

## FRAUD CONTROL

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### 1. STATEMENT OF POLICY INTENT

The intent of this policy is to:

- ensure that councillors and staff are aware of their responsibilities for identifying possible exposures to fraudulent activities and for establishing controls and procedures for preventing such fraudulent activities and/or detecting such fraudulent activity when it occurs;
- provide guidance as to action which should be taken where fraudulent activity is suspected;
- provide clear guidance as to the process of investigating fraudulent activities, and provide a suitable environment to report such matters.

### 2. DEFINITIONS AND ABBREVIATIONS

Act	Local Government Act 1993 (NSW)
Fraud	Obtaining a financial or other benefit by deception
GM	General Manager
Regulations	Local Government (General) Regulations 2005 (NSW)

### 3. POLICY

Council is committed to preventing fraud at its origin. Council will foster an environment that makes active fraud control a responsibility of all staff, management and councillors. Council believes that an emphasis on fraud prevention rather than fraud investigation will lead to a reduction of opportunities for waste, abuse and mismanagement.

A basic test of fraud may include the following:

- was deceit employed?
- was the action unlawful?
- did the action result in money or benefit being received, to which the person was not entitled?

Some examples include, but are not limited to:

- unauthorised use of Council plant and equipment,
- private use of Council's inventory and stores,
- claiming unworked overtime on time sheets
- providing confidential council information to unauthorised people or bodies
- adding digital signatures to documents where authority to do so has not been given
- signing credit card payment authority when not authorised signatory
- allowing contractors to not fully meet contract requirements

Maintained by:	MGCD	Date Adopted by Council:	15/7/2009
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Previous Effective Date	25 July 2007	Date for Review	15/7/2010
Other Reference:	This policy should be read in conjunction with Council's Code of Conduct and Business Ethics Statement and the Internal Reporting System and Council's Risk Management Plan.		
Application:	All staff and councillors		
Attachments:			

There are two elements to this policy: prevention and detection.

### Prevention

Council through its management team will create an environment and culture in which fraudulent acts will not be tolerated and which will be appropriately investigated when they are suspected or reported.

The General Manager or appropriate staff delegated to carry out such activities will conduct regular risk assessment reviews and audits with officers from the relevant operational area. After identification and assessment of potential risk, an implementation plan will be developed to minimise and control the identified risks.

### Investigation

All complaints of suspected fraudulent behaviour will be thoroughly, objectively and carefully investigated, providing for the protection of those individuals making the complaint.

The purpose of any internal investigation is to ascertain the facts surrounding the matter. The investigation is not an exercise in establishing the guilt of the person accused.

Confidentiality is paramount. Releasing information may result in serious damage to the investigation and may also damage the accused reputation, which may leave persons open to an action in defamation.

All NSW State agencies and councils have a duty to report any *suspected* corrupt conduct to the ICAC. Pursuant to sections 8 and 9 of the *Independent Commission Against Corruption Act 1988*, fraud is included in that definition.

The ICAC may decide to investigate the matter itself or it may ask Council to carry out the investigation. In the case of the latter option, the General Manager with the assistance of the appropriate staff member (as outlined above) should commence the investigation being mindful of the rights of the accused person.

However, if the allegation of fraud appears to carry the imputation of criminal conduct, the matter should also (after an initial *fact gathering* investigation) be referred to the NSW Police Service. The Police Service may also ask council to fully investigate the matter.

In the event that an internal investigation is carried out, the relevant officers must carry out the investigation objectively, thoroughly and without prejudice.

The officers must also be mindful of procedural fairness obligations and offer the accused a right to respond if evidence appears to insinuate fraudulent behaviour and internal disciplinary action or any other form of internal action adversely affecting the accused is to be undertaken.

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### Disciplinary Action

Where internal investigations confirms fraud has occurred, appropriate disciplinary action will be recommended having regard to Council's Code of Conduct, the relevant industrial instrument and other legislative provisions.

Pursuant to section 440D of the *Local Government Act* 1993, the General Manager may temporarily suspend a member of staff in connection with *serious* corrupt conduct. Serious corrupt conduct is defined as corrupt conduct that may constitute a serious indictable offence done in connection with the exercise of the staff member's duties.

## 4. RESPONSIBILITY/ACCOUNTABILITY

It is the ultimate responsibility of the General Manager to prevent and detect fraud. The GM is responsible for ensuring appropriate and effective internal control systems are in place to control the incidence of fraud.

It is the responsibility of all directors and managers to ensure that there are mechanisms in place within their area of control to:

- assess the risk of fraud;
- promote employee awareness of ethical principles;
- educate employees about fraud prevention and detection;
- facilitate the reporting of suspected fraudulent activities.

All employees have the responsibility to report suspected fraud by immediately notifying their supervisor, and if the supervisor is suspected of involvement in fraudulent activity, the matter should be notified to the next highest level of supervision.

That such reporting is to be undertaken in accordance with Council's Internal Reporting Procedures. Alternatively, if the employee is uncomfortable about reporting the alleged fraud within the organisation, the employee may utilise the mechanisms contained within the *Protected Disclosure Act* (NSW) 1994.

That all supervisors have the responsibility to report the suspected fraud, confidentially to the General Manager and the General Manager has the responsibility of investigating the suspected fraud with the assistance of appropriate senior staff.

That if the General Manager is the subject of a suspected fraud, the matter must be reported to the Mayor and that the Mayor has the responsibility of investigating the suspected fraud with the assistance of appropriate senior staff.

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**5. RELATED DOCUMENTS**

**5.1. ASSOCIATED LEGISLATION**

Not applicable

**5.2. ASSOCIATED GOVERNMENT POLICY PROVISIONS**

Not applicable

**5.3. ASSOCIATED COUNCIL DOCUMENTS**

Code of Conduct  
Internal Reporting System

**6. POLICY STATUS**

This policy was formally adopted by Council on 15 July 2009 and commenced operation on 15 July 2009. This policy replaces the previous version adopted on 25 July 2007 and includes reference to Council's Risk Management Plan and adaptation to the new policy format.

**7. POLICY REVIEW**

This policy may be amended or revoked at any time and must be reviewed at least twelve months since its adoption (or latest amendment).

**8. AUTHORISATION**

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Position:        General Manager

Date:            ...../...../.....

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