DISTRICT COUNCIL OF Streaky Bay
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# FRAUD, CORRUPTION, MISCONDUCT AND MALADMINISTRATION PREVENTION POLICY

| Policy No:<br>**DCSB-G-09.08** | Approved on:<br>**18 March 2025** | Administered by:<br>**Chief Executive Officer** |
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**Strategic Plan link:**
***Strategy 1.3*** Ensure Council fulfils its legislated governance responsibilities, and its decision-making is supported by relevant policies and codes.

**References and related Policies & Procedures:**
*Fair Work Act 1994*
*Independent Commission Against Corruption Act 2012*
*Local Government Act 1999*
*Ombudsman Act 1972*
*Public Interest Disclosure Act 2018*
DCSB-G-19.01 Code of Conduct for Council Members
DCSB-HR-12.02 Employee Code of Conduct Policy
DCSB-FM-07.03 Internal Control Policy
DCSB-G-09.11 Public Interest Disclosure Policy
Public Interest Disclosure Procedure
DCSB-SM-18.00 Risk Management Framework DCSB-SM-18.01 Risk Policy

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## 1. Introduction

The District Council of Streaky Bay (**Council**) is a responsible and accountable public authority, committed to acting in the best interests of the community, and to upholding the principles of honesty, integrity and transparency.

## 2. Scope

2.1 The purpose of this Policy is to ensure that Council:

- fulfils its responsibilities and obligations under the *Independent Commission Against Corruption Act 2012* (***ICAC Act***) and the *Ombudsman Act 1972* (the **Ombudsman Act**)*;*
- takes appropriate steps to achieve compliance with relevant legislation, policies and instruments;
- provides a clear statement to all employees through practices, policies and procedures that fraudulent conduct, corruption, 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, corruption, misconduct and/or maladministration;
- outlines the Council's approach to the prevention, detection and response to Fraud, Corruption, Misconduct and/or Maladministration;
- fosters an ethical inclusive environment and culture which is conscious of actively discouraging, not tolerating and appropriately dealing with Fraud, Corruption, Misconduct and/or 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 regarding 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/or Maladministration; and
- develop a consistent approach to the management of appropriate and acceptable conduct across the organization, through the establishment and maintenance of effective systems and internal controls to guard against Fraud, Corruption, Misconduct and/or Maladministration.

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

2.3 The Council will review and update this Policy every two (2) years as part of its policy review process.

2.4 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 as amended form time to time, including but not limited to:

2.4.1 Public Interest Disclosure Policy;
2.4.2 Public Interest Disclosure Procedure;
2.4.3 Risk Management Framework;
2.4.4 Risk Policy;
2.4.5 Internal Control Procedures;
2.4.6 Code of Conduct for Council Members;
2.4.7 Council Members Allowances and Benefits Policy; and
2.4.8 Employee Conduct of Conduct Policy.

## 3. Definitions

For the purposes of this Policy, the following definitions apply:

3.1 ***Commissioner*** means the person holding or acting in the office of the Independent Commission Against Corruption in accordance with section 4 of the *ICAC Act*, who has the powers and functions described at section 7 of the *ICAC Act.*

3.2 ***Corruption*** in public administration is defined at section 5(1) of the *ICAC Act*, which means conduct that constitutes:

3.2.1 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)
v)offences relating to appointment to public office; or

3.2.2 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

3.2.3 an offence against the *Lobbyist Act 2015*, or an attempt to commit such an offence; or

3.2.4 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.

3.3 ***Council*** means the District Council of Streaky Bay

3.4 ***Directions and Guidelines*** means the Directions and Guidelines issued by the Commissioner and as in force from time to time pursuant to section 14 of the *Public Interest Disclosure Act 2018,* or, otherwise, the Directions and Guidelines published by the OPI under section 18B pf the ICAC Act and/or the Directions and Guidelines published by the Ombudsman under section 12D of the Ombudsman Act.

3.5 ***Employee*** refers to all the Council's employees whether they are working in a full-time, part-time or casual capacity. It is also to be taken as a refence to a volunteer for the purposes of this Policy.

3.6 ***False disclosure*** is a disclosure of information relating to Fraud or Corruption, Maladministration and/or Misconduct that is made by a person who knows the information to be false.

3.7 ***Fraud*** is an intentional dishonest act or omission done with the purpose of deceiving. The theft of property belonging to Council by a person or persons Elected, working or volunteering for Council, but where deception is not used, is also considered *fraud* for the purposes of this definition.

Note: unlike *Corruption* there is no statutory definition of *Fraud.* Fraud is a style of Offending and the offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences

3.8 ***ICAC Act*** is the *Independent Commission Against Corruption Act 2012.*

3.9 ***Maladministration in Public Administration*** is defined in is defined in section 4 of the Ombudsman Act and

3.9.1 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

3.9.2 includes conduct resulting from impropriety, incompetence or negligence; and

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

3.10 ***Misconduct in public administration*** is defined in is defined in section 4 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.

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

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

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

3.11.3 refer complaints and reports to inquiry agencies, public authorities and public officers or to determine to take no action in accordance with this section.

3.12 ***PID Act*** means the *Public Interest Disclosure Act 2018.*

3.13 ***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/or Maladministration are taken to mean references to such conduct in public administration.

3.14 ***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;

3.15 ***Publish*** is defined in section 4 of the *ICAC Act,* and means publish by:

3.15.1 newspaper, radio or television;

3.15.2 internet or other electronic means of creating and sharing content with the public or participating social networking with the public; or

3.15.3 any similar means of communication with the public.

3.16 ***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.

3.17 ***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.

## 4. Prevention

4.1 The Council recognises that the occurrence of Fraud, Corruption, Misconduct and/or Maladministration is more likely to prevail in an administrative environment where opportunities exist for waste and abuse, or otherwise, deficient oversight.

4.2 The Council also recognises the most effective way to prevent the occurrence of Fraud, Corruption, Misconduct and/or 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, aimed at preventing Fraud, Corruption, Misconduct and/or Maladministration by:

4.3.1 understanding the responsibilities and obligations of their positions;

4.3.2 familiarising themselves with Council policies and procedures, and adhering to them;

4.3.3 understanding what behaviours 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/or Maladministration;

4.3.5 being continuously vigilant to the potential for Fraud, Corruption, Misconduct and/or Maladministration occurring in the Council environment; and

4.3.6 reporting suspected or actual occurrences of Fraud, Corruption, Misconduct and/or Maladministration in accordance with Part 6 and 7 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/or Maladministration prevention within Council.

## 6. Educating for Awareness

6.1 The Council recognises the success and credibility of this Policy is contingent upon how effectively it is communicated throughout the organisation and in the community.

6.2 Accordingly, the Council will take proactive steps towards ensuring the wider community is aware of the Council's zero-tolerance stance towards Fraud, Corruption, Misconduct and/or Maladministration, including by:

6.2.1 promoting the Council's initiatives and policies regarding the control and prevention of Fraud, Corruption, Misconduct and/or Maladministration on the Council website, at Council offices and by way of its employees modelling appropriate behaviours and actions;

6.2.2 referring to the Council's Fraud, Corruption, Misconduct and/or 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/or Maladministration framework, including those documents identified at clause 2.5 of this Policy.

## 7. Reporting Corruption, Misconduct and/or Maladministration

7.1 Any Public Officer who has, or acquires knowledge of, actual or suspected Corruption, Misconduct and/or Maladministration in the Council, or in other public administration, must report this information to the OPI or to the Ombudsman as soon as reasonably practicable.

7.2 All reasonable suspicions of Corruption, Misconduct and/or Maladministration must be reported the OPI, or to the Ombudsman, in accordance with the Directions and Guidelines published by the OPI or the Ombudsman.

7.3 When reporting actual or suspected Corruption, Misconduct and/or Maladministration in relation to the Council, or in other public administration, to the OPI under the ICAC Act or the Ombudsman Act any requirements under the Council's broader Fraud, Corruption, Misconduct and/or Maladministration framework (including those documents identified at clause 2.5 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, Misconduct and/or Maladministration in the Council, or in other public administration, to a Relevant Authority for the purposes of the PID Act.

7.5 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.

7.6 Public Officers are encouraged to have regard to the Council's Public Interest Disclosure Procedure when determining where to direct a disclosure.

7.7 Further information about reporting requirements is available at the OPI website: https://www.publicintegrity.sa.gov.au/public-admin-complaints or the Ombudsman SA website https://www.ombudsman.sa.gov.au/make-a-report

## 8. Reporting Fraud, Corruption, Misconduct and/or Maladministration

8.1 Where an employee, Council Member, contractor or volunteer has or acquires knowledge of actual or suspected Fraud or other similar conduct that does not constitute Corruption, Misconduct and/or Maladministration, that knowledge should be reported to the Council's Responsible Officer, or to the CEO. Such a disclosure may be protected under the PID Act and will be managed in accordance with the Council's Public Interest Disclosure Policy and Public Interest Disclosure Procedure.

8.2 Any report that does not fall under the PID Act, will be received, assessed and dealt with in accordance with the Council's obligations and responsibilities under the public integrity framework.

## 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* or the Ombudsman Act must not disclose that information, other than in the limited circumstances set out in section 54(3) of the *ICAC Act* or 29A of the Ombudsman Act.

9.2 A person must not, other than as authorised by the Commissioner, the Ombudsman, or a court, publish or cause to be published any of the following:

9.2.1 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;

9.2.2 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;

9.2.3 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;

9.2.4 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;

9.2.5 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 any other information or evidence which is prohibited from publication.

9.3 A failure to comply with the requirements in this part can constitute an offence. A Council employee who fails to comply with these requirements may also face disciplinary action, which may include dismissal from employment.

9.4 In addition to the requirements in this part, Council Members and employees should be mindful of the confidentiality provisions in the Council's Public Interest Disclosure Policy and Procedure.

## 10. Action by the Chief Executive Officer

10.1 Unless otherwise directed by the Commissioner, the Ombudsman, the OPI or SAPOL, the CEO will investigate how the alleged Fraud, Corruption, Misconduct and/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.

10.2 The investigation will:

10.2.1 occur as soon as reasonably practicable after the alleged incident is reported to the CEO; and

10.2.2 not impose on or detract from any investigation being undertaken by the Commissioner, OPI, the Ombudsman or SAPOL;

10.2.3 have regard to any recommendations in any report received from the Commissioner, the OPI, the Ombudsman or SAPOL on the incident.

10.3 The CEO will, in conducting the investigation and determining whether, and how, to report on the investigation, have regard to the provisions of the Public Interest Disclosure Policy, and Procedure and to any confidentiality requirements under the PID Act and/or ICAC Act and/or Ombudsman Act.

10.4 Action taken by the CEO following an investigation into alleged Fraud, Corruption, Misconduct and/or Maladministration may include disciplinary action against any employee involved in the incident, which may include termination of the employment relationship.

## 11. False Disclosure

11.1 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,* the Ombudsman Act and/or the *PID Act*.

11.2 A Council employee who makes a false disclosure may also face disciplinary action, which may include termination of the employment relationship.

## 12. Availability of the Policy

12.1 This Policy will be available for inspection at the Council's offices during ordinary business hours and via the Council's website www.streakybay.sa.gov.au.

## 13. Appendix 1 — Responsibilities and accountability for Fraud, Corruption, Misconduct and/or Maladministration prevention actions

| Responsibility | | Council Members | Chief Executive Officer | Managers | Employees | Audit and Risk Committees | Other |
|---|---|---|---|---|---|---|---|
| **Governance and Ethics** | | | | | | | |
| 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/or Maladministration is discouraged and not tolerated | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| 4 | Remain scrupulous in the use of Council information, assets, funds, property, goods or services | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| **Awareness and Training** | | | | | | | |
| 1 | Promote community awareness of the Council's commitment to the prevention of Fraud, Corruption, Misconduct and/or Maladministration. | ✓ | ✓ | ✓ | ✓ (as appropriate) | ✓ | |

| Responsibility | | Council Members | Chief Executive Officer | Managers | Employees | Audit and Risk Committees | Other |
|---|---|---|---|---|---|---|---|
| 2 | Executive employees and managers ensure all employees under their supervision have been educated regarding Fraud, Corruption, Maladministration and/or Misconduct. | | ✓ | ✓ | ✓ | | |
| 3 | Undertake awareness training or education regarding Fraud, Corruption, Maladministration and/or 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 | ✓ | ✓ | ✓ | ✓ | ✓ | |
| **Fraud Prevention** | | | | | | | |
| 1 | Provide adequate security, including the provision of secure facilities for storage of assets, to assist in the prevention of Fraud, Corruption, Misconduct and/or Maladministration | | ✓ | ✓ | | | |
| 2 | Develop procedures to deter fraudulent or corrupt activity from occurring | ✓ | ✓ | ✓ | ✓ | | |
| 3 | Where relevant, comply with the *Public Interest Disclosure Act 2019* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |

| Responsibility | | Council Members | Chief Executive Officer | Managers | Employees | Audit and Risk Committees | Other |
|---|---|---|---|---|---|---|---|
| 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, prospective employees, volunteers (as relevant) and contractors 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 and/or Maladministration | ✓ | ✓ | ✓ | | | |
| **Detection and investigation** | | | | | | | |
| 1 | Ensure that where appropriate, proper investigations are conducted into allegations of Fraud, Corruption, Misconduct and/or Maladministration. | ✓ | ✓ | ✓ | | | |
| 2 | Facilitate cooperation with any investigations undertaken by an external authority | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| 3 | Undertakes risk assessments on a regular basis | ✓ | ✓ | | | ✓ | |
| 4 | Provide mechanisms for receiving allegations of Fraud, Corruption, Misconduct and/or Maladministration | ✓ | ✓ | | | | |

| Responsibility | | Council Members | Chief Executive Officer | Managers | Employees | Audit and Risk Committees | Other |
|---|---|---|---|---|---|---|---|
| 5 | Investigate matters of Fraud, Corruption, Misconduct and/or Maladministration as directed | ✓ | ✓ | ✓ | | | |
| 6 | Cooperate as required with any investigations undertaken whether internally or by an external authority | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| **Monitoring and Reporting** | | | | | | | |
| 1 | Report all instances of conduct known or reasonably suspected to be Fraud, Corruption, Maladministration and/or Misconduct in accordance with Council's policies | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ (report to Responsible Officer) |
| 2 | Develop mechanisms for receiving allegations of Fraud, Corruption, Misconduct and/ or Maladministration including appointing a Responsible Officer | | ✓ | | | | |
| 3 | Work jointly with other areas of Council to coordinate activities relating to the control, prevention, detection and management of Fraud, Corruption, Misconduct and/or Maladministration | ✓ | ✓ | ✓ | | ✓ | |
| 4 | Review the effectiveness of the implemented policies that ensure risks are identified and that controls implemented by management are adequate | ✓ | ✓ | | | ✓ | |