

1. Purpose

This Procedure documents Council's approach to handling allegations of fraud, corruption, conflicts of interest, maladministration and/or public interest disclosures.

2. Scope

This Procedure applies to all employees and external parties (including contractors and volunteers), representatives and agents of Hinchinbrook Shire Council ("Council") who undertake work on behalf of Council.

3. Responsibility

Council's employees, contractors, volunteers and representative agents are responsible:

- to act in accordance with the Code of Conduct. Council's Code of Conduct, which applies to all employees of Council, is a reflection of Council's commitment to create an environment in which ethical conduct is expected, encouraged, supported and achieved;
- for the proper management of Council's resources;
- for the proper use of Council information;
- for making proper decisions; and
- for conducting themselves with the highest standards of honesty, fairness and propriety.

The CEO, with assistance from the Executive Manager of Corporate Services, is responsible for:

- establishing procedures to investigate allegations of fraud and corruption appropriate to the circumstances and in accordance with relevant legislation;
- for advising Council's Audit Committee and, where appropriate, the Crime and Corruption Commission and Queensland Audit Office, of reported fraud and corruption at appropriate times and in accordance with Council policy.

(Note: The CEO is responsible for notifying the Crime and Corruption Commission of any complaint or suspicion of a complaint involving official misconduct in accordance with section 38 of the *Crime and Corruption Act 2001*.)

4. Definitions

CEO shall mean Chief Executive Officer of Council.

Conflict of Interest shall mean an interest, pecuniary or otherwise, that may unduly influence decisions, conflict with proper performance of duties, or is incompatible with impartial fulfillment of public or professional duties.

Corruption has the same meaning as 'corrupt conduct' under the *Crime and Corruption Act*. Generally, this shall mean a dishonest activity in which a Council Employee, Councillor, Volunteer or Contractor acts contrary to the interest of Council and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or organisation. Some examples of corruption are (but not limited to):

- Abuse of public office;
- Bribery, including bribery relating to an election;
- Extortion;
- Obtaining or offering a secret commission;
- Fraud;
- Stealing;
- Forgery;
- Perverting the course of justice;

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- An offence relating to an electoral donation;

Council shall mean Hinchinbrook Shire Council.

Fraud shall mean a deliberate deception to facilitate or conceal the misappropriation of assets or the taking of an unlawful or unwarranted advantage or benefit. Some examples of fraud are (but not limited to):

- Theft;
- Misuse of Council's revenue;
- Unauthorised use of Council Assets (including plant and equipment and inventory);
- Obtaining property, a financial advantage or any other benefit by deception;
- Causing a loss, avoiding or obtaining a benefit by deception;
- Knowingly providing false information to Council, or failing to provide information where there is an obligation to do so;
- Acting contrary to the interests of Council in order to gain some personal gain or advantage for themselves or for another person/entity;
- Knowingly using forged or falsified documentation for an improper purpose;
- Deliberate misstatement of accounting information for an improper purpose.

Maladministration shall mean negligent behavior, which may extend to conduct of a serious nature that is:

- Contrary to law;
- Unreasonable, unjust, oppressive or improperly discriminatory;
- Based upon improper motives;
- A result of acting outside the parameters of recommended or reasonable practice.

Official Misconduct is defined in the *Crime and Corruption Act 2001*. It can generally be described as conduct by a public official that involves:

- Carrying out the duties or exercising the powers of the public official in a manner that is dishonest or lacks impartiality; or
- A breach of trust placed in the person by reason of their official position; or
- A breach of confidentiality.

This could amount to a criminal offence or a disciplinary breach that provides reasonable grounds for terminating the person's employment. Any suspicion that an employee has been involved in fraud or corruption will need to be reported to the Crime and Corruption Commission (or its equivalent).

Public Interest Disclosure (PID) is defined in the *Public Interest Disclosure Act 2010*. It can generally be described as a protected disclosure made by anyone who believes a public authority, public officer or public sector contractor is acting or may be going to act improperly in their capacity as a public body and public official. Essentially, to lodge a PID is to report suspected fraud or corruption.

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5. Procedure

Council's Code of Conduct will clearly state the need for employees and representatives to behave honestly and ethically and not partake in any fraudulent or corrupt activities.

Council will establish a system of internal controls to manage potential fraud risks. Effective internal controls will continue to be developed and maintained.

Anyone who suspects a fraudulent or corrupt act has a duty to help prevent the ongoing occurrence of the act by reporting it. This reporting is referred to as a Public Interest Disclosure ("PID").

Employees wishing to lodge a PID are encouraged to do so internally to their immediate supervisor/manager in the first instance. However, where sufficient reason exists, disclosure should be made to the CEO or other appropriate person (e.g. Internal Auditor or other Supervisor/Manager).

A PID can be made in various ways, including:

- in person to an appropriate person;
- in writing (by letter, email or memo) to an appropriate person;
- by telephone to an appropriate person;
- Internal Audit on (07) 4044 5100.

On receiving a report of suspected fraud or corruption, the Supervisor/Manager must record details of the PID. Such details will include:

- date and time of disclosure;
- date and time incident was detected;
- how the incident came to the attention of the Supervisor/Manager (e.g. anonymous, discloser's name);
- nature of the incident (e.g.: unauthorised use of private fuel);
- value of loss to Council (if any);
- that action that has been taken/will be taken following disclosure of the report.

The Supervisor/Manager is also under an obligation to consider the likelihood of the discloser suffering some form of reprisal as a result. The Supervisor/Manager needs to assess the actual and reasonably perceived risk of victimisation or unlawful discrimination. This process of risk assessment must include input from the discloser. After assessing the risk, the supervisor/manager is to advise the CEO and, after confirming the outcome with the CEO, inform the discloser of the outcome. It may be that following initial inquiries, Council decides not to take the matter any further, to refer it to another area of Council for investigation or to an external entity such as the Crime & Corruption Commission (CCC) or some other course of action. Consistent with the level of assessed risk, Council will put in place arrangements to protect the discloser and, where practicable, their anonymity.

PIDs that relate to the CEO are to be referred to the Executive Manager of Corporate Services.

Whilst it is encouraged that disclosures initially be made internally, employees may choose to report a disclosure to an external party in the first instance. The *Public Interest Disclosure Act 2010* requires that a PID must be made to 'an appropriate entity'. That is, entities which have responsibility or power to take appropriate action about the information disclosed. These entities are responsible to ensure that unfair damage is not caused to the reputations of persons about whom disclosures are made by inappropriate publication of unsubstantiated disclosures.

Appropriate entities include:

- Crime & Corruption Commission (CCC);
- Local Government Ombudsman;
- Queensland Audit Office (QAO);
- Queensland Police.

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Disclosure may also be made to an external party if the employee is not satisfied with Council's response to the disclosure.

If disclosure is made to an external entity, it is very likely that the external entity will bring the disclosure to Council's attention for discussion/investigation. Council will endeavor to make every effort to assist and cooperate with any entity dealing with a disclosure about Council and will work towards a satisfactory outcome.

Council encourages disclosers to provide their name, although Council will act on all anonymous PIDs. If a PID is made anonymously, the discloser:

- will need to provide sufficient information regarding the matter to be investigated as it will not be possible for the investigating party to refer back to the discloser for clarification or for more information nor will it be possible to keep the discloser informed as to the progress in handling the disclosure; and
- may experience difficulties in relying upon the protections afforded by the *Public Interest Disclosure Act 2010* (where applicable);
- may experience difficulties where the PID has been made to a person or an organisation that cannot investigate and deal with the matter appropriately.

The *Public Interest Disclosure Act 2010* provides particular protections in relation to PIDs. The Act and/or the Fraud and Corruption Prevention Policy do not cover PIDs that are deemed:

- intentionally false or misleading;
- frivolous or vexatious;
- substantially aimed at interfering with the implementation of lawful Council or local government policy; or
- made in attempt to avoid disciplinary action.

Where an allegation of fraud and/or corruption or other wrongdoing is proved to have been made maliciously, then the person making the allegation may be subject to disciplinary action.

In all cases, confidentiality and natural justice will be maintained.

6. Legal Parameters

Code of Conduct;
Public Sector Ethics Act 1994;
Crime & Corruption Act 2001;
Local Government Act 2009;
Public Interest Disclosure Act 2010;
Enterprise Risk Management Framework; and
Australia Standard AS 8001- 2008 Fraud & Corruption Control.

7. Associated Documents

Fraud and Corruption Policy
Public Interest Disclosure Policy
Code of Conduct

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Appendix: Information Relevant to Detecting Fraudulent and/or Corrupt Behaviour

Employees who are prepared to speak up about fraud, corruption, official misconduct, maladministration or other wrongdoings are one of the most important sources of information for Council with regards to the management of fraud and corruption.

It is important that Council's Employees, Contractors, Volunteers and Representative Agents are aware of what satisfies the definition of a fraud or corrupt act – refer the Definitions section of this Policy. Common examples include:

Mis-use of Assets

- Repeated and/or unexplained loss of assets (especially 'portable and attractive' assets);
- Unauthorised disposal of assets;
- Use of Council assets for private purposes.

Human Resources

- Conducting private matters whilst being paid to conduct official duties;
- Claiming overtime, allowances etc. that have not been worked/are not due;
- Working, and claiming, unwarranted overtime;
- Falsifying timesheets;
- Fraudulent workers compensation claims.

Information Technology and Telecommunications

- Inappropriate use of internet, telephone, photocopier and/or computer resources or similar;
- Access to confidential information;
- Using other people's log on/passwords;

Procurement

- Non compliance with Procurement Policy, Procedures, Delegations and correct Approval processes;
- Undisclosed personal/pecuniary interests of staff involved in a procurement or contract process;
- Collusive practices between suppliers and procurement/purchasing officers;
- Unauthorised Use of Corporate Credit Cards;
- Charging inappropriate and/or excessive travel and/or entertainment costs.

Certain behavioral signs could help detect if someone is acting in a fraudulent/corrupt manner. Common examples of these signs include:

- Unexplained wealth;
- Individual being a 'risk taker', 'rule breaker' and/or 'anti establishment';
- Individual being scornful of system controls;
- Individual being resistant to promotion and/or taking leave;
- Sudden change of lifestyle; or
- Having a supplier/contractor who insists on dealing with just one employee.

Pre-employment screening may be used to help reduce the likelihood of fraud. As part of Council's pre-employment screening process, criminal history checks may be requested.

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