

# Policy

## FRAUD AND CORRUPTION

<b>RESPONSIBILITY:</b>	Chief Executive
<b>ADOPTED:</b>	16 February 2022
<b>REVIEW:</b>	Every five years or as required
<b>CONSULTATION:</b>	None required
<b>RELATED DOCUMENTS:</b>	<b>Council policies and strategies include:</b> <ul style="list-style-type: none"><li>• Elected Members' Code of Conduct</li><li>• Methven Community Board Code of Conduct</li><li>• ADC Delegations and employment related policies</li><li>• Protected Disclosures Policy</li><li>• Corporate Risk Policy</li><li>• Sensitive Expenditure Policy</li></ul> <b>Relevant legislation includes (but is not limited to):</b> <ul style="list-style-type: none"><li>• Crimes Act 1961 (s.99, 105 and 105A)</li><li>• Local Authorities (Members' Interests) Act 1968</li><li>• Local Government Act 2002 (s.100 and 101)</li><li>• Protected Disclosures Act 2000</li><li>• Secret Commissions Act 1910</li></ul>

### Policy Purpose

The purpose of this policy is to:

- provide clear guidance for Council officers and elected members who encounter or suspect fraud and/or corruption, and
- raise awareness among Council officers and elected members about how to recognise fraud and corruption, as well as associated behaviour and circumstances.

### Application

This policy applies to all Council officers and elected members in relation to all fraud and corruption incidents, whether suspected, alleged or proven, that are either:

- committed against Council by a person; or
- committed by a Council officer or elected member.

## Policy Objectives

The objectives of this policy are to:

- prevent corrupt and fraudulent behaviour,
- instil responsibility and awareness amongst Council officers and elected members,
- establish an environment where fraud and corruption concerns can be identified and addressed,
- ensure compliance with internal control systems, and
- provide guidance on how to effectively progress an allegation of fraud and corruption.

## Definitions

**Corruption:** means the lack of integrity or honesty (especially susceptibility to bribery) or the use of a position of trust for dishonest gain. It includes foreign and domestic bribery, coercion, destruction, removal or inappropriate use or disclosure of records, data, materials, intellectual property or assets, or any similar or related inappropriate conduct. It also includes accepting favourable terms in a personal capacity in return for acting in a particular manner. Within this definition, corrupt conduct includes but is not limited to:

- any person who has a business involvement with Council, improperly using, or trying to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others, for example, fabrication of business travel requirements to satisfy personal situations,
- knowingly providing, assisting or validating in providing false, misleading, incomplete or fictitious information to circumvent Council procurement processes and procedures to avoid further scrutiny or reporting,
- disclosing private, confidential or proprietary information to outside parties without implied or expressed consent, and
- accepting or seeking anything of material value from contractors, vendors, or persons providing services or materials to Council (see Council's Corporate Gifts Policy for permitted exclusions).

**Council:** means Ashburton District Council.

**Council officers:** for the purposes of this policy includes:

- all Council employees,
- any contractor or consultant who agrees to be covered by this policy under the terms of their engagement agreement,
- temporary employees supplied through an agency,
- seconded personnel, and
- volunteers.

**Fraud:** is the deliberate practice of deception in order to receive unfair, unjustified or unlawful gain and, for the purposes of this policy, includes forms of dishonesty. Within this definition, examples of fraud may include (but are not limited to):

- unauthorised possession or use, or misappropriation of funds or other assets,
- impropriety in the handling or reporting of money or financial transactions,
- forgery or alteration of any document or computer file/record belonging to Council,
- forgery or alteration of a bank draft or any other financial instrument including those used for the purposes of online transactions,
- bribery, corruption or coercion,
- destruction, removal or inappropriate use/disclosure of records, data, materials,

- intellectual property or assets for gain, and
- any similar or related inappropriate conduct.

## Policy Statement

### 1. Background

- 1.1 Council is committed to preventing, detecting and responding to fraud and corruption threats. Council adopts a ZERO TOLERANCE policy to identified behaviour or incidents involving fraud and corruption.
- 1.2 It is important that Council provides confidence to the community and officers regarding the administration of ratepayer's funds. This policy expressly states Council's view that corrupt and fraudulent behaviour is unacceptable, and clearly sets out how corruption and fraud will be dealt with.
- 1.3 All confirmed fraud and corruption incidents will be considered serious misconduct. All instances of suspected fraud and corruption will be thoroughly investigated. All credible suspicions of fraudulent or corrupt activity will be referred to an appropriate law enforcement authority.
- 1.4 This policy should be read alongside Council's Protected Disclosures Policies, which details the protection to be given to the person(s) making a disclosure ("whistleblower").

### 2. General statements

- 2.1 Council will undertake a comprehensive investigation of any suspected acts of fraud, corruption, misappropriation or similar irregularity. Investigations will be fully documented.
- 2.2 The Chief Executive has primary responsibility for the investigation of all cases of suspected fraud and corruption. Investigation may be delegated at the Chief Executive's discretion to an 'Investigation Officer'. The Mayor is responsible where the Chief Executive is the subject of an allegation.
- 2.3 The Chief Executive will notify the Mayor of the outcome of an investigation. The Group Manager Business Support will be made aware of all instances of fraud and corruption. The Group Manager Business Support will notify Audit New Zealand where applicable as per the Investigation Process (Appendix 1).
- 2.4 The Chief Executive will contact the Police in serious instances where it has been determined a crime has occurred as per the Investigation Process (Appendix 1). The commencement of legal proceedings will be determined by Police.
- 2.5 Council will pursue every reasonable effort, including court-ordered restitution, to recover its losses from the offender(s) or other appropriate sources.
- 2.6 Any Council officer who is subject to an investigation may be stood down on full pay for all or part of the duration of the investigation.
- 2.7 Council will regard all correspondence and records of correspondence such as letters, emails and phone calls made during Council work hours or using Council property as belonging to

Council and this may be examined as part of any investigation process.

### 3. Fraud and corruption minimisation

3.1 The primary means to prevent or minimise fraud and corruption is by implementation and continued operation of adequate systems of internal control, supported by written policies and procedures. These controls include, but are not limited to:

- Segregation of duties
- Appropriate delegations and authorisation levels
- Enforcement of mandatory holidays
- Active risk management through an effective internal control function
- Financial planning, reporting and monitoring.

3.2 All officers have a responsibility to adhere to Council's systems of internal control and Managers need to ensure officers are aware of the reasons for such controls and the expectation that they will be complied with.

3.3 Council's systems of internal control are evaluated each year by Council's auditors. Any weaknesses identified need to be addressed on an ongoing basis.

### 4. Recognising fraud and corruption risks

4.1 Council recognises that generally there are three particular conditions often associated with fraud and corruption:

- **Incentives/pressures:** Management, Council officers or external parties have an incentive or are under pressure, which motivates them to commit fraud or act in a corrupt manner (for example, personal financial trouble).
- **Opportunities:** Circumstances exist that allow Council officers to commit fraud or act in a corrupt manner, such as an organisation not having appropriate fraud and corruption controls in place, or officers are able to get around or override ineffective controls (for example, managers being able to approve and authorise their own sensitive expenditure).
- **Attitudes:** Officers are able to rationalise committing fraud (for example, holding attitudes or beliefs such as "everybody else is doing it nowadays" or "they made it so easy for me") or acting corruptly.

### 5. Reporting suspected fraud, corruption or other irregularities

5.1 Any Council officer may report alleged fraud or corruption. Any suspicion of these instances must be reported immediately following the process detailed in the Protected Disclosures Policy.

5.2 In consideration of the specific circumstances, the person reporting the activity/behaviour may remain anonymous.

5.3 The person reporting the activity/behaviour will be informed not to contact the suspected individual in an effort to determine facts or demand restitution; and not to discuss the case, facts, suspicions or allegations with anyone unless specifically asked to do so by the Chief Executive or Investigation Officer.

5.4 All enquiries concerning the activities under investigation from the suspected individual, his or her lawyer or representative, or any other enquirer must be directed to Chief Executive or Investigation Officer.

5.5 If there is any question as to whether an action constitutes fraud or corruption, the Group Manager or Chief Executive should be contacted for guidance.

## **6. Investigation process**

6.1 The investigation process will begin to establish whether the allegations may be founded.

6.2 In undertaking an investigation care must be taken to secure and preserve the integrity of any evidence. Immediate action will be taken to prevent theft, alteration or destruction of relevant digital and physical records. Such actions include, but are not limited to:

- removing the digital and physical records and placing them in a secure location,
- limiting access to the location where the digital and physical records are currently held, and
- preventing the individual suspected of committing the fraud from having access to the digital and physical records. All records must be adequately secured until the audit investigation begins.

6.3 The Protected Disclosures Policy details the full investigation process. A summary of this process is provided in Appendix 1.

## **7. Disciplinary action**

7.1 Where fraud or corruption is proven, disciplinary action shall be taken up to and including dismissal, in accordance with Council's internal disciplinary procedures.

7.2 As per Appendix 1, Council officer misconduct will be dealt with under the internal process utilised by People & Capability; and elected member misconduct will be dealt with under the Elected Members Code of Conduct.

## **8. Confidentiality**

8.1 It is acknowledged that alleged or actual instances of fraud and/or corrupt behaviour can affect the rights and reputation of anyone implicated. Individual identities should be protected wherever possible without detriment to Council.

8.2 All participants in an investigation under this policy shall keep the details and results of the investigation confidential.

# Appendix 1 – Investigation Process

