

MANDATORY NOTIFICATION (SUSPECTED CORRUPTION) POLICY

Policy Number:	2.4.5
Approved by:	Chief Executive Officer
Date Effective:	17 December 2019
Date of Next Review:	1 October 2020
Related Policies:	Fraud Control Public Interest Disclosures
Applicable to Unit(s):	Whole Organisation
Responsible Officer:	Chief Executive Officer
Statutory Reference:	<i>Public Interest Disclosure Act 2012 Section 57</i> <i>Local Government Act 1989</i> <i>AS 8001-2008 Fraud and Corruption Control</i> <i>Crimes Act 1958</i>

OVERVIEW

Council aims to establish an environment in which corrupt conduct is not tolerated and one in which Councillors and Council employees (including Officers) do not act dishonestly. This environment will promote a culture where all fraudulent activities and corrupt conduct once notified or legitimately suspected are reported, investigated and resolved in a timely and fair manner.

Council will not tolerate any incident of corrupt conduct. Councillors and Council employees will act in accordance with applicable Codes of Conduct and in the spirit of ethical standards.

THE POLICY

This policy forms an integral part of Council's risk management strategy and will contribute to a culture of awareness which encourages staff responsibility and workplace protection against suspected or actual corrupt behavior.

The Australian Standard AS 8001-2008 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.”

The obligation to report suspected corrupt conduct rests with the relevant principal officer (Chief Executive Officer) and cannot be delegated. Where another person is acting as the relevant principal officer, the obligation applies to that person. The relevant principal officer must notify IBAC of all instances of suspected corrupt conduct occurring in their own organisation, and suspected corrupt conduct occurring in other organisations where it is connected with the relevant principal officer's duties, functions and exercise of powers. There is no legislative obligation for the relevant principal officers to search out corrupt conduct, only to report it when suspected.

Corrupt conduct

Suspect conduct maybe detected during a regular review process (e.g. an internal audit, service review or routine quality assurance review).

Section 4 of the *IBAC Act 2011* describes and defines corrupt conduct, summarised here as conduct, or an attempt or conspiracy to engage in conduct that:

- a) adversely affects the honest performance of the functions of a public officer or public body;
- b) constitutes or involves the dishonest performance of the functions of a public officer or public body;
- c) constitutes or involves knowingly or recklessly breaching public trust;
- d) involves the misuse of information or material acquired in the course of the performance of the functions of a public officer or public body;
- e) is intended to adversely affect the effective performance of the functions or powers of a public office or public body and results in the person or their associate obtaining a specified benefit.

In order for conduct to be corrupt conduct, it must also be the case that the conduct would constitute a relevant offence which means an indictable offence against any Act, or the common law offences of attempt to pervert the course of justice, bribery or a public official, perverting the course of justice and misconduct in public office.

Examples of misconduct in public office include:

- deliberately falsifying accounts to conceal or obtain a benefit;
- entering into a secret commission or profit-sharing arrangement with another person;
- colluding to share profits with tender recipients and concealing the overvaluation of tenders;
- using public office to deceive a member of the public to gain a financial advantage;
- misusing power to harm, oppress or disadvantage a person.

When must a report be made?

Notifications of suspected corrupt conduct must be made as soon as practicable after the Chief Executive Officer has formed a reasonable suspicion that corrupt conduct may have occurred or may be occurring.

CONFIDENTIALITY

Notifications to IBAC must be made without advising the person(s) to whom the notification relates, and without publicity. All notifications of suspected corrupt conduct to IBAC will be treated in the strictest confidence.

Failure to handle notifications to IBAC confidentially may prejudice any subsequent investigation, whether by IBAC or the public-sector body concerned, and may cause unnecessary reputational or other damage to individuals.

Making a mandatory notification

Independent Broad-based Anti-Corruption Commission (IBAC)

Telephone IBAC on 1300 735 135 to request a form to be sent to you.

Postal address:

Level 1, North Tower
459 Collins Street
Melbourne VIC 3000

Complete the IBAC secure online form available at: <https://www.ibac.vic.gov.au/reporting-corruption/report/complaints-form> or download a complaint form at www.ibac.vic.gov.au and return by email, fax or post.

HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

Related Documents

Type:	Details:
Procedure	Nil
Strategy	Nil