

 <b>Adelaide Plains Council</b>	<b>Fraud, Corruption, Misconduct and Maladministration Prevention Policy</b>	
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	<b>Administered by:</b> Chief Executive Officer	<b>Last Review Date:</b> 2023 <b>Next Review Date:</b> 2025
<b>Document No:</b> D23/28532	<b>Strategic Objective:</b> Proactive Leadership Strategic and sustainable financial management Proactively engage in Local Government Reform and continuous improvement.	

## 1. Objective

- 1.1 Adelaide Plains Council is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency, which are all key components of good governance.
- 1.2 This Policy is designed to protect public funds and assets and the integrity, security and reputation of the Council by outlining Council's approach to the prevention or minimisation, identification and control of fraudulent and/or corrupt activity and summarises the associated responsibilities of Council members and Council Employees.
- 1.3 The Council recognises that Fraud, Corruption, Maladministration and Misconduct in Public Administration have the potential to cause significant financial and non-financial harm. Therefore, the prevention and control of Fraud, Corruption, Maladministration and Misconduct features predominantly within the systems and procedures of Council.

## 2. Scope and Purpose

2.1 The Purpose of this Policy is to ensure that Adelaide Plains Council;

- properly fulfils its responsibilities under the *Independent Commission Against Corruption Act 2012 (ICAC 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 Fraud, Corruption, Misconduct and Maladministration are not acceptable and will not be tolerated;
- protects Council assets, interests and reputation from the risks associated with Fraud, Corruption Misconduct and Maladministration;

- outlines the Council's approach to the prevention and detection or, 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 legal requirements for reporting conduct reasonably suspected of being Fraud, Corruption, Misconduct and/or Maladministration;
- 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; and
- 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.

2.2 Council has established a number of policies and procedures to assist with the prevention and control of Fraud, Corruption, Misconduct and Maladministration, and this Policy forms part of that suite of internal controls. The effectiveness of these procedures will be continuously reviewed and assessed and will remain up to date with any future developments in Fraud, Corruption, Maladministration and Misconduct prevention control techniques.

2.3 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 including:

- Public Interest Disclosure Procedure
- Risk Management Policy
- Internal Financial Controls Policy
- Human Resource Management Policy
- Code of Conduct for Volunteers
- Behavioural Management Policy
- Council Members Allowances and Benefits Policy

### **3. Definitions**

For the purposes of this Policy the following definitions apply:

- 3.1 **Behavioural Management Policy** means the Local Government Association's Model Behavioural Management Policy or any subsequent behavioral management policy for Council members adopted by the Council pursuant to section 262B of the *Local Government Act 1999*.
- 3.2 **CEO** means the Chief Executive Officer of the Council.
- 3.3 **Commissioner** means the person holding or acting in the office of the principal officer of the Independent Commission Against Corruption per section 8 of the ICAC Act.
- 3.4 **Corruption means corruption in public administration as provided for in section 5(1) of the ICAC Act** and means conduct that constitutes:
- 3.4.1 an offence against Part 7 Division 4 (offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
- a. bribery or corruption of public officers;
  - b. threats or reprisals against public officers;
  - c. abuse of public office;
  - d. demanding or requiring benefit on basis of public office;
  - e. offences relating to appointment to public office; or
- 3.4.2 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; or
- 3.4.3 an offence against the *Lobbyists Act 2015*, or an attempt to commit such an offence; or
- 3.4.4 any of the following in relation to an offence referred to in a preceding paragraph:
- a. aiding, abetting, counselling or procuring the commission of the offence;
  - b. inducing, whether by threats or promises or otherwise, the commission of the offence;
  - c. being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
  - d. conspiring with others to affect the commission of the offence.
- 3.5 **Council** means Adelaide Plains Council.
- 3.6 **Employee** refers to all the Council's employees whether they are working in a full-time, part-time or casual capacity, but also includes any contractors, volunteers and consultants undertaking work for or on behalf of Council.
- 3.7 **False Disclosure** is a disclosure of information relating to Fraud, Corruption, Maladministration or Misconduct that is made by a person who knows the information to be false.

- 3.8 **Fraud** includes an intentional dishonest act or omission done with the purpose of deceiving and may include conduct which does not strictly constitute Corruption, Misconduct or Maladministration.
- 3.9 **ICAC Act** is the *Independent Commission Against Corruption Act 2012*.
- 3.10 **Maladministration** means maladministration in public administration as defined in section 3(2) of the Ombudsman Act and
- 3.10.1 means:
- a. 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; or
  - b. conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and
- 3.10.2 includes conduct resulting from impropriety, incompetence or negligence; and
- 3.11.3 is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.
- 3.11 **Manager** means any Employee of the Council who is responsible for the direct supervision of other Employees.
- 3.12 **Misconduct** means misconduct in public administration as defined in section 3(1) of the Ombudsman Act and means 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.
- 3.13 **Office for Public Integrity (OPI)** is the office established under the ICAC Act that has the function to:
- 3.13.1 receive and assess complaints about public administration from members of the public;
- 3.13.2 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; and
- 3.13.3 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.
- 3.14 **Ombudsman Act** means the *Ombudsman Act 1972*.
- 3.15 **PID Act** means the *Public Interest Disclosure Act 2018*.

- 3.16 **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 will be taken to be carried out in the course of public administration.
- 3.17 **Public Officer** has the meaning given by section 4 and Schedule 1 of the ICAC Act, and includes:
- 3.17.1 a Council member; and
  - 3.17.2 an Employee or officer of the Council;
- 3.18 **Publish** is defined in section 4 of the ICAC Act, and means publish by:
- 3.18.1 newspaper, radio or television;
  - 3.18.2 internet or other electronic means of creating and sharing content with the public or participating social networking with the public; or
  - 3.18.3 any similar means of communication with the public.
- 3.19 **Relevant Authority** means the person or entity that receives an appropriate disclosure of public interest information in accordance with the PID Act.
- 3.20 **Responsible Officer** is a person who has been designated by the Council as a responsible officer under section 12 of the PID Act.

#### 4. Prevention

- 4.1 The 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 The Council also recognises that the most effective way to prevent the occurrence of Fraud, Corruption, Misconduct and Maladministration is to instill and continually reinforce a culture across the 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 The 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 Fraud, Corruption, 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; and
- 4.3.6 reporting suspected or actual occurrences of Fraud, Corruption, Misconduct and Maladministration in accordance with Part 7,8 and 9 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. Educating for Awareness

- 6.1 The Council recognises that the success and credibility of this Policy will largely depend upon how effectively it is communicated throughout the organisation and beyond.
- 6.2 The Council will, therefore, from time to time take proactive steps towards ensuring that the wider community is aware of the Council's zero-tolerance stance towards Fraud, Corruption, Misconduct and Maladministration, including by:
- 6.2.1 promoting the Council's initiatives and policies regarding the control and prevention of Fraud, Corruption, Misconduct and Maladministration on the Council website and at Council offices;
- 6.2.2 referring to the Council's Fraud, Corruption, Misconduct and Maladministration initiatives in the Council's Annual Report; and
- 6.2.3 facilitating public access to all of the documents that constitute the Council's Fraud, Corruption, Misconduct and Maladministration framework, including those documents identified at clause 2.3 of this Policy.

## 7. Reporting Corruption

- 7.1 Any Public Officer who knows of or reasonably suspects Corruption in the Council must report this information to the OPI as soon as practicable.
- 7.2 All knowledge or reasonable suspicion of Corruption must be reported the OPI in accordance with the Directions and Guidelines for Public Officers published by the OPI pursuant to section 18B(1) of the ICAC Act.
- 7.2.1 A report to the OPI must be made using the online report form available at: [publicintegrity.sa.gov.au](http://publicintegrity.sa.gov.au)
- 7.3 When reporting knowledge or reasonable suspicion of Corruption in the Council to the OPI under the ICAC Act, any requirements of other documents that form part of

the Council's Fraud, Corruption, Misconduct and Maladministration framework (including those documents identified at clause 2.3 of this Policy) should also, to the extent possible, be adhered to.

- 7.4 Nothing in this section is intended to prevent a Public Officer from reporting suspected Corruption in the Council to a Relevant Authority, like the 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 the Council's Responsible Officer, will be managed in accordance with the Council's Public Interest Disclosure Procedure. Public Officers are encouraged to have regard to the Council's Public Interest Disclosure Procedure when determining where to direct a disclosure.
- 7.5 Further information about reporting requirements is available at the OPI's website: <https://www.publicintegrity.sa.gov.au/>

## **8. Reporting Misconduct or Maladministration**

- 8.1 Any Public Officer who knows of or reasonably suspects Misconduct or Maladministration in the Council should report this information to the Ombudsman as soon as practicable.
- 8.2 All knowledge or reasonable suspicion of Misconduct or Maladministration should be reported to the Ombudsman in accordance with the Directions and Guidelines published by the Ombudsman pursuant to section 12D(1) of the Ombudsman Act.
- 8.2.1 A report to the Ombudsman can be made online at <http://ombudsman.sa.gov.au>
- 8.3 When reporting knowledge or reasonable suspicion of Misconduct or Maladministration in the Council to the Ombudsman under the Ombudsman Act, any requirements of other documents that form part of the Council's Fraud, Corruption, Misconduct and Maladministration framework (including those documents identified at clause 2.3 of this Policy) should also, to the extent possible, be adhered to.
- 8.4 Nothing in this section is intended to prevent a Public Officer from reporting suspected Misconduct or Maladministration in the Council to a Relevant Authority, like the 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 the Council's Responsible Officer, will be managed in accordance with the Council's Public Interest Disclosure Procedure. Public Officers are encouraged to have regard to the Council's Public Interest Disclosure Procedure when determining where to direct a disclosure.

## **9. Reporting Fraud**

- 9.1. Where a Public Officer knows of or reasonably suspects Fraud or other similar conduct that does not constitute Corruption, Misconduct or Maladministration (and is therefore not required to be reported to OPI or expected to be reported to the

Ombudsman), that knowledge should be reported to the Council's Responsible Officer.

## **10. Confidentiality and Publication Prohibitions**

- 10.1. 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 or Ombudsman Act must not disclose that information, other than in the limited circumstances set out in section 54(3) of the ICAC Act or section 29A(6) of the Ombudsman Act.
- 10.2. A person must not, other than as authorised by the Commissioner or Director of the OPI (in the case of matters under the ICAC Act) or the Ombudsman or a person approved by the Ombudsman (in the case of matters under the Ombudsman Act) publish or cause to be published any of the following:
  - 10.2.1. 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 or the Ombudsman Act;
  - 10.2.2. information that might enable a person who has made a complaint or report under the ICAC Act or the Ombudsman Act to be identified or located;
  - 10.2.3. the fact that a person has made or may be about to make a complaint or report under the ICAC Act or the Ombudsman Act;
  - 10.2.4. information that might enable a person who has given or may be about to give information or other evidence under the ICAC Act or the Ombudsman Act to be identified or located;
  - 10.2.5. the fact that a person has given or may be about to give information or other evidence under the ICAC Act or the Ombudsman Act; or
  - 10.2.6. any other information or evidence which the Commissioner or the Ombudsman has prohibited from publication.
- 10.3. A failure to comply with these requirements can constitute an offence.
- 10.4. A Council employee who fails to comply with these requirements may also face disciplinary action which may include dismissal from employment.
- 10.5. In addition to the requirements in this part, Council members and Employees should also be mindful of the confidentiality provisions in the Council's Public Interest Disclosure Procedure.

## **11. Action by the Chief Executive Officer**

- 11.1. Unless otherwise directed by OPI, the Independent Commission Against Corruption, the Ombudsman 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 the Council. The investigation should:

- 11.1.1. occur as soon as practicable after the alleged incident;
  - 11.1.2. not impose on or detract from any investigation being undertaken by the Independent Commission Against Corruption, the Ombudsman or SAPOL; and
  - 11.1.3. have regard to any recommendations in any report received from the Independent Commission Against Corruption, the Ombudsman or SAPOL on the incident.
- 11.2. 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, Ombudsman Act and/or ICAC Act.
- 11.3. 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, up to and including the termination of employment

## **12. False Disclosure**

- 12.1. A person who knowingly makes a False Disclosure or a false or misleading statement in a complaint or report under the ICAC Act or Ombudsman Act may be guilty of an offence.
- 12.2. An Employee who makes a False Disclosure may also face disciplinary action which may include the summary termination of their employment.
- 12.3. Council members who make a False Disclosure may also face disciplinary action pursuant to the Council's Behavioural Management Policy.

## **13. Related Documents**

### Legislation

*Public Finance and Audit Act 1987*

*Independent Commission Against Corruption Act 2012*

*Local Government Act 1999*

*Public Interest Disclosure Act 2018*

*Ombudsman Act 1972*

### Other

Public Interest Disclosure Procedure

Risk Management Policy  
Internal Financial Controls Policy  
Human Resource Management Policy  
Code of Conduct for Volunteers  
Council Member Allowances and Benefits Policy  
Gifts and Benefits Policy for Council Employees  
Gifts and Benefits Policy for Council Members  
Behavioural Management Policy  
Council Members Allowances and Benefits Policy

#### **14. Information Management**

All documents relating to this Policy will be registered in Council's Electronic Document and Records Management System (EDRMS) and remain confidential where identified.

#### **15. Document Review**

This Policy will be reviewed periodically to ensure legislative compliance and that it continues to meet the requirements of Council, its activities and programs.

#### **16. Further Information**

Members of the public may inspect this Policy free of charge on Council's website at [www.apc.sa.gov.au](http://www.apc.sa.gov.au) or at Council's Principal Office at:

2a Wasleys Road, Mallala SA 5502

A copy of this Policy may be obtained on payment of a fee.

Any queries in relation to this policy must be in writing and directed to the Chief Executive Officer.

Appendix 1 —

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 and volunteers)
<b>Governance and ethics</b>							
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	✓	✓	✓	✓	✓	✓
<b>Awareness and training</b>							

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit and Risk Committees	Other (e.g. certain contractors and volunteers)
1	Promote community awareness of the Council's commitment to the prevention of Fraud, Corruption, Misconduct and Maladministration.	✓	✓		✓ (as appropriate)		
2	Ensure all Employees under their supervision have been educated regarding Fraud, Corruption, Maladministration and Misconduct.		✓	✓	✓		
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 model constructive behaviours and approaches to work which promote ethical behaviours in Council Employees	✓	✓	✓	✓	✓	✓
<b>Fraud prevention</b>							

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit and Risk Committees	Other (e.g. certain contractors and volunteers)
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 <i>Public Interest Disclosure Act 2019</i>	✓	✓	✓	✓	✓	✓
4	Ensure appropriate internal controls are in place and operating effectively to minimise the risks of incidents	✓	✓	✓		✓	
5	Ensure effective screening (e.g. criminal history) of Employees and prospective Employees 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	✓	✓	✓			

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit and Risk Committees	Other (e.g. certain contractors and volunteers)
<b>Detection and investigation</b>							
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	✓	✓				
3	Undertakes 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	✓	✓	✓	✓		✓
<b>Monitoring and reporting</b>							

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit and Risk Committees	Other (e.g. certain contractors and volunteers)
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	✓	✓			✓	