

REPORTING FRAUD AND CORRUPTION REPORTING PROCESS



MANAGEMENT GUIDELINE – REPORTING FRAUD AND CORRUPTION PROCESS

Reference Number	741627
Responsible Business Unit	Office of the CEO
Responsible Officer	Chief Executive Officer
Legislation	Local Government Act 1999 Development Act 1993 ICAC Act 2012 Public Information Disclosure Act 2018 Development Act 1993 Planning Development & Infrastructure Act 2016
Relevant Delegations	Chief Executive Officer
Related Policies Management Guidelines Frameworks	Good Public Administration Framework - 741628 Fraud and Corruption Prevention Policy Code of Conduct for Elected Members - 682841 Code of Conduct for Employees - 679144 Code of Conduct for Volunteers - 743122 Code of Conduct for Independent Members of S41 Committees - 685233 Minister's Code of Conduct for CAP Public Information Disclosure Guideline Risk Management Framework Access to Council Meetings and Committee meetings Code of Practice - 676270 Policy Framework - 676271 Complaint Framework Internal Review of Council Decisions - 714555 Freedom of Information Policy - 688275 Internal Control Policy - 743236
Link to Strategic Plan	Objective 4.1 - Provide effective and accountable leadership and teamwork throughout the organisation
Date Adopted	
Review Date	2019
Previous Revisions	9 June 2015, item 147.1 (Audit Committee 26 May 2015) Previously combined within policy document

1. PURPOSE

This Management Guideline explains the process Elected Members and workers should follow in reporting Fraud and Corruption in accordance with the Independent Against Corruption's (*the Commissioner's*) Directions and Guidelines and the *Public Interest Disclosure Act 2018*.

REPORTING FRAUD AND CORRUPTION

REPORTING PROCESS



2. SCOPE

This Management Guideline applies to all Public Officers, ie Elected Members, Council Workers.

Council's volunteers will be Public Officers (and therefore mandated to make reports under the Commissioner's Directions and Guidelines) where they:

- (a) Hold delegation from Council or the CEO; or
- (b) In accordance with an Act, assist a Public Officer in the enforcement of the Act.

Conversely, Council's Volunteers who do not hold such delegation or who do not so assist are not Public Officers and therefore not mandated to make reports under the ICAC Act, but they are encouraged to do so where appropriate under this Process and Council's supporting *Public Interest Disclosure Guideline*.

3. REPORTING FRAUD AND CORRUPTION

Reporting Corruption in Public Administration to the OPI

Reports by Public Officers

1. Any Public Officer worker or Council Member who has or acquires knowledge of actual or suspected Corruption in public administration must report this information to the OPI as soon as practicable.
2. Where a worker or Council Member suspects Corruption in public administration, that suspicion must be reasonably held. Section 6 of the Directions and Guidelines address what is required to form a reasonable suspicion. In this regard it is to be noted that suspicion is a state of mind that is distinct from a belief. It is not necessary for the Worker or Council Member to believe the relevant conduct amounts to Corruption in public administration. All that is required to make a report to the OPI is a reasonable suspicion based upon a proper consideration of the available facts (ie there must be a factual basis for the suspicion)
3. Reports to the OPI by a Worker or Council Member must be made in accordance with the reporting obligations contained in section 11 of the Directions and Guidelines. In particular, the following information must be included in the report.
 - a. The Worker or Council Member identity; and
 - b. The identity of the Council
 - c. The Worker's or Council Member's Council address, telephone number and email.
4. In addition the report must:
 - a. Identify the matter by reference to the conduct that the Worker or Council Member suspects is Corruption in public administration; and
 - b. Expressly identify that the Worker or Council Member suspects the conduct to be Corruption; and
 - c. Identify any public officer or other person suspected of having engaged in the conduct; and
 - d. To be accompanied by:
 - i. a statement as to how the Worker or Council Member became aware of the conduct; and
 - ii. the evidence known to the Worker or Council Members including any documentation relevant to the conduct; and
 - iii. a list of those persons who the Worker or Council Member believes can give evidence relevant to the conduct.
5. A report to the OPI by a Worker or Council Members must be made on the online report form available at www.icac.sa.gov.au

REPORTING FRAUD AND CORRUPTION

REPORTING PROCESS



6. Where the Worker's or Council Member's knowledge of Corruption has arisen due to a complaint/report he/she has received from another person (the informant), the Worker or Council Member should not include the informant's details in the report to the OPI if:
 - a. The report/complaint was made under the *Public Interest Disclosure Act 2018* and
 - b. The informant has not consented to the informant's identify being divulged; and
 - c. It is not necessary to divulge the identity of the informant to ensure that the matters to which the report to the OPI relates are properly investigated.
7. Nothing in this section is intended to prevent a Worker or Council Member from reporting Corruption in public administration internally to a Responsible Officer in accordance with the Council's Whistleblowers Protection Policy. Where an internal report relating to Corruption in public administration is received by another under the Public Interest Disclosure Guideline the Responsible Officer must report the matter to OPI in accordance with this Policy.

Reports by the Council to the OPI

8. Where the Council (ie Council Members collectively) has or acquires knowledge of actual or suspected Corruption in public administration it must report this information to the OPI as soon as practicable after the Council becomes aware of the matter. The Chief Executive Officer is responsible for preparing a report to the OPI on behalf of the Council for these purposes. The Chief Executive officer must prepare the report immediately upon receiving direction from the Council (such as via the Mayor) to do so.
9. Any suspicion the Council has regarding conduct that constitutes Corruption in public administration must be reasonably held. Section 6 of the Directions and Guidelines address what is required to form a reasonable suspicion. In this regard it is to be noted that suspicion is a state of mind that is distinct from a belief. It is not necessary for the Council to *believe* the relevant conduct amounts to Corruption in public administration. All that is required to make a report to OPI is a reasonable suspicion based upon a proper consideration of available facts. (ie there must be a factual basis for the suspicion).
10. The report must:
 - a. Identify the matter by reference to the conduct that the Council suspects is Corruption; and
 - b. Expressly identify that the Council suspects the conduct to be Corruption in public administration; and
 - c. Identify any public officer or other person suspected of having engaged in the conduct, and
 - d. To be accompanied by:
 - i. A statement as to how the Council became aware of the conduct; and
 - ii. The evidence known to the Council including any documentation relevant to the conduct; and
 - iii. A list of those persons who the Council believes can give evidence relevant to the conduct.
11. A report to the OPI by the Chief Executive Officer on behalf of the Council must be made on the online report form available at www.icac.sa.gov.au
12. Where the Council's knowledge of Corruption has arisen due to a complaint/report it received from another person (the informant), the Chief Executive Officer should include the informant's details in the report of the OPI if:
 - a. The report/complaint was made under the *Public Interest Disclosure Act 2018* and
 - b. The informant has not consented to the informant's identify being divulged; and
 - c. It is not necessary to divulge the identity of the informant to ensure that the matters to which the report to the OPI relates are properly investigated.

REPORTING FRAUD AND CORRUPTION

REPORTING PROCESS



13. Any consideration by the Council of the information relating to Corruption in public administration or a Council report to the OPI during a Council meeting must be considered in confidence. The grounds under section 90(3)(f) and (g) of the *Local Government Act 1999* may be relied upon to move into confidence for these purposes.

Reporting Fraud

14. Any Worker or Council Member that has or acquires knowledge or actual or suspected Fraud that:
- a. does not constitute Corruption in public administration¹, and
 - b. impacts or causes detriment (or has the potential to impact or cause detriment) to the Council –
- must report such information to the Anti-Corruption Branch of SAPOL of the Responsible Officer appointed by Council.
15. A report made under clause 71 may be made under the *Public Interest Disclosure Act 2018* and managed in accordance with Council's *Public Interest Disclosure Guideline*.

4. ACTION BY THE CHIEF EXECUTIVE OFFICER FOLLOWING A REPORT AND/OR INVESTIGATION INTO FRAUD AND CORRUPTION

1. Following any report to the OPI or SAPOL under this Policy (or the *Public Interest Disclosure Guideline* as the case may be) of which the Chief Executive Officer has knowledge and, subject to the finalisation of any investigation undertaken by the Commissioner or SAPOL. The Chief Executive Officer will undertake a review into the area in which the Fraud or Corruption occurred to determine the cause for the breakdown in controls and, will report the findings of the review and provide recommendations (if any) to the Council. In undertaking any review, the Chief Executive Officer will have regard to any recommendations received from the Commissioner or the Ombudsman.
2. In the event that allegations of Fraud and/or Corruption are substantiated, the Council may take disciplinary action against any Worker who was involved.

5. FALSE DISCLOSURE

A person who knowingly makes a false or misleading statement in a complaint or report under the *ICAC Act* or makes a false or misleading disclosure, under the *Public Interest Disclosure Act 2018* is guilty of an offence.

Worker who makes a false disclosure, in addition to being guilty of an offence, may face disciplinary action that may include dismissal.

6. TRAINING

All Elected Members, Workers will be made of this process and overarching Policy during their induction and in refresher training upon request.

¹ Such conduct may, for example, relate to persons who are not a public officer such as a non-elected member of a Council Committee and/or a member of a Council Assessment Panel

REPORTING FRAUD AND CORRUPTION

REPORTING PROCESS



7. RECORDS MANAGEMENT

All records made by the Responsible Officer pursuant to receiving a Disclosure under the Public Interest Disclosure Guidelines will be maintained confidentiality in accordance with the General Disposal and Council's Records Management Policy

8. REVIEW

This reporting Fraud and Corruption process shall be reviewed every Council term or more frequently if Legislation or Council needs change.

This review may include a review of:

- Legislative compliance issues
- Audit findings relating to incident reporting and investigation
- Incident reports, claims costs and trends
- Feedback from stakeholders