

# POLICY

<b>Policy Name</b>	Fraud, Corruption, Misconduct and Maladministration Prevention Policy
<b>Policy Category</b>	Governance
<b>Department / Officer</b>	Office of Chief Executive Officer/Chief Executive Officer
<b>Date Adopted</b>	29 June 2009
<b>Date/s Reviewed</b>	26 September 2011; 28 October 2013; 19 December 2016, 27 August 2018; 25 May 2020, 26 June 2023
<b>Review Frequency</b>	Every Three Years
<b>Strategic Plan Reference</b>	Aspiration 6 – We are a financially sustainable and well-governed organisation.
<b>Attachments</b>	Attachment A - Responsibilities and accountability for Fraud, Corruption, Misconduct and Maladministration preventions actions

## 1. Purpose

The purpose of this Policy is to outline the City of Victor Harbor's approach to:

- Properly fulfil its responsibilities under the *Independent Commission Against Corruption Act 2012*
- Take appropriate steps towards compliance with relevant legislation, policies and instruments.
- Provide a clear statement to all employees through practices, policies, and procedures that fraudulent conduct, misconduct and/or maladministration is not acceptable and will not be tolerated.
- Protect Council assets, interests and reputation from the risks associated with fraudulent conduct, misconduct and/or maladministration.
- Foster an ethical environment and culture which is conscious of, actively discourages, does not tolerate, and appropriately deals with Fraud, Corruption, Misconduct and Maladministration.
- Identify the relevant responsibilities of Council Members, Employees, the Chief Executive Officer, Senior Management Team and the Audit and Risk Committee.
- Educate employees and Council Members about their obligations to report conduct reasonably suspected of being Fraud, Corruption, Misconduct and/or Maladministration.
- Evaluates practices, policies, and procedures it has in place to further advance Council systems for preventing or minimising Fraud, Corruption, Misconduct and Maladministration.

- Develop a consistent approach to the management of relevant conduct across the organisation through the establishment and maintenance of effective systems and internal controls to guard against Fraud, Corruption, Misconduct and Maladministration.

## 2. Scope

This Policy applies to all Council Members, employees, contractors, consultants of Council. It is intended to complement and be implemented in conjunction with other Council policies, including:

- Code of Conduct for Council Employees.
- Behavioural Standards for Council Members.
- Council Members Allowance and Benefits Policy
- Employee Code of Conduct Policy
- Public Interest Disclosure Policy
- Public Interest Disclosure Procedure.
- Risk Management and Internal Control Policy and Procedures.

## 3. Policy Statement (Summary)

The City of Victor Harbor is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity, and transparency, which are all key components of good governance.

## 4. Legislation and Compliance

There is no requirement for Council to have a policy relating to this area, however, it is considered best practice and consistent with principles of good governance and relates to the following legislation:

- Independent Commissioner Against Corruption Act 2012
- Freedom of Information Act 1991
- Local Government Act 1999 (Section 125 Internal Controls)
- Public Interest Disclosure Act 2018
- Summary of Offences Act 1953

## 5. Definitions

Words and phrases defined by the *ICAC Act 2012* and the *PID Act 2018* have the same meaning when used in this Policy. The definitions that are commonly used have been reproduced/defined further below:

**Commissioner** means the person holding or acting in the office of the Independent Commissioner Against Corruption.

**Corruption in public administration** is defined in section 5(1) of the *ICAC Act 2012*.

**Council** means the City of Victor Harbor

**Guidelines** means the Guidelines published by the Commissioner pursuant to Section 14 of the *PID Act 2018*, which are available on the Commissioner's website [www.icac.sa.gov.au](http://www.icac.sa.gov.au) .

**Employee** refers to all Council's Employees and includes trainees, work experience students and contractors whether they are working in a full-time, part-time, or casual capacity.

**False Disclosure** means a disclosure of information relating to Fraud or Corruption, Maladministration or Misconduct that is made by a person who knows the information to be false.

**Fraud** is an intentional dishonest act or omission done with the purpose of deceiving.

**ICAC Act 2012** means the *Independent Commissioner Against Corruption Act 2012*.

**Maladministration in Public Administration** is defined at Section 4 of the *Ombudsman Act*.

**Misconduct in Public Administration** is defined in Section 4 of the *Ombudsman Act*.

**Office for Public Integrity (OPI)** means the office established under the *ICAC Act 2012* that has the function to:

- a) receive and assess complaints about public administration from members of the public.
- b) receive and assess reports about corruption, misconduct, and maladministration in public administration from inquiry agencies, public authorities and public officers.
- c) to refer complaints and reports to inquiry agencies, public authorities and public officers or to determine to take no action in accordance with Section 17 of the *ICAC Act*.

**Ombudsman** means the person holding or acting in the office of the Ombudsman under the *Ombudsman Act* who has functions including to receive, assess and investigate with complaints made or referred to the Ombudsman about public administration, and to receive, assess and investigate reports about misconduct and maladministration in public administration made or referred to the Ombudsman.

**Ombudsman Act** means the *Ombudsman Act 1972*

**PDI Act** means the *Public Interest Disclosure Act 2018*

**Public administration** without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out during public administration.

**Public Officer** is defined under section 4 and Schedule 1 of the *ICAC Act 2012* and includes:

- a Council Member; and
- an Employee or Officer of the Council;

**Publish** - is defined in section 4 of the *ICAC Act 2012*

**Relevant Authority** means the person or entity that receives an appropriate disclosure of public interest information in accordance with the *PID Act 2018*.

**Responsible Officer** is a person who has completed any training courses required and approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* and has been designated by the Chief Executive Officer as a Responsible Officer, under section 12 of the *PID Act 2018*. A Responsible Officer is also a Relevant Authority for the purposes of the *PID Act 2018*.

**Serious or Systemic** means for the purposes of the *ICAC Act 2012*, misconduct or maladministration in public administration will be taken to be **serious or systemic** if the misconduct or maladministration –

- Is of such a significant nature that it would undermine public confidence in the relevant public authority, or in public administration generally; and
- Has significant implications for the relevant public authority or for public administration generally (rather than just for the individual public officer concerned).

Note: further information about serious or systemic misconduct or maladministration is available at the ICAC website [www.icac.sa.gov.au/glossary](http://www.icac.sa.gov.au/glossary)

## 6. Policy Content

### 6.1 Prevention

6.1.1 Council recognises that the occurrence of Fraud, Corruption, Misconduct and Maladministration will be more likely to prevail in an administrative environment where opportunities exist for waste and abuse.

6.1.2 Council also recognises that the most effective way to prevent the occurrence of Fraud, Corruption, Misconduct and Maladministration is to instil and continually reinforce a culture across the Council of acting lawfully, ethically and in a socially responsible manner, and to support this culture with the implementation of appropriate internal control mechanisms.

6.1.3 The Council expects Council Employees and Council Members will assist in facilitating a sound ethical culture and preventing Fraud, Corruption, Misconduct and Maladministration by:

- understanding the responsibilities of their position, including their role as public officers.
- complying with the requirements of the ICAC Act and Ombudsman Act
- familiarising themselves with the Councils policies and procedures and adhering to them.
- understanding what behaviour constitutes fraud, corruption, Misconduct and Maladministration;
- maintaining an awareness of the strategies that have been implemented by the Council to minimise Fraud, corruption, Misconduct and Maladministration
- being continuously vigilant to the potential for Fraud, Corruption, Misconduct and Maladministration to occur in the Council environment; and

- reporting suspected or actual occurrences of Fraud, Corruption, Misconduct and Maladministration in accordance with Clause 6.4 and 6.5 of this Policy.

## **6.2 Roles and Responsibilities**

The roles and responsibilities of key individuals and groups with respect to Fraud, Corruption, Misconduct and Maladministration prevention within Council are outlined in Attachment A to this Policy.

## **6.3 Educating for Awareness**

6.3.1 Council recognises that success and credibility of this policy will largely depend upon how effectively it is communicated throughout the organisation and beyond.

6.3.2 Council, will, therefore, from time to time take proactive steps towards ensuring that the wider community is aware of the Council's zero-tolerance stance towards Fraud, Corruption, Misconduct and Maladministration, including by:

- Promoting Council's initiatives and policies regarding the control and prevention of Fraud, Corruption, Misconduct and Maladministration on Council's website and at the principal office.
- Referring to Council's Fraud, Corruption, Misconduct and Maladministration initiatives in Council's Annual Report; and
- Facilitating public access to all the documents that constitute Council's Fraud, Corruption, Misconduct and Maladministration framework, including those documents identified in clause 2 of this policy.
- Ensuring Council employees and Council members are aware of their obligations regarding the prevention and reporting of Fraud, Corruption, Misconduct and Maladministration.
- Inclusion of Governance induction for new Council Employees

## **6.4 Reporting Corruption, or Systemic or Serious Misconduct and Maladministration**

6.4.1 Public Officers who have or acquire knowledge of actual or suspected Corruption, or Systemic or Serious Misconduct or Maladministration in Council or in other public administration must report this information to the Ombudsman as soon as practicable.

6.4.2 All reasonable suspicions of Corruption or Systemic or serious Misconduct or Maladministration must be report to the Ombudsman in accordance with the Guidelines and may be made using the online report form available at the [www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au)

6.4.3 When reporting actual or suspected Corruption, or Systemic or Serious Misconduct or Maladministration, to the Ombudsman, any requirements of other documents that form part of Council's Fraud, Corruption, Misconduct and Maladministration framework (including those documents identified in clause 3 of this policy), should also, to the extent possible, be adhered to.

6.4.4 Nothing in this section is intended to prevent a Public Officer from reporting suspected Corruption or Systematic or Serious Misconduct or Maladministration in Council or in other public administration to a Relevant Authority, like Council's Responsible Officer, for the purposes of the *PID Act*. Such a disclosure may be protected under the *PID Act* and, if made to Council's Responsible Officer, will be managed in accordance with Council's Public Interest Disclosure Policy and Procedure. Public Officers are encouraged to have regard to the Council's Public Interest Disclosure Procedure when determining where to direct a disclosure.

6.4.5 Further information about reporting requirements and Public Officer obligations are available on the Ombudsman SA website at [www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au)

6.4.6 Public Officers have an obligation to report certain types of improper conduct to the Office of Public Integrity (OPI):

- Bribery or corruption of public officers
- Threats or reprisals against public officers
- Abuse of public office
- Offences relating to appointments to public office.

Reports to the OPI can be made through their website at [www.publicintegrity.sa.gov.au](http://www.publicintegrity.sa.gov.au)

## **6.5 Reporting Fraud, Misconduct or Maladministration**

Where an employee, Council Member or contractor has or acquires knowledge of actual or suspected Fraud or other similar conduct that does not constitute Corruption or Systematic or Serious Misconduct or Maladministration (and is therefore not required to be reported to OPI), that knowledge should be reported to Council's Responsible Officer. Such a disclosure may be protected under the *PID Act* and will be managed in accordance with the Council's Public Interest Disclosure Policy and Procedure.

## **6.6 Confidentiality and Publication Prohibitions**

6.6.1 Unless the *PID Act* applies, the Ombudsman will disclose your identity to an agency for the purposes of assessing and investigating the complaint.

6.6.2. If the complainant does not want to be identified to the Council, the complaint must advise when making the complaint. If the complainant has notified the Ombudsman, the Ombudsman will not disclose the complainant's identity unless they consider it necessary to properly assess and investigate the complaint. If it is deemed necessary, the Ombudsman will advise Council of the disclosure prior to releasing the information.

6.6.3 The Ombudsman may also decide to publish an assessment outcome or investigation report, based on their publication of the Ombudsman act decisions and Freedom of Information determination policy.

## **6.7 Action by the Chief Executive Officer**

- 6.7.1 Unless otherwise directed by an external authority such as OPI or SAPOL, the CEO will investigate how the alleged Fraud, Corruption, Misconduct or Maladministration occurred to determine the cause for the breakdown in controls and identify if any recommendations as to changes in policies, procedures or internal controls should be made to the Council. The investigation should:
- Occur as soon as practicable after the alleged incident; and
  - Not impose on or detract from any investigation being undertaken by OPI or SAPOL
  - Have regard to any recommendations in any report received from the Commissioner or SAPOL on the incident.
- 6.7.2 The CEO will, in conducting the investigation and deciding whether and how to report on the investigation to Council, have regard to the provisions of the Public Interest Disclosure Policy and Procedure, the Ombudsman and Guidelines and any confidentiality requirements under the *PID Act* and/or *ICAC Act*, Council's Policies and procedures and any other relevant legislation.
- 6.7.3 Action taken by the CEO following an investigation into alleged Fraud, Corruption, Misconduct or Maladministration may include disciplinary action against any employee involved in the incident.

## **6.8 False Disclosure**

- 6.8.1 A person who knowingly makes a false disclosure or a false or misleading statement in a complaint or report will be guilty of an offence under the Ombudsman Act, *ICAC Act* and the *PID Act*.
- 6.8.2 A Council employee who makes a false disclosure or a false or misleading statement in a complaint, report, or disclosure, in addition to being guilty of an offence, may also face disciplinary action in accordance with relevant policies, procedures, which may include dismissal from employment.

## **7. Risk Management**

Council has established several policies and procedures (Sale and Disposal of Land and other Assets; Procurement; Tendering and Contracting procedures; Public Interest Disclosure and Internal Control) to assist with the prevention and control of Fraud, Corruption, Misconduct and Maladministration. The effectiveness of these policies and procedures are continuously being reviewed and assessed and will remain up to date with any future developments in Fraud, Corruption, Misconduct and Maladministration prevention and control techniques.

## **8. Implementation/Delegations**

The Chief Executive Officer is delegated the authority to implement this, Policy.

## **9. Related Documents**

Behavioural Standards for Council Members

Code of Conduct for Council Employees

Gifts and Benefits Registers

Guidelines published by the Commissioner under the Public Interest Disclosure Act 2018

Public Interest Disclosure Policy

Public Interest Disclosure Procedure

Risk Management Framework

## **10. Availability of Policy**

This policy is available on Council's website at [www.victor.sa.gov.au](http://www.victor.sa.gov.au).



## Responsibilities and accountability for Fraud, Corruption, Misconduct and Maladministration preventions actions

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit Committee	Other (eg contractors)
<b>Governance and Ethics</b>							
1	Comply with this policy and any related legislation, policy, protocol, or procedure	✓	✓	✓	✓	✓	✓
2	At all times in the performance of duties or in association with their role with Council, act in an ethical manner	✓	✓	✓	✓	✓	✓
3	Promote a culture and environment in which Fraud, Corruption, Misconduct and Maladministration is discouraged and not tolerated	✓	✓	✓	✓		✓
4	Remain scrupulous in the use of Council information, assets, funds, property, goods, or services	✓	✓	✓	✓	✓	✓
5	Maintain and enhance the reputation of Council	✓	✓	✓	✓	✓	✓
<b>Awareness and Training</b>							
1	Promote community awareness of Council's commitment to the prevention of Fraud, Corruption, Misconduct and Maladministration	✓	✓	✓	✓ (as appropriate)		
2	Chief Executive Officer and Senior Management Team ensure all employees under their supervision have been educated regarding Fraud, Corruption, Misconduct and Maladministration		✓	✓	✓		
3	Undertake awareness training or education regarding Fraud, Corruption, Misconduct and Maladministration	✓	✓	✓	✓	✓	✓ (as appropriate)

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit Committee	Other (eg contractors)
4	Develop and deliver training to employees and other public officers to promote ethical conduct and an ethical culture		✓	✓			
5	Act in an ethical manner always in the performance of duties, and comply with ethical obligations in accordance with any relevant code or policy regarding conduct and behaviour	✓	✓	✓	✓	✓	✓
6	Adopt and models constructive behaviours and approaches to work with promote ethical behaviours in Council Employees	✓	✓	✓		✓	
<b>Fraud Prevention</b>							
1	Provide adequate security, including the provision of secure facilities for storage of assets, to assist in the prevention of Fraud, Corruption, Misconduct and Maladministration	✓	✓	✓			
2	Develop procedures to deter fraudulent or corrupt activity from occulting	✓	✓	✓	✓		
3	Where relevant, comply with the Public Interest Disclosure Act 2018	✓	✓	✓	✓	✓	✓
4	Ensure appropriate internal controls are in place and operating effectively to minimise the risks of incidents	✓	✓	✓		✓	
5	Ensure effective screening (eg criminal history) of employees, prospective employees and contractors is undertaken, including by use of appropriate and effective contractual arrangements		✓	✓			
6	Ensure all powers and authorities are appropriately delegated to minimise the risk of Fraud, Corruption, Misconduct and Maladministration	✓	✓	✓			
<b>Detection and investigation</b>							

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit Committee	Other (eg contractors)
1	Ensure that where appropriate, proper investigations are conducted into allegations of Fraud, Corruption, Misconduct or Maladministration	√	√				
2	Facilitate cooperation with any investigations undertaken by an external authority		√				
3	Undertake risk assessments on a regular basis	√	√			√	
4	Provide mechanisms for receiving allegations of Fraud, Corruption, Misconduct and Maladministration	√	√				
5	Investigate matters of Fraud, Corruption, Misconduct and Maladministration	√	√				
6	Cooperate as required with any investigations undertaken whether internally or by an external authority	√	√	√	√		√
<b>Monitoring and reporting</b>							
1	Report all instances of conduct known or reasonably suspected to be Fraud, Corruption, Misconduct or Maladministration in accordance with Council's policies	√	√	√	√	√	√ (report to Responsible Officer)
2	Develop mechanisms for receiving allegations of Fraud, Corruption, Misconduct or Maladministration including appointing a Responsible Officer	√	√				
3	Work jointly with other areas of Council to co-ordinate activities relating to the control, prevention, detection and management of Fraud, Corruption, Misconduct or Maladministration	√	√	√		√	
4	Review the effectiveness of the implemented policies that ensure risks are identified and that controls implemented by management are adequate.	√	√			√	