



## FRAUD AND CORRUPTION PREVENTION POLICY

### Summary:

This policy aims to educate and inform Tenterfield Shire Council staff and councillors about their responsibilities and obligations in preventing and reporting instances of fraud and corruption within Council, create awareness about what constitutes unethical conduct and reduce and prevent the risk of internal and external fraud and corruption.

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| <b>Department</b>           | Customer Service, Governance and Records   |
| <b>Policy Custodian</b>     | Manager Customer Service, Governance and Records   |
| <b>Superseded Documents</b> | N/A  |
| <b>Related Legislation</b>  | NSW Local Government Act 1993<br>NSW Local Government (General) Regulation 2005<br>NSW Independent Commission Against Corruption Act 1988<br>NSW Public Interest Disclosures Act 1994 (PID)<br>NSW Local Government Code of Conduct<br>NSW Crimes Act 1900<br>NSW Public Finance and Audit Act 1983<br>Australian Standard: AS 8001-2003/AMDT 1-2-004 Corporate Governance - Fraud and Corruption Control. |

## **1. Overview**

This policy outlines the expected standards of ethical behaviour at Council and is aimed at ensuring appropriate mechanisms and processes are in place to prevent, detect and respond to fraud and corruption.

## **2. Policy Principles**

The Fraud and Corruption Prevention Policy assists in building a corruption resistant culture at Council by promoting ethical behaviour and encouraging accountability and transparency in Council processes and dealings with external parties.

Tenterfield Shire Council is committed to preventing fraud and corruption across the organisation as such activities have an impact on Council resources and reputation. Senior Council employees and councillors have a key ongoing role in the prevention of fraud and corruption and the fostering of an ethical and accountable environment at Council.

Tenterfield Shire Council will not tolerate corrupt conduct by employees, Councillors or external parties.

Council is committed to:

- Minimising the opportunities for corrupt conduct by employees, members of the public, councillors, contractors and clients.
- Detecting, investigating and disciplining/prosecuting corrupt conduct.
- Reporting corrupt conduct to appropriate external authorities.
- Developing and implementing a fraud and corruption risk assessment strategy to assist in the identification and management of corruption risks across Council.

This policy aims to educate and inform Staff and Councillors about their responsibilities and obligations in preventing and reporting instances of fraud and corruption within Council, create awareness about what constitutes unethical conduct and reduce and prevent the risk of internal and external fraud and corruption.

## **3. Policy Objectives**

This policy is based on the 10 element best practice control model, which is consistent with national and international best practice. The elements are:

- organisation wide fraud and corruption policy
- risk assessment and risk management framework
- internal controls
- internal reporting
- external reporting
- public interest disclosures
- investigations
- code of conduct

- staff education and awareness
- client and community awareness

#### **4. Policy Statement**

In implementing this policy, Council will undertake a strategic assessment of fraud and corruption and will undertake an operational risk assessment across the organisation, with a particular focus on fraud and corruption risks. This risk assessment will assist in identifying areas of high risk of fraud and corruption within Council and in turn, assist in the development of management strategies in response to such risks.

In accordance with the risk assessment and Council's risk management framework, Council will implement the strategies and mitigation measures identified in the assessment.

##### **Internal reporting of fraud and corruption**

Council will provide support to persons who report instances of fraud, corruption and wrongdoing in accordance with the *NSW Public Interest Disclosures Act 1994*. The *Public Interest Disclosures Act 1994* provides protection to persons who have reported suspected or actual wrongdoing in good faith. The Tenterfield Shire Council Code of Conduct also establishes responsibility for employees to report breaches. For more information regarding procedures for reporting fraud and corruption, please refer to Council's Code of Conduct and Procedures for the Administration of the Code of Conduct.

##### **External reporting of fraud and corruption**

This policy outlines the different external authorities which are the most appropriate agency to report instances of fraud and corruption. These include:

**Independent Commission Against Corruption (ICAC)** - ICAC is responsible for investigating allegations and complaints of corrupt conduct involving or affecting public authorities or public officials and exposing instances of corrupt conduct in public authorities and public officials. ICAC also has an advisory function and provides recommendations to prevent corruption in public authorities and actively educating public authorities, public officials and members of the public about corruption.

**NSW Ombudsman** - The NSW Ombudsman is an independent complaint handling body for public authorities including local councils. The NSW Ombudsman also investigates the administrative practices of a local council and the conduct of councillors and council employees with a view to ensuring council processes are fair and just. The Ombudsman also has oversight responsibility for the *NSW Public Interest Disclosures Act 1994*.

**Office of Local Government NSW** - The Office of Local Government is the central regulatory agency for local government and provides best practice advice to local councils. It is responsible for investigating and reviewing allegations of serious and substantial waste of public funds.

**Office of the Information Commissioner** - The NSW Information Commissioner is an independent agency established to promote public awareness and

understanding of the new right to information law, and provide information, support, advice, assistance and training to agencies and the general public. The OIC also has the power to review decisions made by government agencies and to deal with complaints. The Information Commissioner also monitors agencies' functions and may report to the Minister for the *NSW Government Information (Public Access) Act 2009* about proposals for legislative or administrative change.

## **5. Scope**

This Policy applies to all Tenterfield Shire Council's employees, Councillors and external parties, including contractors, volunteers, community representatives and consultants.

## **6. Accountability, Roles & Responsibility**

### **Elected Council**

Councillors are elected representatives and comprise the governing body of Council. This governing body has the role of directing and controlling the affairs of the Council in accordance with the *NSW Local Government Act 1993*.

As Councillors are members of the Council's governing body, they are required to perform civic duties and fulfil a leadership role for the community.

This includes an obligation to:

- Report possible fraud and corruption related activities to the Chief Executive, Mayor, Disclosures Officer or relevant external agencies;
- Promote Council's commitment to the prevention of fraud and corruption throughout the community and among Council employees, and
- Comply with the Tenterfield Shire Council Code of Conduct by acting in an ethical manner.

### **Chief Executive**

The Chief Executive is responsible for the efficient and effective operation of Council as an organisation. The Chief Executive is to play a prominent role by taking a proactive stance on preventing fraud and corruption within Council by acting to, and through the promotion of, the highest standard of ethical behaviour which is expected across Council. In this way, as part of this leadership role, the Chief Executive is responsible for ensuring that Council's Code of Conduct and associated policies are extended to all Council employees, Councillors, contractors and volunteers, and promoting Council's commitment to preventing fraud and corruption to the local community.

The Chief Executive, or delegate, also has the responsibility to fully investigate allegations of wrongdoing and to report to relevant external agencies of any allegations of fraudulent or corrupt conduct that have been identified at Council. In the same way, the Chief Executive has a legislated requirement under section 11 of the *NSW Independent Commission Against Corruption Act 1988* (ICAC Act) to report to ICAC any matter that is suspected to concern or may concern corrupt conduct.

Specific responsibilities relating to the implementation of this policy:

- Culture
- Policy and Strategy
- Business Risk
- Corporate Governance
- Compliance (legislative, regulatory, community)
- Council Image

### **Chief Corporate Officer, Director and Managers**

The Chief Corporate Officer, Director Infrastructure and Managers are to actively promote Council's Fraud and Corruption Prevention Policy and lead by example by demonstrating ethical decision making and act with honesty and integrity in dealings with others.

Managers and Team Leaders are to promptly report instances of suspected or actual fraud. The Chief Corporate Officer, Director Infrastructure and Managers are to play a supervisory role in the implementation of the Fraud and Corruption Prevention Policy. This includes ensuring that employees within their area of responsibility receive fraud and corruption awareness training, regularly endorse Council's position of zero-tolerance of corrupt behaviour and reinforce the expectations of the Tenterfield Shire Council Code of Conduct.

Specific responsibilities relating to the implementation of this policy:

- Develop and implement fraud and corruption prevention strategies for operational activities;
- Identify and mitigate actual potential corruption risks in the workplace;
- Monitor and review the effectiveness of mechanisms implemented to minimise and detect corruption;
- Demonstrate ethical conduct in all business dealings;
- Monitor and review fraud and corruption prevention mechanisms in place;
- Promote awareness of fraud and corruption prevention and ethical conduct in the workplace, and
- Lead by example.

### **Supervisors and Team Leaders**

Supervisors and Team Leaders are responsible for the proactive promotion and dissemination of this policy and the standards of ethical behaviour expected of employees as outlined in the Code of Conduct to employees in their area. Similarly, supervisors and team leaders are to regularly reinforce to employees their role in preventing and detecting fraud and corruption within the organisation and promote an environment of compliance with this policy and other Council policies.

Supervisors and team leaders also have an important role in ensuring that the policy is operating effectively and contributing to fraud and corruption risk assessments.

Specific responsibilities relating to the implementation of this policy:

- Promote awareness of ethical conduct and mechanisms to prevent corruption;
- Provide input to policies, procedures and instructions that relate to areas of risk;
- Drive the fraud and corruption prevention risk assessment and mitigation process, and
- Monitor the integrity of the risk assessment process within the operating parameters of Council's risk management framework.

### **Employees/Contractors/Volunteers**

All Council employees are reminded of the obligation to comply with the Council Code of Conduct and conduct themselves in an ethical manner including concerning the use of Council assets and resources. Under the Code of Conduct, Council employees must not participate in wrongdoing including fraudulent and corrupt activities. Council employees are required to report any activity which may comprise fraudulent and corrupt conduct.

Specific responsibilities relating to the implementation of this policy:

- Ethical behaviour;
- Report suspected incidents of fraud and corruption, and
- Compliance with fraud and corruption prevention controls including the Fraud and Corruption Prevention Policy.

## **7. Definitions**

Fraud: The NSW Audit Office defines fraud as 'a deliberate and premeditated turn of events which involves the use of deception to gain advantage from a position of trust and authority. The type of events include: acts of omission, theft, the making of false statements, evasion, manipulation of information and numerous other acts of deception'. Fraud and corruption can be committed solely by one person or in collusion with others. Such persons may be:

- An employee or employees of Council;
- Councillors;
- Volunteers;
- External individuals or companies, or
- External contractors or service providers.

Corruption is defined under the *Independent Commission Against Corruption Act 1988* No 35 (8) as follows:

(1) *Corrupt conduct is:*

(a) *any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority; or*

(b) *any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions; or*

(c) *any conduct of a public official or former public official that constitutes or involves a breach of public trust; or*

*(d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.*

*(2) Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:*

*(a) Official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition);*

*(b) Bribery;*

*(c) Blackmail;*

*(d) Obtaining or offering secret commissions;*

*(e) Fraud;*

*(f) Theft;*

*(g) Perverting the course of justice;*

*(h) Embezzlement;*

*(i) Election bribery;*

*(j) Election funding offences;*

*(k) Election fraud;*

*(l) Treating;*

*(m) Tax evasion;*

*(n) Revenue evasion;*

*(o) Currency violations;*

*(p) Illegal drug dealings;*

*(q) Illegal gambling;*

*(r) Obtaining financial benefit by vice engaged in by others;*

*(s) Bankruptcy and company violations;*

*(t) Harboursing criminals;*

*(u) Forgery;*

*(v) Treason or other offences against the Sovereign;*

*(w) Homicide or violence;*

*(x) Matters of the same or a similar nature to any listed above, and*

*(y) Any conspiracy or attempt in relation to any of the above.*

Fraud is recognised as a subset of corruption. The Australian Standard on Fraud and Corruption Control (AS 8001 - 2003), defines Fraud as:

"Dishonest activity causing actual or potential financial loss to any person or entity including theft or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately after 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".

Examples of Fraud could include, but are not limited to:

- Misappropriating Council's assets including use of Council assets for private purposes;
- Abuse of Council time;
- False invoicing, and /or invoicing for goods or services never rendered;
- Providing false or misleading information;
- Misuse of sick leave or carers leave; and
- Theft of cash, equipment or tools.

## 8. Related Documents, Standards & Guidelines

Tenterfield Shire Council Fraud and Corruption Control Protocol

## 9. Version Control & Change History

| Version | Date     | Modified by | Details                                      |
|---------|----------|-------------|--|
| V1.0    | 28/10/20 | Council     | Adoption of Original Policy (Res No. 231/20) |
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Acknowledgements:

Gunnedah Shire Council – Fraud and Corruption Prevention Policy

Glen Innes Severn Council - Fraud and Corruption Prevention Policy