



FRAUD AND CORRUPTION

POLICY & PLAN

PARKES SHIRE COUNCIL

**FRAUD AND CORRUPTION
POLICY AND PLAN**

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INTRODUCTION

This policy sets out for Council the approach to be taken about Fraud and Corruption by the organisation. Council is required to have a policy in place to manage these significant risks which provides the foundations of Good "Civic Leadership" and instils community trust and faith in Council to deliver ethical service delivery.

PURPOSE

- + To assist Council in identifying and dealing effectively with fraud and corruption occurrences
- + To ensure a sound ethical culture exists within Council
- + To protect public funds and assets
- + To protect the integrity, security and reputation of the Council and its staff providing good "Civic Leadership"

POLICY

Council promotes an organisational culture that will not tolerate any act of fraud or corruption. The accompanying Fraud and Corruption Prevention Plan is designed to put these principles into practice.

This Policy applies to all Council delegates - Councillors, Council Staff (including temporary work experience/placements) Contractor's, Volunteers, Committee Members and other delegates.

Fraud and Corruption can be distinguished from other forms of unethical behaviour. Council applied the follow definitions which are based on those contained in the Australian Standard for Fraud and Corruption Control (AS 8001-2003).

Definitions

Corruption – dishonest activity where a director, executive, manager, employee, contractor, volunteer or work experience student acts contrary to the interests of Council and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity.

Fraud – dishonest activity, by Council employees, contractors, volunteers, work experience students or external persons, causing actual or potential financial loss to Council, including the theft of money or other property. This includes the deliberate falsification, concealment, destruction or improper use of documentation.

RESPONSIBILITY

Chief Operating Officer



RELATED DOCUMENTATION

- + Parkes Shire Council Fraud Prevention Plan
- + Councils Enterprise Risk Management Plan
- + Councils Enterprise Risk Management Policy
- + Councils Business Ethics Policy
- + Code of Conduct Policy
- + Councillor Access to Information and their Interaction with Staff Policy
- + Credit Card Usage Policy
- + Damage, Theft or Loss of Council Equipment Policy
- + Managing Conflict of Interest Policy
- + Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy
- + Privacy Management Plan
- + Public Interest Disclosures Policy
- + Drug and Alcohol Policy
- + Gifts, Benefits and Bribes Policy
- + Grievance and Complaints Handling Policy
- + Workplace Bullying Policy
- + Information Services Usage Policy
- + Procurement and Disposal Policy

PROCEDURE

Council has developed and published policies and processes to facilitate the reporting of suspicions of corrupt conduct, mal-administration, or serious and substantial waste of public money. This guidance material, including the *Public Interest Disclosures Policy*, helps staff make protected disclosures in accordance with the Public Interest Disclosures Act 1994 and sets out procedures for making disclosures to Council and disclosures to appropriate external agencies including provisions for disclosures to be properly investigated and dealt with.

Fraud and Corruption Resistance Plan

The Parkes Shire Council Fraud and Corruption Resistance Plan provides the mechanism for Council's Fraud and Corruption Prevention strategies and procedures. This Policy is an overarching Policy that activates the provisions found in the Plan. The Fraud and Corruption Policy is therefore an enabler of the Fraud and Corruption Prevention Plan.

Training

This policy is communicated and discussed at Staff inductions and at regular scheduled Staff information sessions Code of Conducts.



Reporting

The provision of the policy is oversighted by the Chief Operating Officer.

All matters relating to Fraud and Corruption in Council must also be reported to the General Manager who is the legislated responsible officer of Council.

REFERENCES

- + Fraud Control Improvement Kit (NSW Auditor General Better Practice Guide)
- + Practical Guide to Corruption Prevention (NSW I.C.A.C)



FRAUD AND CORRUPTION PREVENTION PLAN

1. Introduction

This document sets out for Council the strategic approach to be taken with regard to Fraud and Corruption by the organisation. OLG circular 06-46 as well as ASA 240 points to Council's requirements to have a strategic and effective approach to managing these significant risks which provides the foundations of good "Civic Leadership" and instils community trust and faith in Council to deliver ethical services.

1.1 Purpose of PSC Fraud and Corruption Prevention Plan

The purpose of the plan is to;

- Provide clear direction and clarity to Council's approach to this important issue
- Provide an environment and organisational culture that supports the integrity, security and reputation of Parkes Shire Council Staff
- Ensure appropriate levels of oversight of Council's funds and resources to ensure they are protected
- Ensure Council continues to provide the optimum service levels to the Parkes Shire Community.

1.2 Building a Fraud and Corruption Resistant Culture

Council will always promote an organisational culture that demonstrates a complete intolerance of corrupt behaviour or misconduct. The foundation of these principles is to be found in the Code of Ethics and Conduct that each member of the organisation must adhere to. The Fraud and Corruption Plan is framed to build upon the Code of Ethics and translate the emphasis on the individual to include the organisation and the system by which it operates.

It is vital for any public organisation to maintain public confidence to ensure the organisation has the credibility to carry out its function with the authority of its stakeholders. Parkes Shire Council must deal with any Corruption or Fraud related issue, whether perceived or realised, in the following manner to maintain such public confidence:

- + Any matter is to be dealt with expediently with no undue delay
- + Any matter is to be dealt with as transparently as practicable with accountabilities and responsibilities clearly defined
- + Any matter must be dealt with thoroughly to ensure all possible elements of Corruption or Misconduct have been considered and examined

All levels of the organisation must remain vigilant and committed to maintenance of a resistant culture to unethical behaviour. Ultimately the General Manager and Senior Executive are always to provide leadership and direction in exemplifying the principles of Council's Code of Ethics.



1.3 Fairness and Due Process

Whilst it is important to be diligent in dealing with any allegation of Fraudulent or Corrupt conduct by staff, it is equally important to ensure that the basic civil rights and welfare of Council staff involved are not inappropriately managed. This means that all staff must be presumed innocent until sufficient proof is found to establish otherwise. Staff under investigation will continue to be given support in particular with regard to welfare if they find themselves subject to such an investigation or inquiry. Equally however, Council will take all steps to ensure a vigorous and thorough examination is carried out within the legal and ethical parameters available.

In a similar vein, Council staff who find themselves as "Whistle Blowers" to Corrupt or Fraudulent behaviour and/or witnesses to such incidents will also be given every support reasonably available to them as they are entitled to under present legislation. Confidentiality for all involved parties will be protected as much as is practicable in any given circumstance by Council.

Council is a mistake tolerant organisation in that staff will have the organisations support if mistakes or omissions arise whilst the officer is acting in good faith. This plan and Council's associated policy should not be construed as a departure from this approach.

1.4 Relationship with other Council Policies and Plans

In addition to Council's Code of Conduct, the Fraud and Corruption Plan has direct synergies with the following Council documents (It should be noted this list is not exhaustive)

- + Councils Enterprise Risk Management Plan
- + Councils Enterprise Risk Management Policy
- + Councils Business Ethics Policy
- + Councillor Access to Information and their Interaction with Staff Policy
- + Credit Card Usage Policy
- + Damage, Theft or Loss of Council Equipment Policy
- + Managing Conflict of Interest Policy
- + Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy
- + Privacy Management Plan
- + Protected Disclosure Policy
- + Gifts, Benefits and Bribes Policy
- + Grievance and Complaints Handling Policy
- + Workplace Bullying Policy
- + Information Services Usage Policy
- + Procurement and Disposal Policy

2. Definitions of Fraud and Corruption

Fraud

The definition of fraud found in (Accounting Standards 8001-2003) that states;

""dishonest activity, by Council employees, contractors, volunteers, work experience students or external persons, causing actual or potential financial loss to Council, including the theft of money or other property. This includes the deliberate falsification, concealment, destruction or improper use of documentation



External Fraud

Is fraud committed against Council by non-Council staff such as by; customers, suppliers or contractors.

Examples of External Fraud perpetrated on Councils

- Theft of money or goods from Council
- Obtaining benefits by use of false identity or false qualifications
- Supplying goods or services of a lower standard or quality than promised

Internal Fraud

Is fraud that is also known as "workplace fraud". It is fraud that is committed by Council staff in the workplace of Council

Examples of Internal Fraud perpetrated on Councils

- Unauthorised use of Council plant and equipment
- Claiming un-worked hours on time sheets
- Theft of money or goods from Council or its customers
- Allowing contractors to not fully meet contract requirements
- Deliberate transfer or miscoding of financial transactions to achieve favourable reported budget outcomes in a performance bonus environment

(NB: Whilst internal fraud forms part of corrupt conduct, it is delineated here as a separate entity since internal fraud can be perpetrated by an individual acting alone, also fraud in its own right occurs predominately when governance systems in place fail. i.e. that fraud is possible when systems in place are deficient and an organisations resistance to fraud is ultimately found within the structures of the organisation.)

AREAS WITHIN COUNCIL WHERE FRAUD AND CORRUPTION MAY OCCUR

- + Managing people – delegations, recruitment, supervision of staff, secondary employment.
- + Managing external relationships – conflicts of interest, procurement, commercial activities, joint ventures, sponsorship.
- + Managing services and products – client relationships, community affiliations, regulatory functions, resource allocation.
- + Managing money – accounts management, cash handling, credit cards, grants and program funding, payroll, ticket vending.
- + Managing information – confidential information, electronic transactions, IT systems.
- + Managing assets – disposal of goods and property, intellectual property, management of resources, use of resources.



Some examples of fraud and corruption include:

- + Theft (from Council or its customers) of assets, such as equipment, consumables, supplies, cash, information.
- + Unauthorised or illegal use of assets, information or services for private purposes including: vehicles, human resource support, computers (including email and internet), confidential information, equipment (including photocopiers, telephones, fax), Council logo or stationary.
- + Abuse of position and power for personal gain for example obtaining gifts or benefits in exchange for favourable treatment, nepotism in staff appointments, non-compliance with procurement processes by favouring one tenderer over another.
- + Manipulation or misuse of accounting, such as ordering equipment for personal use, over ordering for private use, favouring suppliers whose costs are not as competitive as other suppliers, deliberate miscoding or transfer of financial transactions to achieve favourable reported budget outcomes.
- + Falsification of records or services, including timesheets, travel claims, purchase orders, petty cash vouchers, allowing contractors to under-deliver on goods or services below their contracted arrangements.
- + Conflict of interest eg: where a councillor or employee acts in their own self-interest rather than the interests of Council.

2.2 Corrupt Conduct

Defined in Section 8 of NSW Independent Commission Against Corruption Act as follows:

(1) Corrupt conduct is:

- a. any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
- b. any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
- c. any conduct of a public official or former public official that constitutes or involves a breach of public trust, or
- d. any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.

(2) Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:

- a. official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition)
- b. bribery
- c. blackmail
- d. obtaining or offering secret commissions
- e. fraud
- f. theft
- g. perverting the course of justice
- h. embezzlement,
- i. election bribery



- j. election funding offences
- k. election fraud
- l. treating
- m. tax evasion,
- n. revenue evasion
- o. currency violations
- p. illegal drug dealings
- q. illegal gambling
- r. obtaining financial benefit by vice engaged in by others
- s. bankruptcy and company violations
- t. harbouring criminals
- u. forgery
- v. treason or other offences against the Sovereign
- w. homicide or violence
- x. matters of the same or a similar nature to any listed above
- y. any conspiracy or attempt in relation to any of the above.

(3) Conduct may amount to corrupt conduct under this section even though it occurred before the commencement of this subsection, and it does not matter that some or all of the effects or other ingredients necessary to establish such corrupt conduct occurred before that commencement and that any person or persons involved are no longer public officials.

(4) Conduct committed by or in relation to a person who was not or is not a public official may amount to corrupt conduct under this section with respect to the exercise of his or her official functions after becoming a public official.

(5) Conduct may amount to corrupt conduct under this section even though it occurred outside the State or outside Australia, and matters listed in subsection (2) refer to:

- a. matters arising in the State or matters arising under the law of the State, or
- b. matters arising outside the State or outside Australia or matters arising under the law of the Commonwealth or under any other law.

(6) The specific mention of a kind of conduct in a provision of this section shall not be regarded as limiting the scope of any other provision of this section.¹

3. Roles and Responsibilities

3.1 General Manager

- + Provide leadership and direction with regard to good governance in the organisation and actively promote the Code of Conduct
- + Report to the ICAC any matter that is suspected on reasonable grounds concerns or may concern corrupt conduct
- + Assigning responsibilities in relation to fraud and corruption risk management
- + Ensuring managers and staff receive support, training and resources to fulfil their responsibilities

¹ Section 8 NSW Independent Commission Against Corruption Act (1988)



3.2 Chief Operating Officer

- + Provide leadership and a point of reference with regards to good governance in their Department and actively promote the Code of Conduct
- + Maintenance of the Fraud and Corruption Prevention Plan
- + Production of fraud and corruption policies, procedures and training proposals
- + Liaising with internal and external investigators
- + Ensure that Fraud and Corruption risks are recorded in the Risks Register
- + Providing support and advice to managers in identifying, analysing, evaluating and treating fraud and corruption risks

3.3 Conduct Review Panel

Providing there are no conflicts of interest evident, this panel will be made up of three permanent members being the General Manager, Director Corporate Services and the Risk/Administration Manager. A fourth temporary member will be present, again providing no conflict of interest exists to assist the panel with advice from a specific area or function. This may be for example (Finance Manager, Engineers etc) depending on the matter being reviewed, a Councillor or independent may also be asked to sit on the panel if deemed appropriate by the General Manager. The panel will meet on a needs basis, any decision made by this panel is advisory in nature. Ultimate decision-making authority rests with the General manager. This panel will:

- + Review evidence and allegations of Corruption, Fraud or Serious Misconduct that comes to the notice of Council
- + Determine the risks posed and the appropriate treatment options and referrals to be made to external review or policing organisations
- + Provide direction and guidance to any internal investigator or group conducting enquiries at the request of the panel
- + Ensure decision making is transparent and that meetings are appropriately minuted, and outcomes clearly recorded

3.4 Directors

- + Provide leadership and a point of reference with regards to good governance in their Department and actively promote the Code of Conduct
- + Have effective fraud and corruption prevention strategies and staff awareness packages for their respective departments

3.5 Managers and Supervisors

- + Provide leadership with regards to good governance in their area and actively promote the Code of Conduct
- + Ensure that corruption and fraud resistant practices are in place and in line with Council's strategies. Monitor these strategies and ensure their effectiveness and report issues promptly to their Director if they occur

3.6 All Staff

- Must act ethically, lawfully and in accordance with the principles contained in the Code of Conduct
- Must report potentially unethical or corrupt practices via the established mechanisms in place.



4. Risk Management

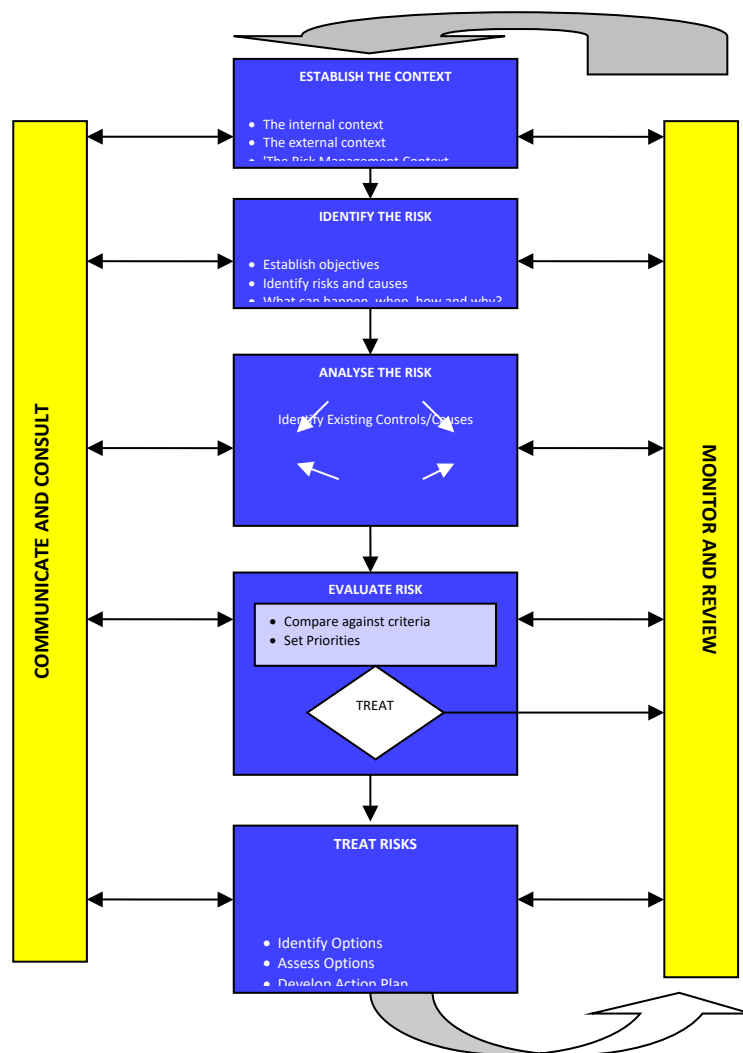
4.1 The Process

An important part of fraud and corruption prevention is understanding where the areas of risk are in Council. With this in mind, Council aims for the risk management process to result in meaningful action that eliminates or, at least, improves mitigation of fraud and corruption risks. The complete elimination of fraud and corruption is the desired state to be achieved, and while striving to achieve this level of control, a higher level of fraud and corruption risk mitigation will be achieved.

Risk management is:

- + the responsibility of all employees
- + integrated into all business activities and systems
- + based around the overall process of risk identification, risk analysis, risk evaluation and risk treatment.

This plan is to be cross-referenced to Council’s Enterprise Risk Management Plan, in particular its risk management process. The following diagram summarises that process.



4.2 Areas of Possible Risk

Based on studies by ICAC the following public sector operational areas and functions are perceived to have high fraud and corruption risk ratings:

- Financial functions – such as the receipt of cash, revenue collection and payment systems, salaries and allowances, and entertainment expenses
- Construction, development and planning functions – ranging from land rezoning or development applications to construction and building activities
- Regulatory functions – involving the inspection, regulation or monitoring of facilities and operational practices, including the issue of fines or other sanctions
- Licensing functions – such as the issue of qualifications or licences to indicate proficiency or enable the performance of certain activities
- Demand driven or allocation-based functions – where demand often exceeds supply, including the allocation of services, or the provision of subsidies, financial assistance, concessions or other relief
- Procurement and purchasing functions – including e-commerce activities, tendering, contract management and administration
- Other functions involving the exercise of discretion, or where there are regular dealings between public sector and private sector personnel (especially operations that are remotely based or have minimal supervision).

4.3 Audit, Risk & Improvement Committee

Council has established a Audit, Risk & Improvement Committee (ARIC) which assists in reviewing the effectiveness of Council's fraud and corruption control strategies and plans.



5. Procedures for Reporting Corruption or Fraud

5.1 Reporting

Although audits and reviews may be undertaken to detect incidence of fraud and corruption, most incidences are identified by staff members or the public. All staff are encouraged to promptly report any suspicions of fraud or corruption that they become aware of.

Consistent with its strong commitment to ensuring an ethical workplace, Council has developed the *Protected Disclosures Act 1994 Policy* which facilitates the reporting of suspicions of corrupt conduct, mal-administration, or serious and substantial waste of public money. This guidance material helps staff make protected disclosures in accordance with the *Protected Disclosures Act 1994* and sets out:

- + procedures for making disclosures to Council
- + procedures for making disclosures to appropriate external agencies
- + procedures for dealing with anonymous reports
- + protection for people making protected disclosures from reprisals that might otherwise be inflicted on them because of their disclosures
- + provisions for disclosures to be properly investigated and dealt with

The Protected Disclosure Policy and the protected disclosure reporting system complement existing communication channels between supervisors and staff. Staff are encouraged to continue to raise appropriate matters at any time with their managers, but as an alternative they have the option of making a protected disclosure.

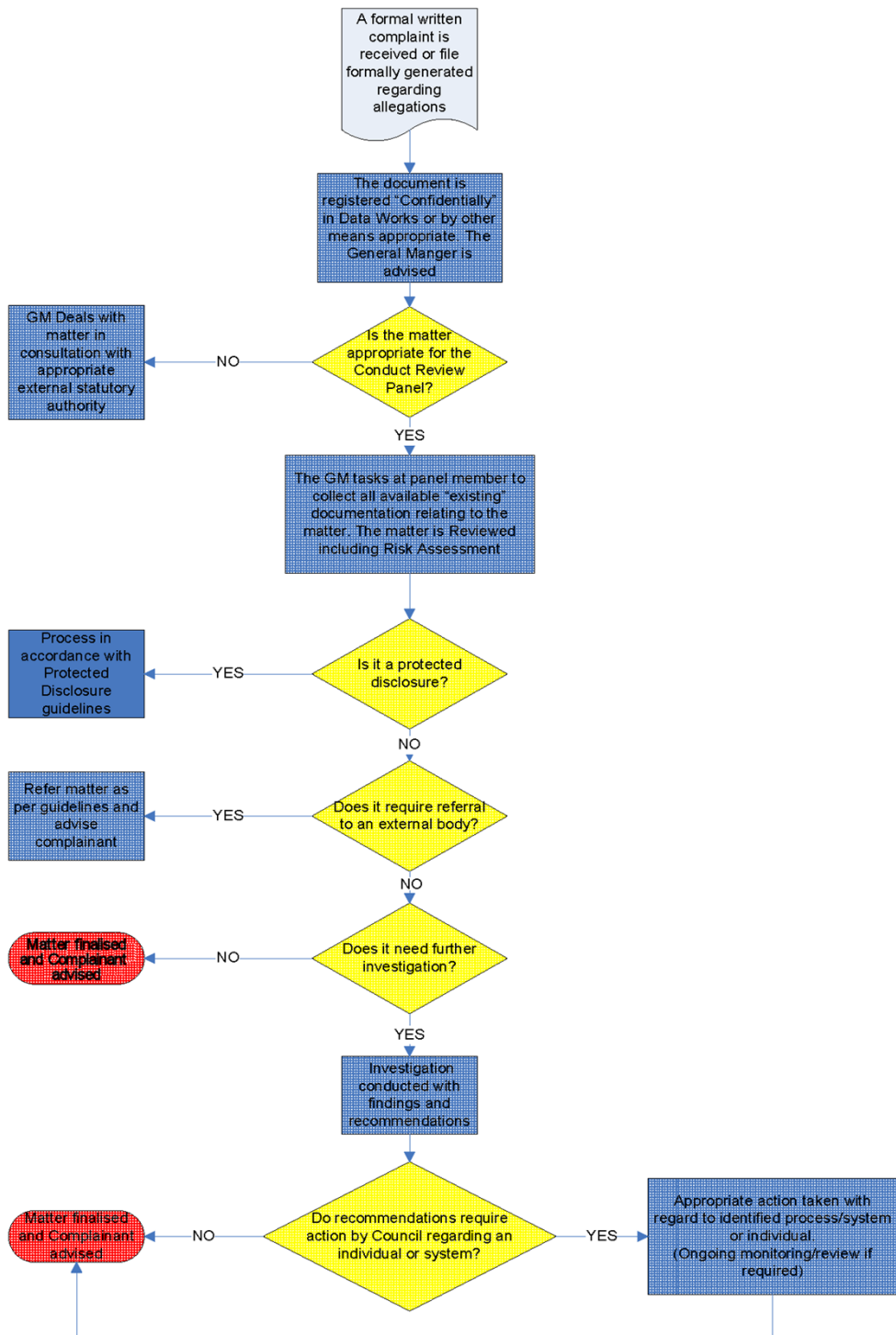
Council's Public Officer (Director Corporate Services) is able to accept reports from the general public.

5.2 Investigation of Fraud and Corruption Allegations

The responsibility for determining the means and methods by which an allegation will be investigated rests with the General Manager. Generally, this decision will be made in consultation with the "Conduct Review Team". A flow diagram of the processes to be undertaken once an allegation is formally made is provided on the next page.



Investigation Process



6. Monitoring and Review

Once fully implemented, Council's Fraud and Corruption plan will require ongoing monitoring and review with a view to continuous improvement. The plan should be seen as a guide for the further development of documents such as a Fraud and Corruption Prevention Strategy which will contain defined strategies and treatments in accordance with the Risk Assessed areas identified. This document would then form an action plan for Council to reduce the Fraud and Corruption Risks in each area. This information will also be kept in Council's Risk Register.

7. Glossary of Terms (*Terminology based on AS 8000-2003*)

Bribe	The act of paying a secret commission to another individual. It is also used to describe the secret commission itself.
Conflicts of Interest	The conflict between the public duty and private interests of a public official where the public official has private interests which could improperly influence his or her official duties and responsibilities.
Corruption	Dishonest activity in which a Councillor, Executive, Manager, Employee or Contractor of Council acts contrary to the interests of the Council and abuses his/her position of trust in order to achieve some personal gain for advantage for himself or herself or for another person or entity.
Council Staff	A Councillor, member of the Executive, Manager, Supervisor or any paid employee. Also includes volunteers acting on behalf of Council and Contractors performing Council works.
Evidence	Oral testimony either given in legal proceedings or which a witness indicates he or she is prepared to give under oath or affirmation in legal proceedings and documents of any description that can legally be admitted as evidence in a Court of Law.
Investigation	A search or coalition of evidence connecting or tending to connect a person (either a natural person or a body corporate) with conduct that infringes the criminal law or the policies and standards set by Council.
Risk	The chance of something happening that will have an impact on objectives. A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. Risk is measured in terms of a combination of the consequences of an event and their likelihood. Risk may have a negative or positive impact.
Risk analysis	Systematic process to understand the nature of and deduce the level of risk. Provides the basis for risk evaluation and decisions about risk treatment.
Risk Assessment	The overall process of risk identification, risk analysis and risk evaluation.

