
Fraud and Corruption Control

CONTROL:

Policy Type:	Administrative
Authorised by:	Council
Head of Power:	Statutory
Responsible Officer:	Chief Executive Officer
Adopted / Approved:	Minute No. 2022.05.16-OM-5
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Version:	4

1. INTRODUCTION

1.1 PURPOSE:

This policy seeks to:

- promote public confidence in the way suspected corrupt conduct is dealt with by Council;
- provide guidance to Councillors, employees and affiliates about what constitutes corruption and fraud;
- provide a clear statement that corruption and fraud is unacceptable;
- outline the consequences for people who engage in such conduct;
- provide clear responsibilities and accountabilities for preventing corruption and fraud;
- establish a consistent approach across all areas of Council and its controlled entities;
- present an integrated approach to corruption and fraud prevention and control that includes proactive measures designed to enhance system integrity (prevention measures) and reactive responses (reporting, detecting and investigating activities); and
- provide assurance to Council that reports of corruption and fraud are properly investigated.

1.2 COMMENCEMENT OF POLICY:

This Policy will commence on adoption.

2. POLICY

2.1 CONTEXT:

This Policy has broad application. It applies to:

- all Councillors, employees, contractors and affiliates of the Council and its controlled entities, regardless of their position or seniority. It covers all circumstances when performing work, duties or functions for the Council, as well as related activities, such as work-related functions, travel, conferences and any circumstances when a person is representing the Council; and
- actual or suspected occurrence of corruption and fraud.

Fraud and Corruption Control

2.1.1 Relationship with other Policies

This Fraud and Corruption Control Policy is an important subset of Council's Enterprise Risk Management Framework and Guidelines. Council will regularly assess fraud and corruption risks to establish the level and nature of its exposure to internal and external threats for all functions and operations. These assessments will:

- identify, describe and evaluate risk and help Council select appropriate risk control strategies;
- be documented in Council's Risk Register; and
- drive Council's prevention activities.

This Policy is also intended to complement and be implemented in conjunction with and the Public Interest Disclosure Policy, the Complaints Process – Administrative Action Complaints Policy and the Code of Conduct, including associated procedures.

2.2 POLICY STATEMENT:

Council has a zero tolerance for fraud and corruption and is committed to acting in the best interest of the community and upholding the principles of honesty, integrity and transparency. It is totally unacceptable for any Councillor, employee or affiliate to engage in, or participate in fraud or corruption.

Council will use a structured governance framework and an integrated approach to the development, implementation and regular review of fraud prevention and detection, responding, reporting and response strategies.

If any Councillor, employee or affiliate is suspected of engaging in, or participating in such conduct, the Council will refer the matter to the relevant regulatory agency (e.g. Crime and Corruption Commission, Queensland Police Force, Queensland Audit Office, etc.). If proven, Council will:

- support any prosecution by the relevant agency; and
- initiate action:
 - against Councillors under Chapter 5A Divisions 3 and 4 of the *Local Government Act 2009*;
 - against Employees under Chapter 8, Part 3, *Division 1 of the Queensland Local Government Regulation 2012* which may result in termination of their employment;
 - against Affiliates that may include termination of their contract, engagement or appointment; and
 - to recover stolen property or funds where the benefits of recovery exceed the resources invested in recovery action. This action may be in addition to any disciplinary action taken.

3. STANDARDS AND PROCEDURES

3.1 PREVENTION, REPORTING, DETECTION, INVESTIGATION AND RESPONDING

Council recognises that the most effective way to address the issue of fraud and corruption control is to provide exemplar leadership, fully comply with legislative obligations, provide clear and appropriate policy settings, with appropriate control strategies that address prevention, reporting suspicions and detection, investigation, responding, evaluation and reporting.

3.2 CONFIDENTIALITY

Complaints, complainants, subject officers, witnesses and investigations will be treated and managed confidentially, in accordance with Council's obligations under the *Public Interest Disclosure Act 2010* and Councils Public Interest Disclosure Policy.

Fraud and Corruption Control

3.3 MITIGATION OF RISK

Council will:

- conduct fraud risk assessments on an annual basis to assist Council understand its fraud risk exposure, identify gaps and weaknesses in internal controls, and develop strategies to mitigate those risks;
- maintain fidelity guarantee insurance to cover:
 - Council and its controlled entities; and
 - Losses directly arising from proven fraudulent embezzlement or misappropriation of money, negotiable instruments or goods, by all employees of Council and its subsidiaries.

The insurance may be subject to reasonable limits to liability (for one claim or in aggregate) and a claim excess.

3.4 OBLIGATIONS AND RESPONSIBILITIES

Everyone in the Council has a role to play in identifying areas of risk, including fraud and corruption and initiating responses that manage the risk exposure to acceptable levels, ensuring that internal controls are working properly and policies are being followed.

3.4.1 Obligations of all Councillors, Employees, Contractors and Affiliates

All councillors, employees, contractors and affiliates must comply with the following obligations:

- perform their functions and duties in a professional and ethical manner, with care, diligence, honesty and integrity, in accordance with community expectations (including Council's Code of Conduct);
- not engage in, or participate in any form of fraud or corruption;
- report any occurrence or suspicion of corruption and/or fraud within the Council to their Manager, Manager of Governance and Compliance or Chief Executive Officer;
- familiarise themselves with this Policy and related policies and procedures.

All councillors, employees and affiliates must cooperate and participate in any investigation to the best of their ability and respond to requests with a high priority and confidentially.

3.4.2 Additional Responsibilities of Employees with Financial Delegations

Any employee with financial delegation or responsibility for administering financial transactions is required to fully comply with the Council's finance policies (including Procurement), financial systems requirements and all other financial controls.

3.4.3 Additional Responsibilities of the Executive

In addition to the general obligations outlined above, managers have the following additional responsibilities:

- creating an environment in which fraud and corruption is discouraged and readily reported by employees;
- ensuring that new employees for whom they are responsible are aware of their responsibilities in relation to corruption and fraud and the standard of conduct expected as outlined in the Code of Conduct;
- ensuring that current staff have education and training opportunities to develop the necessary knowledge and skills to apply this policy;
- identifying potential fraud and corruption risks;
- reporting any suspected or actual occurrences of fraud or corruption within the Council;
- treating all reports of alleged fraud or corruption seriously and confidentially;
- supporting and protecting employees who make a public interest disclosures (PID) against reprisal action; and
- leading by example to promote ethical behaviour.

Advice about handling such reports can be sought from the Manager of Governance and Compliance or Chief Executive Officer.

Fraud and Corruption Control

3.4.4 Additional Responsibilities of Manager of Governance and Compliance

The Chief Executive Officer has selected the Manager of Governance and Compliance to be the champion of fraud and corruption prevention and coordinate the Prevention, Incident Reporting, Detection, Investigation, Responding, Evaluation and Investigation Reporting activities in Council.

3.4.5 Responsibilities of the Executive Management Team

The Executive Management Team will monitor and evaluate the control strategies with the view to establish causal links and, over time, provide insights into the appropriate balance between fraud prevention and detection strategies.

3.4.6 Additional responsibilities of the Chief Executive Officer

The Chief Executive Officer is the principal officer of the Council and is responsible for establishing and maintaining a policy to minimise the exposure to fraud and corruption and take appropriate disciplinary action.

3.4.7 Responsibilities of the Council

Council will:

- regularly evaluate the Council's exposure to fraud and corruption, and oversee the establishment and implementation by management of a system for identifying risk throughout the Council and controlled entities;
- oversee management's efforts to create and maintain a strong internal control environment, including the design and implementation of anticorruption strategies and programs;
- oversee the process for the receipt, retention and treatment of fraud related information when received;
- provide reasonable assurance that a robust internal control and risk management framework is applied.

Council is responsible for ensuring that there is adequate budgetary provision for:

- the implementation and continuance of this policy consistent with agreed objectives;
- establishing and maintaining Councillor, employee and affiliate awareness of this policy through ongoing education and training.

4. REFERENCE AND SUPPORTING INFORMATION

4.1 DEFINITIONS:

To assist in interpretation, the following definitions shall apply:

Word / Term	Definition
Council	Means Diamantina Shire Council.
Affiliate	An Affiliate includes contractors, suppliers, volunteers, members of Advisory Committees, work experience students and other people who have a particular relationship with Council.
Complainant	A complainant is a person or entity who makes a complaint.
Corrupt Conduct	<p>Under the CC Act, conduct includes:</p> <ul style="list-style-type: none"> • neglect, failure and inaction • conspiracy to engage in conduct • attempt to engage in conduct. <p>Corrupt conduct is conduct by any person which meets the four elements stipulated in the CC Act, and described below.</p> <ol style="list-style-type: none"> 1. Effect of the conduct Corrupt conduct adversely affects, or could adversely affect, directly or

Fraud and Corruption Control

	<p>indirectly, the performance of functions or the exercise of powers of—</p> <ul style="list-style-type: none"> ○ a unit of public administration (UPA) or ○ an individual person holding an appointment in a UPA. <p>2. Result of the conduct</p> <p>Corrupt conduct results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned above in a way that—</p> <ul style="list-style-type: none"> ○ is not honest or is not impartial ○ involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly ○ involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment. <p>In relation to a breach of trust:</p> <ul style="list-style-type: none"> ○ knowingly can be taken to mean that the subject officer knew that his or her actions were a breach of the trust placed in him or her; ○ recklessly can be taken to mean that, while the subject officer did not necessarily know that his or her actions were a breach of trust, he or she was aware that there was a real and apparent risk that the conduct would amount to a breach of the trust and he or she nevertheless without justification persisted with the conduct. <p>3. Benefit or detriment arising from the conduct</p> <p>Corrupt conduct is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person.</p> <p>The CC Act defines:</p> <ul style="list-style-type: none"> ○ benefit as property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person, whether or not it has any inherent or tangible value, purpose or attribute ○ detriment as including detriment caused to a person's property. <p>4. Criminal offence or disciplinary breach</p> <p>Corrupt conduct would, if proved, be –</p> <ul style="list-style-type: none"> ○ a criminal offence; or ○ a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were a holder of an appointment. <p>○ 5. Corrupt Conduct may include but is not limited to</p> <ul style="list-style-type: none"> ○ Abuse of Public Office ○ Bribery, including bribery relating to an election ○ Extortion, obtaining or offering a secret commission ○ Fraud ○ Stealing ○ Forgery ○ Perverting the course of justice ○ An offence relating to an electoral donation ○ Loss of revenue of the council or state
Employee	<p>An employee includes:</p> <ul style="list-style-type: none"> • a person employed by Diamantina Shire Council (DSC) or its controlled entities • a person who provides services to the Council under contract • a volunteer of the DSC

Fraud and Corruption Control

Fraud	<p>A dishonest activity causing actual or potential financial loss to a person or entity, It includes but is not limited to:</p> <ul style="list-style-type: none"> • Theft of moneys or other property by employees or other persons, whether or not deception is used at the time, immediately before or immediately following the activity. • Obtaining Property, a financial advantage or other benefit by deception • Causing a loss, avoiding or obtaining a benefit by deception • Knowingly providing false or misleading information to Council or failing to provide information where there is an obligation to do so • A breach of trust in the performance of official duties, by which an employee or Councillor acts contrary to the interests of Council in order to achieve personal gain or advantage for themselves or another person or entity • Using forged or falsified documentation for an improper purpose • Deliberate misstatement of accounting information for an improper purpose
Public Interest	The public interest refers to the 'common wellbeing' or 'general welfare' of the community and government affairs.
Public Interest Disclosure (PID)	<p>A PID is a disclosure made to a proper authority about a public interest matter including: corrupt conduct; Maladministration that adversely affects a person's interests in a substantial and specific way; or a substantial misuse of public resources.</p> <ul style="list-style-type: none"> • Note: the public interest refers to the 'common wellbeing' or 'general welfare' of the community and government affairs • Note: the proper authority for all disclosures relating to the Diamantina Shire Council and it controlled entities is the Council
Regulatory Agency	The Regulatory Agency is the statutory body with the authority to investigate matters within its jurisdiction and includes the CCC, Policy, Ombudsman and Australia Human Rights Commission.
Reprisal Action	Reprisal action is a deliberate act included to punish or harm a person or his or her family, directly or indirectly, who is believed to have made a complaint.
Subject Officer	The subject officer is a person about whom an allegation has been made.

4.2 RELATED POLICIES, LEGISLATION AND DOCUMENTS:

Links to supporting documentation
Diamantina Shire Council Employee Code of Conduct
Diamantina Shire Council Councillor Code of Conduct
Diamantina Shire Council Councillor Investigation Policy
Diamantina Shire Council Complaints About the CEO Policy
Complaints Process – Diamantina Shire Council Administrative Action Complaints Policy
Diamantina Shire Council Risk Management Framework and Guidelines
Diamantina Shire Council Public Interest Disclosure Policy
Diamantina Shire Council Strategic and Operational Risk Registers
<i>Australian Standard 'Fraud and Corruption Control' (AS8001-2008)</i>
<i>Crime and Corruption Commission "Corruption in Focus"</i>
<i>Crime and Corruption Commission "Corruption and Fraud Control – Guidelines for best practice 2005"</i>
<i>Crime and Corruption Commission, Queensland Ombudsman, and Public Service Commission "Managing a Public Interest Disclosure Program. A Guide for Public Sector Organisations 2011"</i>
<i>Crime and Corruption Act 2001</i>
<i>Criminal Code Act 1899</i>
<i>Criminal Proceeds Confiscation Act 2002</i>
<i>Queensland Local Government Regulation 2012</i>

Fraud and Corruption Control

Queensland Local Government Act 2009
Public Interest Disclosure Act 2010
Ombudsman: Public Interest Standard No.2 2019
Public Service Ethics Act 1994

4.3 VERSION CONTROL:

Previous Version Number	Adopted/Approved Date
Original Version 1	January 18 2016, Minute No. 2016.01.18-OM-4
2	October 23 2017, Minute No. 2017.10.23-OM-20
3	October 21 2019, Minute No. 2019.10.21-OM-6