



Policy Subject/Title: Fraud Management Policy

Policy Number: F011

Responsible Officer: Director Finance

Legislative or Regulatory Reference: *Local Government Act 2009*
Local Government Regulation 2012
Criminal Code Act 1899
Crime and Corruption Act 2001

Related Policies / Procedures: Public Interest Disclosure Policy, Code of Conduct and other policies

Authorised by: Somerset Regional Council

Authorised on: 25 November 2015 [Doc ID 854607]

Review / Amendment dates: 14 September 2016 [Doc ID 908892]

1. OBJECTIVE

To outline Council's approach to managing fraud and corruption.

2. BACKGROUND

In its June 2015 report to parliament "Fraud Management in Local Government", the Queensland Audit Office (QAO) recommended actions by councils and the state government.

The Minister for Local Government wrote to Council on 19 August 2015 requesting Council review this report and consider systems changes as a result.

Council's internal auditor prepared a report on fraud management matters which was delivered in draft form in September 2015.

The state announced relevant changes to legislation on 2 November 2015 in response to the QAO recommendations.

3. PURPOSE

To outline Council's approach to managing fraud and corruption.

4. SCOPE

This policy applies to councillors, local government employees, local government contractors and others in respect of potential acts of fraud and/or corruption as defined involving Somerset Regional Council:

- Fraud – in section 408C of the *Criminal Code Act 1899* or successor legislation
- Corrupt conduct (or corruption) – in section 15 of the Crime and Corruption Act 2001 or successor legislation.

Criminal Code Act 1899

408C Fraud

- (1) A person who dishonestly—
 - (a) applies to his or her own use or to the use of any person—
 - (i) property belonging to another; or
 - (ii) property belonging to the person, or which is in the person's possession, either solely or jointly with another person, subject to a trust, direction or condition or on account of any other person; or
 - (b) obtains property from any person; or
 - (c) induces any person to deliver property to any person; or
 - (d) gains a benefit or advantage, pecuniary or otherwise, for any person; or

- (e) causes a detriment, pecuniary or otherwise, to any person; or
- (f) induces any person to do any act which the person is lawfully entitled to abstain from doing; or
- (g) induces any person to abstain from doing any act which that person is lawfully entitled to do; or
- (h) makes off, knowing that payment on the spot is required or expected for any property lawfully supplied or returned or for any service lawfully provided, without having paid and with intent to avoid payment;

commits the crime of fraud.

Crime and Corruption Act 2001

15 Meaning of *corrupt conduct*

(1) ***Corrupt conduct*** means conduct of a person, regardless of whether the person holds or held an appointment, that—

- (a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—
 - (i) a unit of public administration; or
 - (ii) a person holding an appointment; and
- (b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—
 - (i) is not honest or is not impartial; or
 - (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
 - (iii) 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; and
- (c) is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and
- (d) would, if proved, be—
 - (i) a criminal offence; or
 - (ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

(2) Without limiting subsection (1), conduct that involves any of the following could be corrupt conduct under subsection (1)—

- (a) abuse of public office;
- (b) bribery, including bribery relating to an election;
- (c) extortion;

- (d) obtaining or offering a secret commission;
- (e) fraud;
- (f) stealing;
- (g) forgery;
- (h) perverting the course of justice;
- (i) an offence relating to an electoral donation;
- (j) loss of revenue of the State;
- (k) sedition;
- (l) homicide, serious assault or assault occasioning bodily harm or grievous bodily harm;
- (m) obtaining a financial benefit from procuring prostitution or from unlawful prostitution engaged in by another person;
- (n) illegal drug trafficking;
- (o) illegal gambling.

5. POLICY

Council is committed to:

- reducing or removing the potential for fraudulent or corrupt conduct on the part of its Councillors, employees and suppliers
- detecting fraudulent or corrupt conduct through the systematic processes articulated in its Fraud Control Plan
- investigating all instances of suspected fraudulent or corrupt conduct exposed as a result of our detection processes, or as a result of receiving an allegation of fraudulent or corrupt activities
- managing, disciplining or facilitating the prosecution of those responsible for incidents of fraud and corruption as appropriate
- minimising the risk of fraud and corruption; and
- ensuring the continuing organisational integrity and transparency of its operations.

Council will act on any suspicion of illicit conduct on the part of its staff or any party with whom it conducts business.

Council officers have a responsibility and an obligation to report suspected or known incidents of fraud or corruption.

Council will take action against anyone who takes reprisal action against a Council officer who reports suspected or known incidents, consistent with Council's Public Interest Disclosure Policy and Procedure.

Council has a zero tolerance for fraud and corruption.

When considering Council's response to the risk of fraud/corruption, Council will evaluate the cost and benefit of internal controls.

Director Corporate and Community Services is appointed as Fraud and Corruption Control Officer as part of the existing responsibilities of the Director Corporate and Community Services role.

Internal audit will evaluate this policy incorporating Council's fraud control plan every two years.

6. FRAUD CONTROL PLAN

Council's Fraud Control Plan consists of two elements:

- a) financial management risk register and controls that are maintained as required by the Local Government Regulation 2012
- b) specific elements outlined in this policy below

Criminal history checks

- The appointment of new staff (including promotions) will be subject to completion of a criminal history check. Council will assess the results of criminal history checks against the requirements of the position prior to appointing or promoting a staff member.
- Council will conduct criminal history checks on all staff every five years commencing June 2016. Council will assess the results of criminal history checks against the requirements of each position. (eg positions whose role includes handling cash, financial purchasing delegates, senior management, officers whose role includes issuing licences or providing recommendations about the issuing of licences and finance staff).

Supplier masterfile checks

Before any new supplier is added to the supplier masterfile, a form will be completed approved in writing by two Council officers that identifies:

- Trading and entity name.
- Australian Business Number (ABN).
- GST registration status.
- Estimate of total annual purchases from this supplier and where this exceeds \$50,000 and the supplier is a corporation, confirmation that a company search has been conducted within the past month and is held on file.

- Identification of Directors and owners of supplier where a company search has been conducted.
- Registered Office address where a company search has been conducted.
- Where the owner or director of any supplier is identified as a Council employee or Councillor, the Chief Executive Officer's authorisation will be required on the new supplier form prior to processing.
- For suppliers with an estimated annual total purchase value exceeding \$10,000, confirmation that the supplier is listed in the telephone directory.

Where a supplier is currently listed on the supplier masterfile but has not been paid by Council within the previous 12 months, a new supplier masterfile form will be completed for that supplier in order for the supplier to remain as an active supplier.

Before any amendment to the trading and entity name (other than the correction of a spelling error) or to the ABN is made to the supplier masterfile, a form will be completed approved in writing by two Council officers. Changes of ABN would normally require the addition of a new supplier record rather than the amendment of an existing supplier.

A printed audit log of supplier masterfile changes will be reviewed each month by two finance officers who do not have system access to changing the supplier masterfile. All changes that require the completion of a form will be verified back to that form.

Tender declarations

The following is to be included with request for tender documents:

- A copy of this policy and plan
- Council contact details to report alleged fraud.
- A declaration form to be completed by tenderers to declare the nature of any conflicts of interest between Council and the company (eg relationships with Council staff).

Monitoring of systems

Council will monitor Council-supplied and maintained hardware and software in terms of location, content and use in order to meet the objectives of this policy.

Two Council officers with super user access to the financial system will review audit logs both the PCSADMIN and PCSDBA each month to ensure access to those systems was appropriate.

Staff training

- Training at the time of induction of new employees will include training about Council's fraud control policy and plan.
- Commencing June 2016, fraud awareness training will be provided to all staff every three years including all senior staff

Other human resources matters

- Position descriptions of all senior staff that are reviewed or created after June 2016 are to identify that the positions have responsibility for preventing fraud.
- Commencing June 2016, senior staff are to provide annual declarations that they have complied with Council's Code of Conduct and fraud management policy.
- Council confirms that the requirement in its leave policy requiring regular taking of leave is in part in place to manage the risk of fraud

Investigation processes

- In determining the Chief Executive Officer's obligations to report and/or record alleged or proven fraud, Council will engage qualified independent investigators where appropriate.

7. EFFECTIVE FROM

25 November 2015.

A handwritten signature in black ink, appearing to read 'R Bai'.

Signed:

Date: 14 September 2016