



**BYRON  
SHIRE  
COUNCIL**

# **DRAFT Policy**

## **Fraud and Corruption Control**

**~~201920~~yy23**

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## Information about this document

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## Document History

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#1115176	11/8/11	Draft Policy report to Council (Report No. #1116379)
#1137086	11/8/11	Adopted Res 11-636
E2018/71390	08/18	Drafted as per recommendation by Council's internal auditors OCM following an internal audit review of Council's fraud and corruption controls.
E2019/35229	28/02/19	Resolved 28/02/19 (resolution 19-30) – no submissions were received.
E2020/5122	05/02/20	Appendix 1 – Fraud Control Plan endorsed by Executive Team
E2020/5122	17/03/20	Appendix 1 – Fraud Control Plan endorsed by Audit, Risk & Improvement Committee
<u>E2022/97125</u>	<u>07/12/22</u>	<u>Draft for report to Executive Team: Amendments to 1.1 2<sup>nd</sup> dot point, definitions, delete Appendix 1</u>

## Further Document Information and Relationships

Related Legislation	<i>Independent Commission against Corruption Act 1988</i> <i>Local Government Act 1993 and Local Government (General) Regulation 2021</i> <i>Public Interest Disclosures Act 1994</i> ( <a href="#"><u>note: the Public Interest Disclosures Act 2022 will commence on or before 13 October 2023</u></a> ) <i>Crimes Act 1900</i>
Related Policies	<del>Code of Conduct for Staff (E2019/858)</del> <del>Code of Conduct for Councillors (E2019/857)</del> <del>Business Ethics Statement Policy (DM1154351)</del>

	<a href="#">Internal Reporting Policy (E2015/5497)</a> <a href="#">Related Party Disclosures Policy (E2019/7001)</a> Information Technology Security Standards
Related Standards, Procedures, Statements, documents	Fraud and Corruption Control Strategy

Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.

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# 1. Introduction

## 1.1 Objectives

The objectives of this policy are to ensure that Council will:

- take a risk management approach to the prevention, detection and investigation of fraudulent and corrupt conduct, in accordance with the ten attributes of an effective fraud control system, as identified in the Audit Office of NSW 2015 *Fraud Control Improvement Kit*;
- reduce or remove the potential for fraudulent or corrupt conduct on the part of ~~its employees, contractors, clients and suppliers~~ Council officials, public officials and suppliers;
- detect fraudulent or corrupt conduct through the systematic processes articulated in Council's Fraud and Corruption Control Strategy;
- investigate or otherwise formally enquire into all instances of suspected fraudulent or corrupt conduct exposed as a result of Council's detection processes, or as a result of receiving an allegation of fraudulent or corrupt activities;
- manage, discipline or facilitate the prosecution of those responsible for incidents of fraud and corruption as appropriate; and,
- ensure the continuing organisational integrity and transparency of its operations.

## 1.2 Scope

This policy applies to all Councillors, employees, contractors of Council and to any person or organisation that acts for or represents Council.

## 1.3 Definitions

List here all the terms and acronyms used in the Policy, and their definitions. List in alphabetical order.

Policy acronym	Definition
Corruption	<p>The <i>Independent Commission Against Corruption Act 1988</i> (NSW) provides a definition of corruption which includes, but is not limited to:</p> <ul style="list-style-type: none"><li>• any conduct of any person (whether or not a public official) that adversely affects, or could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority; or,</li><li>• any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions; or,</li></ul>

Policy acronym	Definition
	<ul style="list-style-type: none"> <li>any conduct of a public official or former public official that constitutes or involves a breach of public trust; or,</li> <li>any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.</li> </ul> <p><del>• Fraud is also corrupt conduct.</del></p>
<b>Corruption Examples</b>	<ul style="list-style-type: none"> <li>Payment or receipt of secret commissions (bribes), which may be paid in money or in some other form of value to the receiver (e.g. building projects completed at an employee's private residence) and may relate to a specific decision or action by the receiver or generally.</li> <li>Release of confidential information for other than a proper business purpose in exchange for some form of financial benefit or advantage accruing to the employee releasing the information.</li> <li>Collusive tendering (the act of multiple tenderers for a particular contract colluding in preparation of their bids).</li> <li>Payment or solicitation of donations for an improper political purpose.</li> <li>Serious conflict of interest involving a <del>Councillor, Director, Manager or employee</del> <u>Council official or public official</u> acting in his or her own self-interest rather than the interests of the entity to which he or she has been appointed.</li> <li>Nepotism and cronyism where the appointee is inadequately qualified to perform the role to which he or she has been appointed.</li> </ul>
<b>Fraud</b>	<p>Fraud is also corrupt conduct under sections <u>7, 8 and 9-8(2)</u> of the <i>Independent Commission Against Corruption Act 1988</i>.</p> <p><del>ICAC refers to Treasury Circular 18-02 to define fraud as "dishonestly obtaining a benefit, or causing a loss, by deception or other means."</del></p> <p><del>Fraud is defined in Australian Standards AS 8001-2008 2021 <sup>(KA1)</sup> as:</del></p> <p><del>Dishonest activity causing actual or potential gain or loss to any person or organisation including theft of moneys or other property by persons internal and/or external to the organisation and/or where deception is used at the time, immediately before or immediately following the activity.</del></p> <p><del>*Property includes intellectual property and other intangibles such as information. Fraud also includes deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or improper use of information or position for personal financial benefit. Dishonest activity causing actual or potential financial loss to any person or</del></p>

Policy acronym	Definition
	<del>Council, including theft of moneys or other property or misuse of property/assets by employees or persons external to Council 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.</del>
<b>Fraud Examples</b>	<ul style="list-style-type: none"> <li>• Theft of plant, equipment or inventory by employees</li> <li>• False invoicing (involving a staff member of Council or a person external to Council creating a fictitious invoice claiming payment for goods or services not delivered or exaggerating the value of goods delivered or services provided)</li> <li>• Theft of cash or funds other than by way of false invoicing</li> <li>• Accounts receivable fraud (misappropriation or misdirection of remittances received by Council from a debtor)</li> <li>• Credit card fraud involving the unauthorized use of a credit card or credit card number issued to another person or the use of stolen or fraudulently generated credit card numbers by merchants</li> <li>• Theft of intellectual property or other confidential information</li> <li>• Misuse of data for personal gain, including but not limited to private projects/secondary employment activities</li> </ul>
<b><u>Public Official</u></b>	<u>As defined in s3 of the <i>Independent Commission Against Corruption Act 1988 (ICAC Act)</i>, it relevantly includes a member of a public authority (such as Councillors), and an employee or person otherwise engaged by or acting on behalf of a public authority (such as volunteers, contractors, committee members). A public authority is defined to include a local government authority.</u>

## 2. Statement

Council is committed to good governance and ethical behaviour as a key element of responsible, effective and accountable local government. Fraud and corruption control is a vital part of Council's governance framework and is the responsibility of Councillors, Management and all staff~~all of Council's officials and public officials.~~

Fraud and corruption can harm Council's credibility, the public's confidence in Council and its operations, and Council's relationships with internal and external stakeholders. Fraud and corruption covers the prospect of loss or improper gain or benefit, both financial and non-financial.

It is recognised that Council has a responsibility to protect all of its resources and assets from fraud and corruption and to ensure that decisions and actions are free from any

corruption. Fraudulent and corrupt conduct will ~~therefore~~ not be tolerated within or against the organisation, and Council will take disciplinary or other actions as deemed necessary and appropriate

### 3. Legislative and strategic context

The relevant legislation associated with this policy are:

- *Independent Commission against Corruption Act 1988*
- *Local Government Act 1993 and Local Government (General) Regulation 2021*
- *Public Interest Disclosures Act 1994*
- *Crimes Act 1900*
- AS 8001-~~2008~~2021 Fraud and Corruption Control

The management of fraud and corruption control across the organisation is linked to Council's objectives contained in its Community Strategic Plan, particularly community objective ~~51~~: 'We have ~~community led~~effective decision making and community leadership ~~that~~which is open and ~~inclusive~~informed, supporting strategy ~~51.21~~, 'Create a culture of Enhance trust and accountability through ~~with the community by being~~ open, ~~genuine~~ and transparent leadership'.



## Appendix 1 – Fraud Control Plan [KA2]

### 1. Purpose

This plan describes the controls and processes being implemented to address fraud risks identified across Byron Shire Council (Council).

### 2. Scope

This plan applies to all Councillors, employees, contractors of Council and to any person or organisation that acts for or represents Council.

### 3. Fraud Control Action Plan

The fraud risks were identified through workshops and interviews with key management and staff and review of relevant documentation. The identified fraud risks and controls have been evaluated, assessed and entered in Council's risk registers.

A risk treatment plan, which summarises the mitigating actions to be implemented to address the identified fraud risks (Fraud Control Action Plan) has also been developed and is contained within the risk registers to facilitate monitoring and review. The mitigating actions have been discussed and agreed with the Executive Team and Managers who are responsible for designing, implementing, operating and monitoring the controls. These processes will be conducted in accordance with Council's Risk Management Strategy [KA3] [WA4].

The Fraud Control Action Plan will be reviewed and updated quarterly by Managers as part of the normal risk review process, with any new fraud risks and/or mitigating actions to be added to the risk registers [KA5].

The Fraud Control Action Plan will be provided to the Executive Team and the Audit, Risk and Improvement Committee for review and feedback on a quarterly basis as part of the risk management reporting. [KA6] [JM7]

### 4. Consultation

Key stakeholders who reviewed and endorsed this plan are:

- Executive Team
- Audit, Risk and Improvement Committee [KA8]

### 5. Supporting documents

- Risk Management Strategy (E2020/691)
- Strategic Risk Register (E2019/74423)
- Operational Risk Register (E2019/74426) [KA9]