



## Fraud Policy Governance Policy

Policy Owner	Legal Audit and Risk Group Manager		
Adopted by	Thames-Coromandel District Council		
Description of policy	States the Council's zero tolerance position on fraud against the Council and sets out the guidelines and procedures for the prevention, detection and investigation of suspected fraud or attempted fraud.		
Keywords	Fraud, corruption, misconduct, crime, conduct, investigation, theft, bribery, dishonesty.		
ECM doc set number			
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This version effective from:	12 March 2019	Date of next review:	1 March 2022

### Objectives

The objectives of the Fraud Policy are to:

- Protect the integrity of the Thames-Coromandel District Council's financial systems, assets and reputation from fraudulent and corrupt conduct;
- Ensure an environment in which fraud or corruption are not tolerated and any suspected incidents are reported on;
- Ensure that adequate processes are in place to enable detection of such conduct;
- Ensure that any instances of fraud or suspected fraud are properly investigated and acted upon appropriately to mitigate any damage caused and avoid recurrence;
- Ensure clear accountability by allocating responsibilities for fraud prevention and response.

### Background

This document supersedes the previous version adopted by the Thames-Coromandel District Council on 7 August 2013.

### Legal requirements

The Local Government Act 2002, s101(1) requires that a local authority must manage its revenues, expenses, assets, liabilities, investments and general financial dealings prudently. Section 111 also requires that:

“all information that is required by any provision of this Part or of Schedule 10 to be included in any plan, report, or other documentation must be prepared in accordance with generally accepted accounting practice if that information is of a form or nature for which generally accepted accounting practice has developed standards.”

The auditing standard “The Auditor’s Responsibilities Relating to Fraud in an Annual Report” (AG ISA (NZ) 240) falls within the definition of “generally accepted accounting practice”. This standard state that the primary responsibility for the prevention and detection of fraud rests with both those charged with governance of the entity and management. It also states that

every public entity is expected to have an appropriate policy in place to address fraud and how to minimise it. This policy should include, as a minimum, the following key elements:

- a system for undertaking regular reviews of transactions, activities, or locations that may be susceptible to fraud;
- specifications for fully documenting what happened in a fraud and how it is to be managed;
- the means for ensuring that every individual suspected of committing fraud (whether they are an employee or someone external to the entity) is dealt with consistently and fairly; and
- the principle that recovery of the lost money or other property will be pursued wherever practicable and appropriate.

Under the Local Government Act 2002, Council is also required to have various financial statements and plans audited.

### **Policy framework**

The Council has in place several other key policies that link to the fraud policy. These are:

#### *Code of Conduct Policy*

This policy is required under Schedule 7 of the Local Government Act 2002 and provides standards of general behaviour for elected members and how breaches should be addressed.

#### *Misconduct and Disciplinary Policy*

This policy deals with breaches to expected standards of conduct for staff and specifies investigation procedures and disciplinary measures that may be taken where misconduct is found to have occurred.

#### *Protected Disclosures Policy*

This policy is mandatory under the Protected Disclosures Act 2000. The policy provides procedures to ensure protection for employees (including elected members, contractors, former employees, volunteers and persons on secondment to the organisation) in disclosing information about serious wrongdoing in or by the organisation.

#### *Procurement Policy*

Details the correct procedures for procurement and includes sections on conflicts of interest and ethics prohibiting a number of activities meeting the definition of fraud under this policy.

#### *Sensitive Expenditure Policy*

Provides business processes to control sensitive expenditure. The policy does not cover breaches with the exception of unauthorised use of a credit card and refers to the Fraud Policy for such breaches.

### **Implementation**

All staff and elected members will be notified of this revised policy and where to access a copy.

All new staff and elected members will be provided with a copy of the policy upon commencement of employment or term of office.

Implementation will include the development and maintenance of, and adherence to, a Fraud Control Plan as per the Policy.

### **Recognising fraud, bribery and corruption risks**

Council recognises that generally there are three particular conditions often associated with fraud, bribery and corruption:

- *Incentives/pressures*: Management, other employees or external parties have an incentive or are under pressure, which motivates them to commit fraud, or act in a corrupt manner (for example, personal financial trouble), or revert to bribery for preferential treatment by council staff.
- *Opportunities*: Circumstances exist that allow employees to commit fraud or act in a corrupt manner, such as an organisation not having appropriate fraud and corruption controls in place, or bribe council staff who are able to get around or override ineffective controls (for example, managers being able to approve and authorise their own sensitive expenditure, or health and safety inspectors issue compliance certificates instead of failing the applicant).
- *Attitudes*: Employees can rationalise committing fraud (for example, holding attitudes or beliefs such as “everybody else is doing it nowadays” or “they made it so easy for me”) or acting corruptly.

In performing its duties, the Council is responsible for the careful management of public funds. Failure to have an effective fraud policy in place or to implement it may jeopardise public money and assets.

Any adverse publicity surrounding an internal fraud places the Council’s reputation and credibility at risk, which can negatively impact on relationships with regulators, business partners and the general public. Without a clear policy and procedures for dealing with suspected or confirmed fraud, there is a risk to the Council of a public perception of lack of transparency and accountability. If serious action is not taken in instances of fraud, staff confidence in managers is also likely to erode, and there is an increased risk of further fraud.

Factors that may impede the implementation of the Policy include lack of awareness of the Policy by appropriate staff, elected members or other parties, non-compliance with Council’s systems, or inadequate procedures to anticipate and provide controls against deliberate attempts to bypass the system (for instance, the ability of managers to override controls, lack of independent checks/authorisations of transactions).

## Policy statement

The Thames-Coromandel District Council requires all staff, elected members and parties doing business with the Council to act honestly and with integrity and to safeguard any public resources for which they are responsible. The Council will not tolerate any fraud or corruption or any condoning or attempt to disguise such activities. All employees and elected members are responsible for promptly reporting instances of suspected fraud using the procedures outlined in this policy.

## Implementation

### 1. Application

This policy applies to any attempted, suspected or confirmed fraud or corruption involving employees, elected members, consultants, vendors, contractors, members of the public and outside agencies doing business with the Thames-Coromandel District Council.

### 2 Prevention

		<b>Responsibility</b>
2.1	Written procedures and checks will be developed and maintained for the recruitment or promotion of employees to sensitive positions, including thorough and independent checks of the potential employee’s employment history to ensure the applicant is suitable for the position.	People & Capability Manager
2.2	Due diligence checks will be carried out on all suppliers, contractors and consultants prior to commencement of any business arrangement.	Legal Audit and Risk Group Manager
2.3	All staff will be provided with a copy of the Fraud Policy as part of their staff induction.	People & Capability Manager

2.4	All elected members will be provided with a copy of the Fraud Policy on the commencement of their term in office.	Governance and Strategy Group Manager
2.5	Accounting systems and procedures will be in accordance with generally accepted accounting principles.	Corporate Services group Manager
2.6	A Fraud Control Plan including a register of fraud risk and internal controls for each area of the organisation will be developed within one year of the adoption of this policy.	Chief Executive
2.7	The Fraud Control Plan will include provisions to ensure an annual review of transactions, activities or locations that may be susceptible to fraud is incorporated into the Audit and Risk Committee audit programme.	Chief Executive
2.8	For each fraud risk identified, the Fraud Risk Register will detail the following: <ul style="list-style-type: none"> <li>• The area of business involved</li> <li>• Position responsible for managing the risk</li> <li>• General aims/policies relating to the issue</li> <li>• Preventive actions and controls</li> <li>• Any particular circumstances that would trigger an early review</li> <li>• Appropriate details to ensure the actions are implemented effectively (such as roles responsible, timeframes)</li> <li>• Dates of last audit</li> </ul>	Chief Executive, All members of Leadership Team
2.9	The Fraud Risk Register will be reviewed for each area of the business at least every two years.	Chief Executive, All members of Leadership Team
2.10	The appropriate manager will implement changes to procedures and systems as required by revisions of the Fraud Risk Register.	Relevant manager of Leadership Team
2.11	Except for access to separate sections as required for the above purposes by relevant managers, access to the Fraud Risk Register will be restricted to the Chief Executive, Legal Audit and Risk Group Manager and the Audit Director appointed by Audit New Zealand.	
2.12	The Chief Executive will report to the Audit and Risk Committee annually on any updates to the Fraud Risk Register.	Chief Executive
2.13	Subject to any legal constraints, staff and elected members will be notified of any cases of confirmed fraud and the actions taken in such cases.	Chief Executive

### 3 Detection

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| 3.1 | All staff and elected members will be encouraged to report any incidents of suspected fraud or corruption.                                       | Chief Executive                                     |
| 3.2 | All staff and elected members in positions most likely to be able to detect fraud will receive training on warning signs and areas of risk.      | Line Managers,<br>People &<br>Capability<br>Manager |
| 3.3 | The Council may implement covert mechanisms and/or surprise internal audits to detect fraud as appropriate with approval of the Chief Executive. | Chief Executive                                     |
| 3.4 | A periodic review of expenditure approved by employees in sensitive positions will be carried out by the Internal Auditor.                       | Chief Executive                                     |

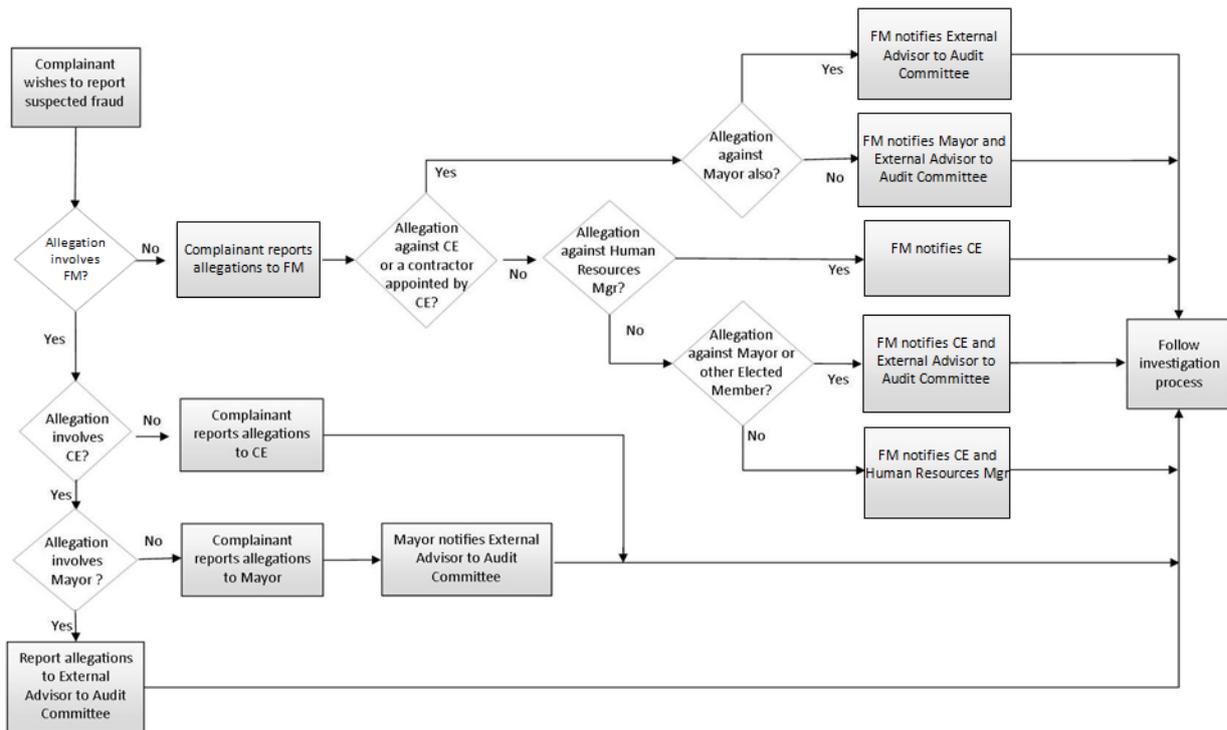
### 4 Reporting and notification

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| 4.1  | Any person may report suspected or attempted fraud.  |                            |
| 4.2  | Disclosures may be made under the provisions of the Protected Disclosures Act 2000 as applicable by following the procedures contained in the Council's Protected Disclosures Policy.  |                            |
| 4.3  | While complainants reporting incidents or suspicions will be encouraged to identify themselves, anonymous reports will be accepted.  |                            |
| 4.4  | A Fraud Complaint Manager will be appointed by the Chief Executive to receive complaints and coordinate the response. The Legal Audit and Risk Group Manager has been appointed Fraud Complaint Manager from the date of this policy until such time as a new appointment is made. |                            |
| 4.5  | Any fraud that is detected or suspected must be reported immediately to the Fraud Complaint Manager.   |                            |
| 4.6  | If it is believed that the Fraud Complaint Manager may be involved in the suspected fraud, the fraud shall instead be reported to the Chief Executive, who will take over the role of Fraud Complaint Manager from that point.   |                            |
| 4.7  | If it is believed that the Chief Executive may also be involved in the suspected fraud, the fraud shall instead be reported to the Mayor, who will take over the role of Fraud Complaint Manager from that point.  |                            |
| 4.8  | If it is believed that the Mayor may also be involved in the suspected fraud, the fraud shall instead be reported to the External Advisor. The contact details of the External Advisor shall be provided on the Council's Intranet site.   |                            |
| 4.9  | Any person wishing to report a suspected fraud is entitled to address their concerns directly to the Police, the Office of the Auditor-General or other appropriate agency if they believe it appropriate.   |                            |
| 4.10 | If there is any question as to whether an action constitutes fraud, the Fraud Complaint Manager should be contacted for guidance.  |                            |
| 4.11 | On receiving information about a suspected fraud, the Fraud Complaint Manager will open a fraud investigation file which will contain a written  | Fraud Complaint<br>Manager |

summary of the complaint, investigation findings and action/s taken.

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| 4.12 | In the case of an allegation against a staff member, the Fraud Complaint Manager will notify the Chief Executive and the People & Capability Manager of the information received unless either is believed to have been involved in the alleged fraud. If it is considered the People & Capability Manager may be involved, the Fraud Complaint Manager will notify only the Chief Executive. | Fraud Complaint Manager                                 |
| 4.13 | If it is considered the Chief Executive may have been involved in the alleged fraud, the Mayor and the External Advisor will be notified instead.   |   |
| 4.14 | In the case of an allegation against the Mayor or any other Elected Member of Council or a Community Board, the Fraud Complaint Manager will notify the Chief Executive and the External Advisor.   |   |
| 4.15 | In the case of an allegation against a contractor appointed by the Chief Executive, the Mayor and the External Advisor will be notified instead of the Chief Executive.   |   |
| 4.16 | The Fraud Complaint Manager will not disclose the identity of the complainant unless requested or agreed to by the complainant.   |   |
| 4.17 | Any attempt to deter or impede a suspected fraud being reported or investigated or any false or malicious allegation of fraud by any staff member will be treated as a serious misconduct under the Misconduct and Disciplinary Policy.   | Fraud Complaint Manager,<br>People & Capability Manager |
| 4.18 | Any attempt to deter or impede a suspected fraud being reported or investigated or any false or malicious allegation of fraud by any elected member will be treated as a serious offence under the elected members Code of Conduct.   | Fraud Complaint Manager,<br>Audit and Risk Committee    |

## Reporting and notification process



## 5 Investigation

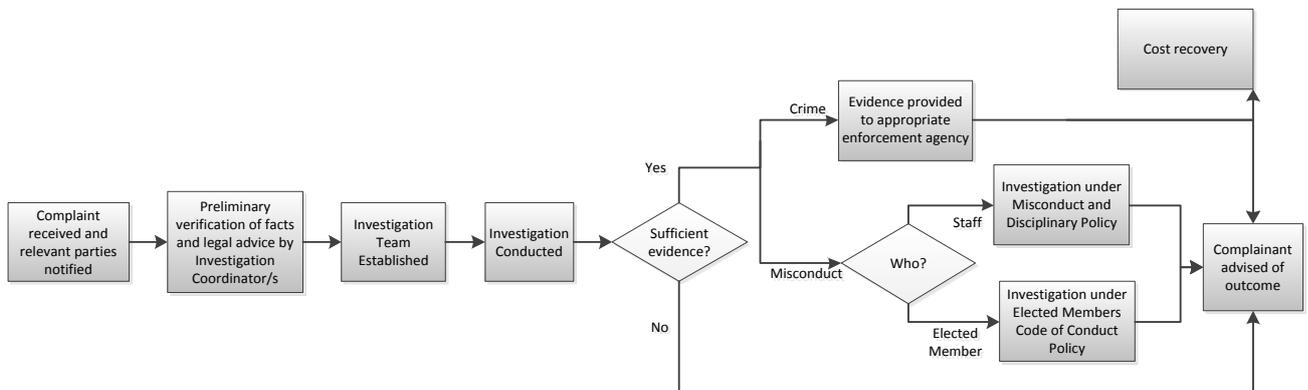
- 5.1 No complainant, member of staff or elected member shall attempt to conduct an investigation, except as provided for in this policy.
- 5.2 No aspect of an investigation or allegation may be discussed by any party with any other person except where necessary for the purposes of carrying out the investigation or as otherwise provided for under this policy.
- 5.3 In any case of an allegation involving the Chief Executive or a contractor or consultant appointed by the Chief Executive, an investigation will be coordinated by the Mayor and the External Advisor following the procedures in this policy.
- 5.4 In any case of an allegation involving the Mayor or any other Elected Member of Council or a Community Board, the investigation will be coordinated by the Chief Executive and the External Advisor.
- 5.5 In any case of an allegation involving the Mayor and the Chief Executive, the investigation will be coordinated by the Fraud Complaint Manager and the External Advisor.
- 5.6 In any case of an allegation involving the Fraud Complaint Manager, the investigation will be coordinated by the Chief Executive.
- 5.7 In all other cases, the investigation will be coordinated by the Fraud Complaint Manager.
- 5.8 Where appropriate, the person undertaking the investigation will seek appropriate legal counsel or other professional advice before the investigation begins. Investigator
- 5.9 Where appropriate and practicable, the person undertaking the investigation will make discreet enquiries to ascertain fundamental Investigator

facts to determine the seriousness and validity of the allegations.

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| 5.10 | <p>If preliminary findings suggest further investigation is warranted the investigator may establish an Investigation Team including, as appropriate the People &amp; Capability Manager and/or an external investigator. In the case of an allegation against a staff member, this decision will be taken in consultation with the Chief Executive or Mayor as appropriate.</p> <p>The external investigator may be an external forensic investigator, specialist fraud investigator and/or the External Advisor and/or other specialist as needed.</p> <p>The investigation team will investigate whether there is sufficient evidence that a crime has been committed.</p> | Investigator  |
| 5.11 | <p>Members of the investigation team shall have free and unrestricted access to all Council records and premises, and the authority to examine, copy and/or remove all, or any portion of, the contents of files, desks, cabinets, computers and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities, when it is within the scope of their investigation.</p>   |   |
| 5.12 | <p>The investigation team shall be responsible for ensuring that all relevant evidence is collected and secured in accordance with legal requirements.</p>  | Investigation team  |
| 5.13 | <p>Where an external investigator is contracted, a letter of engagement shall be provided detailing the investigator's powers and obligations.</p>  | Fraud Complaint Manager   |
| 5.14 | <p>If surveillance is proposed to be undertaken, advice shall be obtained from the Police or Council's solicitors.</p>  | Fraud Complaint Manager   |
| 5.15 | <p>Legal advice will be sought where appropriate to determine the strength of the evidence obtained.</p>  | Fraud Complaint Manager   |
| 5.16 | <p>At any time during the investigation, the Chief Executive in consultation with the People &amp; Capability Manager may, when of the opinion that an employee may have been guilty of a serious misconduct, suspend an employee from work in accordance with Council's Collective and Individual Employment Agreements. Suspension is appropriate where there is a risk that evidence may be tampered with or coercion of witnesses may occur.</p>  | Chief Executive,<br>People &<br>Capability Manager                      |
| 5.17 | <p>When sufficient evidence of criminal activity has been obtained, a complaint against the individual/s involved will be laid before the Police, Serious Fraud Office or other appropriate law enforcement agency. The Council will continue to investigate any misconduct as appropriate.</p>   | Fraud Complaint Manager   |
| 5.18 | <p>The fraud file notes must clearly state whether the information has been provided to a law enforcement agency and, if not, the reasons for the decision.</p>   | Fraud Complaint Manager   |
| 5.19 | <p>At any stage of an investigation into a staff or elected member, if the Fraud Complaint Manager or investigation team considers there may have been misconduct involved, the matter will be pursued under the employee Misconduct and Disciplinary Policy or the Elected Members Code of Conduct as appropriate. Information obtained from the investigation into a possible criminal offence may be used for the investigation into misconduct.</p>   | Human Resource Manager,<br>Chief Executive,<br>Audit and Risk Committee |
| 5.20 | <p>The Fraud Complaint Manager will advise the complainant of the</p>   | Fraud Complaint   |

- outcome of the investigation, unless the complaint was anonymous. Manager
- 5.21 The Mayor and Audit and Risk Committee will be advised of the outcome of any investigation. Chief Executive
- 5.22 Post-investigation assessments will be carried by the Fraud Complaint Manager in coordination with relevant managers to identify and rectify any weaknesses of fraud controls and to update the Fraud Control Plan as appropriate. Fraud Complaint Manager

## Investigation Process



## 6 Disciplinary and remedial actions

- 6.1 Where a criminal investigation has been carried out and information provided to a law enforcement agency, any criminal action shall be determined by that agency.
- 6.2 Where any misconduct or fraud has resulted in a loss of public funds or resources, the Council will attempt to recover such loss from the perpetrator whenever possible and practicable. Any penalty arising from a law enforcement agency's investigation will not preclude the Council from seeking to recover any loss arising from the fraud from the perpetrator. Chief Executive,
- 6.3 Where recovery from the responsible party is not possible, recovery from Council's insurers will be sought. Legal, Audit and Risk Manager
- 6.4 The Council shall cease doing business with and terminate any contractual arrangement with any consultant, contractor, vendor or other party found to have attempted to defraud the Council unless there are compelling reasons not to do so. Any such reasons shall be recorded in the Fraud Investigation File and reported to the Audit and Risk Committee. Chief Executive, Legal, Audit and Risk Manager

## 7 External Communications

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| 7.1 | The Fraud Complaint Manager shall notify the fraud, or suspected fraud, to Council's external auditors and insurers.  | Fraud Complaint Manager |
| 7.2 | With the approval of the Fraud Complaint Manager and the Chief Executive, all statements to the media or public regarding fraud shall be made by the Communications Manager or Chief Executive. | Chief Executive         |

### Measurement and review

Measurement of the effectiveness of this policy will be undertaken through analysis of fraud complaints. This policy will be reviewed every three years.

### Definitions

- Corrupt practice* The intentional offering, giving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party. The purpose of corruption is generally for personal gain (not always financial) by the individual.
- Due diligence* The undertaking of reasonable verifications and precautions to identify or prevent foreseeable risks.
- External Advisor* The independent member appointed to the Council's Audit and Risk Committee.
- Fraud* Fraud is an intentional act by one or more individuals among management, those charged with governance, employees or third parties, involving the use of deception to obtain an unjust or illegal advantage for themselves or any other person, or to evade a liability to the Council.
- Fraud is not restricted to monetary or material benefits. It includes intangibles such as status and information.
- Examples of fraud covered by this policy include, but are not limited to, the following:
- Theft, including cash, consumables and intangible assets;
  - Forgery or alteration of a cheque, bank draft, financial or any other document;
  - Misappropriation of funds, securities, supplies, or other assets or abuse of Council facilities for personal usage;
  - Impropriety in handling the reporting of money or financial transactions;
  - Intentional misstatement of financial information or other reporting of Council performance;
  - Claiming pay or reimbursement of expenses not incurred for legitimate Council purposes;
  - Profiteering as a result of insider knowledge of Council activities;
  - Disclosing confidential and proprietary information to outside parties;
  - Accepting or seeking anything of material value from contractors, vendors or persons providing services, goods or materials to Council;

- Using a false identity to obtain some benefit;
- Employing acts of bribery, corruption or coercion to benefit oneself;
- Unauthorised destruction, removal or inappropriate use of records, information systems, furniture, fixtures, and equipment.

*Corruption*

means the lack of integrity or honesty (especially susceptibility to bribery) or the use of a position of trust for dishonest gain. It includes foreign and domestic bribery, coercion, destruction, removal or inappropriate use or disclosure of records, data, materials, intellectual property or assets, or any similar or related inappropriate conduct. Within this definition, corrupt conduct includes but is not limited to:

- any person who has a business involvement with Council, improperly using, or trying to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others, for example, fabrication of business travel requirements to satisfy personal situations,
- knowingly providing, assisting or validating in providing false, misleading, incomplete or fictitious information to circumvent Council procurement processes and procedures to avoid further scrutiny or reporting,
- disclosing private, confidential or proprietary information to outside parties without implied or expressed consent, and
- accepting or seeking anything of material value from contractors, vendors, or persons providing services or materials to Council (see Council's Sensitive Expenditure Policy).

*Misconduct*

Refers to any misconduct or serious misconduct as defined in the Council's Misconduct and Disciplinary Policy.

*Sensitive Positon*

Position held involving handling of stock, assets, money, information, financial or treasury functions and/or influence over significant decisions.

*Bribery*

means the giving or receiving, whether directly or indirectly, of something of value to influence a transaction (Ministry of Justice). A bribe may require someone to take a particular action, such as award a contract or permit, or to turn a blind eye to something that should not be happening. Within this definition, bribery includes but is not limited to:

- money: cash, vouchers, allowances,
- favours: offers of housing or employment,
- payments of expenses: school fees, medical bills,
- preferential treatment: discounts, rebates, refunds,
- corporate hospitality: gifts, entertainment, travel.