



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

## Fraud, Corruption, Misconduct and Maladministration Prevention Policy

Adopted by:	Council
Responsible Division:	Governance
First Issued/Adopted:	September 2005
Last Reviewed:	22 May 2023 (Resolution No. 0338/2023)
Next Review:	May 2027

### 1. Purpose

- 1.1. The purpose of this policy is to ensure that City of Salisbury:
- properly fulfils its responsibilities under the *Independent Commissioner Against Corruption Act 2012* (ICAC Act);
  - takes appropriate steps towards compliance with relevant legislation, policies and instruments;
  - provides a clear statement to all Council Members, Employees, Contractors, Consultants, and Volunteers through practices, policies and procedures that fraudulent conduct, Misconduct and/or Maladministration is not acceptable and will not be tolerated;
  - protects Council assets, interests and reputation from the risks associated with fraudulent conduct, Misconduct and/or Maladministration;
  - outlines the Council's approach to the prevention, detection and management of 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, the Audit and Risk Committee, the Chief Executive Officer, and Employees, Volunteers and Contractors;

- educates Employees, Volunteers and Contractors and Council Members about their obligations to report 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.
- 1.2. 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:
- 1.2.1. Public Interest Disclosure Policy
  - 1.2.2. Public Interest Disclosure Procedure
  - 1.2.3. Enterprise Risk Management Policy
  - 1.2.4. Code of Conduct for Council Employees
  - 1.2.5. Code of Conduct for Council Members
  - 1.2.6. Council Members Allowances and Benefits Policy
  - 1.2.7. Employee Conduct Policy

## 2. Scope

This policy applies to all Council Members, Employees, Contractors, Consultants and Volunteers of the City of Salisbury.

## 3. Legislative Requirements

- 3.1. *Local Government Act 1999*
- 3.2. *Public Interest Disclosure Act 2018*
- 3.3. *Public Interest Disclosure Regulations 2019*
- 3.4. *Criminal Law Consolidation Act 1935*
- 3.5. *Ombudsman Act 1972*
- 3.6. *Independent Commissioner Against Corruption Act 2012*
- 3.7. *Criminal Law Consolidation Act 1935*
- 3.8. *Public Sector (Honesty and Accountability) Act 1995*
- 3.9. *Public Corporations Act 1993*
- 3.10. *Lobbyist Act 2015*

## 4. Interpretation/Definitions

For the purposes of this Policy the following definitions apply:

- 4.1. **Commissioner** means the person holding or acting in the office of the Independent Commissioner Against Corruption per section 4 of the ICAC Act.

- 4.2. **Corruption in public administration**, as provided for in section 5(1) of the ICAC Act, means conduct that constitutes:
- 4.2.1. an offence against Part 7 Division 4 (offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
    - i) bribery or corruption of public officers;
    - ii) threats or reprisals against public officers;
    - iii) abuse of public office;
    - iv) demanding or requiring benefit on basis of public office;
    - v) offences relating to appointment to public office; or
  - 4.2.2. 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
  - 4.2.3. an offence against the *Lobbyist Act 2015*, or an attempt to commit such an offence; or
  - 4.2.4. any of the following in relation to an offence referred to in a preceding paragraph:
    - i) aiding, abetting, counselling or procuring the commission of the offence;
    - ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
    - iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
    - iv) conspiring with others to affect the commission of the offence.
- 4.3. **Council** means the City of Salisbury.
- 4.4. **Directions and Guidelines** means the Directions and Guidelines issued by the Director OPI governing the reporting of corruption and the Directions and Guidelines issued by the Ombudsman governing the reporting of misconduct and maladministration in public administration.
- 4.5. **Employee** refers to all the Council's employees whether they are working in a full-time, part-time or casual capacity.
- 4.6. **False disclosure** is a disclosure of information relating to Fraud or Corruption, Maladministration or Misconduct that is made by a person who knows the information to be false.
- 4.7. **Fraud** includes an intentional dishonest act or omission done with the purpose of deceiving.

Note: There is no statutory or agreed common law definition of Fraud. Offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences. An ordinary or lay meaning of Fraud is 'to obtain dishonestly that which the person is not entitled to'. Fraud is a broad label applicable to conduct / practices that involve knowingly dishonest or deceitful behaviour meant to obtain an unjust benefit. Dishonesty is the key element in fraudulent behaviour, as provided for under section 131 of the *Criminal Law Consolidation Act 1935*.

4.8. **ICAC Act** is the *Independent Commissioner Against Corruption Act 2012*.

4.9. **Maladministration in public administration** is defined in section 4(2) of the *Ombudsman Act 1972* and

4.9.1. means:

- i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
- ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and

4.9.2. includes conduct resulting from impropriety, incompetence or negligence; and

4.9.3. is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

4.10. **Misconduct in public administration** is defined in section 4(1) of the *Ombudsman Act 1972* 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.

4.11. **Office for Public Integrity (OPI)** is the office established under the ICAC Act that has the function to:

4.11.1. receive and assess complaints about public administration from members of the public;

4.11.2. receive and assess reports about corruption, misconduct and maladministration in public administration from inquiry agencies, public authorities and public officers;

- 4.11.3. refer complaints and reports to inquiry agencies, public authorities and public officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated;
- 4.12. **PID Act** means the *Public Interest Disclosure Act 2018*.
- 4.13. **Public administration** is defined at section 4 of the ICAC Act and, without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration. For the purposes of this Policy, references to Corruption, Misconduct and Maladministration are taken to mean references to such conduct in public administration.
- 4.14. **Public Officer** has the meaning given by section 4 and Schedule 1 of the ICAC Act, and includes:
- a council member; and
  - an employee or officer of the Council;
- 4.15. **Publish** is defined in section 4 of the ICAC Act, and means publish by:
- 4.15.1. newspaper, radio or television;
- 4.15.2. internet or other electronic means of creating and sharing content with the public or participating social networking with the public; or
- 4.15.3. any similar means of communication with the public.
- 4.16. **Relevant Authority** for the purposes of the PID Act means the person or entity that receives an appropriate disclosure of public interest information in accordance with the PID Act.
- 4.17. **Responsible Officer** is a person who has completed any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* and has been designated by the Council as a responsible officer under section 12 of the PID Act.

## 5. Prevention

- 5.1. 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.

- 5.2. The Council also recognises that the most effective way to prevent the occurrence of Fraud, Corruption, Misconduct and Maladministration is to instil and continually reinforce a culture across 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.
- 5.3. The Council expects Employees and Council Members will assist in facilitating a sound ethical culture and preventing Fraud, Corruption, Misconduct and Maladministration by:
  - 5.3.1. understanding the responsibilities of their positions;
  - 5.3.2. familiarising themselves with Council policies and procedures and adhering to them;
  - 5.3.3. understanding what behaviour constitutes Fraudulent or Corrupt conduct, Misconduct and/or Maladministration;
  - 5.3.4. maintaining an awareness of the strategies that have been implemented by Council to minimise Fraud, Corruption, Misconduct and Maladministration;
  - 5.3.5. being continuously vigilant to the potential for Fraud, Corruption, Misconduct and Maladministration to occur in the Council environment; and
  - 5.3.6. reporting suspected or actual occurrences of Fraud, Corruption, Misconduct and Maladministration in accordance with Part 6 and 7 of this Policy.

## **6. Roles and responsibilities**

- 6.1. 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.

## **7. Educating for Awareness**

- 7.1. 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.
- 7.2. 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:

- 7.2.1. 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; and
- 7.2.2. facilitating public access to all of the documents that constitute the Council's Fraud, Corruption, Misconduct and Maladministration framework.

## **8. Reporting Corruption, Misconduct and Maladministration**

- 8.1. A public officer must report to the OPI any matter that they reasonably suspect involves corruption in public administration unless the public officer knows that the conduct has already been reported to the OPI.
- 8.2. The Ombudsman expects that public officers will report to Ombudsman SA any matter that the public officer or public authority reasonably suspects involves misconduct in public administration.
- 8.3. The Ombudsman expects that public officers and public authorities will report to Ombudsman SA any matter that the public officer or public authority reasonably suspects involves maladministration in public administration
- 8.4. Nothing in this section is intended to prevent a Public Officer from reporting suspected Corruption in the Council or in other public administration to a Relevant Authority, like a Council's Responsible Officer, for the purposes of the PID Act. Such a disclosure may be protected under the PID Act and, if made to the Council's Responsible Officer, will be managed in accordance with the Council's Public Interest Disclosure Policy and Procedure. Public Officers are encouraged to have regard to the Council's Public Interest Disclosure Procedure when determining where to direct a disclosure.

## **9. Confidentiality and Publication Prohibitions**

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

## **10. False Disclosure**

- 10.1. A person who knowingly makes a false disclosure or a false or misleading statement in a complaint or report will be guilty of an offence under the ICAC Act, *Ombudsman Act 1972* and the PID Act.

## 11. Approval and Change History

Version	Approval Date	Approval By	Change
1	May 2023	Council	Policy reviewed and updated to expand the name of the policy to incorporate misconduct and maladministration.  Alignment with LGA model policy  Updates to reflect changes to the <i>Independent Commission Against Corruption Act 2012 (ICAC Act)</i> and <i>Ombudsman Act 1972</i>

## 12. Availability

- 12.1. The Policy is available to be downloaded, free of charge, from Council's website [www.salisbury.sa.gov.au](http://www.salisbury.sa.gov.au)
- 12.2. The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Salisbury Community Hub  
34 Church Street, Salisbury SA 5108  
Telephone: 84068222  
Email: [city@salisbury.sa.gov.au](mailto:city@salisbury.sa.gov.au)

## 13. Review

This Policy will be reviewed within 12 months of a Council election and thereafter as necessary.



## Further Information

For further information on this Policy please contact:

Responsible Officer: Team Leader Corporate Governance

Address: 34 Church Street, Salisbury SA 5108

Telephone: 8406 8222

Email: [city@salisbury.sa.gov.au](mailto:city@salisbury.sa.gov.au)

## 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	✓	✓	✓	✓		✓

Responsibility		Council Members	Chief Executive Officer	Managers	Employees	Audit and Risk Committees	Other (e.g. certain contractors and volunteers)
4	Remain scrupulous in the use of Council information, assets, funds, property, goods or services	✓	✓	✓	✓	✓	✓
<b>Awareness and training</b>							
1	Promote community awareness of the Council's commitment to the prevention of Fraud, Corruption, Misconduct and Maladministration.	✓	✓		✓ (as appropriate)		
2	Undertake awareness training or education regarding Fraud, Corruption, Maladministration and Misconduct.	✓	✓	✓	✓	✓	✓ (as appropriate)
3	Develop and deliver training to employees and other public officers to promote ethical conduct and an ethical culture.		✓	✓			
4	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	✓	✓	✓	✓	✓	✓
5	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 (as relevant), prospective employees (as relevant) and volunteers (as relevant) 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		✓				
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	✓	✓			✓	