



Fraud Control Policy

Date policy was adopted by Council:	25 March 2009
Resolution number:	101/09
Previous Policy review date:	September 2013
Next Policy review date:	March 2016
Reference number:	C1390431

1. OUTCOMES:

- 1.1 Council has a zero tolerance approach to fraud
- 1.2 Comprehensive fraud prevention systems and strategies are in place supporting existing risk management, audit compliance, control assurance and corruption prevention activities, to address both internal and external fraud risk.
- 1.3 An ongoing awareness exists by staff in all work areas of Council of the need to be vigilant in ensuring Council is protected from fraudulent activity.
- 1.4 Fraud control is a standing item on the agenda of the Queanbeyan City Council Audit Committee.

2. POLICY:

- 2.1 The General Manager will ensure that all Group Managers and Managers show leadership by ensuring that their behaviour at all times reflects the standards that are expected of staff and define the culture of Queanbeyan City Council.
- 2.2 Council's aim is to ensure the culture of the organisation is such that staff respects the organisation and their workmates to such a degree that they resist any urge to commit fraudulent activity.
- 2.3 Council will ensure the identity of the person, or persons, providing information in relation to alleged fraud is kept confidential as well as all information associated with the allegation. The privacy of employees will be protected at all times.
- 2.4 Council will provide the person, or persons providing information in relation to alleged fraud with the opportunity to indicate whether the information provided is a disclosure under the Public Interest Disclosures Act, 1994 in which case Council will inform the employee within six months of the action taken, or proposed to be taken, about the disclosure.
- 2.5 Public Interest disclosures of alleged fraudulent activity will be dealt with in accordance with the Code of Conduct reporting processes contained in this policy as fraudulent activity falls with the definition of 'corrupt conduct' in the Independent Commission Against Corruption Act 1988. However all other provisions of Council's Public Interest Disclosure – Internal Reporting Policy apply.
- 2.6 Customers, Councillors, Council staff, contractors and suppliers will be informed that Council does not tolerate corrupt and fraudulent activity and will be encouraged to provide information if they suspect corruption and fraud is occurring.
- 2.7 Council will not allow perpetrators of fraud to escape the consequences of their actions.
- 2.8 The General Manager and Group Managers will ensure that regular testing of Queanbeyan City Council's fraud control framework is undertaken and that a process is in place to review the fraud control strategy and monitor the implementation of the strategy for all work areas across the Council.
- 2.9 The following 10 attributes of fraud control developed by the NSW Audit Office will be used to identify improvements required to Council's Fraud Control Strategy:
 1. Fraud Control Policy
 2. Responsibility Structure
 3. Risk Assessment
 4. Employee Awareness
 5. Customer and Community Awareness
 6. Notification Systems
 7. Detection Systems
 8. External Notification Systems
 9. Investigation Systems
 10. Conduct and Disciplinary Systems

- 2.10 The Fraud Control Policy will be reviewed every two years, but a special review will be undertaken in the case of any incident of fraud to incorporate any lessons learnt and ensure that frauds do not recur.

3 DEFINITIONS

Fraud can be defined as a deliberate and premeditated turn of events which involves the use of deception to gain advantage from a position of trust and authority. The type of events include: acts of omission, theft, the making of false statements, evasion, manipulation of information and numerous other acts of deception.

Corrupt Conduct under the *Independent Commission Against Corruption Act 1988*

Fraud is regarded as corrupt conduct in terms of Section 8 (2) (e) of the *Independent Commission Against Corruption Act 1988*.

“Corrupt conduct is any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve fraud.”

Definitions in the *Independent Commission Against Corruption Act 1988* indicate:

“public official” means an individual having public official functions or acting in a public official capacity, and includes any of the following:

- (a). an individual who constitutes or is a member of a public authority,
- (b). a person in the service of the Crown or of a public authority,”

“public authority” includes the following:

- (a). a local government authority”

4 LEGISLATIVE OBLIGATIONS AND/OR RELEVANT STANDARDS

General

Council is required to comply with the following legislative and mandatory directives, audit and regulatory requirements and best practice guidelines impacting on local government operations.

- Public Finance and Audit Act 1983
- Division of Local Government circulars in relation to fraud control
- Australian Audit Standard AUS210/ASA240
- NSW Audit Office Fraud Control Guide
- NSW Treasury Risk Management Guide
- Standards Australia AS8000 series
- Independent Commission Against Corruption Act 1988
- NSW Crimes Act 1900
- Public Interest Disclosures Act 1994
- Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW

Relationship to other council documents

This policy is to be read in conjunction with Council's

- Code of Conduct
- Fraud and Corruption Management Plan
- Public Interest Disclosure Act – Internal Reporting Policy
- Reporting Legal Matters Policy
- Purchasing Policy
- Statement of Business Ethics

5 CONTENT:

5.1 Responsibility Structure

- 5.1.1 The General Manager is responsible for implementing fraud control.
- 5.1.2 The General Manager, Group Managers and Council's Audit Committee are responsible for monitoring fraud control.
- 5.1.3 Managers are responsible for monitoring fraud control in their work area.
- 5.1.4 Councillors and staff have a responsibility to report any instances of suspected fraud.

5.2 Risk Assessment

- 5.2.1 A fraud risk management plan identifies risks; actions taken and arrangements made for managing those risks; methods for monitoring the effectiveness of those strategies; and identifying individuals responsible for implementation and monitoring of each aspect of the plans.
- 5.2.2 Risk areas will be assessed on the basis of the potential for fraud or corruption. Examining conduct in a risk area does not mean that everyone who works in, or with, this area is engaging in or under suspicion of corrupt or fraudulent conduct.
- 5.2.3 Fraud risk will be assessed, or reassessed where appropriate, when Council engages in any new program function (e.g. Cultural Centre operation) or major new activity (e.g. grant funded community project) and a complete reassessment will take place in conjunction with the conduct of the Fraud Control Health Check and Misconduct Awareness Workshop process.

5.3 Employee Awareness

- 5.3.1 Council will perform pre-employment police checks as part of its procedures when employing new employees, or where current employees are being engaged in a new position, as part of the process of ensuring they are suitable for employment in the position. The pre-employment checks will also include any other checks considered necessary in relation to the activities the employee will be engaged in.
- 5.3.2 All new staff will be informed of their obligations under Council's Fraud Control Policy, Code of Conduct and Gifts and Benefits Policy as part of the initial induction program.
- 5.3.3 All Council staff will be informed of their obligations under Council's Fraud Control Policy on a two yearly basis.
- 5.3.4 Council will use the Fraud Control Health Check survey developed by the NSW Audit Office for Government agencies and local government to identify specific work areas where implementation of some elements of the organisation's fraud control strategy may need refreshing, or improving, and/or elements of the fraud control strategy that may need attention across the entire organisation.

- 5.3.5 Fraud Control Improvement Workshops structured by the NSW Audit Office, and conducted by Council, will be conducted for work areas identified by the Fraud Control Health Check as needing some attention. Improvement actions suited to specific needs and actual situations occurring in individual work areas will be developed.
- 5.3.6 Council will provide all staff association and unions with a copy of Council's Fraud Control Policy and any amended policy.

5.4 Customer and Community Awareness

Council's Annual Report will include a clear, brief, unambiguous statement about Council's stance on fraud and corruption and indicate any incidents of fraudulent activity in Council that have resulted in a conviction.

5.5 Notification Systems

Fraud Reporting by Council Staff

- 5.5.1 Suspected fraud should be reported to the General Manager, preferably in writing. The General Manager as soon as practicable shall provide the substance of the complaint to the Mayor.
- 5.5.2 If the matter involves the General Manager, it should be reported to the Mayor, preferably in writing, who shall report the matter to Council's Conduct Committee. If the matter involves both the General Manager and Mayor the matter should be reported direct to the *Independent Commission Against Corruption (ICAC)* for referral to the NSW Police.
- 5.5.3 The General Manager, where considered appropriate, will make enquiries, or cause enquiries to be made, into the allegations of suspected fraud regarding members of staff of Council and others engaged by the Council and will determine the matter.
- 5.5.4 The General Manager, where it has been determined not to enquire into a matter, will provide the person making the allegation with the reasons in writing.
- 5.5.5 This clause does not prevent a staff member from referring an allegation of suspected fraud directly to the ICAC or to the NSW Police.

Fraud Reporting by Councillors

- 5.5.6 Councillors should report instances of suspected fraud to the General Manager, preferably in writing, in the first instance and refrain from making allegations at Council meetings.
- 5.5.7 The General Manager will report the matter.
- 5.5.8 If the instance of suspected fraud involves the General Manager it should be reported to the Mayor, preferably in writing.
- 5.5.9 If the instance of suspected fraud involves both the Mayor and General Manager it should be reported by the Councillor direct to the ICAC for referral to the NSW Police.
- 5.5.10 This clause does not prevent a Councillor in any case from referring an allegation of suspected fraud directly to the ICAC or NSW Police.

Fraud Reporting by Customers, Contractors and Suppliers

- 5.5.11 Suspected fraud should be reported to the General Manager, preferably in writing.
- 5.5.12 The General Manager as soon as practicable shall provide the substance of the complaint to the Mayor.
- 5.5.13 If the matter involves the General Manager it should be reported to the Mayor, preferably in writing, who shall report the matter to the Conduct Committee.
- 5.5.14 If the matter involves both the General Manager and Mayor the matter should be reported direct to the ICAC for referral to the NSW Police.
- 5.5.15 The General Manager, where considered appropriate, will make enquiries, or cause enquiries to be made, into the allegations of suspected fraud regarding members of staff of Council and others engaged by the Council and will determine the matter.
- 5.5.16 The General Manager, where it has been determined not to enquire into a matter, will provide the person making the allegation with the reasons in writing.
- 5.5.17 This clause does not prevent a customer, contractor or supplier from referring an allegation of suspected fraud direct to the ICAC or to the NSW Police.

Protected Disclosures

- 5.5.18 If a Councillor, or staff member, nominates to report a suspected incident of fraudulent activity under the Public Interest Disclosure Act 1994 (the Act) Council, or an officer of Council, is prohibited from revealing the identity of a public official who provides information that shows or tends to show corrupt and fraudulent conduct, maladministration or serious and substantial waste, unless the Councillor, or staff member, consents in writing, or fairness requires the Councillor, or staff member's identity to be revealed, or it is in the public interest to disclose the source of the information.
- 5.5.19 The Act prohibits any person from taking detrimental action against a Councillor, or staff member, providing information if it was substantially in reprisal for the Councillor, or staff member, making the disclosure. Any such act is a criminal offence.
- 5.5.20 The Act ensures that the Councillor or staff member disclosing the information:-
- cannot be held liable in any way for making the disclosure of information;
 - has a defence of absolute privilege in respect of the publication to the relevant investigating authority, public authority, public official, member of Parliament or journalist of the disclosure in proceedings for defamation (S21 (3))
 - is not liable to disciplinary action because of the disclosure of information.

Information from anonymous sources

- 5.5.21 Information from anonymous sources will be investigated if the General Manager, or Conduct Committee, considers enough information is available or that the information can be located elsewhere.

Crimes Act

- 5.5.22 In accordance with the provisions of Section 316 of the NSW Crimes Act 1900 it is an offence for any person that knows or believes fraud has been committed and has information that might assist an investigation to fail (without reasonable excuse) to bring it to the attention of Queanbeyan City Council, the police or other appropriate authority. It is not necessary for proof beyond reasonable doubt to be found before this action is taken.

5.6 Detection Systems

- 5.6.1 Council will review all systems with particular emphasis on systems identified by the risk assessment process as having poor controls and high risk of fraudulent activity. Strategies will be developed to determine the most appropriate means of improving controls and reducing risk. Where necessary, funding will be sought from Council.
- 5.6.2 The General Manager will ensure that risk factors associated with Council being a large and dispersed organisations are addressed in strategic decision-making and planning;
- 5.6.3 Group Managers and Managers will ensure appropriate and adequate paper and/or computer based audit trails and data mining capabilities are built into the specifications of any system developed internally, or purchased externally, that will detect fraudulent activity;
- 5.6.4 Group Managers and Managers will regularly analyse data extract reports produced by the finance section with any anomalies identified, and investigated, to ensure data is correct or inappropriate activities are identified and appropriate action is taken.
- 5.6.5 Finance section staff will regularly analyse financial data to verify purchasing and payment processes to reduce the likelihood of fraud and identify inappropriate payments.
- 5.6.6 Where considered necessary by the General Manager and Audit Committee, Council will train relevant staff in fraud prevention and detection.
- 5.6.7 Council's Complaints Handling Policy will contain-clauses that:-
- (a) encourage customers, contractors and suppliers to complain in relation to any instances of suspected corrupt or fraudulent activity by Council, the Mayor, Councillors and Council staff.
 - (b) encourage customers, contractors and suppliers to complain when a transaction has not been properly conducted to ensure such failure was not attributable to fraudulent activity.
- 5.6.8 Council's Purchasing Policy will contain clauses that indicate to contractors and suppliers that Council does not condone fraudulent activity by them and that encourages contractors and suppliers to report any suspected corrupt and fraudulent activity by Council, the Mayor, Councillors and Council staff.

External Notification Systems

- 5.7.1 The General Manager is under a duty to report to the ICAC any matter that the General Manager suspects on reasonable grounds concerns or may concern corrupt conduct, including fraud. This is despite any duty of secrecy or other restriction on disclosure.

5.8 Investigation Systems

General Manager

- 5.8.1 The General Manager is responsible for making enquiries into allegations made by staff members of suspected fraud and must, in accordance with Council's Code of Conduct, either:-
1. determine not to make enquiries into the allegation of suspected fraud and give the reason/s in writing,
 2. make enquiries into the allegation of suspected fraud to determine the particular factual matters, or
 3. engage an independent person to make enquiries into the allegation of suspected fraud to determine the particular factual matters.

- 5.8.2 Inquiries made by the General Manager, or an independent person, will follow the rules of procedural fairness.

The inquirer must:

- (a) inform the person/s against whose interests a decision may be made of any allegations of suspected fraud against them and the substance of any adverse comment in respect of them,
 - (b) provide the person/s with a reasonable opportunity to put their case,
 - (c) provide the person/s with union or association representation if requested.
 - (d) hear all parties to a matter and consider submissions,
 - (e) make reasonable enquiries before making a recommendation,
 - (f) ensure that no person is involved in inquiries in which they have a direct interest,
 - (g) act fairly and without bias, and
 - (h) conduct the inquiries without undue delay.
- 5.8.3 An inquiry will not be undertaken by a staff member without a written delegation from the General Manager outlining the extent of the powers granted to the staff member in terms of the inquiry.
- 5.8.4 Where the General Manager reasonably believes that a criminal offence has been committed ICAC will be notified and the matter reported to the NSW Police. In such a case Council investigators will only investigate sufficiently to form this view leaving further investigation to the police.
- 5.8.5 Investigations will be characterised by objectivity and impartiality and evidence that an investigator needs, will be properly collected, secured and protected.
- 5.8.6 Staff involved in investigations of alleged fraud will be provided with the necessary initial training and follow up training.

General

- 5.8.15 Only the General Manager, or Mayor if the matter involves the General Manager, may determine where no further action on any fraud investigation, including non-referral to the police, is required. The reasons will be formally documented in such cases.
- 5.8.16 If fraud is confirmed, but no perpetrator is identified, all possible steps will be taken to address the situation.

5.9 Conduct and Disciplinary Systems

Council Staff

- 5.9.1 In addition to any criminal prosecution, disciplinary action will be taken by Council, where practicable, in accordance with the Local Government (State) Award and relevant legislation.
- 5.9.2 Sanctions for staff will depend on the severity, scale and importance of the breach and will be in accordance with any staff agreements, awards, industrial agreements and contracts. Sanctions may include counselling the staff member, instituting disciplinary proceedings or dismissal.
- 5.9.3 If the fact finding inquiry reveals the nature of the information relates to differences between employees they will be offered recourse to the provisions of the Local Government (State) Award and Council's Grievance and Dispute Handling Procedure.

Councillors

- 5.9.4 Where the Council finds that a Councillor has breached the Code of Conduct, in terms of fraudulent activity, it may declare by resolution to:
- censure the Councillor for misbehaviour in accordance with section 440G of the Local Government Act 1994,
 - require the Councillor to apologise to any person adversely affected by the breach,
 - counsel the Councillor,
 - make public findings of inappropriate conduct,
 - refer the matter to an appropriate investigative body if the matter is serious (for example, the Department of Local Government, the ICAC, the NSW Ombudsman or the NSW Police), and
 - prosecute for any breach of law.
- 5.9.5 Council cannot request suspension on this ground unless the Councillor has been:
- Formally censured for the incident of misbehaviour concerned, or
 - Expelled from a meeting of the Council or a committee of the Council for the incident of misbehaviour concerned.
- 5.9.6 Under section 440H of the Local Government Act 1993, the process for the suspension of a Councillor can also be initiated by the Department of Local Government, the ICAC or the NSW Ombudsman.

PERFORMANCE INDICATOR

- Fraudulent activity detected in a timely manner
- Alleged fraudulent activity reported

POLICY:-	
Policy No:	
Policy Title:	Fraud Control Policy
Date Policy was adopted by Council:	25 March 2009
Resolution Number:	101/09
Previous Policy Review Date:	September 2013
Next Policy Review Date:	March - 2016
PROCEDURES/GUIDELINES:-	
Date Procedure/Guideline (if any) was developed:	Nil
RECORDS:-	
Container Reference in TRIM: Policy	SF080616
Container Reference in TRIM: Procedure	Nil
Other locations of Policy:	Intranet (linked to TRIM Container)
Other locations of Procedures/Guidelines:	Nil
DELEGATION (if any):-	Nil
RESPONSIBILITY:-	
Draft Policy developed by:	General Manager
Committees (if any) consulted in the development of the Draft Policy:	Nil
Responsibility for Implementation:	General Manager
Responsibility for Review of Policy:	General Manager

INTEGRATED PLANNING FRAMEWORK:	
Community Strategic Plan:	Strategic Priority No.
Delivery Program Title:	
Operational Plan:	Program No.

Senior Authorising Officer	Position General Manager	Signature/Date  25 March 2009
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ACTION	COUNCIL MEETING DATE	RESOLUTION NUMBER	REPORT ITEM NUMBER
New	28 February 2007	98/07	Item 21
Reconfirmed	25 March 2009	101/09	Item 16/15
Amended	27 November 2013	254/13	Item 5.11

DATE REVIEWED	REVIEWER POSITION	REVIEWER NAME
19 November 2013	Internal Auditor	Marg Nicholls