



WALCHA COUNCIL

ADMINISTRATION POLICY

Fraud and Corruption Prevention

Applicability

All Councillors and Council Staff

Publication Requirement

Internal and External

Assigned Responsible Officer

Chief Financial Officer

Document Status

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1. PURPOSE

To state Walcha Council's commitment to the prevention of fraud and corruption and to outline the methodology to deter and detect fraudulent behaviour and corrupt conduct.

This policy outlines the responsibilities of our people in regard to the prevention, detection and investigation of fraudulent and corrupt activities in Walcha Council.

2. POLICY SCOPE

This policy applies to any suspected or confirmed irregularity involving all Walcha Council employees, Councillors and external parties including contractors, community representatives, volunteers and consultants.

3. POLICY STATEMENT

Walcha Council will not tolerate corrupt conduct by employees, Councillors, contractors, volunteers or external parties.

This policy will contribute to:

- a) Protecting the physical assets, funds and resources of Walcha Council from providing personal benefit to employees, contractors, volunteers and third parties whilst creating an environment of public trust and security;
- b) protecting Council employees, Councillors, volunteers, contractors and consultants from false accusation or public perception of corrupt or fraudulent behaviour; and
- c) protecting Council's reputation.

4. POLICY COMMITMENT

Through the Executive Management Team and the Audit, Risk and Improvement Committee (ARIC), Walcha Council will support a culture that is committed to:

- a) minimising the opportunities for corrupt conduct by employees, members of the public, Councillors, contractors, volunteers and customers;
- b) creating awareness of this policy and encourage the reporting of possible risks;
- c) detecting, investigating and disciplining/prosecuting fraud and corruption;
- d) reporting corrupt conduct to appropriate authorities;
- e) developing and implementing a fraud and corruption risk assessment strategy to assist in the identification and management of corruption risks across Council;
- f) strengthening systems where fraud is detected, and implementing controls to mitigate the chance of repetition or further fraudulent activity; and



- g) encouraging confidence in Council's ability to manage fraudulent and corrupt behaviour.

5. DEFINITIONS

5.1. Fraud

The definition of **Fraud** by the NSW Audit Office is:

"a deliberate and premeditated turn of events which involves the use of deception to gain advantage from a position of trust and authority. The type of events include: acts of omission, theft, the making of false statements, evasion, manipulation of information and numerous other acts of deception".

Fraud and corruption can be committed by one person or in collusion with others. Such persons may be employees of Council, Councillors, volunteers, external companies, external individuals, contractors or consultants.

5.2. Corruption

The *Independent Commission Against Corruption Act 1988* (NSW) provides a definition of **corruption** which includes but is not limited to:

- a) *any conduct of any person (whether or not a public official) that adversely affects, or could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority;*
- b) *any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions;*
- c) *any conduct of a public official or former public official that constitutes or involves a breach of public trust; or*
- d) *any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.*

5.3. Examples of Corrupt Conduct

Corrupt conduct examples include:

- a) misappropriation of Council funds;
- b) exerting influence in order to receive a benefit for oneself or others;
- c) using Council information to bribe or threaten individuals or businesses;



- d) taking of equipment or supplies (including stationery or portable electrical equipment) from Council;
- e) conspiring unfairly with others to determine a tender or development application;
- f) receiving benefits to process development applications that do not meet statutory, regulatory or Council requirements;
- g) enhancing one's financial position through the use of Council information;
- h) unauthorised private use of a Council motor vehicle or other assets of Council;
- i) using Council money for a private benefit;
- j) accepting gifts that contravene the Code of Conduct (with failure to disclose the gift);
- k) falsifying timesheets;
- l) running a private business during working hours or with Council resource;
- m) falsifying travel claims and/or reimbursements;
- n) falsifying documents to obtain benefits that would otherwise not be provided; or
- o) election bribery, election funding offences and election fraud.

6. OUR RESPONSIBILITIES

6.1 All Employees

All Council employees are responsible for:

- 1) Performing their functions and duties with diligence, honesty, integrity and impartiality.
- 2) Complying with this policy and all legislative requirements to ensure they are not participating in corrupt or fraudulent behaviour.
- 3) Reporting any suspicion of fraudulent or corrupt behaviour to the General Manager, the appropriate Manager or the Mayor if such behaviour concerns the General Manager, or by utilisation of Council's Public Interest Disclosures Policy.
- 4) Reporting any identified weaknesses in internal controls that could potentially facilitate a fraudulent or corrupt act.

6.2 Councillors

Councillors are responsible for performing their functions and duties with diligence, honesty, integrity and impartiality; and reporting all cases of suspected fraudulent or corrupt behaviour to the General Manager, Mayor, Disclosures Officer or relevant external agencies.



6.3 General Manager

The General Manager is ultimately responsible for the prevention, detection and reporting of fraud and corruption through the implementation of appropriate and effective internal control systems.

The General Manager is responsible for ensuring that Council's Code of Conduct and associated policies are extended to all Council employees and Councillors and promoting Walcha Council's commitment to preventing fraud and corruption to the local Community.

The General Manager has a duty under s11 of the ICAC Act 1998 to report to ICAC any matter that is suspected to concern or may concern corrupt conduct and report criminal offences to the NSW Police.

6.4 Directors, Managers and Supervisors

Directors, Managers and Supervisors are also responsible for the prevention, detection and reporting of fraud and corrupt conduct by ensuring:

- 1) There are mechanisms in place within their area of control to assess the risk of fraud and corrupt conduct and to manage such risks by appropriate internal controls.
- 2) The promotion of employee awareness, training and education on the prevention of fraud and corruption.
- 3) Compliance with all relevant policies and practices.
- 4) Reporting of any fraud or corruption matters to the General Manager.
- 5) That reasonable steps are undertaken to ensure that Council contractors within their area of control adhere to the provisions of this policy.

6.5 Audit, Risk and Improvement Committee

Council's Audit, Risk and Improvement Committee (ARIC) plays a pivotal role in the governance framework. It provides Council with independent oversight in the areas of risk, control, compliance and financial reporting. ARIC consists of two Councillors, three independent members of the public and Council staff. Note that the Council staff do not have voting rights.

6.6 Rights of the Employee

Council recognises, that where an allegation of fraud may also involve criminal conduct, then, by law, the employee's right to silence will be recognised. Council will also recognise the employee's right to due process, independent union representative, support personnel and legal advice.



Council will take seriously all reports of suspected fraud and conduct appropriate investigations. Council reserves the right to determine who will be informed of the allegations and when, subject to any legal obligations. Council may investigate an allegation without informing the individual(s) to whom the allegation relates and may also keep allegations confidential while other agencies are reviewing or investigating the matter. Where disciplinary action is being considered, the suspected officer will be given an opportunity to explain the events at an appropriate time.

7. FRAUD PREVENTION AND CONTROLS

7.1. Prevention

In implementing this policy, Council has identified the fraud and corruption risks across the organisation. The identified areas of high risk of fraud and corruption within Council will assist in the development of management strategies in response to such risks.

Identified Fraud and Corruption Risks for Walcha Council include (but are not limited to):

- a) Conflicts of Interest;
- b) Bribes, including Gifts and Benefits;
- c) Recruitment and selection;
- d) Procurement, purchasing and tendering;
- e) Development Applications;
- f) Cash handling;
- g) Theft of money, materials and machines;
- h) Delegations;
- i) Time recording;
- j) Use of Council resources;
- k) Stock control;
- l) Obtaining personal benefit by provision of additional service; and
- m) Information technology.

7.2. Mitigation Practices

Actions that will be taken to minimise the risk of fraud include:

- a) **Governance** – a strong governance framework will ensure appropriate policies exist and knowledge of correct procedures in circumstances of conflicts of interest, gifts and benefits and delegations;



- b) **Leadership** – the behaviour of leaders is seen as important in creating an ethical workplace;
- c) **Risk Management** – identifying where the risks exist and to minimise them;
- d) **Conduct Guidance** – by providing an effective guide to proper behaviour through the Code of Conduct;
- e) **Staff Culture** – an effective internal reporting system and supportive and transparent culture to assist detecting fraud and identifying suspicious behavior;
- f) **Segregation of Duties** – ensuring that multiple officers are involved in processing transactions to reduce the opportunity for fraud as well as error;
- g) **Peer Review** and selective checking by Management – a review of work leads to the sharing of knowledge and discourages fraud;
- h) **Computerised Reporting and Data Analysis** – by identifying high volume, low amount transactions or unusual items can deter staff from fraudulent practices;
- i) **Physical Access** – security needs to reflect the risk of theft such as cash, cheques and other high risk items; and
- j) **Information Security** – information is also susceptible to fraud and needs to be secured.

8. REPORTING AND INVESTIGATION

8.1. Internal Reporting of fraud and corruption

Council will provide support to persons who report instances of fraud, corruption and wrongdoing in accordance with the Walcha Council Public Interest Disclosures Policy. A separate Council policy details the provisions and procedures covered by the Public Interest Disclosures Act 1994.

The Code of Conduct also establishes responsibility for staff to report breaches.

8.2. Protection of Whistleblowers

Council respects that whistleblowers play an important role to ensure that our operations are conducted in accordance with applicable legislative and policy requirements. Council will ensure the safety and confidentiality of whistleblowers and will implement all protections as defined in the Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019. Discipline and Investigation

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Walcha Council has zero tolerance for corrupt or fraudulent behaviour. Council staff found guilty of such matters will face disciplinary matters pursuant to the Code of Conduct and the Local Government (State) Award. Other (non-staff) Council officers will be disciplined pursuant to Council's Code of Conduct.

All "possible" corruption matters, involving Council officers, have a mandatory statutory reporting requirement to ICAC. ICAC or Council itself can also seek criminal prosecutions by reporting fraud and other corruption matters to the NSW Police Service.

The General Manager must make an initial determination as to whether the matter in question concerns or may concern corrupt conduct. This may entail their own analysis of the circumstances surrounding the matter or utilising another staff member or an investigator to carry out preliminary enquiries on which to base the determination.

After formal notification by the General Manager, ICAC will normally determine if they will investigate the alleged corruption matter. Alternatively, ICAC may instruct Council to carry out their own investigation and report the findings to ICAC. In such circumstances Council should engage an experienced and suitably qualified investigator for the process.

9. RELATED LEGISLATION, POLICIES AND REVIEW

9.1. Related Legislation and Policies

The following are relative to this policy:

- 1) Local Government Act 1993 NSW
- 2) Independent Commission Against Corruption Act 1988
- 3) Public Interest Disclosure Act 1994 NSW
- 4) Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019
- 5) Walcha Council Code of Conduct (WO/19/336)
- 6) Walcha Council Public Interest Disclosures Policy (WO/19/2269)

9.2. Review

Council reserves the right to vary, replace or terminate this policy at any time. This policy will be reviewed every 4 years or following an ordinary election of Council, or earlier if there are relevant statutory or State Government policy changes.