

1.8 Fraud and Corruption Control Policy

Objective

The objective of this policy is to articulate the Shire of East Pilbara's ("the Shire") commitment to the prevention, detection, response and monitoring of fraud and corrupt activities.

Policy Scope

This policy applies to all employees, Elected Members and contractors.

Fraud and corruption control is the responsibility of everyone in or associated with the Shire.

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."

CCM Act means the *Corruption, Crime and Misconduct Act 2003*. CEO means the Chief Executive Officer of the Shire of East Pilbara. corruption is defined by Australian Standard AS8001-2008 as:

"Corruption is 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.

FW Act means the *Fair Work Act 2009*

Minor misconduct as defined by the *Corruption, Crime and Misconduct Act 2003*, means 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.

Public authority as defined by the *Corruption, Crime and Misconduct Act 2003*, includes an authority, board, corporation, commission, council, committee, local government, regional local government or similar body established under a written law.

Public interest information as defined by the *Public Interest Disclosure Act 2003*, means information that tends to show, in relation to its public function, a public authority, a public officer, or a public sector contract 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. a 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;
- e. a matter of administration that can be investigated under section 14 of the *Parliamentary Commissioner Act 1971*.

Public officer as defined by the *Corruption, Crime and Misconduct Act 2003*, includes a member, officer, or employee of an authority, board, corporation, commission, local government, council, committee or other similar body established for a public purpose under an Act.

Serious misconduct as defined by the *Corruption, Crime and Misconduct Act 2003*, means:

- a. a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or
- b. a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or
- c. a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by two or more years' imprisonment

Policy Statement

Fraud and corruption is illegal, and contrary to the organisational values of the Shire of East Pilbara. The Shire aims to foster a culture which upholds trust and honesty as part of its core values. In doing so, the

Shire will ensure that the effective prevention of fraud and corruption is an integral part of its operating activities.

All employees are accountable for, and have a role to play in, fraud and corruption prevention and control. The Shire 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 Shire will protect the anonymity of those responsible for reporting the activity.

The Shire will ensure that systems and procedures are in place to prevent, detect, report and investigate incidents of fraudulent or corrupt behaviour or activities. It will also ensure that staff are trained in and aware of their responsibilities in respect to the prevention, detection, reporting and investigation of fraudulent or corrupt behaviour.

A Fraud and Corruption Control Plan (“the Plan”) has been developed to assist to meet the objectives of this policy. The Plan will ensure that the Shire has thorough and up-to-date procedures in place to mitigate the risk of fraud or corruption occurring in the organisation.

Chief Executive Officer’s Duty to Notify

As a principal officer of a notifying authority the 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, to be either serious or minor misconduct.

Reporting internally

Anyone, including employees, customers, contractors or members of the public can make a complaint about fraud, misconduct and corruption or suspected wrongdoing.

If a complaint or allegation is:

- a. A service complaint, the Shire’s customer service officer’s will log and action the complaint in accordance with the Shire’s Customer Complaint’s Policy (still to be developed).
- b. A grievance issue, the Shire’s Manager Human Resources will action in accordance with the Grievance Settlement Procedure.
- c. Considered minor or serious misconduct under the CCM Act or FW Act, is to be referred to the CEO.

Complaints may be lodged by telephone, hard copy correspondence or through the Shire’s electronic form available of the Shire’s website.

The following procedures explain how to report suspected wrongdoing, including fraud, misconduct and corruption:

- Reporting Serious and Minor Misconduct Management Procedure.
- Receiving and Conducting Investigations into Allegations of Misconduct under the *Corruption and Crime Misconduct Act 2003*.
- Grievance Settlement Procedure.

Reporting Externally

The Shire's Public Interest Disclosure Guidelines provide clear direction in regards to reporting any suspected fraudulent or corrupt conduct to any external enforcement agency.

The Western Australian public sector integrity framework includes several independent statutory bodies which promote accountability, integrity and good governance. These include:

- Public Sector Commission (PSC);
- Crime and Corruption Commission (CCC);
- Western Australian Police Force.

These agencies offer a range of external reporting channels and advice, depending on the nature and scope of the alleged misconduct. In addition, the Shire has an external reporting responsibility to the PSC for minor misconduct and the CCC for serious misconduct, in accordance with the *Corruption, Crime and Misconduct Act 2003*.

The Manager Governance should be contacted prior to any matter being reported to an external agency, for advice on the correct reporting protocols.

Public Interest Disclosure

Any person may make an appropriate disclosure of public interest information to a proper authority (including a 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 Act, the person making them is protected from reprisal. This means that the person enjoys immunity from civil or criminal liability and is protected from any disciplinary action or dismissal.

The Act also requires local governments to appoint persons, known as the Public Interest Disclosure Officer's (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 the Shire's PID Officers are found in the Shire's Public Interest Disclosure Guidelines, which are maintained on the Document Centre and the Shire's website.

Whistle-blower Protection

Persons disclosing misconduct or corruption related matters are protected from reprisal or detrimental action by the CCM act and other 'whistle-blower' protection laws.

Recovery Action

The Shire will seek to recover any losses it may have suffered through fraudulent or corrupt conduct, where there is clear evidence, and where the likely benefits of such recovery will exceed the funds and resources required to be invested in the recovery action.

Review

This Fraud and Corruption Control Policy shall be reviewed every two years.

Authorisation Details

Authorised by:	Council		
Date:	28 June 2013	Item No.	9.1.4
Review/Amendment Date	13 April 2018	Item No.	9.2.5
Review/Amendment Date	22 November 2019	Item No.	9.1.4
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Responsible Directorate	Corporate Services		
Responsible Officer	Manager Governance, Risk and Procurement		
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