

Council Policy

Fraud and Corruption



Council Policy	
Legal Authority	<i>Corruption, Crime and Misconduct Act 2003</i> <i>Fair Work Act 2009</i>
Department	Governance and Legal

- Title**
Fraud and Corruption Policy

- Purpose**
Fraud and corruption is damaging to the City of Kwinana through financial loss, loss of public confidence (either perceived or real), reputational damage and adverse publicity.

The purpose of this policy is to provide direction on the strategies to be utilised by the City for implementing and monitoring fraud and corruption prevention, detection, as well as response initiatives and activities.

- Scope**
This policy applies to any actual, alleged or suspected fraud or corruption involving employees and representatives of the City as well as external parties such as, but not limited to, suppliers, contractors, consultants or any other external agency undertaking transactions with the City.

Employees and representatives of the City must have, and be seen to have, the highest standards of honesty, transparency, propriety and integrity in discharging their obligations to the community.

The City is committed to treating all suspected instances of fraud or corruption seriously. In doing so, the City will:

- Investigate all suspected instances of fraud or corruption by City employees, representatives or external parties. Any proven allegations of fraud or corruption will be treated as serious misconduct and may result in summary dismissal of an employee, or immediate termination of a representative's contract with the City, or notification to the Local Government Standards Panel, Department Local Government, Sport and Cultural Industries or the Corruption and Crime Commission depending on the breach committed.

In accordance with Clause 24.6, Suspension Pending Investigation of the City of Kwinana Enterprise Agreement, the City may suspend an employee from duty where it considers it necessary to investigate the matter.

- Seek to recover funds/assets lost through this behaviour wherever possible and practical.
- Refer any behaviour that could amount to illegal activity to the WA Police at an appropriate time during the investigation process and/or subsequent disciplinary procedure. Note that any criminal investigation will be separate to a City investigation.

The City is committed to developing and maintaining processes and procedures to prevent and detect fraud and corruption.

Fraud and corruption control forms part of the City's Risk Management Policy and Strategy. It is a risk that the City actively seeks to identify and limit its exposure to, by reducing the potential opportunity (risk likelihood) for fraud and corruption to occur.

All Councillors and employees have a key responsibility to safeguard against damage and loss through fraud, corruption or misconduct and have an obligation to support efforts to reduce associated risk by behaving with integrity and professionalism in undertaking their duties.

The City expects its Elected Members and employees to act in compliance with relevant Code of Conduct and behave ethically and honestly when performing their functions and during their interactions with each other, the community and all stakeholders of the City.

All suspected instances of fraudulent or corrupt conduct will be thoroughly investigated and the appropriate reporting, disciplinary, prosecution and recovery actions initiated.

4. Definitions

Fraud is defined by Australian Standard AS8001 – 2008 as:

Dishonest activity causing actual or potential financial loss to any person or entity including theft of monies or other property by employees or persons external to the entity and where deception is used at the time, immediately before or immediately following the activity.

It includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit.

The theft of property belonging to an entity by a person or persons internal to the entity by where deception is not used is also considered 'fraud' for the purposes of this Standard.

Note: the concept of fraud within the meaning of the standard can involve fraudulent or corrupt conduct by internal or external parties targeting the entity or fraudulent or corrupt conduct by the entity itself targeting external parties.

Fraud can take many forms including:

- the misappropriation of assets;
- the manipulation of financial reporting (either internal or external to the Department); and
- corruption involving abuse of position for personal gain.

Corruption is defined by Australian Standard AS8001 – 2008 as:

Dishonest activity in which an employee or contractor of the entity acts contrary to the interests of the entity and abuses their position of trust in order to achieve some personal gain or advantage for themselves or for another person or organisation. The concept of 'corruption' can also involve corrupt conduct by the entity, or a person purporting to act on behalf of and in the interests of the entity, in order to secure some form of improper advantage for the entity.

Corruption is any deliberate or intentional wrongdoing that is improper, dishonest or fraudulent and may include:

- conflict of interest;
- failure to disclose acceptance of gifts or hospitality;
- acceptance of a bribe;
- misuse of internet or email; or
- release of confidential or private information or intellectual property.

Corrupt conduct tends to show a deliberate intent or an improper purpose and motivation and may involve conduct such as the deliberate failure to perform the functions of office properly; the exercise of a power or duty for an improper purpose; or dishonesty.

Representative, for the purposes of this policy, a representative of the City includes:

- Any contractor or consultant
- Temporary staff supplied through an agency
- Seconded personnel
- Volunteers
- Elected Members
- Committee Members

5. Policy statement

The City considers unauthorised possession (theft/robbery), unauthorised use, misappropriation, fraud, corruption, impropriety and dishonesty unacceptable to Council. This behaviour is treated seriously and will be investigated in all suspected and/or alleged instances, whether these involve Council employees, representatives or external parties.

The City is committed to a strong culture and sound governance that will safeguard public funds and property. The City considers fraud, corruption and misconduct to be serious matters. Such behaviours are considered unacceptable and a zero tolerance approach is adopted by the City towards such behaviour.

Fraud and corruption are a risk to the City, including in terms of:

- financial loss;
- reputational impact;
- diversion of management energy;
- organisational morale;
- organisational disruption;
- loss of employment;
- reduced performance; and
- diminished safety.

All employees are accountable for, and have a role to play in, fraud and corruption prevention and control. The City encourages staff to disclose actual or suspected fraudulent or corrupt activity. When identified, any suspected fraudulent or corrupt activity will be promptly investigated, and where appropriate legal remedies available under the law will be pursued. All alleged incidences will be investigated thoroughly. Where appropriate, the City will protect the anonymity of those reporting the activity.

Detrimental actions are not permitted against anyone who reports suspected or known incidents, consistent with the *Public Interest Disclosure Act 2003*. The City adopts a similar approach to those who maliciously and knowingly create a false and/or vexatious allegation.

5.1 Reporting

- 5.1.1 Any person reporting any suspected fraudulent act (the informant) must do so to their immediate Manager, City of Kwinana Grievance Officer, Public Interest Disclosure Officer and/or Manager Human Resources.
- 5.1.2 If the informant has reason to believe their Manager is implicated in the suspected fraud, the matter must be reported to the Manager Human Resources.
- 5.1.3 If Chief Executive Officer involvement is suspected, the matter must be reported to the Mayor.
- 5.1.4 If Elected Member involvement is suspected, the matter must be reported to the Chief Executive Officer.
- 5.1.5 In all instances, suspected fraud must also be reported to the City of Kwinana Grievance Officer, Public Interest Disclosure Officer and/or Manager Human Resources whom will notify the Chief Executive Officer and initiate investigations
- 5.1.6 The informant reporting the activity/behaviour may remain anonymous.
- 5.1.7 All inquiries concerning the activities under investigation from the suspected individual, his or her lawyer, or representative, or any other enquirer must be directed to the Manager Human Resources.

5.2 Investigations

- 5.2.1 The Manager Human Resources has primary responsibility for investigation of all suspected unauthorised possession (theft), fraudulent or corrupt acts or behaviour as defined in this policy.
- 5.2.2 Any investigation carried out should comply with the City of Kwinana employment policies, namely the Grievance Management Policy.
- 5.2.3 Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title or relationship to Council.
- 5.2.4 At the conclusion of the investigation the events will be documented in a confidential report which will be provided to the Chief Executive Officer and they may determine that the report be provided to the Council and the Audit and Risk Committee, where appropriate. Recommendations may be made to enhance internal control procedures.
- 5.2.5 Decisions to refer the investigation results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made by the Chief Executive Officer, in consultation with the Manager Human Resources and with legal advice if appropriate.

- 5.2.6 The Manager Human Resources have free and unrestricted access to all Council records and premises and authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets and other storage facilities on premises without prior knowledge or consult of any individual who may have custody of any such items or facilities when it is within the scope of their investigation.

5.3 Equity and Fairness

- 5.3.1 The means for ensuring that every individual suspected of committing fraud (Whether they are an employee or someone external to the entity) is dealt with consistently and fairly.
- 5.3.2 All parties suspected of committing fraudulent acts must be dealt with in the same manner. This includes all Elected Members, employees or associated parties external to the City.
- 5.3.3 Any individual reporting suspected fraud has the right to expect their actions will be dealt with in confidence.
- 5.3.4 Evidence collected as part of any fraud investigation must substantiate any further action the organisation takes. There must be transparency in the fraud response action that the process has been adhered to.

5.4 Consequences of an investigation

- 5.4.1 Fraud perpetrated against the City will be reported to the City's insurers, Office of the Auditor General and the Corruption and Crime Commission as required.
- 5.4.2 Any investigation may result in a recommendation to terminate a supplier's, consultants or contractors contract or, in the case of an employee, the commencement of a disciplinary process, the outcome of which may be dismissal of the employee where appropriate.
- 5.4.3 Any decision to begin disciplinary process, or to terminate an employee's employment at the conclusion of that process, will be made in conjunction with Manager Human Resources.
- 5.4.4 Where instances of fraud or corruption are substantiated, any decisions to take no action, or to take action that is seen inappropriate by either the City of Kwinana Grievance Officer, Public Interest Disclosure Officer and/or Manager Human Resources, will be referred to the Chief Executive Officer for authorisation.

5.5 Media

- 5.5.1 No information concerning the status of an investigation will be disclosed, except to the Chief Executive Officer, City of Kwinana Grievance Officer, Public Interest Disclosure Officer and/or Manager Human Resources in cases where an employee is suspected of unauthorised possession or fraud.
- 5.5.2 The proper response to an enquiry is:
- “I am not at liberty to discuss this matter” and/or “Fraud perpetrated against the City will be reported to the City’s insurers, Office of the Auditor General and Corruption and Crime Commission as required”

5.6 Fraud and Corruption Management

Incorporating fraud and corruption risk identification and mitigation strategies as part of the integrated and reporting planning framework, educating employees in accountable conduct and fraud awareness issues, including ongoing performance assessment and counselling and monitoring, auditing and communicating processes.

Where fraud or corruption is detected the relevant Manager of the team will be responsible to assess the adequacy of the relevant internal control environment and provide a report to City Leadership outlining any recommended improvements identified.

5.7 Roles and responsibilities

5.7.1 Chief Executive Officer – All Managers and Senior Officers

- Ensure appropriate controls are in place at all levels to safeguard against fraud and corruption and take action to implement and maintain these controls.
- Regularly review transactions and activities that may be susceptible to fraud or corruption.
- Promote the scope of this policy.
- Take appropriate action in liaison with the Manager Human Resources and the Chief Executive Officer when breaches of this policy occur.

The Chief Executive Officer applies the City's resources to fraud prevention and ensures the implementation of adequate controls for managing fraud and corruption risks within the City.

The Chief Executive Officer, under the *Corruption, Crime and Misconduct Act 2003* must notify the Corruption and Crime Commission or the Public Sector Commission if misconduct is suspected.

5.7.2 Audit and Risk Committee

In relation to fraud control, the Audit and Risk Committee's responsibilities include:

- reviewing risk management frameworks and associated procedures for the effective identification and management of fraud risks;
- providing leadership in preventing fraud and corruption.

5.7.3 Public Interest Disclosure (PID) Officer

Public Interest Disclosure Officers investigate disclosures, and take action following the completion of investigations under the *Public Interest Disclosure Act 2003*.

5.7.4 Manager Human Resources

The Manager Human Resources or delegated officer, will manage the grievance and discipline process.

5.7.5 City Employees and representatives

- Adherence and compliance with this policy
- The immediate reporting of an actual or suspected fraud or corruption incident to the relevant person

All employees have a responsibility to contribute to preventing fraud and corruption by following the relevant City of Kwinana Code of Conduct, complying with controls, policies, processes, resisting opportunities to engage in fraudulent or corrupt behaviour and reporting suspected fraudulent or corrupt incidents or behaviour.

Report all suspected or actual incidents of fraud and corruption that they may be aware of to their supervisor. Alternatively, employees can make a Public Interest Disclosure under the *Public Interest Disclosure Act 2003*.

5.7.6 Internal Auditors

Internal auditors provide an independent and objective review and advisory service to:

- provide assurance to the Chief Executive Officer/Council that the financial and operational controls designed to manage the City's risks and achieve the City's objectives are operating in an efficient, effective and ethical manner; and
- assist management in improving the City's business performance.
- Review six monthly fraud reporting and ensure fraud issues are disclosed to the external auditor

5.7.7 External Auditors

Review whether there are appropriate systems processes and controls in place to prevent, detect and effectively investigate fraud.

External auditors provide an opinion on whether the City's Annual Report represents a true and fair view of the financial position at a certain date.

Annual external audit of the Financial Reports assists in the detection of fraud under Australian Auditing Standard ASA 240: The Auditors' Responsibility to Consider Fraud in an Audit of a Financial Report.

In addition, the auditor's accountability for the detection of fraud will form part of any audit. These provisions will increase the likelihood of detecting material miss-statements or errors in the City's financial statements.

6. References

Date of adoption and resolution No.	
Review dates and resolution No.	
Next review due date	December 2023
Related documents	<p>Acts/Regulations</p> <p><i>r.17, Local Government (Audit) Regulations 1996</i></p> <p><i>r.5, Local Government (Financial Management) Regulations 1996</i></p> <p><i>Local Government Act 1995</i></p> <p><i>Corruption, Crime and Misconduct Act 2003</i></p> <p><i>Public Interest Disclosure Act 2003</i></p> <p><i>Local Government (Rules of Conduct) Regulations 2007</i></p> <p><i>Public Sector Management Act 1994</i></p> <p><i>Australian Standard AS 8001-2008</i></p> <p><i>Local Government Framework – Fraud & Corruption Control, July 2015</i></p> <p>Plans/Strategies/Policies/Processes</p> <p>Grievance Management HR Policy</p> <p>Code of Conduct</p> <p>Risk Management Policy</p> <p>Risk Management Strategy</p> <p>City of Kwinana Enterprise Agreement</p>

Note: Changes to references may be made without the need to take the Policy to Council for review.