

POLICY NAME

Fraud and Corruption Prevention Policy

DATE ADOPTED

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ECM NUMBER

Click here to enter text.

REVIEW DATE

November 2020

RELATED DOCUMENTS

Click here to enter text.

POLICY NUMBER

Click here to enter text.

COUNCIL MINUTE NUMBER

Click here to enter text.

POLICY TYPE

Council

RESPONSIBLE DEPARTMENT

Legal and Governance

Purpose

Penrith City Council's aim is to ensure that it has a healthy and sustainable ethical culture. To this end, it is important to implement an integrity framework including preventative methods to eliminate and prevent internally and externally instigated fraud and corruption against Council.

Fraudulent and corrupt behaviour are inevitable risks to any organisation including Penrith City Council and can have detrimental consequences such as:

- Financial loss,
- Waste of resources,
- Reputational damage,
- Impact on staff morale, productivity & management strategies, and
- Loss of community confidence in the integrity of the system.

In cases where such preventative methods fail it is important to detect instances of fraud and corruption through constant monitoring, risk assessment, and a confidential reporting management system (internal and external). Responding to these in a timely manner will uphold Council's reputation, minimise financial losses, instil confidence amongst staff, councillors and the community on the integrity of Council.

Policy Statement

This policy is committed to protecting Penrith City Council's revenue, expenditure and assets and reputation through awareness, prevention, detection, investigation and action of any occurrence of fraud and corruption within Council's work environment. This policy complements the NSW government legislation and guidelines of *Public Interest Disclosures Act 1994 No. 92*.

Penrith City Council has adopted values that reflect on who we are, what we do and what we promote as an organisation.

- **Respect** – Responsible to others' experiences, perspectives, values and beliefs, listening to other's viewpoint, be open, and work to understand the perspectives of others.
- **Accountable** – Behave in an honest, ethical and professional way, identify and follow legislation, rules, policies, guidelines and code of conduct, speaks out against misconduct, illegal and inappropriate behaviour, and work and lead by example
- **Innovation** – Be open to new ideas and change, offer own opinion, ask questions and make suggestions, adapt well to new situations, and not giving up easily.

Scope

This policy applies to councillors, staff, contractors and any other person who performs official functions on behalf of the Council, such as volunteers.

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1. Principles

- 1.1. Fraud and Corruption control is one of the integral parts of the Council's integrity framework. The existence of a comprehensive and up-to-date fraud and corruption policy is critical to clearly establish Penrith City Council's position on fraud and corruption. As per the *Model Code of Conduct* adopted by the Council, Council is committed to maintaining high standards of legal, ethical, moral behaviour and has zero tolerance to fraud and corruption within Council's work environment. Council officials should '*comply with standards of conduct expected of them, fulfil their statutory duty, and act in a way that enhances public confidence in local government*'. Any act of fraud or corrupt behaviour will be dealt with accordingly by the Council and disciplinary action may be taken against anyone who engages in such activity.
- 1.2. The Council's principles and frameworks established to control fraud and corruption are intended to achieve:
 - Staff awareness,
 - Prevention and deterrence,
 - Detection mechanisms to monitor fraud and corruption and an easily accessible/ confidential reporting system (internal & external),
 - Response and report approach through investigations and actions taken, and
 - Instil confidence in the integrity of the Council.
- 1.3. Whilst fraud and corruption can occur anywhere or at any time, identified high risk areas include:
 - Financial operations,
 - Property & resources,
 - Customer interactions,
 - Staffing, and
 - Information.
- 1.4. Council officials are expected to complete and maintain accurate records of all business dealings and ensure they are recorded in the Information Management System, use Council resources in an acceptable manner, maintain transparency and act with probity and accountability during procurement of goods or services, declare conflicts of interest in order to manage them appropriately, respect confidentiality, and use information/ Council resources for work related purposes only.
- 1.5. All staff, councillors, consultants, contractors or volunteers working for Council have a responsibility to refrain from any form of fraudulent and corrupt behaviour and also to report any such activity, if detected within the Council premises or outside (if relates to Council business).

2. Definitions

2.1 For the purpose of this policy **Fraud** is defined in AS 8001-2008 *Fraud and Corruption Control, 2008* as:

“Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity 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”.

“The theft of property belonging to an entity by a person or persons internal to the entity but where deception is not used is also considered ‘fraud’ for the purposes of this Standard.

NOTE: The concept of fraud within the meaning of this Standard can involve fraudulent or corrupt conduct by internal or external parties targeting the entity or fraudulent or corrupt conduct by the entity itself targeting external parties”

2.2 For the purpose of this policy **Corruption** is defined in AS 8001-2008 *Fraud and Corruption Control, 2008* as:

“Dishonest activity in which a director, executive, manager, employer or contractor of an entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity. The concept of ‘corruption’ within this standard can also involve corrupt conduct by the entity, or a person purporting to act on behalf of and in the interests of the entity, in order to secure some form of improper advantage for the entity either directly or indirectly”

3. Related Legislation, Policies, Controls and Guidelines

- Local Government Act 1993 No. 30
- Local Government Amendment (Governance and Planning) Act 2016
- Public Interest Disclosures Act 1994 No.92
- Independent Commission Against Corruption Act 1988 No. 35
- AS 8001-2008 Fraud and Corruption Control
- NSW Audit Office Fraud Control Improvement Kit, 2015
- Model Code of Conduct
- Public Interest Disclosures Internal Reporting Systems Policy
- ICT Policy
- Corporate Credit Card Policy
- Recruitment and Selection Policy
- Interaction between Councillors and Staff Policy
- Probity Management Policy
- Procurement Policy
- Business Ethics Statement
- Disciplinary Policy

4. Roles and Responsibilities

4.1 All Employees/ Councillors and Council staff

- a. The Code of Conduct is the Cornerstone of establishing an ethical framework whereby staff acknowledge and adhere to the Code at all times by acting *'lawfully and honestly and exercise a reasonable degree of care and diligence in carrying out functions (Section 439 of the Local Government Act)*.
- b. It is the responsibility of all employees to adhere to this policy and execute their work with probity, accountability and transparency in order to prevent incidences of fraud and corruption in areas within their workplace. This will promote awareness amongst other colleagues as such and will consequently act as a deterrence.
- c. It is also the responsibility of all employees to report any alleged or actual incidences of fraud and corrupt behaviour using relevant mechanisms in accordance with *Public Interest Disclosures Internal Reporting Systems Policy*. The mechanisms through which the employees can report fraud and corrupt behaviour will be discussed in the 'Reporting Mechanisms' section of this policy.
- d. All employees must ensure they undertake any relevant training relating to prevention, detection and action on fraud and corruption. Training is provided to staff as onboarding (eLearning), refresher (eLearning), ongoing fraud and corruption awareness especially to staff working in high risk areas such as procurement, payroll, accounts, planning.

4.2 Managers

Managers are responsible for implementing Code of Conduct and ensuring prevention of fraud and corruption in areas within their control. This must be achieved through:

- a. Completing training as and when required,
- b. Promoting awareness of ethical conduct,
- c. Leading by example,
- d. Providing guidance and support to staff as necessary,
- e. Ensuring access to relevant policies and procedures,
- f. Ensuring reports of fraud and corruption are referred appropriately without any delay,
- g. Maintaining confidentiality in accordance with *Public Interest Disclosures Act 1994*,
- h. Ensuring staff who report are protected from reprisal, and
- i. Complying with actions taken by or required by investigating parties

4.3 Governance Manager

Governance Manager together with Audit Risk and Improvement Committee (ARIC) are responsible for ensuring the fraud and corruption resources work collectively, effectively coordinated, and fraud and corruption control outcomes are delivered. Other responsibilities include:

- a. Implementing, reviewing, maintaining, and updating policies on fraud and corruption,
- b. Development of resources,
- c. Investigations of alleged or actual fraud and corruptions, and
- d. Ongoing monitoring and improvement.

4.4 Disclosures Coordinator and Disclosures Officers

The **Disclosures Coordinator** has a central role in the Council's internal reporting system. The Disclosures Coordinator can receive and assess reports and is the primary point of contact in the Council for the reporter. The Disclosures Coordinator has a responsibility to:

- a. Assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the general manager),
- b. Deal with reports made under the Council's code of conduct,
- c. Coordinate the Council's response to a report,
- d. Acknowledge reports and provide updates and feedback to the reporter,
- e. Assess whether it is possible and appropriate to keep the reporter's identity confidential
- f. Assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified,
- g. Where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer who is the subject of a report,
- h. Provide advice to Disclosures Officer(s), where the reporter has opted for the Disclosures Officer(s) to be the point of contact
- i. Ensure the Council complies with the *PID Act*
- j. Provide any required reports in accordance with section 6CA of the *PID Act*.

Disclosures Officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and councillors in making reports.

Disclosures Officers have a responsibility to:

- a. Document in writing any reports received verbally, and have the document signed and dated by the reporter,
- b. Make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary, away from the workplace,
- c. Discuss with the reporter any concerns they may have about reprisal or workplace conflict,
- d. Carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment, and
- e. Remain the point of contact for the reporter, should the reporter so request.

4.5 Internal Audit

While fraud and corruption control is a management responsibility, the Internal Audit act as an effective part identifying the indicators of fraud and corruption using systematic and disciplined approach including:

- a. Evaluating the potential for the occurrence of fraud and how the Council manages fraud and corruption risks, and
- b. Keeping the General Manager and the Audit, Risk and Improvement Committee (ARIC) informed on any significant matters relating to potential occurrences of fraud and corruption, how can such risks be managed within Council and its external entities, and any investigations into suspected fraudulent or corrupt behaviour.

In instances where fraud or corruption is detected, the Internal Auditor and line management will reassess the control measures in place to identify adequacy and effectiveness of such control measures. Internal Auditor will then consider whether improvements are required and ensure suggested recommendations are implemented as soon as possible and reported back to the Audit, Risk and Improvement Committee.

4.6 Audit, Risk and Improvement Committee (ARIC)

As set out in the Audit, Risk and Improvement Committee Charter (2017) the objective of the Committee is to promote good corporate governance at Penrith City Council. This is achieved by ensuring the services provided to people of Penrith are executed effectively, efficiently and delivered with integrity.

Fraud and corruption prevention is one of the key areas for which the Committee provides independent assurance and assistance to Council in accordance with the *Local Government Amendment Act 1993*. The Committee oversees at a high level the Council's fraud and corruption prevention arrangements.

4.7 General Manager

Under Section 11 of the *Independent Commission Against Corruption Act (1988)* the General Manager is "under a duty to report to the Commission any matter that the person suspects on reasonable grounds concerns or may concern corrupt conduct".

It is also the responsibility of the General Manager to:

- a. Encourage ethical culture by promoting zero tolerance to any form of fraudulent and corrupt behaviour,
- b. Endorse policies, strategies and procedures pertaining to prevention of fraud and corruption,
- c. Maintain legislative and regulatory compliance,
- d. Have oversight of the risk assessments and mitigations,
- e. Represent Council values and image, and
- f. Respond to Stakeholders on behalf of the Council.

5. Fraud & Corruption Prevention and Regular Risk Assessments

Whilst internal controls such as policies and procedures act as the first line of defence in preventing fraud and corruption, regular risk assessments will act as second line of defence.

Penrith City Council regularly monitors and review changes to the risk environment to identify any risks challenging the effectiveness and efficiencies of the control measures currently in place.

Council also ensures robust risk assessments are conducted/ coordinated by Internal Audit on a six-monthly basis where fraud and corruption risks together with other risks are identified and addressed promptly.

6. Reporting Mechanisms

6.1 Internal reporting system

Any fraudulent or corrupt act whether alleged or actual must be reported immediately in accordance with *Code of Conduct* and provisions of *Public Interest Disclosures Internal Reporting Systems Policy*.

An internal reporting system has been set up under the *Public Interest Disclosures Internal Reporting System Policy* in accordance with *Public Interest Disclosures Act 1994 (PID Act)* for staff and councillors to report any allege or actual wrongdoing without fear of reprisal. The policy provides information on the purpose and context, who can make a report, Council's complaint handling mechanisms, what will be dealt under this policy, and any exceptions.

6.2 Who can Report?

The Public Interest Disclosures Internal Reporting Systems Policy applies to:

- a. Council staff
- b. Councillors
- c. Consultants
- d. Contractors working for Council
- e. Employees of contractors working from Council
- f. Volunteers and
- g. Public officials of another Council or public authority

6.3 What should be reported?

There are five categories of actual and allege wrongdoing that can be reported

- a. Serious misconduct or corrupt conduct
- b. Maladministration
- c. Serious and substantial waste of public money
- d. Breach of the *Government Information (Public Access) Act (GIPA Act)* and
- e. Local government pecuniary interest contravention

All other complaints that do not fall under the above category should be reported to your Supervisor in order to be dealt with relevant internal policies and procedures.

6.4 How to report?

Unlike general complaints that can be reported to your Supervisor, reports of allege or actual fraudulent or corrupt behaviour must be reported to the General Manager, Mayor (for reports about the General Manager only), the designated Disclosures Coordinator or Disclosures Officers. Staff are encouraged to report such behaviour using the Public Interest Disclosure Internal Reporting Form (available on [iConnect](#)). Details of Disclosures Coordinator and Disclosures Officers and other methods (outlined below) of disclosing can be found on iConnect.

- a. **Verbal reports.**
- b. **By email.**
- c. **By Phone.**
- d. **Anonymous reports.** In situations where the reporter decides to remain anonymous, reports can still be submitted. Although these reports will still be dealt accordingly it is suggested that staff or councillors identify themselves in order to provide necessary protection and support under the *PID Act*.

7. Investigation Protocols

Penrith City Council is committed to acting promptly and has policies and procedures to deal with fraud and corrupt behaviour either by detection mechanisms or reporting. Once identified the primary objective is to assess the allegations, establish an investigation plan and make recommendations in accordance with the procedures under the Model Code of Conduct or any other Council policy such as a disciplinary policy. Further objectives may include:

- a. Identifying fraud and corruption vulnerabilities and initiate corrective action, and
- b. If necessary, initiate recovery action through insurance or through criminal courts on behalf of Council.

Investigations are conducted by qualified and experienced staff and at times may result in council engaging external resources.

The Fraud and corruption register captures all detections and reports of wrongdoing, progress of investigations, outcomes, and actions taken. This register is maintained by Governance and information will be submitted to the ARIC.

Council's Conduct and Disciplinary policies can be found on council's iConnect portal.

7.1 Feedback to Staff and Councillors who report

Staff and Councillors who report allege or actual fraudulent or corrupt behaviour will be provided with an acknowledgement within ten business days by the Disclosures Coordinator or Designated Officer. If the report fits the criteria of a public interest disclosure, then the statutory time frames under that legislation will be adhered to.

During the investigation process, a discloser/reporter will be updated on the progress of the investigation or any other inquiries as frequently as is appropriate.

Once the matter has been finalised the reporter/discloser will be provided with an outcome and feedback on the action(s) taken or proposed.

7.2 Maintaining Confidentiality

The identity of the person who is making a public interest disclosure will be dealt with confidentially and will be protected where possible during and after an investigation to any matter disclosed by that person. Where possible these same protections will be provided to any reporter/discloser of fraud and corruption regardless if the matter is considered a public interest disclosure.

It is therefore imperative the person making a report of fraudulent and corrupt behaviour under public interest disclosure only report such information to the designated bodies.

7.3 Protection against reprisal and detrimental action

It is an offence under the *PID Act 1994* to take “*detrimental action by a person against another person that is substantially in reprisal for making a public interest disclosure*” and is guilty of engaging in conduct that “*constitutes misconduct in the performance of the duties as public official*”.

Such offence(s) will result in;

- a. Disciplinary action taken against any public official who takes detrimental action against another person,
- b. Compensation for reprisal, and
- c. Injunctions to prevent reprisals.

Additionally, staff and councillors will not be made liable for “*making a public interest disclosure and no action, claim or demand may be taken or made*” against a person making a disclosure under the *PID Act*. This protection extends to any person making a disclosure despite any confidentiality or any other restrictions applicable to staff and councillors (*section 21 of PID Act*).

7.4 Support for those reporting

In addition to protection from reprisal and detrimental action staff and councillors who report actual or allege fraudulent or corrupt behaviour will also have access to any professional support if in need. These options can be discussed with the Disclosures Coordinator or Disclosures Officers at any stage of the investigation process.

Staff and Councillors can also seek support from Council’s Employee Assistance program (EAP) through Access EAP on 1800 818 728. Access EAP provides free and confidential counselling to all staff.

7.5 Rights of the persons who are the subject of a report

Council is committed to extend fair and reasonable treatment to those who are subjects of reports of actual and allege fraudulent or corrupt behaviour. This includes maintaining confidentiality of any person or report where appropriate and applicable.

Any public official who is a subject of a report will be advised of:

- a. The details of the allegations made,

- b. The rights and obligations under relevant policies and procedures,
- c. Progress during an investigation,
- d. Reasonable opportunity to respond to allegations,
- e. Outcomes to any investigation including decision, and
- f. Further action if necessary

7.6 Actions

Council will ensure the reports are handled and investigated according to *Public Interest Disclosure Internal Reporting Systems Policy* and *PID Act* and in accordance with the procedures of the Code of Conduct. If the allegations are substantiated or evidence of fraud is detected, Council has the power to discipline staff (including summary dismissal).

Furthermore, Penrith City Council will initiate recovery action where necessary and there is clear evidence of fraud or corruption and benefits obtained.

More serious matters will also be reported to relevant regulatory bodies such as Independent Commission Against Corruption (ICAC), NSW Ombudsman, Office of the Local Government (OLG), NSW Audit Office, and Information Commissioner. Substantial fraudulent or corrupt acts that also constitute criminal behaviour will be reported to police and any other regulatory body.

8. External reporting

Whilst the above listed reporting mechanisms are internal in nature, anyone can report allege/ actual fraudulent or corrupt behaviour to below external investigation agencies.

a. Independent Commission Against Corruption (ICAC)

Section 10 of the *ICAC Act* states that “Any person may make a complaint to the Commission about a matter that concerns or may concern corrupt conduct”.

Furthermore, according to section 11 of the Act the General Manager is under a duty to report to the Commission of suspected corrupt conduct.

b. NSW Ombudsman has jurisdiction over local councils, councillors and council staff to:

- a. Look into the conduct of councillors and council employees and the administrative conduct of the Council
- b. Promote awareness of PID Act and monitor its operations
- c. Provide advice and guidance to public sector staff who are contemplating reporting maladministration.

c. Office of the Local Government has authority to examine:

- a. Complaints on breaches of the pecuniary interest provisions within the *Local Government Act 1993*
- b. Public interest disclosures made to the General Manager under the *Public Interest Disclosures Act 1994*, and

- c. Complaints of alleged misconduct by Councillors
- d. **NSW Audit Office** has the power to investigate disclosures made under *PID Act* by a public official regarding serious and substantial waste of public money
- e. **Information Commissioner** can look into non-compliance with the *Government Information (Public Access) Act (GIPA Act)*
- f. **Members of Parliament or Journalist**

Staff and Councillors can make a public interest disclosure to a member of Parliament or a journalist only in limited circumstances outlined in the *PID Internal Reporting System Policy* and *PID Act*.

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Contact details of external reporting agencies

Independent Commissioner Against Corruption

Email icac@icac.nsw.gov.au

Post GPO Box 500 Sydney NSW 2000

Phone 02 8281 5999 or freecall 1800 463 909

Web www.icac.nsw.gov.au

NSW Ombudsman

Complete '*Online Complaint Form*'

Email nswombo@ombo.nsw.gov.au

Phone 02 9286 1000 or 1800 451 524

Post NSW Ombudsman, Level 24, 580 George Street, NSW 2000

Web www.ombo.nsw.gov.au

Office of the Local Government

Email olg@olg.nsw.gov.au

Post Locked Bag 3015, Nowra NSW 2541

Email olg@olg.nsw.gov.au

Phone 02 4428 4100

Web www.olg.nsw.gov.au

NSW Audit Office

Complete 'Public official Reporting Form' and submit by:

Email governance@audit.nsw.gov.au

Post Audit Office of New South Wales, GPO Box 12, Sydney NSW 2001

addressed to the Auditor-General of NSW, the Disclosures Coordinator, or other disclosures officers.

Phone 02 9275 7100

Information Commissioner

Phone 1800 472 679

Post GPO Box 7011, Sydney NSW 2001

Email ipcinfo@ipc.nsw.gov.au

Web www.ipc.nsw.gov.au

9. Document Control

POLICY HISTORY	DATE
Version 1	November 2019