

Greater Dandenong Policy

Fraud & Corruption Prevention and Control Policy

Policy Endorsement:	Endorsement required by Council		
Objective ID:	A7668648	Directorate:	Corporate Services
Authority:	Council	Responsible Officer:	Director Corporate Services
Policy Type:	Compliance	Version Number:	004
First Adopted by Council: Minute No.	24 July 2017 Minute No: 319	Last Adopted by Council: Minute No.	10 August 2020 Minute No. 4.2.2
Review Period:	Every 2 Years	Next Review:	August 2022

1. Purpose

The policy is designed to:

- protect public funds and assets against fraud and/or corruption by the development, implementation and regular review of a range of fraud and corruption prevention and detection controls; and
- foster an environment within Council which ensures active financial management and fraud and corruption control as a major responsibility of all staff.

Council will not tolerate fraud and/or corruption in any form and is committed to:

- minimising losses by developing and implementing a fraud and corruption control plan
- raising staff awareness about fraud and corruption
- preventing fraud and corruption in the workplace
- creating an environment where concerns can be raised in a timely, safe and confidential manner
- detecting and investigating cases of fraud and/or corruption
- ensuring that appropriate investigation procedures and support or representation for persons involved are implemented, if fraud and/or corruption is alleged
- referring appropriate cases of suspected fraud and/or corruption to the relevant authorities following due investigation
- applying appropriate disciplinary procedures should fraud and/or corruption be proven; and
- the recovery of any loss suffered through fraudulent and/or corrupt activity

2. Background

The Victorian Local Government sector is under increased scrutiny for the efficient and effective management of all public funds and assets with a strong emphasis on the prevention of fraud and/or corruption.

Fraud and/or corruption can adversely impact a council's ability to meet its legislative obligations and achieve its objectives. It can damage its public image and reputation and adversely impact on service

delivery and financial stability.

The *Local Government Act 1989* (“**LG Act**”) also mandates that Councils must have adequate internal control systems. An adequate fraud and corruption control framework is considered to be a critical element to such a system to minimise opportunities for fraud and/or corruption and to respond to inappropriate actions.

The Council and the Victorian public sector is also subject to the *Public Interest Disclosures Act 2012* (“**PID Act**”). This legislation encourages whistleblowers (“**disclosers**”) in coming forward and make public interest disclosures (“**PIDs**”) relating to improper conduct (including corrupt conduct) within or by the Council, Councillors, staff, employees and community members.

The **PID Act** protects disclosers and people connected with PIDs from suffering detrimental action being taken in reprisal for making a disclosure or cooperating with the investigation of a PID.

Penalties for breaching the prohibitions contained in the PID Act are serious enough to attract 6-12 months’ imprisonment and significant financial payments.¹

3. Scope

This policy equally applies to everyone who directly or indirectly has an interest in the Greater Dandenong City Council, as Councillors and employees.

All Councillors and GDCC employees are required to act honestly and with integrity and to safeguard the public resources for which they are responsible, at all times.

This policy must be read in conjunction with the GDCC *Fraud & Corruption Control Plan*. The *Fraud & Corruption Control Plan* is the document that details fraud prevention, detection, resolution and reporting controls.

4. Human Rights and Responsibilities Charter - Compatibility Statement

All matters relevant to the Victorian Human Rights Charter have been considered in the preparation of this Policy and are consistent with the standards set by the Charter, including the right to:

- a fair hearing
- be free from discrimination and to be equal before the law
- privacy

5. References

- a) *Australian Standard for Fraud and Corruption Control* AS8001-2008
- b) Code of Practice - Financial Management
- c) Code of Conduct - Staff
- d) Code of Conduct - Councillors
- e) *Crimes Act Victoria* 1958
- f) Greater Dandenong City Council EBA
- g) *Fair Work Act* 2009
- h) *Financial Management Act* 1994
- i) Financial Management Policy
- j) *Local Government Act* 1989

¹ For more information about how the Council complies with the PID Act, see its Public Interest Disclosures Procedures, as established under s 58 of the PID Act.

- k) *Privacy Act 1988*
- l) *Public Interest Disclosures Act 2012*
- m) *Independent Broad-Based Anti-Corruption Commission Act 2011*
- n) *Public Records Act 1973*
- o) *Charter of Human Rights and Responsibilities 2006*
- p) *Public Records Office Guidance Procedure (PROS-07/01) (2009)*

6. Definitions

Corruption includes dishonest or improper use of a position on the part of any Employee, Councillor or former Employee or Councillor.

For the purpose of the PID Act and the *Independent Broad-based Anti-Corruption Commission Act 2011* (“**IBAC Act**”), which the Council as an organisation and all Employees and Councillors must comply with, “**corrupt conduct**” means conduct:²

- (a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or
- (b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or
- (c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or
- (d) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or
- (da) of a person (the **first person**) intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and result in the first person or an associate of the first person obtaining—
 - (i) a license, permit, approval, authority or other entitlement under any Act or subordinate instrument; or
 - (ii) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or
 - (iii) a financial benefit or real or personal property; or
 - (iv) any other direct or indirect monetary or proprietary gain - that they would not have otherwise obtained; or
- (e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c), (d) or (da) - being conduct that would constitute a relevant offence.

Councillors: means a person who holds the office of member of a Council, in line with the requirements of the LG Act.

Council Funds: Cash, cheques, electronic funds transfers, vouchers or other negotiable instruments belonging to the Greater Dandenong City Council, or for which the Council has responsibility.

Council Property: Tangible or intangible assets owned by the Greater Dandenong City Council.

² Section 4, IBAC Act.

Employee: Includes Council employees (including full-time; permanent part-time temporary, casual and those on secondment), Contractors, Volunteers or the employees of anyone providing services to or on behalf of Council.

Fraud is characterised by dishonest conduct, which may include misuse of position or authority in order to obtain unjust advantage, the theft of funds, assets, intellectual property information, or the unauthorised use of Council assets for personal gain.

IBAC: Independent Broad-Based Anti-Corruption Commission

Improper conduct: defined by the PID Act as including corrupt conduct as defined in s4 of the IBAC Act,³ or any of the following:⁴

(b) conduct of a public officer or public body engaged in by the public officer or public body in their capacity as a public officer or a public body that constitutes -

- (i) a criminal offence; or
- (ii) serious professional misconduct; or
- (iii) dishonest performance of public functions; or
- (iv) an intentional or reckless breach of public trust; or
- (v) an intentional or reckless misuse of information or material acquired in the course of the performance of the functions of the public officer or public body; or
- (vi) a substantial mismanagement of public resources; or
- (vii) a substantial risk to the health or safety of one or more persons; or
- (viii) a substantial risk to the environment; or

(c) conduct of any person that -

- (i) adversely affects the honest performance by a public officer or public body of their functions as a public officer or public body; or
- (ii) is intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and results in the person, or an associate of the person, obtaining -
 - (A) a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or
 - (B) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or
 - (C) a financial benefit or real or personal property; or
 - (D) any other direct or indirect monetary or proprietary gain— that the person or associate would not have otherwise obtained; or

(d) conduct of any person that could constitute a conspiracy or attempt to engage in any of the conduct referred to in paragraph (a), (b) or (c).

LGI: Local Government Inspectorate

Prevention: Is the process by which the Council, its management and employees manage risks to prevent fraud and/or corruption and includes:

- adoption of appropriate internal controls in response to fraud and corruption risk assessments;

³ Section 4(a), PID Act

⁴ Section 4, PID Act.

- adherence to a Code of Conduct - committing to ethical practices and disciplinary standards;
- deterrence through commitment to imposing sanctions (e.g. disciplinary action and/or forwarding evidence and/or information to other agencies);
- transparency in making it safer and easier to report allegations
- publicising outcomes of investigations where fraud and/or corruption is found to have occurred;
- internal and external awareness of fraud and corruption and how Council will deal with it, including in compliance with its legislative obligations under laws such as the PID Act and the IBAC Act; and
- education programs to raise and maintain awareness of employees, contractors, consultants, customers and the community.

Record: all information created, sent and received by a Council employee in the course of carrying out the business of council including electronic documents, emails, websites, audio-visual records, databases and system-generated records, as well as physical documents and files.

7. Council Policy

Responsibilities

In accordance with the *Staff and Councillors Codes of Conduct*, all Councillors and Employees are responsible for acting with propriety and integrity in undertaking their duties.

Councillors and Employees must not use their position with the Council to gain personal advantage or to confer advantage, or disadvantage on any other person or organisation.

Roles and responsibilities of officers under the PID Act are outlined in the Public Interest Disclosures Procedures ("**PID Procedures**") available to staff on the PID Act information page on Webstar: [Council Information \ Policies & Codes of Practice \ PID Act](#)

Audit and Risk Committee

The Audit and Risk Committee is responsible for monitoring the effectiveness of appropriate policies and practices to reduce the risk of fraud and/or corruption.

If a fraud and/or corruption incident has occurred, then the Audit and Risk Committee will be the body to which this is reported and consulted by the Director Corporate Services, consistently with the Council's obligations of confidentiality in receiving and handling PIDs.

Chief Executive Officer

The CEO will consider the nature and circumstances of individual cases including formal advice or reports from investigators and determine whether a matter will be dealt with under Council policies, e.g. Policy and Procedure for *Performance and Behavioural Issues*, or be referred directly to the appropriate authority, e.g. Victoria Police, LGI or the IBAC.

Accordingly, the CEO will, and consistently with the CEO's obligations of confidentiality under the PID Act, if appropriate:

1. Inform the Mayor, Councillors and Auditor General of the incident;
2. Inform the next available Audit and Risk Committee meeting of the actions undertaken to investigate the matter and any outcomes resulting from the investigation;

3. If the Director Corporate Services is suspected of fraud and/or corruption the responsibility of the Fraud and/or Corruption investigation process will be assumed by the CEO;
4. As a principal Officer, the CEO must notify IBAC of any matter they suspect on reasonable grounds to involve corrupt conduct occurring or have occurred.

The CEO is also required under the IBAC Act to notify the IBAC of any matter which they suspect on reasonable grounds that corrupt conduct has occurred or is occurring.

For more information about the mandatory reporting obligations of the CEO, see <https://www.ibac.vic.gov.au/docs/default-source/mandatory-notifications/directions-for-mandatory-notifications.pdf> and <https://www.ibac.vic.gov.au/docs/default-source/mandatory-notifications/faq-s-for-mandatory-notifications.pdf>.⁵

Director Corporate Services

The Director Corporate Services is responsible for the oversight of the annual fraud risk assessment.

Upon notification or discovery of a suspect fraud and/or corruption, the Director will:

- consider whether any of the Council's obligations under the PID Act are triggered and act immediately to comply with them if they are, including to proactively secure the welfare of persons connected with a PID and who are entitled to protections under the PID Act;
- in consultation with the relevant Director and the Manager People and Procurement Services, engage a suitable investigator either internal or external to Council;
- As the responsible officer upholding this Policy, the officer is authorised to make decisions about the nature of the investigation and ultimately the recommendation for the penalty of the breach;
- If the CEO is suspected of fraud and/or corruption the investigation will be managed by the Director Corporate Services in consultation with the Mayor;
- If the Mayor or Councillors are suspected of Fraud and/or Corruption this will be managed by the Director Corporate Services in consultation with the CEO and under direction of any investigating entity pursuant to the PID Act if an assessable disclosure is involved;
- Except as otherwise provided in this policy, the Director Corporate Services will determine how and by whom the investigation will be conducted and whether the Police or any external assistance will be employed;

This decision will be made considering the nature and scale of the fraud and/or corruption being investigated. This will ensure the suspected fraud and/or corruption is fully investigated and appropriate action is taken.

Directors

Upon notification from an employee or Manager/Coordinator of a suspected fraud and/or corruption, or if the Director has reason to suspect that fraud and/or corruption has occurred, the Director will consider if they are required to act in accordance with the PID Act, and, if consistent with their obligations under the PID Act, also -

- immediately notify the Director Corporate Services who will inform the Chief Executive Officer;

The Director will not attempt to investigate the suspected fraud and/or corruption, or to discuss the matter with anyone other than:

- the Chief Executive Officer,

⁵ These links were correct as at 14 February 2020, but it should be noted that legislative amendments affecting the PID Act and the IBAC Act came into effect from 31 December 2019 so documents published by the IBAC as at early 2020 may be moved or updated. Readers are encouraged to check the IBAC website for the most recent and up-to-date information relevant to the IBAC's role and functions.

- Director Corporate Services,
- Manager People & Procurement Services or
- an investigator appointed by Council or the IBAC (if the action relates to a PID which has been notified to the IBAC).

Manager People and Procurement Services

Responsible for personnel issues arising from an investigation in accordance with the provisions of Council's *Code of Conduct, Policy and Procedure for Staff, and Performance and Behavioural Issues* (including staff counselling).

- facilitating disciplinary hearings; and/or
- appointing an investigator appropriate to the circumstances of the fraud and/or corruption
- ensure the welfare management of persons connected to a PID, including:
 - affording to those persons the protections they are entitled to under the PID Act, and
 - proactively protecting them against the risk of detrimental actions being taken in reprisal for coming forward or cooperating with the investigation of a PID.
- Provide awareness to employees regarding the process of investigation, if they are required to participate. This may include witnesses and any other persons relevant to the matter.
- Arranging for support and/or representation for employee/s being subject to or participating in an investigation.

A support person may include a colleague, friend, relative or a Union, Equal Employment Opportunity (EEO) or Occupational Health and Safety (HSR) representative.

Manager IT Services

On the instruction of Director Corporate Services, will be responsible for reporting any irregular transactions or misuse of IT services and equipment.

Coordinating access to IT records, services and equipment for matters that require investigation.

Ensuring the security of electronic records related to the Council's obligations under the PID Act to keep all records connected to PIDs confidential and secured against unauthorised access or use and having a way to audit actual access and use of those records.

Management

Management is responsible for the coordination, monitoring, ongoing review and communication of the Council's Fraud & Corruption Prevention Strategy and ensuring that a culture of honesty and integrity is present in the provision of services to the community and the conduct of Council operations.

Managers at all levels are responsible for exercising due diligence and control to prevent, detect and report acts of fraud and/or corruption. Managers must set an example, create controls and advise employees of the acceptability or otherwise of their conduct.

Under the PID Act, managers and supervisors have specific roles to play in receiving PIDs from those they manage or supervise, or PIDs in relation to suspected improper conduct on the part of, or detrimental action taken by those they manage or supervise.

They may also become involved in the welfare management of persons connected to PIDs. Managers at all levels are required to be familiar with their obligations under the PID Act in relation to PIDs (see the Council's PID Procedures for more information).

Upon notification of suspected fraud and/or corruption, or if a Manager has reason to suspect that fraud and/or corruption has occurred, that Manager will consider if they are required to act in accordance with the PID Act, and, if consistent with their obligations under the PID Act, also immediately notify:

- their Director or,
 - if the allegation involves that person - the Director Corporate Services; or
 - if the Chief Executive Officer, the Mayor or a Councillor is alleged to have committed the fraud and/or corruption - the matter shall be referred to the Director Corporate Services.

The Director Corporate Services will decide if the matter is to be escalated to either the LGI or the IBAC.
- the Manager will not attempt to investigate the suspected fraud and/or corruption or to discuss the matter with anyone other than the Director and / or the investigator appointed by Council, a municipal inspector, IBAC investigator or the police.
- the Manager may also have obligations to proactively protect or assist in protecting the confidentiality and welfare of disclosers and persons cooperating with the investigation of a PID. These obligations, and when they arise, are detailed in the Council's PID Procedures.
- The Manager will ensure that all staff receive training

Team Leader Risk Management & OHS

- Responsible for the review and update of the policy and strategy and recommending changes to current risk control measures;
- Responsible for implementing appropriate risk financing and insurance arrangements for fraud and/or corruption related activity;
- Responsible for appointing a suitable investigator; in the absence of the Manager People and Procurement Services;
- Where relevant, proactively manage the welfare of disclosers and people co-operating with any investigation of a PID. See Council's PID Procedures for further information about the welfare management of such persons.

All other Employees

Employees are responsible for the safeguard of Council assets against theft, misuse or improper use. Employees are required and encouraged to report any suspicion of fraud and/or corruption consistently with the requirements of the PID Act set out in the Council's PID Procedures, and in addition but subject to their obligations under the PID Act, to either:

- Council's Director Corporate Services; or
- if the allegation involves the Director Corporate Services, to the Chief Executive Officer; or
- if the allegation involves Chief Executive Officer, the Mayor or a Councillor, the matter shall be referred to the Director Corporate Services.

The Director Corporate Services will decide if the matter is to be escalated to either the Local Government Inspectorate or Independent Broad-Based Commission against Corruption.

The employee will not attempt to investigate the suspected fraud and/or corruption or discuss the matter with anyone other than his / her Manager, the Director, a Council appointed investigator, municipal inspector, IBAC investigator or the Police.

All matters regarding the suspected fraud and/or corruption must be treated as being confidential. Staff seeking to disclose a suspected fraud and/or corruption can avail themselves of the protections of the PID Act when wishing to come forward to report improper conduct suspected to be taking place, to have taken place or about to take place, by the Council, by Councillors or any of its employees. PIDs can also be made about detrimental action taken in reprisal connected with having made or cooperating with the investigation of a PID.

Under s 58 of the PID Act, the Council has established PID Procedures with which it is obliged to comply. The PID Procedures are available on Council's intranet and hard copies are also available on request to any individual, whether a Council employee, Councillor or a member of the public. The Director Corporate Services, Manager, People and Procurement Services, Manager Governance and the Team Leader Risk Management and OHS are Council's Protected Disclosure Officers.

All employees must participate and give full cooperation to audits and investigations if called upon to provide evidence or provide an explanation to a process or procedure.

Importantly, strict confidentiality obligations apply to all information connected with PIDs and all employees and Councillors are advised to familiarise themselves with those obligations as set out in the PID Procedures.

Penalties for breaching confidentiality provisions in the PID Act include significant fines as well as possible imprisonment up to 12 months.

Audit

Internal Audit

Council's appointed internal auditors will undertake periodic checks of the suitability of the Fraud & Corruption Control Framework. The role of Internal Audit is to assist management and Council to achieve sound managerial review and control over all Council activities.

This process can aid fraud and/or corruption control, detection and improvements to the controls in place in the organisation.

Internal Audit is not involved in the day to day internal checking systems but is an independent and objective assurance and consulting activity. It assists the organisation to accomplish its objectives by bringing a systematic, disciplined approach to:

- evaluating systems; and
- improving the effectiveness of management and corporate governance.

The principal objectives of Internal Audit are to assess and report on whether:

- internal controls in place are sufficient to protect GDCC's assets and the integrity of information provided to management and Council;
- there is adequate compliance with applicable laws/statutes and GDCC's policies and procedures; and
- functional areas are appropriately controlled.

External Audit

External Audit is conducted to verify Council's annual reported financial performance. External Audit also has a role in the process of achieving fraud control by reviewing internal Policies & Procedures and testing systems via specific guidelines developed in accordance with relevant Legislation; Accounting Standards and the Auditor-General's code of ethics.

External audit will be in most circumstances undertaken by the Victorian Auditor General and the Local Government Inspectorate.

8. Related Documents

- Code of Conduct Staff and Councillors
- Councillor Support and Reimbursement Policy
- Conflict of Interest Form (Primary and Ordinary Returns)
- Corporate Credit Card User Guidelines
 - Fraud & Corruption and Control Plan

- Fidelity Guarantee Policy
- HR Policy & Procedures including:
 - Recruit / Induct an employee and other recruitment procedures
 - *Disciplinary Policy for Performance and Behavioural Issue*
- Gifts, Benefits & Hospitality Policy
- Information Security Policy
- Information Privacy Policy
- Media Policy
- Mobile Device Policy
- Policy and Procedure for Performance and Behavioural Issues
- PID Procedure
- Procurement Policy
- Records Control Management Policy
- Risk Management Policy
- Workplace Equal Opportunity Policy
- Delegations Register