

Fraud & Corruption Control Policy

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Macedon Ranges Shire Council acknowledges the Oja Oja Wurrung, Taungurung and Wurundjeri Woi Wurrung Peoples as the Traditional Owners and Custodians of this land and waterways. Council recognises their living cultures and ongoing connection to Country and pays respect to their Elders past, and present. Council also acknowledges local Aboriginal and/or Torres Strait Islander residents of Macedon Ranges for their ongoing contribution to the diverse culture of our community.

| DOCUMENT HISTORY | Version | Date | Author |
|------------------|---------|-------------|--|
| Approval | 1 | May 2012 | Completed Policy |
| Update | 1.1 | July 2014 | Reviewed no changes |
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| Approval | 2.0 | June 2022 | New document after review and update to include legislative and organisational changes |

Contents

| | |
|--|----|
| Introduction | 3 |
| Purpose | 3 |
| Compliance | 3 |
| Definitions | 3 |
| Scope | 4 |
| Policy Statement | 4 |
| Integrity Framework | 4 |
| Management and the Fraud & Corruption Control System | 4 |
| Reporting obligations | 5 |
| Public Interest Disclosures | 5 |
| Mandatory Notifications | 5 |
| Criminal offences | 5 |
| Recording reports of fraud and corruption | 6 |
| Consequences and recovery | 6 |
| Responsibilities and Accountabilities – Attachment B | 6 |
| Communication | 6 |
| Review | 7 |
| Attachment A: Definitions | 8 |
| Attachment B: Roles and Responsibilities | 10 |
| Attachment C: Related Legislation | 12 |

Introduction

Purpose

The purpose of the Fraud and Corruption Control Policy (the Fraud Policy) is to clearly articulate Council's commitment to a comprehensive and systematic approach to preventing, detecting and responding to fraud or corruption. Fraud and corruption are criminal offences and are not tolerated at Council. An essential part of this commitment is the maintenance and monitoring of this policy that sets out the Council's position on suspected, alleged or detected fraud and corruption and on any attempt to gain financial or other benefits by deceit or dishonest conduct.

The Fraud Policy leads and complements Council's Fraud and Corruption Control System which outlines the Council's activities, structures and reporting requirements to prevent, detect and respond to fraud and corruption, and was prepared in the context of AS 8001:2021.

Compliance

The policy is framed in accordance with the Financial Management Act 1994 Standing Directions Incorporating revisions to 13 December 2019, Section 3.5.1 Fraud, Corruption and Other Losses policy that requires the Responsible Body to:

- (a) take all reasonable steps to minimise and manage the risk of Fraud, Corruption and Other Losses; and
- (b) establish a Fraud, Corruption and Other Losses prevention and management policy that is implemented across the Agency.

This Policy has also considered Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019 and Independent Broad-Based Anti-Corruption Commission (IBAC) guidelines.

This policy is to replace the Fraud Management Policy and Procedure of August 2018.

Definitions

A full and detailed list of definitions is attached at Attachment A. The Council has adopted the following definitions of fraud and corruption as set out in Australian Standard: Fraud and Corruption Control AS 8001:2021.

- Fraud is defined as *dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by persons internal or external to the organisation and where deception is used at the time, immediately before or immediately following the activity. This also 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 for personal financial benefit.*
- Corruption is defined as *dishonest activity in which a person associated with an organisation (e.g director, councillor, executive manager, manager, or employee or contractor) acts contrary to the interests of the organisation and abuses their position of trust in order to achieve personal advantage or advantage for another person or organisation. This can also involve corrupt conduct by the organisation, or a person purporting to act on behalf of and in the interests of the organisation in order to secure some form of improper advantage for the organisation either directly or indirectly.*

Scope

The Fraud and Corruption Policy applies to all Councillors, employees, council appointed Committee members, contractors, volunteers and any agents and contractors either engaged by Council or by an authorised contractor of Council undertaking activity for or on behalf of the Council. Councillors are also obliged to maintain standards as mandated by the Local Government Act 2020, Part 6 Division 5, Councillor Conduct.

Agents of Council extend to include contractors working in-house, employees on exchange, members of Delegated Committees, Community Asset Committees and Advisory Committees; volunteers, work- experience students or graduate placements who perform work for Council as well as external suppliers and other related contractors and subcontractors.

This policy does not cover general misconduct involving either a Councillor or employee. These matters are dealt with in accordance with relevant legislation and Council's Codes of Conduct and associated disciplinary policies and procedures.

Policy Statement

Council has a zero tolerance towards any type of fraud and corruption. Instances of fraud or corruption significantly impact the Council by causing financial loss, reputational damage, and eroding the Council's ability to deliver its strategic vision. The Council requires all Councillors, employees, volunteers, agents and contractors to act honestly, with integrity and to safeguard the public resources for which the Council is responsible.

The Council is committed to implementing and maintaining an effective Fraud and Corruption Control Policy to set out the approach, structures and processes to prevent, detect and respond to fraud and corruption, and to ensure compliance with all legislative requirements.

The Council is committed to ensuring employees feel confident to speak up about suspected fraud and corruption and maintains a Protected Interest Disclosure Coordinator (PIDC) to assist employees. The Council does not tolerate detrimental action being taken in reprisal against employees who speak up about their concerns.

Integrity Framework

Management and the Fraud & Corruption Control System

The Council's integrity framework recognises that its strength comes from our leaders consistently demonstrating the Council's values and fostering an ethical culture. The Council's risk management framework's 'the three lines of defence model' sets out a framework for controlling behaviours, internally prescribing and monitoring behaviour and externally monitoring behaviours to prevent, detect and respond to fraud and corruption, including allocation of ownership, accountabilities, resources and governance responsibilities.

The Fraud Control System outlines in more detail the three lines of defence:

1. The **first line** of defence is employees managing risk in their area of responsibility as part of their everyday work.
2. The **second line** supports the Council in its compliance obligations and mitigate risks through policies, advice and systems, and by monitoring the adequacy and effectiveness of controls.
3. The **third line** provides independent assurance that the risk management and internal control framework is working as designed.

External oversight bodies, including the Independent Broad-based Anti-corruption Commission (IBAC), the Victorian Ombudsman (Ombudsman), the Victorian Auditor-General's Office (VAGO) and the Victorian Local Government Inspectorate hold the Council to account for its performance and investigate allegations of fraud or corruption where appropriate. These oversight bodies also provide insights for continuous improvement of controls and strategies to prevent fraud and corruption.

Reporting obligations

Public Interest Disclosures

Under the *Public Interest Disclosures Act 2012*, the Council has established procedures to facilitate making and handling disclosures. Under those procedures, the Council Public Interest Disclosure Coordinator (PDC) must assess reports of suspected fraud and corruption to determine whether they may be public interest disclosures. Matters that the PDC considers may be public interest disclosures must be referred to IBAC. The Public Interest Disclosures system provides whistleblowers with protections from reprisals, and requires strict confidentiality of these reports be maintained.

Mandatory Notifications

Under the *Independent Broad-based Anti-corruption Commission Act 2011*, the relevant principal officer must notify IBAC of any matter which they suspect on reasonable grounds involves corrupt conduct occurring or having occurred, irrespective of whether the incident is considered serious or systemic. The CEO is the relevant principal officer of the Council. The CEO's obligation to notify IBAC of suspected corrupt conduct is pursuant to section 57(1) of the IBAC Act.

Criminal offences

Internal and external fraud, theft or other criminal offences that are perpetrated against the Council that result in financial loss must be reported to Victoria Police. In relation to external fraud, the Director of the business area that sustained the loss is responsible for ensuring the matter is reported to Victoria Police. The Manager Finance & Reporting can provide support to business areas if required.

In relation to fraud and corruption perpetrated by a Councillor, employee, council appointed Committee member, volunteer, contractor and agent, the CEO in consultation with the Director Corporate, and the Manager Finance & Reporting is responsible for notifying the Victoria Police.

The Fraud and Corruption Control System sets out how the Council will comply with its reporting obligations, and how reports shall be made to Victoria Police.

Recording reports of fraud and corruption

Other than for matters reported to the PDC, all reports of suspected fraud or corruption by employees will be copied to the Manager Finance & Reporting to be recorded in the Fraud and Corruption Control Case Register for the purpose of monitoring and reporting. This information will be kept securely and limited to staff within the Finance department.

Consequences and recovery

- **Investigation:** The Council treats all complaints about, and instances of, fraud and corruption seriously. Other than matters referred through the PDC, the Manager Finance & Reporting and the Manager People, Risk & Wellbeing will assess all allegations of fraud or corruption that are referred to the Manager Finance & Reporting and make a determination as to the investigation required. In some circumstances this may lead to an internal investigation by a senior executive, or by an appointed external specialist. The Council may be prevented from taking action as a result of matters being subject to assessment or investigation by IBAC, VAGO, the Ombudsman or Victoria Police. Where an internal investigation has concluded with adverse findings, those findings will be referred to the PDC, Manager Finance & Reporting and the Director or Manager of the employee to whom the allegations relate and may lead to the commencement of disciplinary action in accordance with the Council's Code of Conduct.
- **Recovery:** The Council will take action to recover losses caused by fraud or corruption (where avenues for recovery exist), where there is clear evidence of who is responsible for the loss and taking into account whether the likely benefit of such action will exceed the resources required for that action.
- **Register:** A register will be maintained to ensure any Councillor, employee, council appointed Committee member, volunteer, agent or contractor who is found guilty of undertaking in improper conduct in relation to fraud and corruption cannot be reengaged or employed by Council.

Responsibilities and Accountabilities – Attachment B

The Council has governance structures to ensure risks are identified and managed across the Council. Attachment B to this Policy sets out specific responsibilities and accountabilities in relation to fraud and corruption risks. The nominated officer's responsibilities are established by their position and role.

Communication

This policy will be publically available on Council's website along with the guidelines for making and handling Public Interest Disclosures. Council maintains internal controls to provide for the security and accountability of Council's resources and to prevent or reduce the opportunity for fraud. Council's fraud awareness program will include the following:

- A fraud awareness training program for all new employees as part of their mandatory compliance and refresher training every two years, or as deemed necessary.
- Provide updates to staff on reviewed fraud systems and policies through learning seat.
- Communicate Council's Protected Disclosure Policy to all staff through learning seat.
- Brief the Audit & Risk Committee each quarter on any suspected or alleged fraud.
- Monitor fraud control actions quarterly through the Executive Leadership Team.
- Review and assessment of Council's fraud risk annually.

Review

This policy will be reviewed in three years from the date of endorsement, or as legislation required, or if Council determines a need has arisen.

Attachment A: Definitions

| Term | Definition |
|-------------------------|--|
| Council | Macedon Ranges Shire Council |
| Councillors | Means the individuals holding the office of a member of Macedon Ranges Shire Council |
| Corrupt Conduct | <p>Corrupt conduct includes asking for, or receiving a benefit of any kind, the acceptance of a bribe, in any form, which is punishable under law by the Victorian common law offence of 'Bribery of a Public Official' and offences under the Local Government Act 1989 (Vic).</p> <p>Section 4 (1) of the Independent Broad-Based Anti-corruption Commission Act 2011 defines corrupt conduct as any conduct:</p> <ol style="list-style-type: none"> 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 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 of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or 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 |
| Fraud | <p>For the purpose of this policy: fraud means an "<i>dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by persons internal or external to the organisation and where deception is used at the time, immediately before or immediately following the activity. This also 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 for personal financial benefit</i>"</p> <p>The theft of property belonging to Council where deception is not used is also considered 'fraud' for the purposes of this policy. (<i>Australian Standards AS8001-2021: Fraud and Corruption Control</i>). 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.</p> |
| Improper Conduct | <p>The Public Interest Disclosures Act 2012 captures fraudulent and corrupt behaviour and specifically the following conduct by a public officer or public body in their capacity as a public officer or public body:</p> <ul style="list-style-type: none"> • Corrupt conduct and/or • Any of the following conduct by a public officer or public body in their capacity as a public officer or public body: <ul style="list-style-type: none"> - A criminal offence - Serious professional misconduct* - Dishonest performance of public functions - An intentional breach or reckless breach of public trust - An intentional or reckless misuse of public trust - An intentional or reckless misuse of information or material acquired in the course of the performance of public functions - A substantial mismanagement of public resources |

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| | <ul style="list-style-type: none"> - A substantial risk to the health or safety of one or more persons - A substantial risk to the environment. <p>* The Act does not define serious professional misconduct.</p> |
| IBAC | Means the Independent Broad-based Anti-corruption Commission |
| Integrity Framework | Council brings together in an integrity framework the policies, processes, structures and conditions necessary to foster integrity and prevent corruption. Our Integrity framework includes elements of risk management, governance, leadership commitment, deterrent and prevention measures, detection measures, and staff education and training. |
| Investigation | Means a search for evidence connecting or tending to connect a person (either a natural person or a body corporate) with conduct that infringes the criminal law or the policies and standards set by the Council |
| Public Interest Disclosures Coordinator (PDC) | As of the current date of this Policy the PDC is the Director Corporate, unless the disclosure relates to the incumbent PDC then the disclosure shall be made to the Chief Executive Officer. |
| Ombudsman | Means the Victorian Ombudsman |
| VAGO | Means Victorian Auditor-General's Office |

Attachment B: Roles and Responsibilities

| Role | Responsibilities and accountabilities |
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| Council | <p>Approves the Fraud and Corruption Control Policy</p> <p>Fosters and maintains the highest standards of ethical behaviour</p> |
| CEO | <p>Establishes and maintains a culture of risk awareness and management</p> <p>Implements the requirements of the Financial Management Act and the Standing Directions</p> <p>Notifies IBAC of corrupt conduct in accordance with the mandatory notification provisions of the Independent Broad-based Anti-corruption Commission Act 2011</p> <p>Oversees the Council's prevention, detection and investigation activities with respect to fraud and corruption</p> <p>Provides input to the Council in relation to approval of:</p> <ul style="list-style-type: none"> actions required to mitigate significant organisational risks all matters identified as high or critical risks in Group risk registers |
| Audit and Risk Committee | <p>Assists the Council in fulfilling their statutory responsibilities by independently reviewing and assessing the effectiveness of the Council's systems and controls for financial management, performance and sustainability, including risk management</p> |
| Executive Leadership Team (ELT) | <p>Provides assurance that the Council has a robust framework for managing integrity risks and lifting integrity performance. The ELT does this by overseeing the development and delivery of integrity reforms which strengthen the organisation's three lines of defence for risk management</p> <p>Provides leadership and oversight to the development and review of the Fraud and Corruption Control Policy</p> <p>Approves the Fraud and Corruption Control System</p> |
| Public Interest Disclosure Coordinator | <p>Provides advice and guidance to areas of the Council and statutory authorities where required</p> <p>Oversees statutory reporting of fraud, corruption and other losses in accordance with the <i>Public Interest Disclosures Act 2012</i>, <i>Independent Broad-based Anti-corruption Commission Act 2011</i> and the Standing Directions</p> <p>Receives, assesses and refers potential public interest disclosures</p> <p>Collects and Oversees the provision of information in relation to fraud or corruption matters to IBAC and the Ombudsman</p> |
| Directors | <p>Oversee the implementation of the Fraud and Corruption Control Policy in their business area</p> <p>Establish and maintain a culture of integrity</p> <p>Ensure fraud, corruption and other loss risks within their business area are identified and managed</p> <p>Ensure appropriate second-line monitoring of policy compliance is undertaken</p> <p>Ensure policies are kept up to date, are accessible, and changes to policies are communicated to staff appropriately</p> |

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| <p>Directors / Managers (SLT) Managers (SMT) & Coordinators (OLT)</p> | <p>Ensure staff know about and comply with departmental policies, procedures and guidelines, including the Fraud Policy</p> <p>Ensure internal controls are established and are operating effectively to mitigate fraud and corruption risks</p> <p>Maintain systems, procedures and an enabling culture that supports employees to confidentially report concerns</p> <p>Receive and act on reports of fraud or corruption by notifying the Public Interest Disclosure Coordinator and otherwise maintain confidentiality regarding the report</p> <p>Facilitate and support regular workplace conversations in relation to the Council's integrity at work</p> <p>Notify the Manager Finance & Reporting of any suspected incidence of fraud, corruption or other losses as soon as practicable</p> <p>Fraud and Corruption Control to be standing items on agendas of Senior Leadership Team (SLT), Senior Management Team (SMT) and Operational Leadership Team (OLT) meetings</p> |
| <p>Manager Finance and Reporting</p> | <p>When not the appointed PDC, in conjunction with Manager People, Risk and Wellbeing, receives reports of suspected fraud and corruption directly that have not been made to the PDC from managers, staff or external bodies and supervises internal investigations and fraud and corruption control planning.</p> <p>Supports the Public Interest Disclosure Coordinator in relation to internal investigations</p> <p>Advises the CEO and SLT as required on the progress and outcomes of internal investigations</p> |
| <p>Employees and others</p> | <p>Uphold the Code of Conduct by demonstrating the Council's values at all times in the workplace</p> <p>Understand and comply with all Council policies, procedures and guidelines</p> <p>Identify, manage and mitigate fraud, corruption and other losses risks</p> <p>Report suspicions of fraud, corruption and other losses to an appropriate manager, the Public Interest Disclosure Coordinator, the Council, or IBAC</p> <p>Support and apply fraud and corruption prevention initiatives</p> <p>Undertake all mandatory induction and training</p> <p>Maintain the security of the Council's assets, including physical assets, data and intellectual property</p> |

Attachment C: Related Legislation

The Fraud and Corruption Control Policy has been developed in accordance with the following legislative requirements:

- > *Financial Management Act 1994 (Financial Management Act)*
- > *Financial Management Regulations 2004*
- > *Standing Directions 2018 under the Financial Management Act (Standing Directions)*
- > *Local Government Act 2020*
- > *Public Administration Act 2004 and the Code of Conduct for Public Sector Employees (Code of Conduct)*
- > *Independent Broad-based Anti-corruption Commission Act 2011*
- > *Public Interest Disclosures Act 2012*
- > *Audit Act 1994.*
- > *Crimes Act 1958 (Vic)*
- > *Ombudsman Act 1973*