



# **Policy: Council**

## **FRAUD AND CORRUPTION PREVENTION POLICY**

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## Policy Statement

Blue Mountains City Council takes a zero-tolerance approach to fraud and corruption. Council is committed to an organisational culture of integrity and accountability and of professional conduct of its functions in accordance with its values. Council will make all practical efforts to proactively reduce the risk of fraud and corruption and minimise its exposure to these activities.

Council will report conduct to relevant external bodies as appropriate, including but not limited to the ICAC, NSW Police, the Office of Local Government or the Ombudsman.

Council is committed to protecting its revenue, expenditure, property, intellectual capital and reputation from any attempt, either by Council officials, as defined in this policy, or members of the public, to gain by deceit, any financial or other benefits.

<b>Policy Ref. No:</b>	52	<b>PCT Endorsement Date:</b>	9 August 2018
<b>TRIM Record No:</b>	17/98476	<b>ELT Meeting Date:</b>	10 October 2018
<b>Distribution:</b>	Public	<b>Public Exhibition Details:</b>	20 November 2018 to 7 January 2019
<b>Status:</b>	Adopted	<b>Council Meeting Date:</b>	29 January 2019
<b>Scope:</b>	All staff, Councillors, contractors, committee members, volunteers & members of the public	<b>Council Minute No:</b>	15
<b>Lifespan:</b>	2 years	<b>Responsible Directorate/Group:</b>	Councillor & Corporate Operations
<b>Next review:</b>	January 2021	<b>Contact Position:</b>	Executive Officer

## Version History

Version	Adoption Date	Reason for Change
2019	29 January 2019 (Min no. 15)	Periodic update.
2013 (12/192899)	19 February 2013 (Minute no.53)	Original version.

## Definitions

Term	Definition
Code of Conduct	The current <i>Code of Conduct</i> as adopted by Blue Mountains City Council.
corruption	As defined in part 2 of this document.
Council official	Council employees (including permanent, fixed-term, temporary and casual staff), Councillors, contractors, sub-contractors, agents & intermediaries.
fraud	As defined in part 2 of this document.
ICAC	Independent Commission Against Corruption
OLG	Office of Local Government
PID Policy	<i>Public Interest Disclosure Internal Reporting Policy</i>
Procedures	Council's <i>Procedures for the Administration of the Code of Conduct</i>

## Related Documents

This document should be read in conjunction with:

- Blue Mountains City Council, *Code of Conduct*
- Blue Mountains City Council, *Public Interest Disclosure Internal Reporting Policy*
- Blue Mountains City Council, *Gifts & Benefits Policy*
- Blue Mountains City Council, *Secondary Paid Employment Policy*
- Blue Mountains City Council, *Statement of Business Ethics*
- Blue Mountains City Council, *Related Party Disclosures Policy*
- Blue Mountains City Council, *Cash Handling Policy*
- Blue Mountains City Council, *Councillor Facilities and Expenses Policy*
- Blue Mountains City Council, *Enterprise Risk Management Policy*
- Blue Mountains City Council, *Conflicts of Interest and Declarations Management Policy*
- Blue Mountains City Council, *Strategic Procurement Policy*
- Australian Standard 8001-2008, *Fraud and Corruption Control*
- Australian Standard 31000-2009, *Risk Management Standard*
- Institute of Internal Auditors, *Standards and Codes of Ethics*
- Department of Premier & Cabinet, *Internal Audit Guidelines 2010*

## Related Legislation:

- *Local Government Act 1993* (NSW)

- *Independent Commission Against Corruption Act 1988 (NSW)*
- *Public Interest Disclosures Act 1994 (NSW)*
- *Crimes Act 1900 (NSW)*

## Policy details and information

### 1. Scope and Purpose

This Policy applies to all members of the public in their interactions with Council and all Council officials (including staff, Councillors, volunteers and contractors).

Council has a responsibility to ensure that the services and decisions which Council is responsible for are free from corruption and that its assets and resources are obtained, managed and disposed of honestly. In addition to immediate financial loss, fraud and corruption can result in reputational loss in the Council, damage to organisational morale and increase in audit, investigation and legal fees.

While the primary document to guide the behaviour of Council officials is the adopted Code of Conduct, this policy provides the specific details for the Council's management of fraud and corruption.

This policy and its implementation aim to minimise fraud and corruption by Council officials by:

- Preventing fraud at its origin, in particular through the implementation of effective control structures and procedures;
- Participation in education in relation to fraud and corruption;
- Minimising opportunities for corrupt conduct;
- Taking a risk managed approach to the identification and management of fraud and corruption risks;
- Ensuring awareness in all Council officials of their obligation to act ethically and to follow Council's Code of Conduct and Statement of Business Ethics;
- Committing to a system of detection, investigation and prosecution of individual cases of fraud or corrupt conduct;
- Timely reporting of corrupt conduct to ICAC and, where appropriate, to the NSW Police, the Office of Local Government or other relevant agency; and
- Ensuring that the civil rights of employees and members of the public and Council's commitment to natural justice is respected.

### 2. What are 'corruption' and 'fraud'?

#### Corruption

Corruption is any deliberate or intentional wrongdoing that is improper, dishonest or fraudulent. The definition of corruption in the ICAC Act (sections 8 and 9) includes:

- any conduct of any person that could or does adversely affect, either directly or indirectly, the honest and impartial exercise of official functions by any public official, any group or body of public officials or any public authority;
- any conduct of any public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions;
- any conduct of a public official or former public official that constitutes a breach of trust; or

- 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.

It is not corrupt conduct under the ICAC Act unless it involves:

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

Examples of corrupt conduct may include but are not limited to:

- failure to disclose and/or manage conflicts of interest;
- failure to disclose gifts or benefits;
- acceptance of bribes; and
- the release of confidential information including personal information or intellectual property.

### **Fraud**

Fraud is a crime involving the dishonest obtaining of a financial or other benefit, and/or a financial loss to an organisation. The ICAC's definition of corrupt conduct includes fraud.

The benefit might be of direct value (e.g. money or easy access to money) or may be indirect (e.g. obtaining information by deception and then trading or using that information to obtain more tangible benefits).

Examples of fraud may include but are not limited to:

- theft or misuse of plant equipment by Council officials;
- theft of stock or inventory by Council officials;
- false information entered on timesheets;
- manipulation of financial reporting; and
- abuse of a Council position for personal gain.

## **3. Responsibilities**

The **General Manager** has ultimate responsibility for leading fraud and corruption prevention measures and effectively managing fraud and corruption risks in the Council.

The **General Manager and the Executive Officer** are responsible for oversight of Code of Conduct complaints management, investigating instances of alleged fraud and corruption, and reporting instances of fraud or corruption to the ICAC and/or the NSW Police and/or the Office of Local Government (OLG).

All **Councillors** are responsible for:

- carrying out their duties lawfully and in accordance with the Code of Conduct and relevant policies;
- reporting suspicions of fraud and corruption, including any behaviour which appears to be an inducement to engage in fraud or corruption, to the Executive Officer or the General Manager;
- undertaking relevant training in relation to Council's Code of Conduct, legislative responsibility and the prevention and/or detection of fraud and corruption; and

- assisting in any investigations in relation to suspicions of fraud or corruption.

The **members of the Executive Leadership Team** are responsible for:

- leading the organisation in a manner which is honest, transparent, accountable and compliant;
- managing policy, procedure, and control mechanisms for the prevention of fraud and corruption;
- being accountable for the prevention and detection of fraud and corruption in areas under their control and for reporting it to the Executive Officer or General Manager in the first instance; and
- ensuring the implementation of policies and procedures to prevent, detect, and control fraud and corruption.

All **Managers** are accountable for the prevention and detection of fraud and corruption in areas under their control. Managers are also responsible for:

- reporting fraud and corruption to their Director/Group Manager, the Executive Officer or the General Manager;
- Ensuring timely reporting of weaknesses in the design, documentation or implementation of policy, procedure and controls to their Director/Group Manager, the Executive Officer or the General Manager;
- taking reasonable steps to ensure that all council staff in their area of responsibility have been made aware of this policy and that copies of this policy are readily available to them;
- demonstrating leadership with respect to ethical behaviour and fraud and corruption minimisation.

All **Council staff, committee members and contractors** are responsible for:

- carrying out their duties lawfully and in accordance with the *Code of Conduct* and relevant policies;
- declaring and managing conflicts of interest, including but not limited to applications made in accordance with Council's *Secondary Paid Employment Policy*;
- reporting suspicions of fraud and corruption, including any behaviour which appears to be an inducement to engage in fraud or corruption, to their Director/Group Manager, the Executive Officer or the General Manager, in accordance with the *Code of Conduct* and the *Public Interest Disclosures Internal Reporting Policy* ('PID Policy');
- refraining from taking any action against others who report suspicions of fraud or of attempting to identify or share the identity with others of reporters of fraud or corruption;
- operating systems which are designed to prevent and/or detect fraud and corruption;
- undertaking relevant training in relation to the prevention and/or detection of fraud and corruption;
- assisting in any investigations in relation to suspicions of fraud or corruption.

The **Audit & Risk Committee** is responsible for the independent oversight and monitoring of the council's audit processes.

The **Council's Chief Audit Executive** is responsible for reporting risks and audit matters to the Executive Leadership Team and must ensure that the internal audit activities are free from interference.

The **Financial Controller** is responsible for developing and maintaining procedures to prevent, and methods to detect, instances of financial fraud.

The **Manager Information Solutions** is responsible for ensuring information security processes are sufficiently robust and able to be audited.

#### **4. Implementation, Review and Monitoring**

The Council will ensure that:

- all of its business dealings with tenderers, suppliers, consultants and contractors are conducted in an ethical and transparent manner;
- the *Code of Conduct* forms the basis of the ethical standards and conduct expected of Council staff, Councillors and Council contractors;
- the procedures and expectations outlined in Council's *PID Policy, Statement of Business Ethics, Procedures for Administration for the Code of Conduct (Part 2)* and *Gifts and Benefits Policy* are in place to report any instances of suspected corrupt or fraudulent behaviour and are appropriately communicated to encourage Staff, Councillors and other third parties;
- all reasonably suspected instances of corrupt or fraudulent conduct are investigated in accordance with legislative requirements; and
- that risks are mitigated to prevent recurrence, including the appropriate actioning of recommendations of any audit or conduct reports.

In developing and implementing fraud detection mechanisms, Council will have regard to those factors which are understood to contribute to the occurrence of fraud (sometimes referred to as the 'fraud triangle') as follows:

1. Pressure/motivation;
2. Opportunity;
3. Attitude/rationalisation.

The Council has the following mechanisms in place to identify and detect fraud and/or corruption:

##### **a) Awareness and training**

- All council officials, including staff and councillors, will be made aware of this policy and related policies and procedures.
- Staff will receive briefing notes and communications on fraud and corruption prevention on induction.
- All staff and Councillors receive training in the Code of Conduct. Notifications and reminders, including signage in staff areas, on matters relating to the Code of Conduct supplement Council officer training.

##### **b) Public interest disclosure ('whistleblowing') protection**

Council is committed to protecting staff who report wrongdoing in the workplace. This is covered by the Public Interest Disclosures Act 1994 and Council's *Public Interest Disclosure Internal Reporting Policy* ('PID Policy').

**c) Reporting mechanisms**

All council officials must act ethically and with integrity and must report suspicions of wrongdoing. Please refer to the Council's PID policy which outlines the reporting of wrongdoing and is the primary policy with respect to this mechanism.

**d) Accounting checks and balances**

- Council follows, at minimum, a two-step approval process for all transactions over \$1000.
- Related party disclosures are obligatory with respect to all key management personnel in accordance with Council's *Related Party Disclosures Policy*.
- Accounting duties are segregated to ensure no single person can control a payments process from beginning to end.
- Council's financial statements are audited annually by an external auditor.

**e) Enterprise risk management**

Staff have risk management assessment and reporting responsibilities as set out in the Enterprise Risk Management Policy. Risk assessments should include analysis of relevant fraud and corruption risks.

**f) Audit**

- Internal audit of Council's systems are regularly conducted with respect to areas of risk identified through annual risk management assessments.
- The internal audit program is designed to deliver better value for the organisation, target the risks that matter, enhance organisational control and drive improvement.
- Council has a co-sourced model for internal audit. The risk-based annual program for audit is developed internally, with the audits delivered through a third party provider.

## **5. Consequences of fraudulent or corrupt activities**

The possible consequences of fraudulent and corrupt activities on the organisation include the following:

- Misappropriation of funds and/or assets;
- Negative legal consequences;
- Loss of public confidence in the Council (reputational loss);
- Damage to organisational morale; and
- Increase in audit, investigation and legal costs.

Individuals who engage in fraudulent and corrupt activities may face consequences including but not limited to the following:

- Disciplinary or Code of Conduct investigation;
- Criminal sanctions;
- Loss of employment;
- Reputational damage; and
- Legal action for civil damages.

Council takes a zero-tolerance approach to fraud and corruption.

In the event that fraud or corruption are detected, the following may apply:

- Reports of suspected fraud or corruption made to a disclosures officer, except where this relates to the General Manager, must be on-reported to the General Manager and/or Executive Officer.
- Suspected reports that relate to the General Manager must be on-reported to the Mayor.
- As required, incidents will be subject to a preliminary assessment in accordance with the Procedures for the Administration of the Code of Conduct (Procedures) and a recommendation will be made to the General Manager or the Mayor, as appropriate.
- The General Manager, as principal officer of the Council, is obligated to report to the ICAC any matter which the General Manager suspects on reasonable grounds concerns or may concern corrupt conduct.
- Council will follow the Procedures, and the direction of the ICAC, with respect to investigating corrupt conduct.
- Appropriate disciplinary action may be taken against Council staff and other Council officials in accordance with the Code of Conduct and the Procedures as necessary and in accordance with relevant Council policies and industrial relations rules. Criminal sanctions may apply.
- At any time, the General Manager, Mayor or conduct reviewer may refer a complaint to an external body, including but not limited to the OLG, the ICAC, the NSW Ombudsman, NSW Police Force or Information Commissioner.

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