Fraud, Corruption, Misconduct and Maladministration Prevention Policy

Document Details	
Reference Number:	CR26/32671
Type:	Council Policy
Responsible Directorate:	Director City Corporate
Lead Reviewer:	Team Leader Governance
Initial Adopted Date:	May 2020
Last Review Date:	September 2026
Next Review Date:	September 2030
Version Number:	3
Approval:	Approved by Council on 22/09/2026
Legislation:	*Public Interest Disclosure Act 2018 (SA)* *Local Government Act 1999* *Independent Commissioner Against Corruption Act 2012 (SA)* *Criminal Law Consolidation Act 1935*
Related Documents:	Public Interest Disclosure Procedure Code of Conduct for Council Employees Behavioural Management Policy for Council Members Council Member Allowances and Benefits Policy Audit and Risk Committee Terms of Reference

CITY OF PROSPECT

1. Purpose:

1.1 City of Prospect is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency.

1.2 The purpose of this Policy is to ensure that Council:

- properly fulfils its responsibilities under the *Independent Commissioner Against Corruption Act 2012* (ICAC Act) and *Public Interest Disclosure Act 2018* (PID Act)
- takes appropriate steps towards compliance with relevant legislation, policies and instruments
- provides a clear statement to all employees through practices, policies and procedures that fraudulent conduct, misconduct and/or maladministration is not acceptable and will not be tolerated
- protects Council assets, interests and reputation from the risks associated with fraudulent conduct, misconduct and/or maladministration
- outlines Council's approach to the prevention, detection and response to Fraud, Corruption, Misconduct and Maladministration
- fosters an ethical environment and culture which is conscious of, actively discourages, does not tolerate and appropriately deals with Fraud, Corruption, Misconduct and Maladministration
- identifies the relevant responsibilities of Council Members, employees, the Chief Executive Officer, managers and the Audit and Risk Committee
- educates employees and Council Members about their obligations to report conduct reasonably suspected of being Fraud, Corruption, Misconduct and/or Maladministration
- maintains a clear and simple process to enable reporting
- evaluates practices, policies and procedures it has in place in order to further advance Council systems for preventing or minimising Fraud, Corruption, Misconduct and Maladministration
- develops a consistent approach to the management of relevant conduct across the organisation through the establishment and maintenance of effective systems and internal controls to guard against Fraud, Corruption, Misconduct and Maladministration.

2. Scope:

2.1 This Policy applies to all Council Members, employees, contractors, consultants and volunteers of the Council. It is intended to complement and be implemented in conjunction with other relevant Council policies and procedures.

3. Definitions:

Commissioner	means the person holding or acting in the office of the Independent Commissioner Against Corruption per section 4 of the ICAC Act, who has the powers and functions described at section 7 of the ICAC Act.
Corruption	in public administration, as provided for in section 5(1) of the ICAC Act, means conduct that constitutes: 1. an offence against Part 7 Division 4 (offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences: i) bribery or corruption of public officers ii) threats or reprisals against public officers iii) abuse of public office iv) demanding or requiring benefit on basis of public office v) offences relating to appointment to public office 2. an offence against the *Public Sector (Honesty and Accountability) Act 1995* or the *Public Corporations Act 1993*, or an attempt to commit such an offence 3. an offence against the *Lobbyist Act 2015*, or an attempt to commit such an offence 4. any other offence (including an offence against Part 5 (offences of dishonesty) of the Criminal Law Consolidation Act 1935 committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence 5. any of the following in relation to an offence referred to in a preceding paragraph: i) aiding, abetting, counselling or procuring the commission of the offence ii) inducing, whether by threats or promises or otherwise, the commission of the offence iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence iv) conspiring with others to affect the commission of the offence.
Council	means City of Prospect.
Directions and Guidelines	means the Directions and Guidelines issued by the Commissioner and as in force from time to time pursuant to section 20 of the ICAC Act and/or section 14 of the *Public Interest Disclosure Act 2018*, which are available on the Commissioner's website (www.icac.sa.gov.au).
Employee	refers to all Council's employees whether they are working in a full-time, part-time or casual capacity.

False Disclosure	is a disclosure of information relating to Fraud or Corruption, Maladministration or Misconduct that is made by a person who knows the information to be false.
Fraud	means intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right; an act of deceiving or misrepresenting. **Note:** There is no statutory or agreed common law definition of Fraud. Offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences. An ordinary or lay meaning of Fraud is 'to obtain dishonestly that which the person is not entitled to'. Fraud is a broad label applicable to conduct / practices that involve knowingly dishonest or deceitful behaviour meant to obtain an unjust benefit. Dishonesty is the key element in fraudulent behaviour, as provided for under section 131 of the *Criminal Law Consolidation Act 1935.*
ICAC Act	is the *Independent Commissioner Against Corruption Act 2012.*
Maladministration in Public Administration	is defined in section 5(4) of the ICAC Act and 1. means: i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions 2. includes conduct resulting from impropriety, incompetence or negligence 3. is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.
Misconduct in Public Administration	is defined in section 5(3) of the ICAC Act and means: 1. an intentional and serious contravention of a code of conduct by a public officer while acting in their capacity as a public officer that constitutes a ground for disciplinary action against the officer 2. other misconduct of a public officer while acting in their capacity as a public officer.
Office for Public Integrity (OPI)	is the office established under the ICAC Act that has the function to: 1. receive and assess complaints about public administration from members of the public 2. receive and assess reports about corruption, misconduct and maladministration in public administration from inquiry agencies (including the Ombudsman), public authorities (including the Council) and public officers 3. refer complaints and reports to inquiry agencies, public authorities and public officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated 4. give directions or guidance to public authorities in circumstances approved by the Commissioner 5. perform other functions assigned to the Office by the Commissioner.
PID Act	means the *Public Interest Disclosure Act 2018.*

Public Administration	is defined at section 4 of the ICAC Act and, without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration. For the purposes of this Policy, references to Corruption, Misconduct and Maladministration are taken to mean references to such conduct in public administration.
Public Officer	has the meaning given by section 4 and Schedule 1 of the ICAC Act, and includes: • a Council Member • an employee or officer of Council
Publish	is defined in section 4 of the ICAC Act, and means publish by: 1. newspaper, radio or television 2. internet or other electronic means of creating and sharing content with the public or participating social networking with the public 3. any similar means of communication with the public.
Relevant Authority	for the purposes of the PID Act means the person or entity that receives an appropriate disclosure of public interest information in accordance with the PID Act.
Responsible Officer	is a person who has completed any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* and has been designated by Council as a responsible officer under section 12 of the PID Act.
Serious or Systemic Conduct	For the purposes of the ICAC Act, misconduct or maladministration in public administration will be taken to be serious or systemic if the misconduct or maladministration: 1. is of such a significant nature that it would undermine public confidence in the relevant public authority, or in public administration generally 2. has significant implications for the relevant public authority or for public administration generally (rather than just for the individual public officer concerned). **Note:** further information about serious or systemic misconduct or maladministration is available at the ICAC website: https://icac.sa.gov.au/glossary

4. Prevention:

4.1 Council recognises that the occurrence of Fraud, Corruption, Misconduct and Maladministration will be more likely to prevail in an administrative environment where opportunities exist for waste and abuse.

4.2 Council also recognises that the most effective way to prevent the occurrence of Fraud, Corruption, Misconduct and Maladministration is to instil and continually reinforce a culture across Council of acting lawfully, ethically and in a socially responsible manner, and to support this culture with the implementation of appropriate internal control mechanisms.

4.3 Council expects employees and Council Members will assist in facilitating a sound ethical culture and preventing Fraud, Corruption, Misconduct and Maladministration by:

4.3.1 understanding the responsibilities of their positions
4.3.2 familiarising themselves with Council policies and procedures and adhering to them
4.3.3 understanding what behaviour constitutes Fraudulent or Corrupt conduct, Misconduct and/or Maladministration
4.3.4 maintaining an awareness of the strategies that have been implemented by Council to minimise Fraud, Corruption, Misconduct and Maladministration
4.3.5 being continuously vigilant to the potential for Fraud, Corruption, Misconduct and Maladministration to occur in the Council environment
4.3.6 reviewing practices to identify potential Fraud, Corruption, Misconduct and Maladministration risks, report concerns, and support the implementation of controls to reduce risks
4.3.7 reporting suspected or actual occurrences of Fraud, Corruption, Misconduct and Maladministration in accordance with Part 6 and 7 of this Policy.

5. Roles and Responsibilities

5.1 The table in Appendix 1 to this Policy outlines the roles and responsibilities of key individuals and groups with respect to Fraud, Corruption, Misconduct and Maladministration prevention within Council.

6. Reporting Corruption, or Systematic or Serious Misconduct and Maladministration

6.1 Any Public Officer who has or acquires knowledge of actual or suspected Corruption, or Systematic or Serious Misconduct or Maladministration in Council or in other public administration must report this information to the OPI as soon as practicable.

6.2 All reasonable suspicions of Corruption or Systematic or Serious Misconduct or Maladministration must be reported the OPI in accordance with the Commissioner's reporting requirements as identified in the Commissioner's Directions and Guidelines.

6.2.1 A report to the OPI must be made using the online report form available at: https://icac.sa.gov.au/opi

Note: Particulars of what a report should include are available in the ICAC Directions and Guidelines.

6.3 Nothing in this section is intended to prevent a Public Officer from reporting suspected Corruption or Systematic or Serious Misconduct or Maladministration in Council or in other public administration to a Relevant Authority, like a Council's Responsible Officer, for the purposes of the PID Act. Such a disclosure may be protected under the PID Act and, if made to Council's Responsible Officer, will be managed in accordance with the Council's Public Interest Disclosure Policy and Procedure. Public Officers are encouraged to have regard to Council's Public Interest Disclosure Procedure when determining where to direct a disclosure.

6.4 Further information about reporting requirements is available at the ICAC website: https://icac.sa.gov.au/

7. Reporting Fraud, Misconduct or Maladministration

7.1 Where an employee, Council Member, contractor or volunteer has or acquires knowledge of actual or suspected Fraud or other similar conduct that does not constitute Corruption or Systematic or Serious Misconduct or Maladministration (and is therefore not required to be reported to OPI), that knowledge should be reported to Council's Responsible Officer. Such a disclosure may be protected under the PID Act and will be managed in accordance with the Council's Public Interest Disclosure Procedure.

8. Confidentiality and Publication Prohibitions

8.1 A person who receives information knowing that the information is connected with a matter that forms or is the subject of a complaint, report, assessment, investigation, referral or evaluation under the ICAC Act must not disclose that information, other than in the limited circumstances set out in section 54(3) of the ICAC Act.

8.2 A person must not, other than as authorised by the Commissioner or a court, publish or cause to be published any of the following:

8.2.1 information tending to suggest that a particular person is, has been, may be, or may have been, the subject of a complaint, report, assessment, investigation or referral under the ICAC Act

8.2.2 information that might enable a person who has made a complaint or report under the ICAC Act to be identified or located

8.2.3 the fact that a person has made or may be about to make a complaint or report under the ICAC Act

8.2.4 information that might enable a person who has given or may be about to give information or other evidence under the ICAC Act to be identified or located

8.2.5 the fact that a person has given or may be about to give information or other evidence under this Act

8.2.6 any other information or evidence which the Commissioner has prohibited from publication.

8.3 A failure to comply with the requirements in this part can constitute an offence. A Council employee who fails to comply with these requirements may also face disciplinary action, which may include dismissal from employment.

8.4 In addition to the requirements in this part, Council Members and employees should also be mindful of the confidentiality provisions in Council's Public Interest Disclosure Procedure.

9. Action by the Chief Executive Officer

9.1 Unless otherwise directed by OPI or SAPOL, the CEO will investigate how the alleged Corruption, Fraud, Misconduct or Maladministration occurred to determine the cause for the breakdown in controls and identify if any recommendations as to changes in policies, procedures or internal controls should be made to Council. The investigation should:

9.1.1 occur as soon as practicable after the alleged incident; and

9.1.2 not impose on or detract from any investigation being undertaken by the OPI or SAPOL;

9.1.3 have regard to any recommendations in any report received from the Commissioner or SAPOL on the incident.

9.2 The CEO will, in conducting the investigation and deciding whether and how to report on the investigation to Council, have regard to the provisions of the Public Interest Disclosure Policy, and any confidentiality requirements under the PID Act and/or ICAC Act.

9.3 Action taken by the CEO following an investigation into alleged Corruption, Fraud, Misconduct or Maladministration may include disciplinary action against any employee involved in the incident.

10. False Disclosure

10.1 A person who knowingly makes a false disclosure or a false or misleading statement in a complaint or report will be guilty of an offence under the ICAC Act and the PID Act.

10.2 A Council employee who makes a false disclosure may also face disciplinary action, which may include dismissal from employment.

11. Review

The Policy will be reviewed **once** per Council term or as required by legislation.

12. Further Information

For further information about this policy please contact:

Director City Corporate
City of Prospect
128 Prospect Road
Prospect SA 5082

Ph 8269 5355
Email admin@prospect.sa.gov.au

Appendix 1 – Roles and Responsibilities

Roles, Responsibilities and Accountability for Fraud, Corruption, Misconduct and Maladministration Prevention Actions

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit and Risk Committees	Other (e.g. certain contractors/ volunteers)
Governance and Ethics							
1	Comply with this policy and any related legislation, policy, protocol or procedure.	✓	✓	✓	✓	✓	✓
2	At all times in the performance of duties or in association with their role with Council, act in an ethical manner.	✓	✓	✓	✓	✓	✓
3	Promote a culture and environment in which Fraud, Corruption, Misconduct and Maladministration is discouraged and not tolerated.	✓	✓	✓	✓		✓
4	Remain scrupulous in the use of Council information, assets, funds, property, goods or services.	✓	✓	✓	✓	✓	✓
Awareness and Training							
1	Promote community awareness of the Council's commitment to the prevention of Fraud, Corruption, Misconduct and Maladministration.	✓	✓		✓ (as appropriate)		
2	Executive employees and managers ensure all employees under their supervision have been educated regarding Fraud, Corruption, Maladministration and Misconduct.		✓	✓	✓		

Appendix 1 – Roles and Responsibilities

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit and Risk Committees	Other (e.g. certain contractors/ volunteers)
3	Undertake awareness training or education regarding Fraud, Corruption, Maladministration and Misconduct.	✓	✓	✓	✓	✓	✓ (as appropriate)
4	Develop and deliver training to employees and other public officers to promote ethical conduct and an ethical culture.		✓	✓			
5	Act in an ethical manner at all times in the performance of duties, and comply with ethical obligations in accordance with any relevant code or policy regarding conduct and behaviour.	✓	✓	✓	✓	✓	✓
6	Adopt and models constructive behaviours and approaches to work which promote ethical behaviours in Council employees.	✓	✓	✓		✓	
Fraud Prevention							
1	Provide adequate security, including the provision of secure facilities for storage of assets, to assist in the prevention of Fraud, Corruption, Misconduct and Maladministration.	✓	✓				
2	Develop procedures to deter fraudulent or corrupt activity from occurring.	✓	✓	✓	✓		
3	Where relevant, comply with the *Public Interest Disclosure Act 2019*	✓	✓	✓	✓	✓	✓
4	Ensure appropriate internal controls are in place and operating effectively to minimise the risks of incidents.	✓	✓	✓		✓	

Appendix 1 – Roles and Responsibilities

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit and Risk Committees	Other (e.g. certain contractors/ volunteers)
5	Ensure effective screening (e.g. criminal history) of employees, prospective employees, volunteers (as relevant) and contractors is undertaken, including by use of appropriate and effective contractual arrangements.		✓	✓			
6	Ensure all powers and authorities are appropriately delegated in order to minimise the risk of Fraud, Corruption, Misconduct or Maladministration.	✓	✓	✓			
Detection and Investigation							
1	Ensure that where appropriate, proper investigations are conducted into allegations of Fraud, Corruption, Misconduct or Maladministration.	✓	✓				
2	Facilitate cooperation with any investigations undertaken by an external authority.	Chlorophyl	✓				
3	Undertake risk assessments on a regular basis.	✓	✓			✓	
4	Provides mechanisms for receiving allegations of Fraud, Corruption, Misconduct and Maladministration.	✓	✓				
5	Investigates matters of Fraud, Corruption, Misconduct and Maladministration.	✓	✓				
6	Cooperate as required with any investigations undertaken whether internally or by an external authority.	✓	✓	✓	✓		✓

Appendix 1 – Roles and Responsibilities

Monitoring and Reporting							
1	Report all instances of conduct known or reasonably suspected to be Fraud, Corruption, Maladministration or Misconduct in accordance with Council's policies.	✓	✓	✓	✓	✓	✓ (report to Responsible Officer)
2	Develop mechanisms for receiving allegations of Fraud, Corruption, Misconduct or Maladministration including appointing a responsible officer.		✓				
3	Work jointly with other areas of Council to co-ordinate activities relating to the control, prevention, detection and management of Fraud, Corruption, Misconduct or Maladministration.	✓	✓	✓		✓	
4	Review the effectiveness of the implemented policies that ensure risks are identified and that controls implemented by management are adequate.	✓	✓			✓	

Appendix 2 – Reporting Pathways

CORRUPTION

Suspected corruption **must be reported to the OPI.**

The OPI will assess the matter to determine if a potential issue of corruption is raised. If a potential issue of corruption is raised, the most likely outcome is that the matter will be referred to the ICAC for potential investigation.

Independent Commission Against Corruption (ICAC)

The state's independent anti-corruption agency is established to identify, investigate and prevent corruption.

MISCONDUCT

MALADMINISTRATION

There is no mandatory requirement to report misconduct and maladministration, but there is an expectation that such conduct be reported. Misconduct and maladministration can be reported to **either the OPI or the Ombudsman.**

If the report is made to the OPI, it will be assessed to determine if the matter raises a potential issue of misconduct or maladministration.

If a potential issue of misconduct or maladministration is raised, the most likely outcome is that the matter will be referred to the Ombudsman.

If the report is made to the Ombudsman, the Ombudsman will make an assessment to determine whether the matter will be investigated or whether an early resolution process is appropriate.

If a matter is referred to the Ombudsman, the Ombudsman will still conduct an assessment as to the appropriate action to be taken.

Office for Public Integrity (OPI)

Receives complaints and reports about corruption, misconduct and maladministration in public administration and South Australian Police.

Ombudsman SA

Takes general complaints about South Australian government agencies and councils, including matters regarding misconduct and maladministration.