Fraud and Corruption Control Policy

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Contents

Relevant legislation / references

Council related Policies:

- Code of Conduct
- Disciplinary Policy
- Cash Handling
- Claiming of Expenses
- Light Fleet Policy
- Mobile Phone Use Policy

- Budget Variation Policy
- Procurement Policy
- Risk Management Policy
- Recruitment Policy
- Public Interest Disclosure Procedures

External References:

- Australian Standard for Fraud and Corruption Control (AS8001, 2021)
- Local Government Act 2020
- Financial Management Act 1994
- Independent Broad-based Anti-Corruption Commission Act 2011
- Public Interest Disclosures Act 2012

1. Purpose

Moyne Shire Council ('Council') is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency as key components of good governance.

This policy provides the framework for Council's approach to prevent, detect and respond to fraud and corruption.

2. Introduction

Council is committed to protecting its people, property, resources and reputation from the damaging effects of fraud and corruption. Such damage may also significantly impact on the local community that Council serves.

The purpose of the Fraud and Corruption Control Policy is to:

- Identify areas of risk in relation to fraud and corruption within Council
- Protect the reputation, revenue, expenditure, people and property of the organisation

- Implement prevention and detection controls to minimise losses, and reporting and response controls to recover losses where applicable
- Maintain an ethical organisational environment which encourages all Councillors and staff to actively protect public money and property
- Monitor and review fraud risk areas and controls on an ongoing basis
- Prosecute offenders following appropriate investigation.

3. Scope

This policy applies to all Councillors, employees and volunteers of the Council. It reflects the principles outlined in the Councillor Code of Conduct and Staff Code of Conduct.

4. Definitions

Fraud relates to obtaining financial or other benefits by deception. The Australian Standard for Fraud and Corruption Control (AS8001, 2021) defines fraud as:
'Dishonest activity causing actual or potential financial loss to any person or organisation including theft of moneys or other property by persons internal and/or external and/or where deception is used at the time, immediately before or immediately following the activity.'

The definition of 'property' includes intellectual property and other intangibles such as information that belongs and/or relates to Council.

Fraud also includes the deliberate falsification, concealment, destruction or use of falsified documents used for business, and the improper use of information or position for personal financial benefit.

Fraud may include (but is not limited to):

1. Theft of money or assets
2. Obtaining property, financial advantage, or other benefit by deception
3. Providing false or misleading information to a statutory authority (or failing to provide information where there is an obligation to do so)
4. Causing a loss or liability by deception
5. Creating, using or possessing forged or falsified documents
6. Unlawful (including unauthorised) use of Council resources and assets, including misuse of information technology, plant and machinery, light fleet vehicles, or other property or services
7. Failing to declare a Conflict of Interest or receipt of gifts or benefits leading to personal advantage
8. Disclosing sensitive or confidential information to obtain a benefit

9.   Any actions of a similar nature to those listed above.

Corruption relates to the misuse of public office for personal gain. It is defined as: *'Dishonest activity in which a person associated with an organisation…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.'*

Corrupt conduct is also defined under section 4 of the *Independent Broad-based Anti-corruption Commission Act 2011*.

Corrupt behaviour includes (but is not limited to) the acceptance or offer of bribes, gifts or benefits; nepotism, favouritism, or other abuses of decision-making authority; and misrepresentation or misuse of Council information. The benefits associated with corruption may apply to the decision-maker and/or to other parties (e.g. family members, friends or associates of the decision-maker).

Conflict of Interest is any situation where business, financial, family, political or personal interests could interfere with the judgement of persons in carrying out their duties for Council. Regardless of whether a conflict is perceived, potential and/or real, it may impact on Council.

Control is the collective term for activities that relate to the (i) *prevention* of fraud and corruption matters before they occur (e.g. via awareness), (ii) *detection* of matters that have already occurred in a timely manner (e.g. via auditing), and (iii) responding to matters appropriately (e.g. via formal investigation).

Gift refers to any gift, service or advantage which could be perceived to influence decision-making. An example would be tickets to sporting, music or other events.

Fraud and Corruption Control Officer (F&CCO) means the Council officer responsible for receiving reports of suspected fraud or corruption and developing, maintaining and implementing the Fraud and Corruption Control System. Under this policy, Council's F&CCO is Manager People and Culture.

5. Policy

Council will not tolerate any act or behaviour that is illegal, will materially damage Council and or is likely to bring its reputation into disrepute.

Council's F&CCO will implement a structured Fraud and Corruption Control System. This document will ensure that there are procedures, guidelines, programs and subsidiary

policies (if necessary) in place that protect Council's assets and resources, integrity, security and consequently its reputation within the community from fraudulent acts.

All administrative and management practices will support the Fraud and Corruption Control System through the fostering of an ethical culture, transparency and accountability. Councillors and employees must always maintain a high degree of integrity and ethical behaviour.

Ethical behaviour in all Council dealings fosters an environment that supports the prevention, detection and reporting of any fraudulent or corrupt acts that may involve or impact on Council.

Actual or suspected fraud and/or corruption must be reported immediately to the F&CCO, who must then report the matter to the Chief Executive Officer (CEO). The CEO will investigate all such matters in a timely manner, report such matters to Council and involve police or other authorities where necessary.

The CEO must report all suspected corrupt conduct (defined above) to the Independent Anti-Corruption Commission in the first instance (section 57A of the Independent Broad-based Anti-corruption Commission Act 2011).

Where an allegation of fraud or corruption relates to either or both the F&CCO or CEO, it must be reported to the Director Corporate and Governance Services (DC&GS). Where this is the case the DC&GS is then delegated CEO and F&CCO responsibilities for the purpose of this policy.

The F&CCO must report all fraud and corruption matters, including the results of investigations, to the Audit and Risk Committee (unless prohibited under legislation).

Council will prosecute those acting illegally and take legal action to recover losses where appropriate.

Any person may also make a report of corruption to the Independent Broad-based Anti-corruption Commission (IBAC) under the Public Interest Disclosures Act 2012 or in accordance with Council's Public Interest Disclosure Policy.

Council's Human Resource policies and procedures will ensure that all staff are kept informed of this policy. A copy of this policy will be made available to all staff and on Council's website.

6. Roles and Responsibilities

Council

Council is responsible for ensuring the good governance and ethical behaviour in the provision of services to the community and in relation to its own actions, decisions and management of resources.

Council will also ensure that the Executive Leadership Team (ELT) has the appropriate resources in place to detect, prevent and respond to fraud and corruption.

Audit and Risk Committee

The Audit and Risk Committee will assist management to achieve sound managerial review and control over all Council activities through the internal and external audit functions. This includes ensuring that audit recommendations are implemented in a timely manner.

The Committee will also assist the F&CCO to prepare, maintain and implement the Fraud and Corruption Control System, monitor its effectiveness and review the document at least every two years.

The Audit and Risk Committee must also monitor the effectiveness of the Fraud and Corruption Control System through biennial review.

Chief Executive Officer (CEO)

The CEO will ensure Council procedures support the reporting of suspected acts of fraud and/or corruption; investigate allegations of fraud and corruption in a timely manner; and report to Council and take legal redress (such as criminal prosecution) as necessary.

The CEO is also responsible for reporting all suspected corrupt conduct to the Independent Broad-based Anti-corruption Commission (IBAC).

Executive Leadership Team (ELT)

The ELT is responsible for ensuring that Council's controls provide adequate assurance of the prevention and detection of fraud and corruption by:

- responding to concerns and issues in a timely manner
- monitoring compliance with Council policies and procedures
- promoting awareness of responsibilities by providing adequate training, supervision and documented procedures to all relevant parties
- integrating fraud and corruption controls with other Council controls (such as the risk management framework and internal audit function)
- setting an example and addressing behavioural or cultural matters that may undermine good governance and ethical conduct, and
- reviewing policies and procedures as circumstances and advice change.

Employees (incl. contractors, consultants and volunteers)

- Must act with propriety in all Council activities,
- Must not use their position with Council to gain personal advantage or to confer advantage, or disadvantage, on any other person,
- Take appropriate responsibility to safeguard Council assets against theft, misuse or improper use, and
- Report any suspicion of fraudulent or corrupt activity in a timely manner.

Matters can be reported to Council using the Fraud and Corruption Reporting Form (OD 002/01, attached).

Fraud and Corruption Control Officer

In consultation with the Audit and Risk Committee, the F&CCO is responsible for preparing and implementing a Fraud and Corruption Control System.

The F&CCO will also maintain Council's Fraud and Corruption Register and undertake a fraud and corruption risk assessment in accordance with the Fraud and Corruption Control System.

Public Interest Disclosures Officer

The *Public Interest Disclosures Act 2012* protects persons who report improper conduct by public officers against reprisals.

The Public Interest Disclosures Officer ('PID Officer') is responsible for ensuring persons who report genuine suspicions of fraud and/or corruption are protected from unjust recrimination or retribution. The role and responsibilities are further set out in Council's Public Interest Disclosures Policy and Procedures.

Information Security Management System (ISMS) professional

In accordance with AS8001:2021, Council will appoint an Information Security Management System (ISMS) professional to recognise the role of technology in enabling fraud and corruption.

Council will ensure this individual has a sound understanding of organisational fraud and corruption exposures, including cybercrime, and any relevant controls.

7. Procedural Controls

The controls to prevent, detect, monitor, report and respond to fraud and corruption are set out in Council's Fraud and Corruption Control System. This includes Council's approach to

spot checks of financial transactions, risk assessments of business functions and planned auditing activity.

Key findings must be escalated internally and reported to the Fraud and Corruption Control Officer, as appropriate.

The Fraud and Corruption Control System also sets out quarterly reporting to the Senior Management Team and Audit and Risk Committee oversight of fraud and corruption controls.

8. Reporting and Investigation

The CEO (or delegate), will respond to, investigate and assess allegations of fraud and corruption that relates to Council. Investigations will adhere to the following principles:

- thoroughly reviewing reported incident to establish the facts

- ensuring the investigation is independent of management (as appropriate)

- acting quickly to preserve evidence and avoiding any compromise of a future criminal investigation

- presenting a case to police if evidence is sufficient

- taking remedial action (e.g. pursue legal action to recover losses), and

- maintaining confidentiality and disclosing information only to those who need to know in order not to prejudice any disciplinary or any criminal action.

At the conclusion of any investigation into a report of fraud or corruption, systems and procedures will be reviewed to identify deficiencies with internal controls.

A flowchart depicting the designated reporting channels and fraud and corruption incident handling process within Council is attached to this policy. All staff are provided with Fraud and Corruption training and MagiQ quick link access to reporting forms.

9. Fraud and corruption control system

Council's Fraud and Corruption Control System will consider the findings of the Fraud and Corruption Risk Assessment including:

- Identified fraud and/or corruption risks

- Controls and measures to mitigate identified risks

- Officers responsible for implementing risk mitigation measures

At a minimum, the Fraud and Corruption Control System will also consider:

- 'Red flag' indicators to assist in fraud detection

- Procedures for ongoing monitoring and reporting

- Employee awareness and training, and
- Fraud investigation protocols.

10. Training

The provision of fraud and corruption training supports Council employees, volunteers and Councillors to carry out their responsibilities under this Policy.

All Council employees, volunteers and Councillors must complete fraud and corruption training:
- at induction (within three months of engagement) and
- at least every two years thereafter.

People and Culture, in consultation with the Fraud and Corruption Control Officer, are responsible for delivering and monitoring training.

11. Procurement and Contract Management

Council recognises procurement and contract management as being particularly vulnerable to fraud and corrupt conduct.

Councillors and Council staff involved in procurement and/or contract management must declare any Conflict of Interest that relates. This includes conflicts that are real, perceived and/or potential in nature.

12. Miscellaneous

Disciplinary action

All employees, volunteers and Councillors are subject to the disciplinary actions set out in the:
- Staff or Councillor Code of Conduct
- Local Government Act 2020, and/or
- Local Government (Governance and Integrity) Regulations.

Employees found to have committed fraud or corruption may be dismissed from employment and may be subject to legal action for redress.

Pre-employment checks

Prior to employment, Council will undertake the following checks:
- verify employees references and qualifications
- police checks (for all employees),

- require a Working with Children Check (where applicable).

Fraud and Corruption Register

Council will maintain a fraud and corruption risk register as part of its border approach to strategic and operational risk management.

Review Date and Policy Impacts

This Policy will be reviewed in March 2025 (or earlier if necessary).

It is considered that this Policy does not impact negatively on:
- any rights identified in the Charter of Human Rights and Responsibilities Act 2006, or
- community members or employees of different genders and has been developed in accordance with the Gender Equality Act 2020.

13. Attachments

- OD 002/01 - Fraud and Corruption Reporting Form
- OD 002/02 - Acceptance of Responsibilities
- Fraud and Corruption Reporting Procedure
- Fraud and Corruption Control System– Diagrammatic representation

Document history

Version	Details of change
OD002 Version 2	Formal reviewed Policy with Management Team.
OD002 Version 3	Legislative changes from Whistleblower Act to Protected Disclosure Act.
OD002 Version 4	Definition of Major Fraud and reporting of Major Fraud by the CEO to Council (NB – removed in V6.0).
OD002 Version 5	Definitions broadened to include corruption and amended to reference *Protected Disclosures Act 2012* mandatory reporting requirements
OD002 Version 6	Significant redraft to align with AS8001: 2021. Updated definitions, roles and forms, among other elements.

Attachment - OD 002/01 - Fraud and Corruption Reporting Form

Reporting Officer Name: _____

Reporting Officer Role: _____

Reporting Individual Name: _____

Reporting Individual Role: _____

Details of alleged fraud or corruption: _____

_____

_____

Details of supporting evidence: _____

_____

Signature of Reporting Officer: _____

Date signed: _____

Signature of Reporting Individual: _____

By signing this document, I am confirming that the information provided in this report is true and correct to the best of my knowledge.

Date signed: _____

Date received by CEO: _____

Investigation Action or Referral:

_____

_____

_____

Attachment - OD 002/02 - Acceptance of Responsibilities

Fraud and Corruption Control Policy

I have read and understood the attached copy of Council's Fraud and Corruption Control Policy.

I agree to abide by the responsibilities set out in the Policy and acknowledge that failure to do so may result in formal investigation, application of penalties set out in the Code of Conduct and/or criminal prosecution.
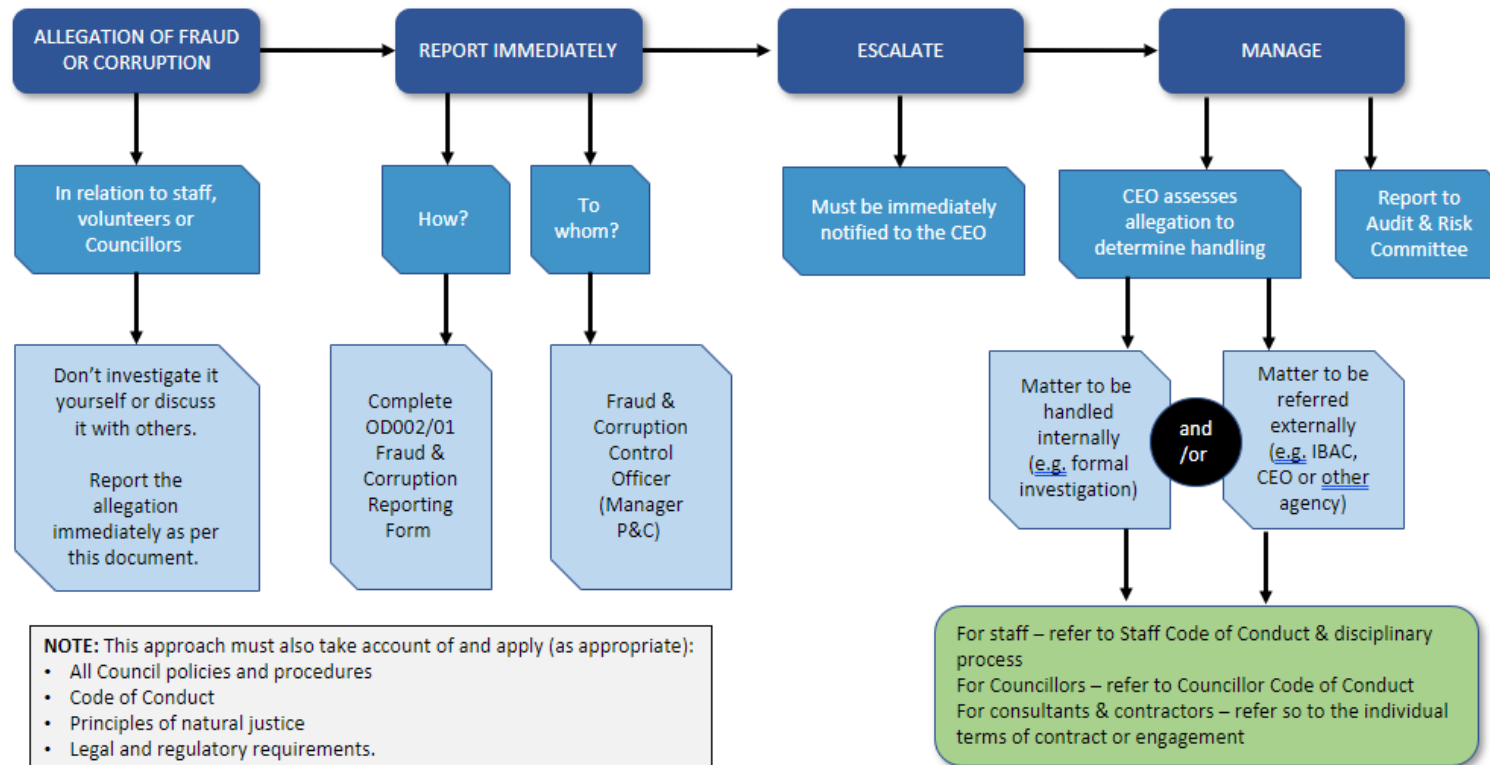

Name: _____

Department: _____

Signature: _____

Attachment - Fraud and Corruption Reporting Procedure

FRAUD AND CORRUPTION REPORTING PROCEDURE

ALLEGATION OF FRAUD OR CORRUPTION → **REPORT IMMEDIATELY** → **ESCALATE** → **MANAGE**

In relation to staff, volunteers or Councillors

How?

To whom?

Must be immediately notified to the CEO

CEO assesses allegation to determine handling

Report to Audit & Risk Committee

Don't investigate it yourself or discuss it with others.

Report the allegation immediately as per this document.

Complete OD002/01 Fraud & Corruption Reporting Form

Fraud & Corruption Control Officer (Manager P&C)

Matter to be handled internally (e.g. formal investigation)

and /or

Matter to be referred externally (e.g. IBAC, CEO or other agency)

NOTE: This approach must also take account of and apply (as appropriate):
- All Council policies and procedures
- Code of Conduct
- Principles of natural justice
- Legal and regulatory requirements.

For staff – refer to Staff Code of Conduct & disciplinary process
For Councillors – refer to Councillor Code of Conduct
For consultants & contractors – refer so to the individual terms of contract or engagement

Attachment - Fraud and Corruption Control System– Diagrammatic representation

MOYNE SHIRE COUNCIL FRAUD AND CORRUPTION CONTROL SYSTEM

1. Introduction
- Operational context & alignment
- What are fraud & corruption?
- Local government case studies
- Development & review
- Provision of adequate resources

2. Fraud & Corruption Control System
- Document purpose
- Three lines of assurance
- Control types & assurance program
- Related policies & procedures
- Related legislation & controls
- Organisational accountability

3. Fraud & Corruption Risk Profile
- Perceived risk in local government
- Impacts of the COVID19 pandemic
- Fraud & corruption profile: Moyne

4. Prevention
- Awareness & culture
- Formal training
- Employee screening
- Job rotation & annual leave
- Supplier & customer vetting
- Independent review

5. Detection
- Red flags for fraud & corruption
- Detection program
- Audit & Risk Committee
- External audit
- Reporting allegations
- Public Interest Disclosures

6. Responding
- Investigation of allegations
- Internal reporting & escalation
- Reporting to external bodies
- Disciplinary procedures
- Review of internal controls
- Loss recovery & insurance coverage
- Media enquiries