



FRAUD AND CORRUPTION CONTROL POLICY

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CONTENTS

1. PURPOSE	4
2. POLICY STATEMENT.....	4
Fraud and Corruption Control framework.....	5
East Gippsland Shire Council Audit Committee	5
Internal Audit Program.....	5
External Audit Program	5
Consequences of Engaging in Fraudulent or Corrupt Conduct	6
Reporting and Investigation of Corruption and/or Fraud	6
3. RESPONSIBILITY FOR IMPLEMENTATION AND COMPLIANCE	7
4. SCOPE OF POLICY	9
5. REFERENCES / ASSOCIATED DOCUMENTS	9
Applicable Legislation.....	9
Independent Broad-based Anti-Corruption Commission	10
Victorian Ombudsman	10
Victorian Auditor-General's Office.....	10
6. PRIVACY AND HUMAN RIGHTS CONSIDERATION	11
7. DEFINITIONS AND ABBREVIATIONS	11

1. 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 unequivocal commitment to preventing fraud and corrupt activity.

2. POLICY STATEMENT

East Gippsland Shire Council ('Council') will not tolerate corrupt and fraudulent activity.

Recent changes to Victorian legislation strengthened the Victorian Government's integrity system. A key amendment that affects Council is the introduction of a 'mandatory notification' requirement. As of 1 December 2016, the Chief Executive Officer (CEO) is legally required to report *suspected* corrupt conduct¹ to the Independent Broad-based Anti-Corruption Commission (IBAC).

This means that **suspected activity will be 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:

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 will act at all times 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 and Council staff 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.

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.

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 environmental factors that create the necessary conditions for fraud and corruption.

This policy is the primary instrument of Council's integrity framework. Other elements of the framework are:

East Gippsland Shire Council Audit Committee

In accordance with section 139 of the *Local Government Act* 1989, Council maintains an Audit 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 Audit 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 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 any staff member (employee) 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 Victorian Local Government Investigations and Compliance 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.

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 *Protected Disclosure Act 2012* ('the PDA') to Council's delegated Protected Disclosure Officers (also detailed in section 3). Further information on protected disclosures is available in Council's Protected Disclosure Policy and its related procedure.

If the Chief Executive Officer (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 PDA, 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 Investigations and Compliance Inspectorate² or IBAC.

If reasonable grounds exist to suspect that the CEO is involved in wrong-doing 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.

² It is important to note that reports to the Local Government Investigations and Compliance Inspectorate cannot be made under the provisions of the *Protected Disclosures Act 2012*.

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 suspect 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.

3. RESPONSIBILITY FOR IMPLEMENTATION AND COMPLIANCE

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.

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

Party / Parties:	Roles and responsibilities:
Protected 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>Protected Disclosures 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 Governance and Compliance Coordinator and Director Corporate.</p>
Protected Disclosure Coordinator	<p>Recommended first point of contact for any enquiries and assessing any disclosures to determine if a protected 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 or 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 Directors	<p>The CEO and Directors 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 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>
Director Corporate	<p>Responsible for the implementation of Council's Fraud and Corruption Control Policy.</p> <p>Performs the role of a delegated Protected Disclosure Officer under the <i>Protected Disclosures Act 2012</i>.</p>
Governance and Compliance Coordinator	<p>Performs the role of delegated Protected Disclosure Coordinator under the <i>Protected Disclosures Act 2012</i>.</p>

Party / Parties:	Roles and responsibilities:
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 *Protected Disclosure Act 2012*, contact should be made with one of Council's delegated Protected Disclosure Officers (refer to Council's Protected Disclosure Policy and its related procedure for more information).

4. SCOPE OF POLICY

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

5. REFERENCES / ASSOCIATED 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 Committee Terms of Reference / 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)
- Protected Disclosure Policy and Procedure (Council policy)
- Register of Interests Declaration Form
- Risk Management Policy (Council Policy)
- Risk Register
- Staff Code of Conduct (Management policy)

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*³ ('the Act') is the principal piece of legislation governing the local government sector. It provides 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 committee.

- *Protected 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 persons.
- *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 protected 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/>

³ The *Local Government Act 1989* is under review by the Victoria State Government at the time of writing, with draft legislation expected to be released for public consultation in the second half of 2017.

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/>

6. 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.

7. DEFINITIONS AND ABBREVIATIONS

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.
Directors	Officers appointed by the CEO to the position of Director 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 Investigations and Compliance Inspectorate	An independent administrative office established to assess compliance with the <i>Local Government Act 1989</i> . A key role of the Inspectorate is to encourage best practice, accountability and transparency in local government.
The Act	<i>Local Government Act 1989</i> . See ‘Applicable Legislation’ in section 5 of this policy.
The PDA	<i>Protected Disclosure Act 2012</i> . See ‘Applicable Legislation’ in section 5 of this policy.
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	Office of the Victorian Auditor-General

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