

Council Policy



Policy Title:	Fraud Prevention
Policy Number:	1.13
Focus Area:	CS1 Leading and Advocating for our Community
Responsibility:	Governance & Risk
Meeting Adopted:	23 June 2020 [Resolution 230620/22]

Objective

The objective of Richmond Valley Council's Fraud Prevention Policy is to ensure that the actions of any person do not result in the conduct of fraudulent or corrupt acts by ensuring that:

- Council has a policy to manage and prevent fraud or corruption;
- the policy complies with the provisions of various sections contained within the *Local Government Act 1993* (LGA) and the *Independent Commission Against Corruption Act 1988* (ICAC Act);
- all staff are aware of the policy through distribution of information and posting on the Council Intranet;
- Council has guidelines and measures for the prevention, detection and management of fraud or corruption; and
- the policy provides guidance to the General Manager and other persons in meeting the various reporting requirements.

Introduction

The purpose of this policy is to limit Richmond Valley Council's exposure to fraud or corruption by encouraging an "awareness culture" that fraud and corruption within its workplace will not be tolerated.

Richmond Valley Council is committed to protecting its public funds or assets from any attempt to gain benefit through deceit, solicitation, stealing or forgery, by:

- members of the public;
- contractors;
- elected members; or
- its own employees

Richmond Valley Council is seeking commitment from everyone to this policy.

Scope

This policy applies to:

- Council staff and councillors;
- permanent employees, whether full-time or part-time;
- temporary or casual employees;

- consultants;
- individual contractors working for the Council; and
- other people who perform public official functions and their conduct and activities could be investigated by an investigating authority, which can include volunteers and those contracted to work for Council.

Definitions

"FRAUD" means an intentional dishonest act or omission done with the purpose of gaining an advantage, usually a financial benefit from a position of trust and authority.

The types of acts or omissions include, but are not limited to, theft, false pretenses, evasion, manipulation of information, misappropriation, larceny, embezzlement and improper destruction or falsification of accounts or records.

"CORRUPTION" means a breach of trust in the performance of official duties, acted or failed to act in the performance of the functions of their duties, or taken advantage of their employment to obtain any benefit for themselves or another person.

It is not corrupt conduct unless it involves:

- a criminal offence;
- a disciplinary offence; or
- reasonable grounds for terminating the services of a public official.

Ethical Framework

The Fraud Prevention Policy sits within a wider ethical framework within Richmond Valley Council. The framework includes, but is not limited to, the following documents:

- Code of Conduct – Councillors/Personnel. The aim of the Code of Conduct is to define and maintain suitable standards of conduct and openness in Council decisions and dealings and to meet the requirements of section 440 of the LGA.
- Internal Reporting (Public Interest Disclosures) Policy. The aim of this policy is to provide a clear set of guidelines that ensure people are fully informed of their responsibilities in respect to Public Interest Disclosures. The policy establishes an internal reporting system for the reporting of disclosures of corrupt conduct, maladministration, substantial waste of public money, government information contravention and pecuniary interest and other wrongdoings by Council staff and or Councillors.
- Business Ethics Policy. The aim of this policy is to provide clear ethical guidance to Councillors, staff and those doing business with Council (including contractors), regarding the conduct of council business.
- Gifts and Benefits Policy. This policy aims to provide a framework of ethical considerations for Council staff and Councilors in relation to the giving or receiving of gifts and benefits in the course of official duties.
- Complaints Management and Mandatory Reporting Policy. This policy provides a complaints management framework for the effective handling of complaints.

Prevention Responsibility

The General Manager is responsible for the prevention and detection of fraud and corruption through the implementation of appropriate and effective internal control systems.

The Directors, Managers and Supervisors must share responsibility for the prevention and detection of fraud or corruption and for the operations of Council.

It is the responsibility of Senior Management to ensure that there are mechanisms in place within the area of their control to:

- assess the risk of fraud;
- promote awareness of ethical principles applied by Council; and
- educate employees about fraud and corruption prevention and detection.

Council staff involved with risk and insurance matters will liaise with Senior Management in the conduct of activities to comply with these mechanisms.

All employees have the responsibility to report fraud and suspected corrupt activity, through the appropriate notification to their Supervisor, Manager or Director.

For those employees who wish to take advantage of the provisions of the *Protected Disclosures Act*, then they are to make their report in accordance with Council's Internal Reporting (Public Interest Disclosures) Policy.

Prevention Strategy

Council, through Senior Management, will create an environment and culture in which fraudulent or corrupt acts will not be tolerated, and which will be fully investigated where they are suspected or reported.

To adhere to this objective, Council is developing policies and procedures which will result in fewer opportunities for fraud and corruption.

Council's Governance and Finance Officers will conduct regular risk assessment reviews across all operational areas of Council in conjunction with officers within the relevant operational area. After identification and assessment of potential risk, an implementation plan will be developed to eliminate, minimise and control the risks.

This action can be attained by:

- developing or strengthening internal controls;
- establishing new or additional systems for monitoring and detection;
- delivery of appropriate training programs;
- communicating incidents, findings and recommendations;
- conducting follow-up on audits and recommendations; and
- ensuring that Council's current and potential customers are aware of its policies and procedures, thereby avoiding any conflict of interest.

By developing and strengthening internal controls, it can provide for the security and accountability of Council resources and prevent/reduce the opportunity for fraud or corruption through:

- segregation of duties;
- appropriate recruitment procedures (including reference checking);
- internal audits;
- documentation of procedures;
- budget control;
- reconciliations; and
- consideration of risk.

Council has identified the necessity to effectively manage access to information and the critical importance of ensuring that information assets are not lost, amended, misused, inappropriately disclosed or damaged.

Internal Reporting of Fraud or Corruption

Good channels of internal communication can encourage a steady flow of information that can result in Council improving its practices and procedures.

All employees have the responsibility to report fraud and suspected corrupt activity, through the appropriate notification to their Supervisor, Manager or Director. Senior Officers are to ensure that employees are protected from fear of retribution if they make any report about fraud or corruption.

Those employees who feel uncomfortable about reporting suspected fraud or corruption, should take advantage of the provisions of the *Protected Disclosures Act*. They are to make their report in accordance with Council's Internal Reporting (Public Interest Disclosures) Policy. This policy provides the framework for providing information to employees on how their internal report will be handled within Council.

The underlying focus of this policy is to inform employees and the general public that fraudulent or corrupt acts against Council will not be tolerated and every report is taken seriously by Senior Management. Prompt action will be initiated to investigate all reported acts of fraud or corruption and policies and procedures improved to discourage others who may be inclined to commit similar conduct.

External Reporting of Fraud or Corruption

Internal reporting systems should always be available for all employees and the general public. Employees are encouraged to make reports to Council Officers in accordance with the Internal Reporting (Public Interest Disclosures) Policy. This policy provides an alternative avenue for employees who feel more comfortable in reporting fraud or corrupt acts to an external investigating authority, being the Independent Commission Against Corruption (ICAC), or Director General, Department of Local Government.

The General Manager is required under the *Local Government Act 1993* and *ICAC Act 1988* to report circumstances of fraud or corruption.

Investigation

The purpose of a fraud or corruption investigation is to find out as much as possible about what happened; it is not to establish the guilt of a suspect.

When a fraudulent or corrupt act comes to the notice of a Council Officer or to the general public, then they are required to make such reports in accordance with this policy or Council's Internal Reporting (Public Interest Disclosures) Policy.

Whenever an allegation or suspicions of fraud or corruption arise, it is the responsibility of Senior Officers to ensure confidentiality. Releasing information can result in serious damage to the investigation and to the suspected party.

In all cases of reported alleged fraud or corruption, the General Manager should be immediately informed of the matter and then kept informed of the progress of the investigation. The General Manager will report to ICAC any suspected concerns of corrupt conduct. The report will be after the existence of corrupt conduct has been established.

The nature of the allegation will determine who firstly will assess information relating to the possible act of fraud or corruption. Senior Officers may conduct an initial investigation to establish the existence of an alleged act and if they consider it can be handled within the respective Directorate.

If it is considered by the Director and General Manager that the investigation should be conducted outside their Directorate, then it should be handled by a nominated Council Officer (from Council's Management Team), police or outsourced to an independent investigator.

The Council Officer who is responsible for the conduct of any investigation, must prepare a process plan, notwithstanding the following actions:

- defining the objective or scope of the investigation;
- methodology of the investigation;
- details of any initial enquiries; and
- timeframe and finalisation arrangements.

Information obtained during the investigation must be recorded to determine:

- whether the information is trivial, frivolous or vexatious;
- how much specific evidence there is to support the information provided;
- how long ago the alleged misconduct occurred; and
- whether additional resources are required to investigate the allegation.

In all cases, investigations must be carried out objectively, thoroughly and without prejudice. Senior Management must ensure high standards of investigation that preserve due process and protect the integrity of the process, whilst ensuring confidentiality and fairness.

Seriousness of Fraud and Fraud Reporting

Fraud is addressed at Part 4AA of the *Crimes Act 1900*. Fraud offences are considered very serious, as evidenced by the fact that all offences under Part 4AA carry a maximum penalty of a term of imprisonment.

Under the *Crimes Act 1900*, concealing a serious indictable offence is a crime in certain circumstances. Under section 316, anyone who knows or believes that a serious indictable offence (which could include fraud) has been committed and has material information that could assist with the apprehension or prosecution or conviction of the offender must bring that information to the attention of police or another appropriate body. The failure to any report such an offence, without a reasonable excuse, comes with a maximum penalty of 2 years' imprisonment.

Disciplinary Action

Council will comply with the provisions of its Code of Conduct, associated policies, relevant awards, conditions and legislation in dealing with confirmed fraudulent acts.

When an investigation confirms that a fraud has occurred, it should recommend the appropriate level of action to be implemented. Such level will depend upon the amount of evidence obtained during the investigation.

If there is sufficient information for the matter to be reported to the police, then that authority should manage the remainder of the investigation.

If there is not enough evidence to sustain criminal charges, then Council should investigate implementing disciplinary action. Prior to taking disciplinary action, the General Manager or delegate will give the Council Officer an opportunity to respond to the allegations.

Under Clause 38 of the Local Government (State) Award, in cases of serious misconduct the employer may summarily dismiss an employee following a proper investigation (provided the employee is afforded procedural fairness). Council may also exercise its right to recover lost funds via civil proceedings to obtain damages or through the *Victims Rights and Support Act 2013 (NSW)*.

Preventing Further Fraud

It is important that any fraudulent or corrupt acts are not repeated. Details of any disclosed fraudulent or corrupt acts will be provided to all Senior Officers in order that they may examine their operations for similar circumstances and risks.

Officers from the Governance and Finance sections will work in conjunction with other relevant Council Officers to develop internal controls and procedures to reduce the risk of fraudulent or corrupt acts reoccurring within Council.

There will be a continual revision of all Council internal controls and procedures to ensure that they serve the purpose for which they were developed and to improve controls and procedures where they are warranted.

The main basis for preventing further fraud is for all Council employees to be proactive in assisting Senior Officers in detecting or preventing fraudulent or corrupt acts before they can materialise into a major concern to Council. This factor can be achieved if Council has a well-developed staff training and awareness program.

Staff Training and Awareness

The Fraud Prevention Policy will be incorporated into Council's induction process, providing all new employees with knowledge of Council's expectations surrounding fraud. Council will develop a comprehensive training program to inform Council employees of policies and procedures in relation to making them aware of fraud and corruption issues.

Such issues include appropriate provisions within Council's Internal Reporting (Public Interest Disclosures) Policy, Complaints Management and Mandatory Reporting Policy and Fraud Prevention Policy pertaining to the risk management process, the reporting process, internal support mechanisms and the management of investigations.

Client and Community Awareness

Council does conduct business with a wide range of external parties that have different ethical standards. Council has developed policies and procedures which it expects potential clients to adhere to, including the Code of Conduct and Business Ethics Policy. Both of these documents are separately listed on Council's Website and Staff Intranet and this information is contained within all tender documents.

Council will communicate to the community, awareness programs on fraud or corruption as a means of providing leadership to the community, with the aim of improving its standing. The programs will provide clear guidelines about Council's acceptable practices and to show that it is committed to providing honest and ethical services to the community.

Review

This policy will be reviewed by Council at the time of any relevant legislative changes, compliance requirements or at least every four years.

Version Number	Date	Reason / Comments
1	01/2008	Adopted
2	08/2015	Update to staff titles and format
3	06/2020	Review