

Fraud, Corruption and Misconduct Control Council Policy

Responsible directorate: Office of the CEO

Objective: To communicate the City's zero-tolerance approach and response actions to fraudulent, corrupt and/or misconduct behaviours within the performance of its functions and interactions with contractors and suppliers, the community and all other stakeholders of the City.

1. Application:

This policy applies to:

- elected members;
- committee members;
- all employees whether by way of appointment, secondment, contract, agency staff or temporary arrangement;
- volunteers; and
- any external party involved in providing goods or services to the City such as business partners, contractors, suppliers, consultants and outsourced service providers.

2. Definitions:

“fraud” means dishonest activity causing actual or potential gain or loss to any person or organisation including theft of moneys or other property by persons internal and/or external to the organisation and/or where deception is used at the time, immediately before or immediately following the activity. This activity 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.

Property in this context also includes intellectual property or other intangibles such as information. (*Australian Standard AS8001:2021 Fraud and Corruption Control*).

“corruption” means dishonest activity in which a person associated with an organisation (e.g. director, executive, manager, employee or contractor) acts contrary to the interests of the organisation and abuses their position of trust in order to achieve personal advantage or advantage for another person or organisation. This activity can also involve corrupt conduct by the organisation, or a person purporting to act on behalf and in the interests of the organisation, in order to secure some form of improper advantage for the organisation either directly or indirectly. (*Australian Standard AS8001:2021 Fraud and Corruption Control*).

“serious misconduct” occurs when a public officer:

- (a) acts corruptly or corruptly fails to act in the course of their duties; or
- (b) corruptly takes advantage of their position for the benefit or detriment to any person; or
- (c) commits an offence which carries a penalty of two or more years’ imprisonment. (*Corruption, Crime and Misconduct Act 2003*).

“minor misconduct” occurs if a public officer engages in conduct that:

- (a) adversely affects the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or
 - (b) involves the performance of functions in a manner that is not honest or impartial; or
 - (c) involves a breach of the trust placed in the public officer; or
 - (d) involves the misuse of information or material that is in connection with their functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person;
- and
- (e) constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person’s office or employment. (*Corruption, Crime and Misconduct Act 2003*).

“public interest information” means information that tends to show, in relation to its public function, a public authority, a public officer, or a public sector contractor is, has been, or proposes to be, involved in:

- (a) improper conduct; or
- (b) an act or omission that constitutes an offence under a written law; or
- (c) substantial unauthorised or irregular use of, or substantial mismanagement of, public resources; or
- (d) an act done or omission that involves a substantial and specific risk of:
 - (i) injury to public health; or
 - (ii) prejudice to public safety; or
 - (iii) harm to the environment;

or

- (e) a matter of administration that can be investigated under section 14 of the *Parliamentary Commissioner Act 1971*. (*Public Interest Disclosure Act 2003*).

“public officer” includes a member, officer or employee of an authority, board, corporation, commission, local government, council of a local government, council or committee or similar body established under a written law. (*Criminal Code Act Compilation Act 1913*).

“public authority” includes an authority, board, corporation, commission, council, committee, local government, regional local government, regional subsidiary or similar body established under a written law. (*Corruption, Crime and Misconduct Act 2003*).

“zero-tolerance approach” means that any allegation, suspicion or incidence of fraudulent, corrupt and/or misconduct behaviours are unacceptable, will not be ignored and will be investigated.

3. **Statement:**

The City expects its Elected Members, Committee Members, employees and people volunteering their services to act in compliance with the Codes 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. A zero-tolerance attitude is taken to fraudulent, corrupt and/or misconduct behaviours which will be investigated and the appropriate reporting, disciplinary, prosecution and recovery actions initiated.

The City expects its business partners, contractors, suppliers, consultants and outsourced service providers to act in compliance with the City’s Statement of Business Ethics. The Statement provides guidance on the values and ethical standards the City upholds when conducting business, and the conduct and standards the City expects from external parties in return, particularly to act ethically, fairly and legally and provide goods and services in compliance with contract and purchasing requirements.

4. **Details:**

4.1. **Fraud and Corruption Control Framework:**

4.1.1 **Organisational structure:**

The City’s organisational structure provides clearly defined responsibilities and appropriate segregation of duties and controls within systems, particularly financial and procurement, that inhibits opportunities for fraud to occur. The zero-tolerance tone is set by the Chief Executive Officer and the Executive Leadership Team. The structure also includes an independent internal audit function and a proactive Audit and Risk Committee who receives reports from the Chief Executive Officer on the appropriateness and effectiveness of systems and procedures in relation to risk management, internal control and legislative compliance.

4.1.2 **Policies and procedures:**

The *Local Government Act 1995* requires the City to adopt two codes of conduct:

- A Code of Conduct for Council Members, Committee Members and Candidates; and

- A Code of Conduct for Employees.

Each code of conduct sets out principles and standards of behaviour that either elected members, committee members, local government election candidates or employees must observe. Each code has differing provisions but includes matters such as:

- Values and general principles of behaviour
- Requirements in relation to behaviour
- Appropriate relationships with others and the broader community
- Use of City resources and information
- Conflicts of interest
- Reporting breaches of the code and other statutory reporting mechanisms.

Each code must be read in conjunction with the *Local Government Act 1995* and other legislation that affects elected members, committee members and employees while performing their role and duties and the code does not override or affect those provisions or requirements.

The Risk Management Policy and the Risk Management Framework outline the City's commitment and approach to managing risks. All employees within the City are encouraged to develop an understanding and awareness of risk and contribute to the risk management process. The Purchasing Policy and the associated Purchasing Protocols commit the City to developing and maintaining purchasing systems and practices that ensure goods and services are obtained in an equitable and transparent manner that complies with applicable legislation.

4.1.3 Prevention and detection:

Systems and processes, including Purchasing Protocols, help prevent fraud occurring and detect it if it does occur. This activity includes adequate segregation of duties, financial and compliance reports and appropriate reporting lines and management oversight. The Purchasing Protocols are subject to regular review and will be updated whenever appropriate.

The Annual Internal Audit Plan includes audit review of high risk areas to ensure controls are adequate and are working as intended. Audit reviews are carried out independently by the City's Internal Auditor who reports the results of the audits directly to the Chief Executive Officer. Whenever necessary, independent external auditing companies may be engaged by the City to carry out audits.

The City's Integrity Framework guides the organisation in providing the highest level of integrity for its community, and brings together the instruments, processes and structures within the organisation that foster integrity and help prevent corruption and misconduct from taking place. The Framework also includes areas with responsibilities for defining, supporting, controlling and enforcing integrity across the organisation.

4.1.4 Response strategies:

All incidents of suspected fraudulent, corrupt and/or misconduct behaviours will be investigated and if there are reasonable grounds to suspect that misconduct has occurred

the appropriate notifications will be made to the relevant external oversight agencies; such as the Corruption and Crime Commission, Public Sector Commission, Department of Local Government, Sport and Cultural Industries and the Western Australian Police Force.

Increased audit activity, post-transactional reviews and additional awareness training focusing on specific behaviours and/or activities may also occur.

4.2. Chief Executive Officer's duty to notify:

As the principal officer of a notifying authority the City's Chief Executive Officer is required by the *Corruption, Crime and Misconduct Act 2003* to notify the Corruption and Crime Commission or the Public Sector Commission in writing of any matter that they suspect, on reasonable grounds, concerns either serious or minor misconduct by a public officer.

4.3. Reporting serious or minor misconduct:

A public officer or any other person may report to the Corruption and Crime Commission or the Public Sector Commission any matter which that person suspects on reasonable grounds concerns or may concern serious or minor misconduct that:

- (a) has or may have occurred; or
- (b) is or may be occurring; or
- (c) is or may be about to occur; or
- (d) is likely to occur.

4.4. Public interest disclosure:

Any person may make an appropriate disclosure of public interest information to a proper authority (includes local government). The legislation which governs such disclosures is the *Public Interest Disclosure Act 2003*.

A disclosure can be made by anyone and may be made anonymously. If disclosures are made in accordance with the *Public Interest Disclosure Act 2003*, the person making the disclosure is protected from reprisal. The person enjoys immunity from civil or criminal liability and is protected from any disciplinary action or dismissal.

The *Public Interest Disclosure Act 2003* requires local governments to appoint a person, known as the Public Interest Disclosure Officer (PID Officer), to whom disclosures may properly be made. The PID Officer should be consulted when considering whether to make a disclosure.

Information on public interest disclosures and City PID Officers are maintained on the City's public website.

4.5. Disciplinary and recovery action:

On all occasions the City will seek to recover any losses it may have suffered through fraudulent, corrupt and/or misconduct behaviours, and those responsible will be appropriately disciplined, which for an employee may include termination of employment.

Creation date:	December 2016 (CJ227-12/16)
Formerly:	
Amendments:	CJXXX-05/23
Last reviewed:	May 2023 (CJXXX-05/23)
Related documentation:	<ul style="list-style-type: none">• <i>City of Joondalup Codes of Conduct</i>• <i>City of Joondalup Complaint Investigation Policy</i>• <i>City of Joondalup Statement of Business Ethics</i>• <i>City of Joondalup Integrity Framework</i>• <i>City of Joondalup Risk Management Framework</i>• <i>AS 8001:2021 Fraud and Corruption Control</i>• <i>Local Government Act 1995</i>• <i>Criminal Code Act Compilation Act 1913</i>• <i>Corruption, Crime and Misconduct Act 2003</i>• <i>Public Interest Disclosure Act 2003</i>
File reference:	106335

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1. Application:

This policy applies to:

- **elected members;**
- **committee members;**
- all **employees** whether by way of appointment, secondment, contract, agency staff **or** temporary arrangement; ~~or volunteering~~
- **volunteers; and**
- any external party involved in providing goods or services to the City such as **business partners**, contractors, **suppliers**, consultants and outsourced service providers.

2. Definitions:

"fraud" **means** dishonest activity causing actual or potential **gain or** loss to any person or **organisation** including theft of moneys or other property by persons **internal and/or** external to the **organisation** and/or where deception is used at the time, immediately before or immediately following the activity. This ~~also~~ **activity** 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 but where deception is not used is also considered 'fraud'.~~

Property in this context also includes intellectual property or other intangibles such as information.
(*Australian Standard AS8001:2021 Fraud and Corruption Control*).

“corruption” means dishonest activity in which a **person associated with an organisation** (e.g. director, executive, manager, employee or contractor) acts contrary to the interests of the **organisation** and abuses **their** position of trust in order to achieve personal advantage or **advantage** for another person or **organisation**. **This activity** can also involve corrupt conduct by the **organisation**, or a person purporting to act on behalf and in the interests of the **organisation**, in order to secure some form of improper advantage for the **organisation** either directly or indirectly. (*Australian Standard AS8001:2021 Fraud and Corruption Control*).

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- (a) ~~a public officer~~ **acts** corruptly ~~acts~~ or corruptly fails to act in the **course of their duties** ~~performance of the functions of the public officer’s office or employment~~; or
- (b) ~~a public officer~~ corruptly takes advantage of **their position** ~~the public officer’s office or employment as a public officer to obtain a~~ **for the** benefit for himself or herself or for another person or ~~to cause a~~ **or** detriment to any person; or
- (c) ~~whilst acting or purporting to act in his or her official capacity~~, commits an offence **which carries a penalty of** ~~punishable by~~ two or more years’ imprisonment. (*Corruption, Crime and Misconduct Act 2003*).

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Each code must be read in conjunction with the *Local Government Act 1995* and other legislation that affects elected members, committee members and employees while performing their role and duties and the code does not override or affect those provisions or requirements.

~~A Code of Conduct is prepared and adopted by Council as required by section 5.103 of the *Local Government Act 1995*. The code sets out the principles and standards of behaviour Elected Members, Committee Members and employees must observe when performing their duties and is intended to promote accountable and ethical decision making. The Code provides for the reporting of breaches or suspected breaches of the Code.~~

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4.1.3 Prevention and detection:

Systems and processes, including the Purchasing Protocols, ~~are designed in such a way to help prevent fraud occurring and to detect it if it does occur.~~ This **activity** includes adequate segregation of duties, financial and compliance reports and appropriate reporting lines and management oversight. The Purchasing Protocols are subject to regular review and will be updated whenever appropriate.

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4.1.4 Response strategies:

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Increased audit activity, post-transactional reviews and additional awareness training focusing on specific behaviours and/or activities may also occur.

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