



Fraud and Corruption Control Policy

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Purpose

The purpose of this policy is to help minimise the opportunity for fraudulent and corrupt activity to occur by ensuring all members of the organisation understand what it is, that it will not be tolerated and what their legal obligations are in response to it.

The policy is Council's principal integrity framework instrument and is intended to clearly convey East Gippsland Shire Council's (Council) unequivocal commitment to preventing fraud and corrupt activity.

Scope

This policy applies to all Councillors, Council officers, contractors and volunteers of Council.

Policy Context

The Fraud and Corruption Policy seeks to:

1. minimise fraudulent activities within the workplace,
2. provide guidance about what constitutes fraud and corruption (which includes the intentional misuse or theft of Council property),
3. assist those working for or on behalf of East Gippsland Shire Council to recognise and to appropriately handle such conduct,
4. aligns the consequences for those who engage in fraudulent and corruption activities.

Policy Statement

Council does not tolerate corrupt and fraudulent activity.

Since 1 December 2016, the Chief Executive Officer (CEO) has been legally required to report *suspected* corrupt conduct¹ to the Independent Broad-based Anti-Corruption Commission (IBAC).

'Suspected corrupt conduct', is where the CEO suspects on reasonable grounds corrupt conduct is occurring, means there is a real possibility that corrupt is, or may be, involved. It requires a relevant principle officer to hold a suspicion of corrupt conduct, and that the suspicion is based on reasonable grounds. 'Suspicion' is something less than belief but requires more than idle speculation.

This means that **suspected activity is treated in the same manner as actual or substantiated activity**.

Council uses Australian Standard AS 8001-2008 for fraud and corruption control, which defines *fraud* as:

¹ 'Suspected corrupt conduct', or where the CEO suspects on reasonable grounds corrupt conduct is occurring, means there is a real possibility that corrupt is, or may be, involved. It requires a relevant principal officer to hold a suspicion of corrupt conduct, and that the suspicion is based on reasonable grounds. 'Suspicion' is something less than belief, but requires more than idle speculation.

Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys 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. This also 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 same Australian Standard defines *corruption* as:

Dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interest of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity.

All Councillors, Council officers, contractors and volunteers should always act with integrity and must not engage in fraudulent or corrupt activity of any kind. This includes fraudulent activities that may be seen to benefit Council. By signing their relative Code of Conduct, Councillors Council staff, contractors and volunteers have indicated that they understand their personal obligations to take reasonable steps to protect Council assets and funds against improper use and will report any suspected or actual fraud and/or corrupt activity.

Any attempted fraud or corruption will also be treated in the same manner as an actual act of fraud or corruption.

Ultimately, the CEO is responsible for ensuring that appropriate and effective internal control systems are in place to prevent and deter acts of fraud and corruption.

Managers and supervisors are responsible for ensuring their staff and any other individual operating within their area of responsibility are aware of this policy, its provisions and their personal obligations toward fraud and corruption.

Fraud and Corruption Control Framework

Council has a fraud and corruption control framework in place to ensure that adequate internal control measures are implemented to minimise the opportunity for fraud to take place and deter corrupt activity.

The three key elements to a robust integrity framework are policy; legislation and governance. Together, they can be used effectively to counter the conditions for fraud and corruption to occur.

East Gippsland Shire Council Audit and Risk Committee

In accordance with section 53 of the *Local Government Act 2020*, Council maintains an Audit and Risk Committee (Committee) that provides an advisory function on matters concerning financial and risk management. The Committee plays a key role in overseeing and enhancing awareness of fraud control across the organisation, including regularly reviewing internal controls to ensure they are appropriately robust, and reviewing management's approach to new and emerging risks during periods of change. It meets at least five times each year.

The independence of the Committee is assured through its membership, which comprises of four external members (from which the Chair is appointed), the Mayor of the day and two other Councillors formally appointed by Council.

Internal Audit Program

Council maintains a five-year, rolling internal audit plan and engages the services of a contract auditor to conduct audits on identified operational risk areas. Included in the internal auditor's key functions are to:

- Independently review systems, procedures and controls to ensure internal fraud controls are adequate.
- Identify areas of concern through specific audits and testing of business processes and systems.
- Provide advice on Council and management policies, procedures and guidelines.

External Audit Program

The Victorian Auditor-General undertakes an annual audit of Council's financial statements. The outcome of this audit is reported to Council's Audit and Risk Committee and included in Council's Annual Report, which is available for public inspection.

Consequences of Engaging in Fraudulent or Corrupt Conduct

Council's disciplinary procedures will apply to staff members and volunteers² involved in fraudulent or corrupt activities in accordance with the organisation's Disciplinary Process Policy.

Any issue involving conduct of this kind and pertaining to a Councillor will be subject to the procedures set out in the Councillor Code of Conduct or referred to an appropriate external authority for investigation and further action.

Where fraudulent or corrupt conduct is believed to have been undertaken by a contractor or volunteer, the matter will be referred to the appropriate internal process or external authority for investigation and further action.

For the purposes of this policy appropriate external authorities include Victoria Police, IBAC and the Local Government Inspectorate.

Where appropriate, civil legal action to recover losses incurred by Council will be taken against any person or entity found to be involved in fraud or corrupt activity.

² Volunteers can refer to the "Volunteers Code of Conduct" to understand the behaviours and obligations expected of them. Volunteers will recognise that the Code also meets general community expectations in their roles as representatives of Council.

Reporting and Investigation of Corruption and/or Fraud

All suspected instances of fraud or corrupt conduct must be reported in accordance with this policy. In the first instance, reports may be made in writing or verbally.

Allegations and/or reports about Council staff (employees), contractors or volunteers can be made to authorised members of Council staff identified in section 3.

Disclosures (or reports) can also be made under the provisions of the *Public Interest Disclosure Act 2012* to Council's delegated Public Interest Disclosure Officers (also detailed in Roles and Responsibilities). Further information on public interest disclosures is available in Council's Public Interest Disclosure Policy and its related procedure.

If the CEO believes there are reasonable grounds to suspect corrupt conduct has occurred or is occurring, he has a legal obligation to report his suspicions to IBAC.

Where a disclosure or report is not made under the provisions of the *Public Interest Disclosure Act 2012*, the matter will be dealt with in accordance with the provisions of this policy and relevant legislation.

Where reasonable grounds exist to suspect that a Councillor is involved in fraudulent or corrupt conduct, the matter should be reported directly to the Local Government Inspectorate³ or IBAC.

If reasonable grounds exist to suspect that the CEO is involved in wrongdoing of the kind dealt with by this policy, the matter should be reported immediately to the Mayor or in his/her absence, to the Deputy Mayor.

Any reported or suspected acts of fraud, corruption, misconduct, theft, misappropriation or similar irregularity will be investigated and reported in accordance with relevant legislation and this policy.

Under no circumstances will any individual who makes a good faith allegation of suspected fraud or corruption, that is subsequently not substantiated, be subjected to recriminations or other negative consequences.

Allegations of suspected fraud or corrupt activity that are made with the intent to disrupt or cause harm to another person or entity (i.e. not made in good faith) will be the subject of disciplinary action.

Roles and Responsibilities

Legislative obligations and this policy apply to everyone in Council. This includes Councillors, Council officers (employees), contractors and volunteers. It is everyone's individual responsibility not to conduct or condone fraud and/or corruption.

³ It is important to note that reports to the Local Government Investigations and Compliance Inspectorate cannot be made under the provisions of the *Public Interest Disclosure Act 2012*.

The following positions are responsible for implementation and compliance monitoring of the Policy in their work areas:

Party / Parties:	Roles and responsibilities:
Public Interest Disclosure Officers	<p>Designated Council officers who are authorised to receive and investigate allegations and reports of suspected or actual fraudulent and corrupt activity. These officers will also provide general advice regarding the operation of the <i>Public Interest Disclosure Act 2012</i> for any person wishing to make a disclosure concerning improper conduct or detrimental action by a Councillor, Council officer, contractor or volunteer.</p> <p>Currently these officers are the General Manager Business Excellence and Governance and Compliance Coordinator.</p>
Public Interest Disclosure Coordinator	<p>Recommended first point of contact for any enquiries and assessing any disclosures to determine if a public interest disclosure has been made.</p> <p>Currently the Governance and Compliance Coordinator holds this role.</p>
Councillors	<p>As part of their sworn oath (or affirmation) as elected representatives, Councillors have a duty to ensure that Council assets and resources are safeguarded from fraudulent and corrupt conduct, and to ensure that Council's powers, duties and responsibilities are exercised in an open fair and proper manner to the highest standards of probity.</p> <p>Councillors must lead by example and genuinely commit to fraud and corruption control by raising awareness and ensuring that associated risks are considered in their dealings with the CEO, Council officers and members of the public.</p>

Party / Parties:	Roles and responsibilities:
Chief Executive Officer (CEO)	<p>The CEO has overall responsibility for the management of Council resources, and the effective development and implementation of systems and procedures to prevent and deter fraudulent and corrupt conduct. This includes responsibility for a culture and organisational environment that does not tolerate or condone fraud and corruption.</p> <p>This includes the legally mandated responsibility under section 57A of the <i>Independent Broad-based Anti-corruption Commission Act 2011</i> to notify IBAC of any matter he or she suspects on reasonable grounds involves corrupt conduct. This obligation cannot be delegated.</p> <p>The CEO can be contacted in respect of disclosures of corrupt conduct, improper conduct or detrimental action by East Gippsland Shire Councillors, Council Officers, Council contractors, or volunteers.</p>
CEO and General Managers	<p>The CEO and General Managers are responsible for organisational compliance. This includes ensuring appropriate internal fraud controls and preventative measures are in place; monitoring their effectiveness and organisational compliance with relevant policy and procedure; and that the culture and organisational environment is not vulnerable or complacent to fraud and corruption.</p> <p>They must lead by example and genuinely commit to fraud and corruption control by raising awareness and ensuring fraud risks are considered and controls implemented in their operational functions and administrative activities.</p>
Managers and Supervisors	<p>Ensure all Council staff, contractors and volunteers who fall within the area of responsibility of their Business Unit(s) are aware and understand their personal obligations under legislation to not conduct fraud and/or corruption, and report any suspected or actual incidents as prescribed in this policy or in relevant legislation. Furthermore, managers and supervisors are responsible for ensuring fraud risks are considered and controls implemented in their operational functions and administrative activities.</p>
East Gippsland Shire Council Audit and Risk Committee	<p>To provide independent advice to Council and staff on risk management, fraud prevention and internal audit activities. Receive reports and make recommendations on specific projects and investigations deemed necessary by Council and the CEO, which may include suspected or actual cases of fraud and/or corrupt activity.</p>

Party / Parties:	Roles and responsibilities:
General Manager Business Excellence	Responsible for the implementation of Council's Fraud and Corruption Policy. Performs the role of a delegated Public Interest Disclosures Officer under the <i>Public Interest Disclosure Act 2012</i> .
Governance and Compliance Coordinator	Performs the role of delegated Public Interest Disclosure Coordinator under the <i>Public Interest Disclosure Act 2012</i> .
Council staff, contractors and volunteers	To be aware of and understand their obligations in identifying and reporting any risks, exposures or suspected fraudulent activities

All staff are required to report occurrences of non-compliance with Council policy. Incidents of non-compliance should be reported immediately in accordance with section 3 of this policy.

If a staff-member wishes to make a report under the provisions of the *Public Interest Disclosure Act 2012*, contact should be made with one of Council's delegated Public Interest Disclosure Officers (refer to Council's Public Interest Disclosure Policy and its related procedure for more information).

Reference Legislation and Referral Agencies

Applicable Legislation

The following legislation establishes Council's accountability and integrity framework, and determines key requirements to ensure fraudulent and corrupt conduct is not tolerated:

- *Local Government Act 1989* and the *Local Government Act 2020* provide the legislative framework for the Local Government sector until the transition to the *Local Government Act 2020* is finalised in July 2021. The Acts provide Local Government Councils with authority to manage public resources and represent community interests. It determines the mandatory statutory requirements for the Minister, Councillors, Chief Executive Officers and Council staff to ensure adequate internal control systems are in place and being used.

Two other important internal controls are required by the Act: the establishment of codes of conduct for Councillors and staff, and an Audit and Risk Committee.

- *Public Interest Disclosure Act 2012* was introduced by the Victorian State Government to encourage and facilitate the making of disclosures or complaints relating to the improper conduct or detrimental actions by public officers, public bodies or other persons⁴.
- *Independent Broad-based Anti-Corruption Act 2011* establishes the IBAC Commissioner, an independent officer of Parliament who reports to the IBAC Parliamentary Committee. IBAC is responsible for preventing and exposing public sector corruption and police misconduct. IBAC can commence an investigation into corrupt conduct or police misconduct in response to a complaint or notification. It can also initiate its own investigations.
- *Ombudsman Act 1973* gives the Victorian Ombudsman the power to enquire into and investigate administrative actions taken by public bodies, including Council staff. The Ombudsman may also investigate corrupt conduct referred by IBAC (including public interest disclosure complaints).
- *Audit Act 1994* provides the Victorian Auditor-General with powers and functions to conduct and report on financial and performance audits. This includes the legal basis for accessing all government information, and freedom to report on findings arising from audits.
- Australian Standard AS8001-2008, Fraud and Corruption Control provides authoritative guidance for organisations wishing to implement a fraud and corruption control program. This standard has been used in the development of Council's framework.

Independent Broad-based Anti-Corruption Commission

The Commission was established under the *Independent Broad-based Anti-Corruption Act 2011* to expose and prevent public sector corruption and police misconduct.

Website: <http://www.ibac.vic.gov.au>

Victorian Ombudsman

The Office of the Ombudsman was established under the *Ombudsman Act 1973* to investigate administrative actions of state government departments, local councils and statutory authorities.

Website: <https://www.ombudsman.vic.gov.au>

Victorian Auditor-General's Office

The Office of the Auditor-General was established to provide independent assurance to Parliament and the Victorian community on the financial integrity and performance of the state.

Website: <http://www.audit.vic.gov.au>

⁴ Procedures for making a disclosure about a member of Parliament can be obtained from the Parliament of Victoria website: www.parliament.vic.gov.au

Local Government Investigations and Compliance Inspectorate

The Local Government Investigations and Compliance Inspectorate receives and investigates complaints about council operations and breaches of the Local Government Act 1989.

Website: <http://www.vic.gov.au>

Privacy and Human Rights Consideration

Any data and information collected by East Gippsland Shire Council will be assessed using the management principles of this policy and legislative requirements. It will be handled in accordance with all applicable Privacy legislation and will be used only for purposes that comply with relevant legislation or local law.

The Information Privacy Policy has been assessed as compliant with the obligations and objectives of the *Victorian Charter of the Human Rights Responsibilities Act 2006*.

Definitions

Term	Meaning
Chief Executive Officer or CEO	Chief Executive Officer of East Gippsland Shire Council
Corruption	<p>Corruption is defined by the Australian Standard on Fraud and Corruption Control as, “dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity. Corruption is any conduct that is improper, immoral and fraudulent”.</p> <p>Examples of corruption include:</p> <ul style="list-style-type: none">• Release of confidential information for other than a proper business purpose in exchange for some form of non-financial benefit or advantage accruing to the employee releasing the information• Collusive tendering (the act of multiple tenderers for a particular contract colluding in preparation of their bids)
Councillors	The nine individuals elected by the residents and ratepayers of East Gippsland Shire to represent them.
General Managers	Officers appointed by the CEO to the position of General Manager with East Gippsland Shire Council
EGSC or Council	East Gippsland Shire Council, and all Council-owned or Council-managed commercial enterprises.

Term	Meaning
Fraud	<p>Corruption is defined by the Australian Standard on Fraud and Corruption Control as, “dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys 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. This also 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”.</p> <p>Examples of fraud include:</p> <ul style="list-style-type: none"> • Theft of plant, equipment, inventory, money, intellectual property or confidential information • Unauthorised use or misuse of EGSC property, plant or equipment, including vehicles, computers, telephones, credit cards and fuel purchase cards • Forgery, falsification or alteration of documents • Misappropriation of funds, supplies or any other asset • Irregularity in the handling or reporting of monetary transactions • Payments to fictitious employees or suppliers • Any claim for reimbursement of expenses that are not made for the exclusive benefit of EGSC.
IBAC	Independent Broad-based Anti-Corruption Commission
Local Government Inspectorate	An independent administrative office established to assess compliance with the legislative framework of the <i>Local Government Act 1989</i> and <i>Local Government Act 2020</i> (discussed under ‘the Act’ below). A key role of the Inspectorate is to encourage best practice, accountability and transparency in local government.
The Act	The legislative framework of the <i>Local Government Act 1989</i> and the <i>Local Government Act 2020</i> . The transition to the provisions in the new Act will be commenced and repealed progressively until July 2021.
Risk Register	Documented listing of the risks faced by EGSC and the proposed method to overcome or mitigate those risks
Suspected corrupt conduct or where the CEO suspects on reasonable grounds corrupt conduct is occurring	Means there is a real possibility that fraudulent or corrupt conduct is or may be occurring or involved. It requires a relevant principal officer (CEO) to hold a suspicion of corrupt conduct, and that the suspicion is based on reasonable grounds. ‘Suspicion’ is something less than belief but requires more than idle speculation.
VAGO	Victorian Auditor-General’s Office

Supporting Council Documents

The Fraud and Corruption Control Policy is one of a suite of policies and procedures designed to minimise the incidence of corrupt conduct in the workplace. This Policy should be read in conjunction with other related policies and procedures, including but not limited to:

- Audit and Risk Committee Charter (Council policy)
- Cash Handling Policy and Procedures
- Councillor Code of Conduct (Council policy)
- Credit Card Policy (Management policy)
- Disciplinary Policy (Management policy)
- Gift Disclosure Form
- Guarantee of Confidentiality and Declaration of Interests Form
- Information Privacy Policy (Council Policy)
- Internal Audit Plan
- Petty Cash Policy (Management policy)
- Procurement Policy (Council Policy)
- Public Interest Disclosure Policy and Procedure (Council policy)
- Register of Interests Declaration Form
- Risk Management Policy (Council Policy)
- Risk Register
- Staff Code of Conduct (Management policy)

Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
Original	Approved	17/12/2003	Council		
1	Amended staff titles	July 2006	CEO		
2	Amended staff titles	01/11/2007	Director		
3	Approved full revision	06/10/2009	Council	3720385	
4	Approved	01/09/2015	Council	6426594	
5	Approved	06/06/2017	Council	7198289	
6	Approved	05/05/2020	Council	8468074	Local Government Act 2020 inserted. Public Interest Disclosure terminology inserted. Position titles updated.

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