FRAUD AND CORRUPTION CONTROL FRAMEWORK

Date adopted by Council: 25 October 2023

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PART 1 - INTRODUCTION

STATEMENT OF COMMITMENT

Colac Otway Shire Council has zero tolerance for corrupt conduct or fraudulent activities. Council is committed to preventing, deterring, and detecting fraudulent and corrupt behaviour in the performance of Council activities.

PURPOSE

This Fraud and Corruption Control Framework details Council's approach to controlling fraud and corruption at both strategic and operational levels and is to be read in conjunction with Council's Risk Management Framework, Council policies and relevant legislation.

The framework:

1. Underpins Council's commitment to the minimisation and elimination of actual or perceived fraudulent and corrupt behaviours and acts throughout Council operations; and

2. Sets out Council's approach to the implementation and review of fraud and corruption prevention, detection, monitoring and reporting.

SCOPE

This framework applies to Councillors, employees, contractors, sub-contractors, consultants, temporary employees, persons employed through a third party agency and volunteers of Council.

OBJECTIVES AND OUTCOMES

The primary objective of Council's commitment and control framework is the elimination of fraud and corruption throughout Council operations both internally and externally.

Outcomes of this framework include:

*   The community and Council's stakeholders can have confidence in the integrity and governance of Council's decision-making and processes.

*   Employees may face disciplinary action under the Disciplinary Policy and restitution of money or property lost through fraudulent activity will be pursued through legislative means.

*   Council may pursue the prosecution of people identified as committing fraud or undertaking corrupt behaviour.

DEFINITIONS AND TERMINOLOGY

Australian Standard Fraud and Corruption Control (AS 8001-2021) provides the following definitions:

Fraud - is dishonest activity causing actual or potential loss to the Council (including theft of money or other property) and where deception is used at the time, immediately before or following the activity. This also includes the deliberate falsification, concealment, destruction or use of (or intention to use) falsified documentation and the improper use of information or position for personal financial benefit.

Misuse of department resources (Vehicles, Computers, Stationary)	Accounting fraud, asset missappropriation (theft), procurement fraud, grant fraud
Fraud — Dishonest activity that causes actual or potential financial loss to any person or entity	
False medical certificates, inaccurate time sheet, false allowances, not entering utilised leave	Sale or use of Council's intellectual property

Corruption - is dishonest activity in which a person to whom the framework applies acts contrary to the interests of Council and abuses their position of trust in order to achieve some personal gain or advantage for themselves or for another person or entity or to disadvantage Council.

Using position for personal benefit or gain or benefit of another	Accepting or paying bribes for particular actions
Corruption — Abuse of a position of trust, acts contrary to the best interests of Council to gain an advantage for themselves or another	
Serious conflict of interest	Release of confidential information other than in accordance with legislation
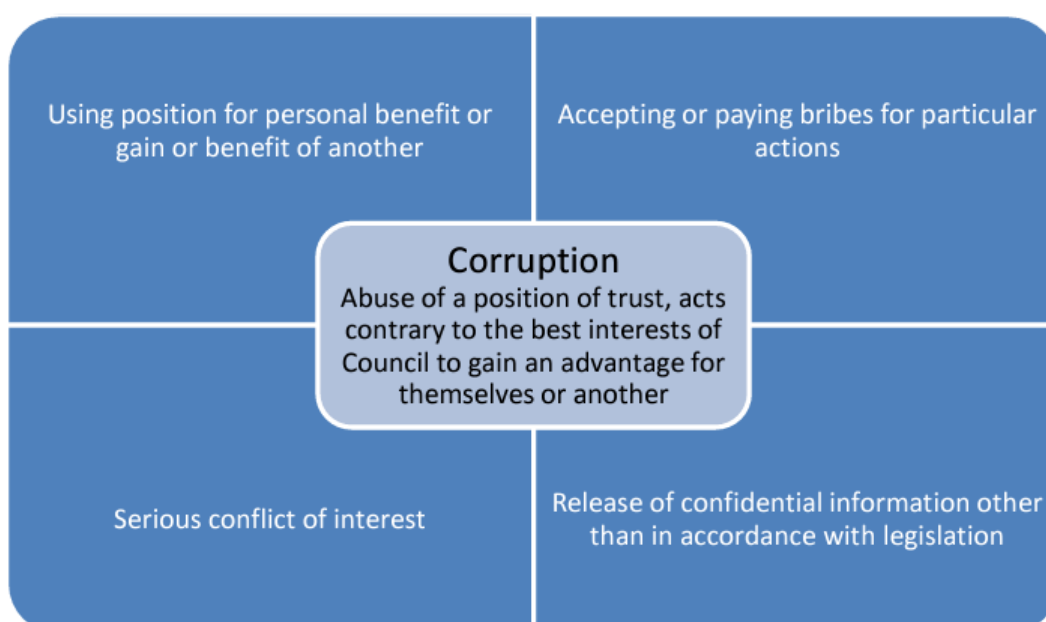
Conflict of Interest - a conflict between the public duty and personal interests of a Councillor, Council employee, council volunteer or council contractor that may, or be perceived to, improperly influence the performance of their duties. A conflict can be actual, potential or perceived.

Disclosure – is a report, made by an individual or group, about improper conduct or detrimental action of Councillors, employees, contractors, sub-contractors, consultants, temporary employees, persons employed through a third party agency and volunteers . The conduct may have occurred in the past, is currently occurring or may happen in future. It is not a disclosure if the complaint or allegation is already in the public domain.

Fraud and Corruption Control Framework – the process of planning, organising leading and controlling activity, in order to direct and control the organisation with regard to the implementation of anti-fraud and anti-corruption strategies.

Improper Conduct – at its lowest threshold level, is either criminal or serious enough to result in a person's dismissal. It may include taking or offering bribes, dishonestly using influence, committing fraud, theft, misusing information or material acquired at work, conspiring or attempting to engage in the above corrupt activity. It can also arise from the inaction of an individual or group.

EXAMPLES OF FRAUD AND CORRUPTION

Examples of fraud include:

- theft of money or property
- falsely claiming to hold qualifications
- false invoicing for goods or services not delivered, or inflating the value of goods and services
- theft of intellectual property or confidential information
- falsifying an entity's financial statements to obtain an improper or financial benefit
- misuse of position to gain financial advantage.

Examples of corruption include:

- payment or receipt of bribes
- a serious conflict of interest that is not managed and may influence a decision
- nepotism, where a person is appointed to a role because of their existing relationships, rather than merit
- manipulation of procurement processes to favour one tenderer over others
- gifts or entertainment intended to achieve a specific outcome in breach of an agency's policies.

Further examples of fraud and corruption in a Local Government context are included in Appendix A.

PART 2 - FRAMEWORK AND RESOURCING

Council is the custodian of significant public funds and assets. It is important that the community has assurance that these are adequately protected from fraud and corruption.

Council has developed a structured framework and approach to the implementation and review of fraud and corruption prevention, detection, monitoring and reporting. This framework is based on the *Australian Standard for Fraud and Corruption Control (AS8001-2021)* and has been endorsed by the Executive Management Team and the Audit and Risk Committee, and approved by Council

Fraud and corruption control forms part of Council's risk management framework. It is a risk that Council actively seeks to identify and limit its exposure to, by reducing the potential opportunity (risk likelihood) for fraud and corruption to occur.

COMMITMENT TO STANDARDS OF BEHAVIOUR

Adherence to the values and standards of behaviour upon which Council's reputation has been built and will continue to be based, is fundamental to further building on the partnership, trust and community pride between our Council and the community.

The Employee Code of Conduct requires that employees conduct themselves in accordance with clear principles that require that they:

1. Act in Colac Otway Shire Council's best interest and value our reputation
2. Act with honesty and integrity
3. Treat others with respect, value difference and maintain a safe working environment
4. Identify conflicts of interest and manage them responsibly
5. Respect and maintain privacy and confidentiality
6. Not make or receive improper payments, gifts or benefits.

The *Local Government Act 2020, Local Government (Governance and Integrity) Regulations 2020,* and the Councillor Code of Conduct provide the basis for expectations of conduct by Councillors. This includes the requirement that Councillors must:

- Comply with good governance measures.

- Not discredit or mislead Council or public.

RELATIONSHIP WITH THE ORGANISATION'S OTHER RISK CONTROL DOCUMENTS

- Employee Code of Conduct
- Councillor Code of Conduct
- Councillor Gift, Benefits and Hospitality Policy
- Risk Management Framework
- Procurement Policy
- Disciplinary Policy and Procedure
- Selection for Excellence Policy

- Public Interest Disclosure Procedures
- Audit and Risk Committee Charter
- Australian Standard AS 8001-2021 Fraud and Corruption Control
- AS/NZ ISO 31000:2009 Risk Management Principles and Guidelines
- Employment screening (AS 4811-2006; HB 323-2007)
- Fraud Control in Australian Government Entities Better Practice Guide (Australian National Audit Office)
- Related Victorian legislation, including:
  - Local Government Act 2020
  - Public Interest Disclosures Act 2012
  - Public Interest Disclosure Regulations 2019
  - Independent Broad-based Anti-Corruption Commission Act 2011
  - Charter of Human Rights and Responsibilities Act 2006
  - Crimes Act 1958
  - Ombudsman Act 1973
  - Audit Act 1994
  - Privacy and Data Protection Act 2014.

FOUNDATIONS FOR FRAUD AND CORRUPTION CONTROL

This Fraud and Corruption Control Framework operates within an existing legislative and strategic framework. The diagram below shows the interdependency of a good framework with complementary culture, programs and processes.

ROLES AND ACCOUNTABILITIES

Council operates under a distributed assurance model in accordance with the Risk Management Framework. This model provides that the following groups are all involved in effective risk management.

The accountabilities and responsibilities for this Framework are detailed below:

Role	Accountabilities and responsibilities
Councillors	• Ensure that an appropriate Fraud and Corruption Control System (Framework) is adopted. • Comply with the Code of Conduct for Councillors (including conflict of interest obligations). • Facilitate accountability for fraud and corruption control at all levels within the Council by ensuring appropriate resources are provided to ensure suitable fraud and corruption information and reporting systems are maintained. • Ensure the highest standards of integrity and ethical leadership are demonstrated.

Role	Accountabilities and responsibilities
Audit and Risk Committee	• Monitor the implementation of the Fraud and Corruption Control Policy and Fraud and Corruption Control Plan. • Direct and guide the internal audit function and approve, monitor and manage the annual internal audit plan. • Ensure appropriate internal audit coverage is given to fraud control issues. • Liaise closely with internal and external auditors and ensure issues and recommendations are appropriately actioned.
Chief Executive Officer	• Principal responsibility for fraud and corruption control within Council, ensuring compliance with established policies and procedures and that appropriate governance structures are in place and are effective. • Promote a genuine commitment to fraud and corruption control within Council. • Expeditiously reporting to IBAC, relevant agencies and the Audit and Risk Committee in accordance with this Framework.
Executive Management Team	• Promote and implement the Fraud and Corruption Control Framework across Council. • Establish and maintain an effective internal control environment. • Coordinate Council's internal audit program. • Provide appropriate organisational focus and effort to ensure proper implementation of the Fraud and Corruptions Control Framework including the establishment of a fraud awareness program. • Maintain awareness of fraud and corruption risks.
Manager Governance	• Review the Fraud and Corruption Control Framework and related procedures. • Coordinate external investigations with the General Manager Corporate Services and make recommendations to the Chief Executive Officer • Ensure Council maintains appropriate insurance cover. • Coordinate and provide fraud and corruption training and awareness across the organisation.
Manager Financial Services	• Ensure financial procedures (including payroll) adequately address fraud and corruption risk. • Coordinate access to financial information to audit authorities.
Manager Property, Procurement and Contracts	• Ensure procurement procedures adequately address fraud and corruption risk. • Coordinate and provide procurement training and awareness that includes fraud and corruption risk in the context of procurement processes.

Role	Accountabilities and responsibilities
Managers and People Leaders	• Establish and maintain effective management practices, systems, procedures and controls within their teams' functions and responsibilities. • Ensure that all employees, contractors and volunteers understand their responsibilities through adequate supervision, written procedures and awareness training. • Be aware of key fraud indicators and symptoms. • Respond positively to matters raised by Internal and External Audit. • Act upon all reports of fraud/corruption in accordance with the Fraud and Corruption Control Framework.
Employees, contractors and volunteers	• Maintain awareness of fraud and corruption risks and Council's control framework. • Report suspected instances of fraud/corruption or misuse of Council assets and resources. • Comply with the Employee Code of Conduct and all Council policies and procedures.

PART 3 - FRAUD AND CORRUPTION PREVENTION

PROMOTING A ROBUST INTEGRITY FRAMEWORK

All management and employees are responsible for the development and maintenance of an ethical culture. To be successful in this goal, Councillors need to demonstrate their support for management's actions in this area, and also role-model an ethical culture in the way they go about their roles. The Councillor and Employee Codes of Conduct detail the ethical values and principles that are expected of Councillors and employees respectively.

Executive Management will not be complacent and will treat fraud and corruption risks as a serious threat to the organisation. Managers shall set the example with regard to exercising and demonstrating high levels of integrity in the execution of their roles and functions, as well as regularly reminding employees of the importance of complying with Council's Employee Code of Conduct and the Fraud and Corruption Control Framework.

Clear behavioural expectations, and clear consequences for fraudulent or corrupt behaviour, will be communicated at commencement of employment or engagement with Council.

Councillors' responsibilities are articulated in the *Local Government Act 2020* and the Councillors' Code of Conduct. Conduct and behaviour that consistently reflects the legislated responsibilities of Councillors reinforces their respect for their role and that of officers and can further reinforce good governance principles as well as a commitment to fraud and corruption controls.

AWARENESS RAISING OF FRAUD AND CORRUPTION RISK

It is important that fraud and corruption is identified and reported at an early stage and that employees and Councillors have understanding of, and confidence in, the system.

Fraud Awareness Training is an integral part of Corporate Induction and is Council's initial method for ensuring that all employees, contractors and volunteers are aware of their responsibilities for fraud control and of the expectations for ethical behaviour in the workplace.

Managers and People Leaders will also receive Fraud Awareness Training designed to inform them of their specific role and additional responsibility as a Manager, with regards to fraud control. All employees will receive refresher training every two years or as deemed necessary.

A copy of the Fraud and Corruption Control Framework and procedures will be made available to all Councillors, employees, contractors and volunteers. The awareness of Council's risk of fraud and corruption controls will be made available through the following means:

- Access to the Employee Code of Conduct and Fraud and Corruption Control Framework will be included in onboarding information provided to all new employee with a requirement that they formally acknowledge receipt and reading of the information.

- A dedicated page will be maintained on the Council intranet in regards to fraud and corruption, this will include links to all relevant documents in particular the process for reporting allegations.

- Fraud and Corruption awareness training will be conducted in accordance with frequency identified through a risk assessment by way of the Learning and Development Program.

- Fraud and Corruption awareness will be conducted with Councillors at the beginning of their term with a refresher annually.
- Any substantive changes in the framework or procedure will be communicated to all employees, contractors, volunteers and Councillors.

INTERNAL AUDIT ACTIVITY

Internal audit supports fraud prevention by ensuring employees conform to internal controls, and by deterring potential perpetrators with the increased prospect of being caught. It has a key role in detection of fraud and provides necessary inputs into the Council's responses to fraud.

The Manager Governance, in consultation with the General Manager Corporate Services, should ensure that internal audit schedules or plans adequately address Council's fraud risk exposures and adequately test Council's fraud risk controls. If deemed necessary the Council may utilise the role of the internal auditor in the investigation and reporting of any suspected fraud or corrupt activity.

EXTERNAL ENVIRONMENT SCAN

Council receives regular updates from integrity agencies about fraud and corruption matters, including investigations into Local Government and other public agencies. The General Manager Corporate Services and Manager Governance will review these reports for relevance to Council and ensure the Senior Leadership Team reflects on recommendations and learnings that are relevant to the business of Council.

FRAUD AND CORRUPTION RISK MANAGEMENT

The Executive Management Team is responsible for the Council's overall management of risk and comprises the Chief Executive Officer, General Managers and Manager Governance. The Risk and Insurance Officer will attend meetings where fraud and corruption matters are on the agenda.

The Executive Management Team will schedule time dedicated to fraud and corruption control on a quarterly cycle to continually identify, review and manage the Council's risk exposure.

Fraud has been identified as an extreme risk to the Council. In order to ensure that all aspects of fraud risk exposure are clearly understood and to effectively implement control measures, the Executive Management Team will make recommendations on further treatments that can be implemented in order to control the risk of fraud.

Risk assessments will be undertaken for all identified fraud and corruption risks in accordance with Council's current Risk Management approach.

The Risk and Insurance Officer is responsible for coordination of fraud risk assessments, however each Manager is responsible for the identification of potential exposure of fraud and corruption in their work areas and the development, implementation and monitoring of internal controls (systems, processes and procedures) to minimise risks. The risks, treatments and controls identified through the risk assessment process will be recorded and reported through the Risk Register.

As a minimum, the following risks will be assessed:

- Theft of cash
- Theft/misuse of assets
- Misuse of confidential corporate information
- Conflict of Interest (including nepotism)
- Accounts payable
- Payroll practices
- Procurement
- Grant fraud
- Technology and information security, including cyber fraud
- Recruitment
- Misuse of credit cards.

MANAGING CONFLICTS OF INTEREST

Managing conflicts of interest is about transparency of relationships between people/issues and decision-makers and underpins the integrity of Council's decision-making processes. It is vital that the private interests of Councillors and employees do not affect decision-making at Colac Otway Shire Council.

Section 126 of the *Local Government Act 2020* defines conflicts of interest as being either 'general' or 'material' in nature:

- Councillors, employees and volunteers of Council may have a ***general conflict of interest*** in a matter if an impartial, fair-minded person would consider that their private interests could result in them acting in a manner that is contrary to their public duty.

- Councillors, employees and volunteers of Council may have a ***material conflict of interest*** in a matter if it could result in a benefit of loss for the individual or people with specific relationships to the individual.

To mitigate the risk of fraud and corruption, Councillors, employees and volunteers are required to disclose any conflict of interest and exclude themselves from the decision-making process. This includes when employees or volunteers exercise a power of delegation or a statutory power, duty or function, including actions taken as an authorised officer.

Councillors, employees and volunteers are provided training and guidance with respect to managing conflicts of interest. Councillor and Employee Codes of Conduct provide guidance regarding conflicts of interest.

MANAGING RISKS CONNECTED TO GIFTS, HOSPITALITY, DONATIONS AND SIMILAR BENEFITS

Councillors, employees and volunteers should not accept gifts, hospitality, donations and similar benefits if it is likely to be perceived by a 'reasonable person' as intended to influence them in the fair, impartial and efficient discharge of their duties as Councillors, employees and volunteers.

Council has adopted a Gifts, Benefits and Hospitality Policy that applies Councillors, employees and any individuals or groups undertaking activity for, or on behalf of, Colac Otway Shire Council.

Councillors, employees and volunteers are provided training and guidance with respect to managing gifts, hospitality, donations and similar benefits. Under exceptional circumstances, where a gift, hospitality and token benefit is accepted, declarations are recorded.

A register of disclosed gifts, benefits and hospitality is maintained by the Governance Officer and records sufficient information to effectively monitor, asses and report on matters. This register is reported to the Executive Management Team and the Audit and Risk Committee at a frequency appropriate to manage any risks. A public register is also published to give the public confidence that the offering of gifts, benefits and hospitality is appropriately managed to avoid influence in decision making and prevent fraud and corruption occurring.

EMPLOYMENT SCREENING

Employment screening will be undertaken for all new employees. This screening process will reduce the risk of a potential security breach and will provide a high level of assurance as to the integrity, identity and credentials of prospective employees.

The following screening shall be undertaken with the express consent of the individual concerned for all prospective employees:

- Verification of identity requiring at least two forms of identity (passport, birth certificate, drivers licence, rate certificate, at least one must include photo identification)

- Police criminal history check for relevant positions

- Working with children check for relevant identified positions

- Reference checks with two most recent employers

- Consideration of any gaps on employment history and the reasons for the gaps

- Verification of formal qualifications claimed where required for the position.

JOB ROTATION AND EXCESS ANNUAL LEAVE

Individual business teams and units will regularly consider job rotation for positions where there are multiple officers undertaking the same or similar functions and the position is deemed a high risk from a fraud or corruption perspective, e.g. local law enforcement, parking enforcement, planning officers, contract management, cash handling.

Excess annual leave will be monitored by the Executive Management Team on a quarterly basis to ensure excess leave is proactively managed.

SUPPLIER VETTING

Council will undertake supplier vetting for new and ongoing suppliers in accordance with existing practices.

Financial and/or performance assessments are to be undertaken where the contract poses a key financial risk to Council or where it is a new contractor that has never been used by Council before and the risk of poor performance or financial collapse is likely to adversely affect Council.

Financial and Performance assessment checks may also be undertaken where Council wishes to understand the financial and previous contract performance of the contractor or if no security is in place

VOLUNTEER MANAGEMENT

Community Asset Committee (CAC) members are volunteers of Council that perform similar functions to employees and have similar responsibilities with respect to Council's financial and physical assets. In addition to controls aimed at prevention covered elsewhere in this framework, CAC volunteers have conditions and limitations placed on their delegated functions and authorities that aim to minimise the risk of fraud and corruption. These conditions and limitations are documented in the Instrument of Delegation to CAC members.

PREVENTING "TECHNOLOGY-ENABLED' FRAUD

Council acknowledges the emergence of cyber fraud as a significant fraud risk and particularly phishing campaigns. Phishing campaigns infiltrate corporate networks by sending authentic-looking fraudulent emails to users in an organisation and tricking them into performing actions such as downloading attachments or clicking on links.

Council uses Mimecast as our secure email gateway, which is the first line of defence, and in combination with Microsoft's Defender for O365 (Threat Protection) as a secondary and additional level is used to detect and filter out malicious emails and phishing.

PART 4 - FRAUD AND CORRUPTION DETECTION

The Council's detection program includes the annual internal audit plan, annual financial statement external audit, Audit and Risk Committee oversight, review of risk strategies and various reporting avenues. Other detection activities are outlined in the following sections.

POST-TRANSACTIONAL REVIEW

A review of transactions will be conducted within two (2) months after they have been processed on a minimum sample size, and where there are 'red flags' as described in following sections. These reviews will seek to identify or uncover altered documents or missing documentation, falsified or altered authorisations or inadequate documentary support.

ANALYSIS OF MANAGEMENT ACCOUNTING REPORTS

Analysis of management accounting reports - using relatively straight forward techniques in analysing management accounting reports, trends can be examined and investigated which may be indicative of fraudulent or corrupt conduct.

EMPOWERING EMPLOYEES TO IDENTIFY EARLY WARNINGS

All employees should be aware of their responsibilities and are required to remain vigilant to identify and report any suspected fraudulent activity.

Employees will be provided fraud prevention training that includes learnings from case studies and how to detect early warning signs to enable them to detect potential fraud or corruption. This will include encouraging employees to 'question the unquestionable' and create appropriate pathways to do that. Information will be presented in everyday language that is relevant to their work environment, ensuring it is localised and meaningful.

Employees will be encouraged to identify early warning signs that can include:

- **Transactional Red Flags**
  - Transactions occurring at an unusual time
  - Frequency of transaction is unusual
  - Place of transaction is unusual
  - Amount of transaction is unusual
  - Relationship between persons is unusual (e.g. related parties)
  - Level of responsibility is unusual (e.g. management performing clerical).

- **Behavioural Red Flags**
  - Employee lifestyle changes
  - Significant personal debt problems
  - Creditors or collectors appearing at the workplace
  - Refusing vacations, sick leave or promotions

- o A strong desire to 'beat the system'
- o Persistent or unnecessary control of records
- o Lack of strong code of personal ethics
- o Insistence on working unusual or non-standard hours when not required
- o Avoidance or delay in provision of documentation or evidence e.g. to audit.

DATA ANALYTICS

The application of sophisticated (and sometimes unsophisticated) software applications and techniques where a series of suspect transactions can be identified and then investigated which can identify anomalies at an early stage.

EXTERNAL AUDITOR'S ROLE IN THE DETECTION OF FRAUD

As required under the *Audit Act 1994* and the *Local Government Act 2020*, the Victorian Auditor General's Office (VAGO) is local government's external auditor. VAGO is required to consider the risk of material misstatement in Council's financial statements, due to fraud when performing their audit (via appointed agent). The Audit and Risk Committee takes an active role in considering VAGO's Closing Report and Management Letter. VAGO ultimately issues its findings in an Independent Auditor's Report, published in Council's Annual Report.

REPORTING BY INTERNAL PARTIES

Council takes fraud and corruption very seriously and does not accept fraudulent or corrupt behaviour in any form or to any degree. It encourages all employees to maintain awareness and vigilance in regard to fraud and corruption.

All Councillors and employees are encouraged to assist Council to prevent fraud and corruption by:

- identifying suspected or potential fraudulent and corrupt activities; and
- reporting any such activities in order that those activities are investigated.

Council will ensure that people have multiple channels for reporting any suspicions of real or potential fraud and corruption. Internal reporting avenues include notifying:

- the Chief Executive Officer (for reporting by Councillors, employees, contractors, volunteers or community members); or
- People Leaders or Managers or General Managers (for employee reporting only); or
- Manager Governance (for reporting by Councillors, employees, contractors, volunteers or community members); or
- Public Interest Disclosure Officer or Coordinator(for reporting by Councillors, employees, contractors, volunteers or community members).

All reports involving corrupt conduct reported to a manager, people leader, or employee must be forwarded to the Chief Executive Officer.

Any report regarding the Chief Executive Officer should be reported directly to an external party and not disclosed to any Councillor or employee of Council.

External reporting avenues include notifying:

- the Local Government Inspectorate on 1800 469 359, or

- the Independent Broad-based Anti-corruption Commission (IBAC) on 1300 735 135, or

- the Victorian Ombudsman on (03) 9613 6222.

Other reporting avenues include notifying:

- the Internal Auditor; or

- the Audit and Risk Committee Chair.

The internal Auditor or Audit and Risk Committee Chair will refer the notification to an authorised external body and/or notify the Chief Executive Officer provided always that any request for non-identification of the discloser will be maintained.

Alleged criminal conduct will be reported to Victoria Police as appropriate, and serious improper conduct to IBAC as required by law.

REPORTING BY EXTERNAL PARTIES

From time to time employees of external parties such as suppliers may become aware, or suspicious, that Council employees are engaging in fraudulent or corrupt behaviour. Encouraging and enabling reporting of this behaviour is an important part of a fraud and corruption control program.

The Manager Financial Services should ensure that procurement procedures include:

- making new suppliers aware of Council's fraud and corruption control program;

- encouraging them to report fraudulent or corrupt behaviour, or suspected behaviour; and

- providing them with the contact details of Council's Public Interest Disclosure Coordinator.

EXIT INTERVIEWS

Council will, by agreement with departing employees, undertake exit interviews with the objective, amongst other things, of eliciting relevant information about fraudulent or corruption events that the employee may have been involved in, aware of or have suspicions about. Any information received about these matters will be reported to the Manager Governance for action in accordance with Part 4 of this framework.

PUBLIC INTEREST DISCLOSURE

Under the *Public Interest Disclosures Act 2012*, persons can make disclosures to the Council and/or IBAC about improper conduct and detrimental action in relation to the activities and functions of Council. This is encouraged where any person wishes to access the protections afforded by the *Public Interest Disclosures Act 2012*. The Council's Public Interest Disclosure Procedures will be available on the Council website.

Disclosures about improper conduct or detrimental action by Councillors should be made to the IBAC or to the Ombudsman. If Council receives a misdirected disclosure about a Councillor, such disclosures will be assessed by the Chief Executive Officer and managed in accordance with Council's Public Interest Disclosure Procedures.

A public interest disclosure can be made to:

- The Council's Public Interest Disclosure Officer or Public Interest Disclosure Coordinator

- IBAC
  Level 1, North Tower
  459 Collins Street
  Melbourne Vic 3000
  Postal address: GPO Box 24234, Melbourne VIC 3001
  Telephone: 1300 735 135
  Website: www.ibac.vic.gov.au

PART 5 - RESPONDING TO FRAUD AND CORRUPTION INCIDENTS

This part provides direction with regard to procedures for dealing with suspected or detected fraud and corruption.

MANDATORY REPORTING

The Chief Executive Officer must notify IBAC of any matter they suspect on reasonable grounds to involve corrupt conduct occurring or having occurred, and suspected corrupt conduct occurring in other organisations where it is connected with the Chief Executive Officer's duties, functions and exercise of powers. This obligation cannot be delegated and exists regardless of the scale of the matter or people involved.

Where another person is acting as the Chief Executive Officer, the obligation applies to that person.

The notifications must be made as soon as practicable after the Chief Executive Officer has formed a reasonable suspicion that corrupt conduct may have occurred or may be occurring. An assessment as to whether a matter must be notified to IBAC should be made based on the material available to the Chief Executive Officer.

For all matters subject to Mandatory Reporting to IBAC, no action will be taken until IBAC has assessed the matter and informed the Chief Executive Officer of its decision. Exceptions apply where the action is:

- necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual or to public health or safety; or

- taken to comply with another legal obligation, such as a duty to report the matter under other legislation; or

- reporting the matter to Victoria Police.

INVESTIGATIONS

All reported fraudulent or corrupt behaviour, or suspected behaviour, that is referred back to Council by IBAC will be investigated by the Council, an external investigator appointed by Council or Victoria Police. The purpose of an investigation is to:

- Determine if in fact fraudulent or corrupt behaviour has been committed.

- Identify the person(s) responsible for the fraudulent or corrupt behavior.

- Discover the extent of the fraudulent or corrupt behaviour and determine the action to be taken.

- Provide the basis of any insurance claim.

- Identify how long the fraudulent or corrupt behaviour has been occurring and thereby the extent of the breakdown of internal controls.

- Identify any gaps or weaknesses in the controls and systems associated with the activity that is subject to the investigation

Upon advice that a report of fraudulent or corrupt behaviour, or suspected behaviour, will not be investigated by IBAC, the General Manager Corporate Services, in consultation with the Manager Governance, will as soon as practicable ensure that an investigation is conducted into the alleged misconduct.

The Chief Executive Officer will be consulted and decide whether the Police or any external assistance will be employed. The Chief Executive Officer is responsible for the selection of the employees to be involved in the Investigation team, in consultation with the General Manager Corporate Services and the Manager Governance. This may include referring the investigation to Council's Internal Auditor for action.

Where Council determines that the matter should be investigated by Council, or an external investigator appointed by Council, it will:

1. Conduct an investigation into the matter; and

2. Determine a course of action once the findings of the investigation are available.

The Chief Executive Officer will remain impartial to any investigation and not be a member of any Investigation Team.

External Investigation

The Chief Executive Officer may decide that the investigation should be conducted by an external party or the matter referred directly to Victoria Police.

- Victoria Police

  The trigger for direct referral to Victoria police being clear evidence of criminal activity or a suspicion of criminal activity based on reasonable grounds. Any referral direct to Victoria Police will be coordinated by the General Manager Corporate Services.

- External Party (auditor) engaged by Council

  The trigger for external investigation will be any matter that cannot be adequately resourced internally either by way of complexity or drain on internal resources.

  Further, an external investigation will be conducted where the matter potentially involves employees ordinarily in the key chain of internal investigation including the CEO, a General Manager, Manager Governance, Manager People and Culture, Manager Financial Services, or where it is suspected to be a systemic issue.

  The General Manager Corporate Services, in consultation with the Manager Governance, will consider the report from the external investigation and make recommendations to the Chief Executive Officer as to the most appropriate course of action as soon as practicable.

Internal Investigation

The investigation should be conducted as quickly as practicable, including but not limited to the following steps:

- Develop the terms of reference, identifying:
    - Confirming who should conduct the investigation
    - Who should be interviewed
    - What records should be examined
    - Who should be kept informed, on a 'need to know' basis.

- Conduct the investigation (see checklist):
    - Collect witness statements
    - Examine records
    - Conduct the interviews, on an innocent until proven guilty basis;
    - persons against whom allegations are made should be made aware of the nature of the allegations and given an opportunity to respond within a reasonable timeframe;
    - they should be allowed a support person in the interviews, but that person may not represent them or provide comment
    - All parties to maintain confidentiality and propriety at all times.

- Compile a report
    - Conclusions as to the likely truth or otherwise of the allegations
    - Comment on the breadth and seriousness of the misconduct
    - Report on any detected gaps or weaknesses in the controls and systems associated with the alleged activity.

- Register the report in Records Management system using a highly restricted security classification.

The General Manager Corporate Services, in consultation with the Manager Governance will consider the report and make recommendations to the Chief Executive Officer as to the most appropriate course of action as soon as practicable.

RESPONSES TO INVESTIGATIONS

The Chief Executive Officer, upon receipt of recommendations from the external or internal investigation, should decide on the most appropriate course of action, and act or delegate actions accordingly, as soon as practicable.

The Council's responses to investigations may include disciplinary action, reporting to Victoria Police, and/or civil action to recover losses.

- **Disciplinary action**

  The Manager People and Culture will coordinate disciplinary action in accordance with Council's Disciplinary Policy and Procedure.

- **Reporting to Victoria Police**

  The General Manager Corporate Services will coordinate the reporting of the investigation outcome to Victoria Police.

- **Civil action to recover losses**

  The Council will pursue recovery of any losses due to fraud or corruption where there is clear evidence of fraud and corruption and where the likely benefits of such recovery will exceed the funds and resources required to be invested in the recovery action.

The General Manager Corporate Services will coordinate any civil action taken by Council to recover losses incurred as a result of the fraud or corruption.

CONFIDENTIAL RECORD KEEPING

The Manager Governance will maintain a confidential register to record reports of fraudulent and corrupt behaviour, or suspected behaviour, and investigation outcomes.

All investigative documentation will comply with relevant legislative provisions, will remain strictly confidential and will be retained in accordance with the Council's Information Privacy Policy and Records Management system controls.

Procedures for the investigation of detected or suspected incidents

The Colac Otway Shire Fraud and Corruption Control Procedure provides direction with regard to the procedures for dealing with suspected fraud or corruption.

The procedure provides:

- Appropriate measures for the comprehensive investigation of such matters based on the principles of independence, objectivity and fair due process (rules of natural justice);

- Systems for internal reporting of all detected incidents;

- Process for reporting the matters of suspected fraud and corruption to the appropriate enforcement agency.

DISCIPLINARY PROCEDURES

Any employee who has had fraud or corruption allegations substantiated will be subject to disciplinary action in accordance with Council's disciplinary procedures established and documented by the People and Culture Department.

Consequences for employees found to have committed, or attempted to commit, fraud and/or corruption may include, but are not limited to:

- dismissal

- warnings

- repayment of misappropriated funds and other costs

- referral to the IBAC or other integrity agencies.

Actions of fraud and corruption may result in criminal prosecution.

The Chief Executive will have ultimate discretion in this respect having regard to the specific circumstances of each individual case.

INTERNAL REPORTING AND ESCALATION

The Manager Governance is the custodial owner of the Incident and Near Miss Register and ensures all incidents or near misses are recorded in the register. Incident and Near Miss Summary Reports for high or above rated fraud and corruption related incidents will be tabled at an Executive Management Team meeting.

Pursuant to its Charter, the Audit and Risk Committee will receive reports regarding actual or suspected instances of fraud or corruption, serious misconduct, or breaches of ethical standards, including:

- Analysis of action taken to address such matters

- Actions taken to report such matters to the appropriate integrity bodies

- Any findings and examinations by regulatory or external agencies, and internal or external audit.

Reporting to the Audit and Risk Committee occurs through the Chief Executive Officer's report in the Committee's agenda, or directly and/or out-of-session if warranted.

Council receives copies of the Audit and Risk Committee's agenda and minutes which provides transparency of reported issues to Councillors, and the Audit and Risk Committee may make specific recommendations to Council if it deems this to be appropriate.

EXTERNAL REPORTING

The Colac Otway Shire Council Fraud and Corruption Control Procedure provides direction in regard to reporting any suspected fraudulent or corrupt conduct to any external enforcement agencies including:

- Independent Broad-based Anti-corruption Commission (IBAC) on 1300 735 135, or

- Local Government Inspectorate on 1800 469 359, or

- Victorian Ombudsman on (03) 9613 6222.

- Victoria Police – 131 444 (Police Assistance Line for non-urgent crimes or events)

Council is committed to ensuring that all allegations, breaches of the Code of Conduct or this policy which are considered to be prima facie cases supported by evidence of fraudulent or corrupt conduct are notified to the appropriate law enforcement or regulatory agency for investigation.

For the purposes of compliance with the relevant provisions of the *Independent Broad-Based Anti Corruption Commission Act 2011,* Council's Chief Executive Officer is a 'Relevant Principal Officer'. The Relevant Principal Officer must notify the IBAC of any matter which the person suspects on reasonable grounds involves corrupt conduct occurring or having occurred. (Section 57).

RECOVERY OF STOLEN FUNDS OR PROPERTY

Council will pursue recovery of any losses due to fraud or corruption where there is clear evidence of fraud and corruption and where the likely benefits of such recovery will exceed the funds and resources required to be invested in the recovery action.

INSURING AGAINST FRAUD EVENTS

The Council will maintain a fidelity guarantee insurance policy that insures the risk of loss arising from internal fraudulent conduct. The level of the policy will be determined as part of Council's annual insurance renewal program. This will be reported annually to the RMC alongside Council's other insurance policies.

Insurance for external fraud and corruption, in particular the theft of Council property, will also be maintained and reviewed annually by employee in conjunction with the normal annual reassessment of insurance policy cover and limits.

ASSESSING INTERNAL CONTROLS, SYSTEMS AND PROCESSES

Where fraud or corruption is detected, the relevant service Manager, in consultation with the Manager Governance and/or the Coordinator Risk and Insurance, will review the findings and assess the adequacy of the relevant internal control environment and provide a report to the General Manager Corporate Services on any recommended improvements identified.

Where internal controls may be practicably improved, the Relevant Responsible Officer should ensure as soon as practicable that those improvements are developed, documented and implemented, and understood by those who have roles and responsibilities in them.

EXAMPLES OF FRAUD

General

- Theft of funds, assets, plant, equipment or information

- Unauthorised use of Council equipment or materials for personal benefit

- Causing a loss or avoiding creating a liability by deception

- False invoicing (involving an employee member creating a fictitious invoice claiming payment for goods or services not delivered or exaggerating the value of goods delivered or services provided)

- Accounts receivable fraud (misappropriation or misdirection of remittances received from a debtor)

- Credit card fraud involving the unauthorized use of a credit card or credit card number issued to another person, including use of purchasing card to buy goods or services for personal use

- Providing false or misleading information

- Making false or misleading financial reports

- Release or use of misleading or inaccurate information for the purposes of deceiving or misleading, or to hide wrongdoing

- Misuse of position in order to gain some form of financial advantage

- Theft of intellectual property or other confidential information

- Bribery or kickbacks.

Payroll/timesheet fraud

- Time in lieu claimed but not worked

- Overtime claimed but not worked

- Not recording leave taken on timesheet

- Forgery of manager's signature

- Fraudulent medical certificates.

Unauthorised use of Council assets

- Unauthorised private use of vehicles

- Taking supplies for private use

- Taking equipment for private use.

False claims for reimbursement

- Claiming for non-work related costs

- Claiming for costs not actually incurred.

Recruitment fraud

- Fake qualifications

- Fictitious former employers

- Fake references.

EXAMPLES OF CORRUPTION

Corruption includes Councillors, employees, volunteers and contractors:

- Being targeted by external parties seeking to gain an improper benefit.

- Targeting external parties or other internal parties in seeking to gain an improper benefit.

- Payment or receipt of secret commissions (bribes), which may be paid in money or in some other form of value to the receiver (e.g. building projects completed at an employee's private residence).

- Release of confidential information for other than a proper business purpose in exchange for some form of non-financial benefit or advantage accruing to the employee releasing the information.

- Solicitation of donations for an improper political purpose.

- Senior employees acting in their own self-interest rather than the interests of Council (e.g. failing to declare a conflict of interest in a decision).

- Serious nepotism and cronyism where the appointee is inadequately qualified to perform the role to which he or she has been appointed.

- Manipulation of the procurement process by favouring one tenderer over others or selectively providing information to some tenderers. This may involve allowing tenderers to resubmit a 'non-complying' tender after being provided with the details of other bids.

- Gifts or entertainment intended to achieve a specific or generic commercial outcome in the short or long-term – in breach of Council's Gifts, Benefits and hospitality procedure.

APPENDIX B – FRAUD INVESTIGATION CHECKLIST

Fraud investigations should be designed to be relevant and responsive to the particular circumstances. The following is provided as guidance to officers involved in investigations:

- ☐ A complete description of the allegations or suspected events

- ☐ The name and position of any public official/s alleged to be involved

- ☐ The name/s of the person/s who made the allegation/s

- ☐ The name and role of any other person/s relevant to the matter

- ☐ The dates and/or time frames in which the alleged conduct occurred

- ☐ A brief analysis of why the events in question may be corrupt conduct

- ☐ A brief analysis of the basis for forming a reasonable suspicion about the events in question

- ☐ An indication as to whether the conduct appears to be a one-off event or part of a wider pattern or scheme

- ☐ The date the allegation was made or the date you became aware of the conduct

- ☐ How you became aware of the conduct

- ☐ What your organisation has done about the suspected conduct, including notification to any other agency (e.g. the Police or the Victorian Ombudsman)

- ☐ What further action you propose

- ☐ The approximate amount of money or value of resources (if any) involved

- ☐ Any other indicators of seriousness

- ☐ Any other information deemed relevant to the matter

- ☐ Copies of any relevant documents

- ☐ The name of the relevant contact officer

APPENDIX C – POINTS OF CONTACT FOR REPORTING

Reporting by employees of fraud and corruption is one of the main avenues through which fraud and/or corruption is uncovered. To assist with this, the Fraud and Corruption Control Employee Guide has been developed to provide employees with a broad understanding of what constitutes fraud or corruption and what 'red flags' to look out for.

Activity involving	Report to
A fellow employee, contractor or volunteer	Departmental Manager
	Manager Governance
	General Manager Corporate Services
	Chief Executive Officer
Manager	Chief Executive Officer
General Manager	Chief Executive Officer
Chief Executive Officer	Mayor
	Independent Broad-based Anti-corruption Commission (IBAC)
	Local Government Inspectorate
Mayor or Councillor	Chief Executive Officer
	Independent Chair of the Audit and Risk Committee
	Independent Broad-based Anti-corruption Commission (IBAC)
Non-staff member	Departmental Manager
	Manager Governance
	General Manager Corporate Services
	Chief Executive Officer

Can I remain anonymous?

- Yes

Who will see my report? (i.e. if made to Council)

- The person you made the report to
- General Manager Corporate Services and Manager Governance
- Chief Executive Officer
- IBAC (depending on seriousness)

What happens to my internal report?

- The General Manager Corporate Services and Manager Governance will assess and advise the CEO about the veracity of the report
- The CEO will report to IBAC as per mandatory reporting obligations

What happens to my external (non-Council) report?

- Your report may be sent to IBAC or another integrity agency for investigation
- IBAC may refer the matter back to Council. If that is the case, the CEO will decide if the matter should be investigated internally, externally, or referred to VicPolice

I know about 'whistleblowers' but I don't see it anywhere?

- 'Whistleblowers' has been replaced by 'Public Interest Disclosures' in Victoria
- These types of disclosure ensures that people who report improper conduct and corruption in the Victorian public sector can do so with the knowledge that they will be protected