governed by the Office of Public (OPI) under section 18B of (**ICAC**), which are available at <https://www.publicintegrity.sa.gov.au/>

An **Employee** is any person who is employed by the Council, but also includes any contractors, volunteers and consultants undertaking work for, or on behalf of the Council.

A **False Disclosure** is a disclosure of information relating to fraud or corruption that is made by a person who knows the information to be false or, who is reckless as to whether it is false.

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Fraud is an intentional dishonest act or omission done with the purpose of deceiving.

Note: unlike 'corruption' there is no statutory definition of 'fraud'. Fraud is a style of offending. The offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute fraud offences.

Independent Commission Against Corruption Act 2012 (ICAC) is the Act that was established to identify and investigate corruption in public administration.

Manager means any Employee of the Council who is responsible for the direct supervision of other Employees, and/or, for the management of a Council Department.

Office for Public Integrity (OPI) is the office established under Section 17 the (**ICAC**) that has the function to:-

1. The (OPI) office continues in existence with the following functions:
 - a) to receive and assess complaints about public administration from members of the public;
 - b) to receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;
 - c) to refer complaints and reports to inquiry agencies, public authorities and public officers or to determine to take no action in accordance with this section.

Public Administration defined at section 4 of the (**ICAC**) means without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.

Public Officer defined under (**ICAC**) includes:-

- a Elected Member;
- a member of a Local Government body (including a subsidiary of a Council established under the *Local Government Act 1999*); and
- an employee or officer of the Council.

A Responsible Officer is a person (or persons) appointed by the Council pursuant to Section 13 *Public Interest Disclosure Act 2018* (PID) who is (are) authorised to receive and act upon disclosures of public interest information reported to him/her under the (PID) Act.


3. PRINCIPLES

Council is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency, which are all key components of good governance.

The Council will not tolerate fraudulent or corrupt activity and is committed to its control and prevention by:-

- complying with the requirements of the (**ICAC**);
- establishing and maintaining an effective system of internal controls and enforcing compliance with those controls;
- regularly undertaking risk assessments to identify circumstances in which fraud and corruption could potentially occur;
- implementing fraud and corruption prevention and mitigation strategies in its day to day operations;

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- establishing formal procedures for the investigation of allegations relating to fraudulent and/or corrupt activity;
- taking appropriate action in response to allegations of fraudulent and/or corrupt activity including, reporting allegations in accordance with the **(ICAC)** to the **(OPI)** <https://www.publicintegrity.sa.gov.au/make-a-complaint-or-report>
- ensuring all Council Employees and Council Members are aware of their obligations in regard to the prevention of fraud and corruption within the Council and the inclusion of preliminary education in any induction process;
- active participation in education and evaluation of practices relevant to fraud and corruption;
- fostering an ethical environment in which dishonest and fraudulent behaviour is actively discouraged; and
- generating community awareness of the Council's commitment to the prevention of fraud and corruption.

4. SCOPE

This Policy applies to all disclosures that relate to the actual or suspected occurrence of fraud and/or corruption within the Council.

This Policy is intended to complement and be implemented in conjunction with other Council policies as mentioned in "Relevant Council Policies / Procedures / Guidelines".

5. PREVENTION

The Council recognises that:-

- the occurrence of fraud and corruption will prevail in an administrative environment where opportunities exist for waste, abuse and maladministration; and
- the most effective way to prevent the occurrence of fraud and corruption is to promote an ethical environment in which internal control mechanisms have been implemented.

In general, the Council expects that Public Officers will assist in preventing fraud and corruption within the Council by:


- understanding the responsibilities of their position;
- familiarising themselves with the Council's policies and procedures and adhering to them;
- understanding what behaviour constitutes fraudulent and/or corrupt conduct;
- maintaining an awareness of the strategies that have been implemented by the Council to minimise fraud and corruption;
- being continuously vigilant to the potential for fraud and/or corruption to occur; and reporting suspected or actual occurrences of fraud or corruption in accordance with this policy.

6. RESPONSIBILITIES

The Elected Members are responsible for:-

- Supporting the Chief Executive Officer in the implementation of adequate security for the prevention of fraud and corruption, including the provision of secure facilities for

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storage of assets, and procedures to deter fraudulent or corrupt activity from occurring; and

- Reporting Fraud and corruption in accordance with this Policy and facilitating cooperation with any investigation undertaken by an external authority (such as SAPOL or the Commissioner).

The Chief Executive Officer is responsible for:-

- making reports in accordance with this Policy and facilitates cooperation with any investigation undertaken by an external authority (such as SAPOL or the Commissioner);
- providing adequate security for the prevention of Fraud and corruption. This includes the provision of secure facilities for storage of assets and procedures to deter Fraudulent or corrupt activity from occurring;
- promoting Council's commitment to the prevention of Fraud and corruption to the Community on relevant occasions;
- providing mechanisms for receiving allegations of Fraud or corruption, including ensuring that responsible officers and employees receive appropriate training;
- promoting a workplace culture and environment in which Fraud and corruption is actively discouraged and is readily reported should it occur; and
- undertaking and reviewing a Fraud and corruption risk assessment on a regular basis.


Managers are responsible for:-

- ensuring that (new or existing) employees for whom they are responsible for are aware of their responsibilities in relation to Fraud and corruption and, of the standard of conduct expected from all employees as outlined in the Code of Conduct for Council Employees and this Policy;
- any property and equipment under their control and, will be required to manage or put in place processes and practices to manage this safely and securely to avoid opportunity for Fraud or corruption to occur;
- reporting in accordance with this Policy;
- creating an environment in which Fraud and corruption is discouraged and readily reported by employees. Such an environment shall be fostered by the Manager's own attitude and behaviours to Fraud and corruption and, by the accountability and integrity they both display and encourage from other employees;
- identifying potential Fraud and corruption risks; and
- leading by example to promote ethical behaviour.

Employees are responsible for:-

- performing their functions and duties with care, diligence, honesty and integrity;
- conducting themselves in a professional manner at all times;
- adhering to these guidelines and other Council procedures that have been established to prevent Fraud or Corruption;
- taking care of Council's property which includes avoiding the waste or misuse of the Council's resources;
- maintaining and enhancing the reputation of the Council;
- remaining scrupulous in their use of Council information, assets, funds, property, goods or services; and
- reporting in accordance with this Policy.

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Councils Audit and Risk Committee is responsible for:-

- Providing Council with an independent oversight in the areas of risk, control, compliance and financial reporting;
- Reviewing Council's approach to maintaining an effective internal control framework and evaluate associated controls in relation to Fraud and corruption.

7. FRAUD & CORRUPTION ASSESSMENT PROCESS

The Council's main objective in the prevention and control of Fraud and corruption is to minimise the occurrence of Fraud and corruption within the Council. This objective is generally achieved by:-

- identifying Fraud and corruption risks;
- determining strategies to control those risks; and
- defining responsibility for and, the time frame within which the strategies will be implemented.

Managers must be alert to the possibilities of Fraud and corruption occurring within their business areas, assess risks associated with their particular activities and actively manage those risks within the Council's enterprise Risk Management Framework and in accordance with the Council's Risk Management Policy. Management must uphold and monitor Fraud and corruption control strategies, initiatives and systems within their area of responsibility including:-

- changes to Council delegations;
- implementation of cost cutting measures;
- contracting out and outsourcing;
- the impact of new technology; and
- changes to risk management practices.

8. REPORTING FRAUD & CORRUPTION

8.1 Reports by Public Officers to the OPI


A Public Officer must report as soon as practicable to the OPI any matter that the Public Officer reasonably suspects involves corruption in public administration unless the public officer knows that the matter has already been reported to the OPI.

A report to the OPI by a Public Officer must be made on the online report form available at <https://www.publicintegrity.sa.gov.au/make-a-complaint-or-report> in accordance with the ICAC Act and the "Directions and Guidelines".

Where the Public Officer's knowledge of corruption has arisen by a complaint/report he/she has received from another person (the informant), the Public Officer should refer to the provisions within (ICAC) Act if:-

- the report/complaint was made under (ICAC)
- The OPI will endeavour to respect the complaint's wishes, however it may be deemed necessary for the complaints details to be referred to another agency of authority;

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- It may be deemed by (ICAC) not necessary to divulge the identity of the informant to ensure that the matters to which the report to the OPI relates are properly investigated.

8.2 Reports by Council to the OPI

The Council (that is, the Elected Member body collectively) must report to the OPI any matter that the Council reasonably suspects involve corruption in public administration unless the Council knows that the matter has already been reported to the OPI.

The Chief Executive Officer is responsible for preparing a report to the OPI on behalf of the Council for these purposes. (Where the matter relates to the Chief Executive Officer the Mayor is to make the report). The report must be made immediately upon receiving direction from the Council.

A report to the OPI by the Chief Executive Officer on behalf of the Council must be made on the online report form available at <https://www.publicintegrity.sa.gov.au/make-a-complaint-or-report>

8.3 Reporting Fraud

Any Employee or Council Member that has or acquires knowledge of actual or suspected Fraud that:-

- does not constitute corruption in public administration¹ and
- impacts or causes detriment (or has the potential to impact or cause detriment) to the Council –

Must report such information to the Responsible Officer under the *Public Interest Disclosure Act 2018* or the Anti-Corruption branch of SAPOL.

8.4 Action by the Chief Executive Officer following Report and/or Investigation into Fraud or Corruption

Following any report to the (OPI) or SAPOL under this Policy of which the Chief Executive Officer has knowledge and, subject to the finalisation of any investigation undertaken by the Commissioner or SAPOL, the Chief Executive Officer will undertake a review into the area in which the Fraud or corruption occurred to determine the cause for the breakdown in controls and, will report the findings of the review, the Chief Executive Officer will have regard to any recommendations received from the Commissioner or the Ombudsman.

In the event that allegations of Fraud and/or corruption are substantiated, the Council may take disciplinary action against any Employee who was involved.


8.5 False Disclosure

A person who knowingly makes a false or misleading statement in a complaint or report under the (ICAC) or makes a false or misleading disclosure is guilty of an offence.²

¹ Such conduct may, for example, relate to persons who are not a Public Officer such as a non-elected member of a Council Committee and/or a member of a Development Assessment Panel.

² *Independent Commission Against Corruption Act 2012* (SA) s 18D.

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A Public Officer who makes a false disclosure, in addition to being guilty of an offence, will face disciplinary action that may include dismissal.

8.6 Educating for Awareness

The Council recognises that the success and credibility of this Policy will largely depend upon how effectively it is communicated throughout the organisation and beyond.

The Council will, therefore, from time to time take proactive steps towards ensuring that the wider community is aware of the Council's zero-tolerance stance towards Fraud and corruption.

The Council will increase community awareness by:

- promoting the Council's initiatives and policies regarding the control and prevention of Fraud and corruption on the Council's website and at the Council's offices;
- make reference to the Council's Fraud and corruption initiatives in the Council's Annual Report; and
- facilitating public access to all of the documents that constitute the Council's Fraud and corruption framework.

9. REVIEW

This Policy will be reviewed every four years.

Upon review, ELT, Audit Committee, all Staff and Council must be consulted.

10. AVAILABILITY

This Policy is available on Council's Website: www.wattlerange.sa.gov.au.


A copy of the Policy may be purchased from the Principal Council Office upon payment of a prescribed fee in accordance with Council's Schedule of Fees and Charges.

11. REFERENCES & FURTHER READING

References	
Relevant Legislation:	<ul style="list-style-type: none"> • <i>Local Government Act 1999</i> • <i>Local Government (Elections) Act 1999</i> • <i>Crime and Misconduct Act 2001</i> • <i>Independent Commissioner Against Corruption Act 2012</i> • <i>Criminal Law Consolidation Act 1935 – Part 7 Division 4, Part 5, Part 6</i> • <i>Planning, Development and Infrastructure Act 2016</i> • <i>Ombudsman Act 1972</i>
Relevant Policies / Procedures / Guidelines	<p>This Policy should be read in conjunction with:-</p> <ul style="list-style-type: none"> • Internal Control Policy and associated Procedures • Employee's Code of Conduct • Council Members' Code of Conduct • Council Members' Allowances Support and Facilities Policy • Risk Management Policy • Australian Standard AS8001:2008 Fraud and Corruption Control

12. ADOPTION & AMENDMENT HISTORY

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Version No:	Issue Date:	Authorised by:	Description of Change:	Minutes Reference:
1	13 July 2010	Council	Adopted	Folio 4407; Item 11.1.4
2	15 February 2011	Council	Reviewed	Folio 4519; Item 11.1.9
3	11 December 2012	Council	Reviewed	Folio 4848; Item 11.1.9
4	14 July 2015	Council	Reviewed	Folio 6115; Item 11.2.6
5	14 November 2017	Council	Adapted into new format & reviewed	Folio 7489; Item 13.2.4
6	08 March 2022	Audit and Risk Committee	Reviewed by Committee due to changes to the ICAC Act.	Folio 9914 Item; 6.1.1
7	12 April 2022	Council	Legislation changes due to the reform of the ICAC Act.	Folio 9920 Item 15.2.6

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Appendix 1: Offences

Local Government Act 1999

(a) Council Members

Member duties (sections 69 (2) (3) & (4))

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council.

Maximum Penalty: \$10,000.00 or imprisonment for two years.

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council.

Maximum Penalty: \$10,000.00 or imprisonment for two years.

Provision of false information (section 69)

A member of a Council who submits a return under Chapter 5 Part 4 (Register of Interest) and Schedule 3 of the *Local Government Act 1999*, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum Penalty: \$10,000.00.

Restrictions on publication of information from Register of Interests (section 71)

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice.

Maximum Penalty: \$10,000.00.

(b) Council Employees

Provision of false information (section 117)

A Council employee who submits a return under Chapter 7 Part 4 Division 2 (Register of Interest) and that is to the knowledge of the employee false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum Penalty: \$10,000.00.

Restrictions on disclosure (section 119(1))

A Council employee must not disclose to any other person any information furnished pursuant to Chapter 7 Part 4 Division 2 (Register of Interests) unless the disclosure is necessary for the purposes of the preparation or use of the Register by the Chief Executive Officer or is made at a meeting of the Council, a Council Committee or a Subsidiary of the council.

Maximum Penalty: \$10,000.00.

Conflict of Interest (section 120(1), (2) & (4))

The Chief Executive of a Council who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Council and must not, unless the Council otherwise determines during a Council meeting that is open to the public, act in relation to the matter.

Maximum Penalty: \$5,000.00.

An employee of the Council (other than the Chief Executive Officer) who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the council and must not, unless the council otherwise determines during a council meeting that is open to the public, act in relation to the matter.

Maximum Penalty: \$5,000.00.

If an employee is entitled to act in relation to a matter and the employee is providing advice or making recommendations to the Council or a Council Committee on the matter, the employee must also disclose the relevant interest to the Council or Council Committee.

Maximum Penalty: \$5,000.00.

CEO to Assist Auditor (section 130)

The Chief Executive Officer must, at the request of the auditor of the Council, produce to the auditor for inspection the accounts, accounting records and other documents relating to the financial affairs or internal controls of the Council, or to any other matter that is being examined or considered by the auditor. The Chief Executive Officer must, at the request of the auditor of the Council, provide to the auditor explanations or information required by the auditor. A Chief Executive Officer must not, without reasonable excuse, fail to comply with subsection (1) or (2).

Maximum Penalty: \$10,000.00.

Other Investigations (section 130A(4))

The Chief Executive Officer must, at the request of a person conducting an examination under section 130A(1) produce to the person for inspection any documents relevant to the examination, and provide to the person explanations or information required by the person.

Maximum Penalty: \$10,000.00.

Powers under this Act (section 261(10))

An authorised person, or a person assisting an authorised person, who addresses offensive language to any other person; or without lawful authority hinders or obstructs or uses or threatens to use force in relation to any other person, is guilty of an offence.

Maximum Penalty: \$5,000.00.

Local Government (Elections) Act 1999

Conduct of officers (section 65)

An electoral officer must not fail, without proper excuse, to carry out his or her official duties in connection with the conduct of an election or poll.

Maximum Penalty: \$2,500.00 or imprisonment for six months

Offences (section 85)

A person who fails to furnish a return that the person is required to furnish under Part 14 Division 1 within the time required is guilty of an offence.

Maximum Penalty: \$10,000.00

A person who furnishes a return or other information that the person is required to furnish under Division 1; and that contains a statement that is, to the knowledge of the person, false or misleading in a material particular, is guilty of an offence.

Maximum Penalty: \$10,000.00

Elected person refusing to act (section 91)

A duly qualified person who, having been duly appointed or elected as a member of a council refuses to assume office and to act in it; or neglects to assume the office and to act in it for the first three ordinary meetings of the council (without leave of the council), is guilty of an offence.

Maximum Penalty: \$750.00

Planning Development and Infrastructure Act 2016

Powers of authorised officers to inspect and obtain information (section 211)

Maximum Penalty: \$10,000

Duties (section 91) (2) (3) (4) (5) (6)

An accredited professional must act in accordance with the public interest.

Maximum penalty: \$50 000

An accredited professional must not act in a manner that results in a failure to comply with the *Planning Development and Infrastructure Act 2016*.

Maximum Penalty: \$50 000

An accredited professional who contravenes or fails to comply with a provision of the code of conduct that applies to the accredited professional under Schedule 3 is guilty of an offence.

Maximum Penalty: \$50 000

An accredited professional must ensure that any development authorisation given by an accredited professional is consistent with any other development authorisation that has already been given in respect of the same proposal.

Maximum: \$ 25 000

Declaration of interest (208)

If a person commences any proceedings or becomes a party to the relevant proceedings or has a commercial competitive interest in the proceedings must declare an interest. A failure to do so is guilty of an offence.

Maximum penalty: \$20 000

NOTE: *This is not an exhaustive list of offences that may be committed by a public officer and fall within the definition of 'corruption' in accordance with section 5(1)(c) of the ICAC Act*