

Fraud and Corruption Control Policy

Policy Type	Governance Policy	Version:	4.0
Responsible Officer	Manager Development & Governance	Date Approved:	19/07/2023
Review Officer:	Manager Development & Governance	Review Due:	19/06/2025
Author:	Manager Development & Governance	Commencement:	19/07/2023

1. PURPOSE

To set out the organisational requirements to prevent fraud and corruption at Mareeba Shire Council (Council). This policy should be read in conjunction with Council's *Fraud and Corruption Control Plan*.

2. SCOPE

This policy applies to all Councillors and employees of Council, contractors and volunteers.

3. POLICY STATEMENT

Council's Corporate Plan 2021 – 2025 affirms the importance of accountable governance and ethical conduct in its mission and values. These values are also reflected in Council's *Employee Code of Conduct (CoC)* and *Code of Conduct for Councillors*, but more importantly, are practiced on a daily basis in all aspects of operations.

Council is committed to acting in the best interest of the community and upholding the principles of honesty, integrity and transparency. Councillors, the CEO and Senior Management are expected to have a zero-tolerance stance on fraud and corruption and are expected to conduct themselves in accordance with the principles of ethical conduct.

3.1 KEY FACTORS INFLUENCING FRAUD AND CORRUPTION RISK

The Fraud triangle is a framework designed to explain the reasoning behind a decision of a person or persons to commit workplace fraud. The three stages, categorised by the effect on the individual, can be summarised as motivation, opportunity and rationalisation. Broken down, they are:

- **Motivation:** The person is somehow motivated to commit a fraud. Economic factors such as personal financial distress, substance abuse, gambling, overspending, or other similar addictive behaviors may provide motivation.
- **Opportunity:** The employee has sufficient access to assets and information that allows him or her to believe the fraud can be committed and also successfully concealed.
- **Rationalisation:** The employee finds a way to rationalise the fraud, convincing themselves that their actions are really justified. Such rationalisations can include perceived injustices in compensation or promotions, the idea that they are simply "borrowing" from the organisation and fully intend to return the assets at a future date, or a belief that the company doesn't really "need" the assets and won't even realise they are missing.

3.2 FRAUD AND CORRUPTION FRAMEWORK

Fraud and corruption prevention at Council forms part of the organisation's broader governance framework and is interrelated with the policies, procedures, and supporting documents identified in section 6.2 of this policy.

Fraud risk assessments are aligned to Council's *Enterprise Risk Management Framework* and will be utilised to identify extreme and significant fraud and corruption risk areas. The organisation will utilise these assessments to improve any identified internal control weaknesses.

3.3 ROLES AND RESPONSIBILITIES

3.3.1 *The Chief Executive Officer and Directors*

The CEO and Directors will lead by example in a manner consistent with the values and principles detailed in the CoC. The CEO is required to notify the Crime and Corruption Commission (CCC) if they reasonably suspect corrupt conduct as defined under the *Crime and Corruption Act 2001* (Qld) has occurred.

The Directors will assume responsibility for fraud and corruption prevention to ensure that Council's *Fraud and Corruption Control Policy* and associated plan are implemented effectively across all work areas. Consideration of fraud and corruption issues will form part of both annual and longer term operational and business planning processes.

3.3.2 *Management*

All managers and supervisors must recognise that fraud and corruption may occur in their area of responsibility. Managers are to critically examine their areas of responsibility and business processes to identify and evaluate potential fraud and corruption risk situations. They are to develop and maintain fraud and corruption resistant work practices and report appropriately and identified incidents of fraud or corruption.

3.3.3 *Employees*

All Council Officers are responsible for the following:

- Acting appropriately when using official resources and handling and using public funds, whether they are involved with cash or payment systems, receipts or dealing with suppliers;
- Being alert to the possibility that unusual events or transactions could be indicators of fraud or corruption;
- Reporting details immediately if they suspect that a fraudulent or corrupt act has been committed; and
- Co-operating fully with whoever is conducting internal checks, reviews or investigations into possible acts of fraud or corruption.

All Council officers who have any knowledge of fraudulent or corrupt activities/behaviour within Council have an obligation to report such matters to a manager/supervisor or the Chief Executive Officer.

3.3.4 Audit Committee

Fraud-related matters will be reported to Council's Audit Committee via the CEO to ensure that a realistic view of Council's exposure to fraud and the maturity of its systems to prevent, detect and respond to fraud are understood. Duties of the Audit Committee include, but are not limited to:

- reviewing whether management has in place a current and comprehensive *Enterprise Risk Management Framework* and associated procedures designed to ensure that the identification and management of the organisation's business and financial risks, including fraud, are effective;
- reviewing the organisation's fraud control arrangements and satisfying itself that the organisation has appropriate processes or systems in place to capture and effectively investigate fraud-related information;
- reviewing reports that outline any identified allegations of fraud, the status of any ongoing investigations and any changes to identified fraud risk in the organisation; and
- providing comment on recommendations for change to the internal control structure as a result of liaising with both the internal and external auditors.

3.3.1 Internal Audit

The Internal Audit program supports Council's efforts to establish an organisational culture that embraces ethics, honesty, and integrity. Internal Audit assists Council with the evaluation of internal controls used to detect or mitigate fraud and evaluates the organisation's assessment of fraud risk.

Although the Internal Audit considers fraud and corruption within its audit plans and during audits, it is important to note that the responsibility for prevention of irregularities rests with Council and management through the implementation and continued operation of an adequate internal control system. Internal Auditors are responsible for examining and evaluating the adequacy and the effectiveness of actions taken by management to fulfil this obligation.

3.3.1 Development and Governance

The Development and Governance Section is responsible for the coordination of Council's fraud and corruption framework. Duties include but are not limited to:

- Governance oversight
 - Monitoring the implementation and application of the *Fraud and Corruption Control Policy* and associated plan.
 - Monitoring the framework of rules and practices used by the organisation to ensure accountability and transparency in its operations.
 - Recording of incidents of fraud and corruption on Council's internal Fraud and Corruption Register.
- Risk management
 - overseeing the development and implementation of a systematic and coordinated risk management framework
 - developing a register of risk factors, risk management plan and controls
 - assessing whether the organisation maintains effective risk management practices across all its activities

- ensuring that continuity plans are in place and appropriate, and that the plans are tested and that the tests are meaningful
 - monitoring the risk environment, and assessing the impact of any changes on the organisation's risk profile
 - integrating fraud and corruption matters with the organisation's overall risk profile
 - reporting to senior management on risk-related issues
 - assessing whether the organisation is successfully embedding an ethical culture.
- Fraud and corruption control coordination
 - developing the fraud and corruption control policy and plan and related procedures
 - taking ownership of and administering the fraud and corruption control policy
 - ensuring that policy changes and procedural recommendations arising from periodic reviews are appropriately prioritised and implemented
 - monitoring the performance of staff responsible for implementing the fraud control plan.

The duties of the Manager Development and Governance do not diminish the responsibility of the CEO in the proper execution of the above activities.

3.4 RISK MANAGEMENT SYSTEM

Fraud risk assessments from Council's Fraud and Corruption Register are aligned to Council's *Enterprise Risk Management Framework* and will be utilised to identify extreme and significant fraud and corruption risks. Profiling work undertaken by the CCC has provided an insight into operational areas and functions perceived to have high levels of fraud and corruption risk, including:

- financial functions – such as the receipt of cash, revenue collection and payment systems, salaries and allowances, entertainment expenses
- construction, development and planning functions – ranging from land rezoning or development applications to construction and building activities
- regulatory functions – involving the inspection, regulation or monitoring of facilities; and operational practices, including the issue of fines or other sanctions
- licensing functions – such as the issue of qualifications or licences to indicate proficiency or enable the performance of certain activities
- demand-driven or allocation-based functions – where demand often exceeds supply, including the allocation of services or grants of public funds, or the provision of subsidies, financial assistance, concessions or other relief
- procurement and purchasing functions – including e-commerce activities, tendering, contract management and administration, and the practices of external agents/contractors/consultants and providers of goods/services
- other functions involving the exercise of discretion, or where there are regular dealings between public sector and private sector personnel (especially operations that are remotely based or have minimal supervision).

3.5 CONTROL STRATEGIES

Ensuring that appropriate fraud control measures are in place to prevent, detect, investigate and respond to fraud is a critical function of governance. Effective fraud control strategies should be instigated by the Executive Management Team and embedded in governance/risk programs and appropriately resourced and managed, as this will assist Council in managing fraud risk to an acceptable level. Council's *Fraud and Corruption Control Plan* contains specific details of the organisation's anti-fraud and anti-corruption strategies.

3.6 REPORTING PROCESS

The reporting of suspected misconduct and maladministration is fundamental to the integrity of Council's *Fraud and Corruption Control Policy*. The *Financial Accountability Act 2009* (Qld) establishes that the accountable officer or statutory body is responsible for establishing, maintaining and reviewing financial internal controls.¹ Council's Manager Finance is responsible for many internal controls and reports that identify and communicate attempts to defraud Council.

Local governments are required to have in place a system for managing employee complaints. Employees should refer to Council's *Staff Grievance Policy* and associated procedure. Council encourages employees to take appropriate action and that they should feel secure in the knowledge that supporting arrangements will protect individuals and preserve the confidentiality as far as possible. Therefore, all employee complaints should initially be treated as Public Interest Disclosures.

External report of suspected fraud or corruption should be referred through Council's *Administrative Action Complaint Management Policy*. Additionally, refer to Section 4 of this policy - External Organisational Reporting, for escalation of complaints.

3.7 PROTECTION AND SUPPORT FOR DISCLOSURES

3.7.1 *Work Health and Safety Act 2011*

Organisations have a responsibility to ensure the health and safety of their staff. Failing to take this responsibility seriously is a breach of the *Work Health and Safety Act 2011* (Qld).

3.7.2 *Crime and Corruption Act 2001*

Many reports of fraud or corruption will be classified as reports of corrupt conduct as defined in the *Crime and Corruption Act 2001* (Qld) (CC Act). The CC Act includes provisions to protect those who make reports of corrupt conduct.

3.7.3 *Public Interest Disclosure Act 2010*

Some reports about fraud and corruption will be classified as a public interest disclosure (a PID). A PID is a disclosure of information as a result of a genuine concern about the possible serious wrongdoing of public officers, or of others who may be acting in a way that is not in the public interest. Please refer to Council's *Public Interest Disclosure Policy*.

3.8 INVESTIGATION MANAGEMENT PROCESS

Once suspected fraud or corruption has been identified or reported, a number of processes must follow; please refer to Council's *Fraud and Corruption Control Plan* and *Investigation Policy*. The appropriate processes will depend on the nature and seriousness of the alleged conduct. Minor complaints are best dealt with by prompt managerial action. When dealing with serious matters where the conduct would, if proved, be a criminal offence, or provide reasonable grounds for dismissal, a full investigative response is required.

¹ See *Financial Accountability Act 2009* (Qld) s 61 and s 77.

3.9 CODE OF CONDUCT

Fraud and corruption are a departure from the expected standards of behaviour for Councillors and Employees. Council's CoC defines the expectations and standards of behaviour that are consistent with Council ethical conduct values and associated principles. No less importantly, the CoC provides benchmarks that clearly state the types of behaviours the organisation considers unacceptable.

3.10 ORGANISATIONAL CULTURE CHANGE (STAFF TRAINING)

Mareeba Shire Council is committed to maintaining an ethical culture within the organisation. To foster an ethical culture free from fraud and corruption, Council will take a "job life-cycle" approach to communicating the issue of fraud and corruption. This includes engagement during:

- Recruitment and selection processes – ensure job advertisements, key selection criteria and promotional materials articulate essential information about the values and ethical standards of the organisation to prospective employees.
- Induction – make certain that new officers understand their obligations by providing suitably structured induction programs. Induction training is an opportunity to provide all new employees with first-hand notice of Council's position on fraud and corruption.
- Ongoing employment – as a minimum, ensure that all employees are given access to appropriate education and training about ethics and specifically fraud and corruption risk or issues.

4. EXTERNAL ORGANISATIONAL REPORTING

4.1 REPORTING SUSPECTED FRAUD, CORRUPTION AND OTHER CORRUPT CONDUCT COMMITTED BY EMPLOYEES

All cases of corrupt conduct (which includes fraud and corruption) should be brought to the notice of the CEO. The CEO has a statutory obligation to report any suspicion of corrupt conduct to the CCC. Any attempt to unduly influence a government decision through the offer of bribes, individual rewards or incentives is an offence and must be reported to the CEO who will decide on any appropriate further reporting.

4.2 REPORTING LOSS OF THE ORGANISATION'S MONEY OR PROPERTY

There are specific obligations placed on the CEO to report losses of money or property. The *Local Government Regulation 2012* (Qld) (LGR) outlines and categorises these obligations as follows:

Relevant legislation	LGR section 307A
A "material loss" is:	Cash or equivalent over \$500 Assets valued at over \$1,000
All losses that result from a criminal offence or suspected corrupt conduct	<ul style="list-style-type: none"> • Must be recorded
All material losses	<ul style="list-style-type: none"> • Must be recorded • Must be reported to: <ul style="list-style-type: none"> – the appropriate Minister – the Auditor-General
Material losses that result from criminal offences	<ul style="list-style-type: none"> • Must be recorded • Must be reported to: <ul style="list-style-type: none"> – the appropriate Minister

	<ul style="list-style-type: none"> - the Auditor-General - QPS
Material losses that result from suspected corrupt conduct by employees or contractors	<ul style="list-style-type: none"> • Must be recorded • Must be reported to: <ul style="list-style-type: none"> - the appropriate Minister - the Auditor-General - CCC

5. DEFINITIONS

To assist in interpretation, the following definitions shall apply:

CEO – means Council’s Chief Executive Officer.

Corruption has the same meaning as 'corrupt conduct' and means conduct of a person or persons, regardless of whether a 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.
- c) 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

Corrupt conduct – means conduct of a person, regardless of whether the person holds or held an appointment, that—

- a) impairs, or could impair, public confidence in public administration; and
- b) involves, or could involve, any of the following—
 - i. collusive tendering;
 - ii. fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described) —
 - A. protecting health or safety of persons;
 - B. protecting the environment;
 - C. protecting or managing the use of the State's natural, cultural, mining or energy resources;
 - iii. dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;
 - iv. evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;
 - v. fraudulently obtaining or retaining an appointment; and

² See *Crime and Corruption Act 2001* (Qld) s 15(1).

- c) would, if proved, be—
i. a criminal offence; or

a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.³

Corrupt conduct may include, but is not limited to:

- 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.

Council – means the Mareeba Shire Council

Council Officer – means an employee of Council

Employees – means all persons employed by Council on a permanent, temporary or casual basis and includes persons engaged under a contract of service, and volunteers.

Director – means the Corporate & Community Services Director and the Infrastructure Services Director

Fraud shall mean a deliberate deception to facilitate or conceal the misappropriation of assets or the taking of an unlawful advantage or benefit.

Fraud may include, but is not limited to:

- Theft;
- Obtaining property, a financial advantage or any 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 some personal gain or advantage for themselves or for another person or entity;
- Using forged or falsified documentation for an improper purpose;
- Deliberate misstatement of accounting information for an improper purpose.

6. RELATED DOCUMENTS AND REFERENCES

The following legislation and policies are relevant to the management of fraud and corruption within Mareeba Shire Council:

³ Ibid s 15(2).

6.1 RELEVANT LEGISLATION

Crime and Corruption Act 2001 (Qld)
Criminal Code Act 1899 (Qld)
Financial Accountability Act 2009 (Qld)
Integrity Act 2009 (Qld)
Local Government Act 2009 (Qld)
Local Government Regulation 2012 (Qld)
Public Interest Disclosure Act 2010 (Qld)
Public Sector Ethics Act 1994 (Qld)
Public Sector Act 2022 (Qld)
Right to Information Act 2009 (Qld)

6.2 RELEVANT SUPPORTING DOCUMENTS

Administrative Action Complaint Management Policy (MSC);
Audit Committee Charter (MSC);
Code of Conduct for Councillors (MSC);
Employee Code of Conduct (MSC);
Employee Conflict of Interest Policy (MSC) and associated Procedure;
Enterprise Risk Management Framework (MSC) and associated Policy and associated Process;
Fraud and Corruption Control Plan (MSC);
Gifts and Benefits Policy (MSC) and associated Guideline;
Internal Audit Policy (MSC);
Investigation Policy (MSC);
Staff Grievance Policy (MSC) and associated Procedure
Public Interest Disclosure Policy (MSC).

7. REVIEW

It is the responsibility of the Manager Development and Governance to monitor the adequacy of this policy and implement and approve appropriate changes. This policy will be formally reviewed every two (2) years or as required by Council.