THE BAROSSA COUNCIL

FRAUD, CORRUPTION, MISCONDUCT AND MALADMINISTRATION PREVENTION POLICY

1.	Purpose

1.1. The Barossa Council ("Council") is committed to act in the best interests of the community and to upholding the principles of honesty, integrity and transparency, which are all key components of good governance.

1.2. The purpose of this Policy is to ensure that the Council:

1.2.1. Properly fulfils its responsibilities under the *Independent Commission Against Corruption Act 2012* (the "ICAC Act") and takes appropriate steps towards compliance with relevant legislation, policies and instruments;

1.2.2. Provides a clear statement to all Workers and Elected Members through practices, policies and procedures that Fraud, Corruption, Misconduct and Maladministration are not acceptable and will not be tolerated, and identifies the relevant responsibilities of Elected Members, the Chief Executive Officer, Directors, Managers, Supervisors and Workers;

1.2.3. Protects Council assets, interests and reputation from the risks associated with Fraud, Corruption, Misconduct and Maladministration, and outlines the Council's approach to the prevention, detection and response to Fraud, Corruption, Misconduct and Maladministration;

1.2.4. Fosters an ethical environment and culture that is conscious of, active discourages, does not tolerate and appropriately deals with Fraud, Corruption, Misconduct and Maladministration;

1.2.5. Educates Workers who are Public Officers, and Elected Members about their obligations to report conduct reasonably suspected of being Fraud, Corruption, Misconduct and Maladministration, and provides awareness to Workers who are not Public Officers on their rights to make a complaint under relevant legislation;

1.2.6. Evaluates the policies, processes, practices and systems Council has in place in order to further advance the prevention and minimisations of Fraud, Corruption, Misconduct and Maladministration; and

1.2.7. Develops a consistent approach to the management of relevant conduct across the organisation through the establishment and maintenance of effective systems and internal controls to guard against Fraud, Corruption, Misconduct and Maladministration.

2.	Scope

2.1. This Policy applies to all Elected Members and Council Workers and is intended to complement and be implemented in conjunction with the supporting *Reporting Fraud, Corruption, Misconduct and Maladministration Process*, and other Council policies, including:

- Public Interest Disclosure Policy and Process;

- Code of Conduct for Employees;
- Code of Conduct for Council Members;
- Human Resource Management Policy;
- Elected Members' Allowances and Benefits Policy; and
- Volunteer Management Policy, Process, and Volunteer Code of Conduct.

2.2. This Policy applies to all reports of matters reasonably suspected of involving Fraud, Corruption, Misconduct or Maladministration within the Council.

2.3. Elected Members and Employees (and Volunteers where applicable) are bound by their roles as Public Officers to comply with mandated reporting requirements under the ICAC Act and the ICAC Directions and Guidelines and must report all matters reasonably suspected of involving Corruption and Serious or Systemic Misconduct and Maladministration to the OPI.

2.4. Council's Volunteers are Public Officers (and therefore mandated to make reports under the ICAC's Directions and Guidelines) where they:

2.4.1. hold a delegation from Council or the CEO; or

2.4.2. in accordance with an Act, assist a Public Officer in the enforcement of the Act.

Conversely, Council's Volunteers who do not hold such delegation or who do not so assist are not Public Officers and therefore are not mandated to make reports under the ICAC Act, **but** they are encouraged to make a complaint where appropriate under this Policy, the supporting Process and/or Council's supporting *Public Interest Disclosure Policy* and *Public Interest Disclosure Process* (if applicable), or other relevant legislation**.**

3. Policy Statement

3.1. Prevention

3.1.1. Council recognises that the occurrence of Fraud, Corruption, Misconduct and Maladministration will be more likely to prevail in an administrative environment where opportunities exist for waste and abuse. The most effective way to prevent the occurrence of Fraud, Corruption, Maladministration and Misconduct is to instil and continually reinforce a culture across Council of acting lawfully, ethically and in a socially responsible manner, and to support this culture with the implementation of appropriate internal control mechanisms.

3.1.2. Council expects that Elected Members and Workers will assist in facilitating a sound ethical culture and preventing Fraud, Corruption, Misconduct and Maladministration by:

- understanding the responsibilities of their positions, including their role as Public Officers;
- complying with the requirements of the ICAC Act and Ombudsman Act;
- familiarising themselves with Council's policies and processes and adhering to them;
- understanding what behaviour constitutes Fraud, Corruption, Misconduct and Maladministration;
- maintaining an awareness of the strategies that have been implemented by Council to minimise Fraud, Corruption, Misconduct and Maladministration;
- being continuously vigilant to the potential for Fraud, Corruption, Maladministration and Misconduct to occur; and

- reporting matters reasonably suspected of involving Fraud, Corruption, Misconduct or Maladministration in accordance with the *Reporting Fraud, Corruption, Misconduct and Maladministration Process*.

3.2. Risk Assessment

3.2.1. The objective of preventing and controlling Fraud, Corruption, Misconduct and Maladministration by minimising and preventing such occurrences, can generally be achieved by:

- identifying Fraud, Corruption, Misconduct and Maladministration risks;
- determining strategies to control those risks; and
- defining responsibility for and, the time frame within which the strategies will be implemented.

3.2.2. Managers must be alert to the potential for Fraud, Corruption, Misconduct and Maladministration to occur and remain wary of factors which may leave Council vulnerable to Fraud, Corruption, Misconduct and Maladministration, including:

- changes to Council delegations and sub-delegations;
- implementation of cost cutting measures;
- changes to organisational structure, position descriptions and reporting arrangements;
- contracting out and outsourcing;
- changes to Council's policies and processes;
- the impact of new technology; and
- changes to risk management practices.

3.3. **Responsibilities and Accountability for Fraud, Corruption, Misconduct and Maladministration Prevention Actions**

3.3.1. The responsibilities and accountabilities for the prevention of Fraud, Corruption, Misconduct and Maladministration under this Policy are set out in Appendix 1.

3.4. **False Disclosure**

3.4.1. A person who knowingly makes a false or misleading statement in a complaint or report under the ICAC Act is guilty of an offence. The maximum penalty is $10,000 or 2 years imprisonment.

3.4.2. An Employee who makes a false Disclosure, in addition to being guilty of an offence, may face disciplinary action in accordance with Code of Conduct processes, which may include instant dismissal.

3.5. **Educating for Awareness**

3.5.1. The Council recognises that the success and credibility of this Policy and the supporting Process will largely depend upon how effectively it is communicated throughout the organisation and beyond.

3.5.2. The Council will, therefore, from time to time take proactive steps towards ensuring that the wider community is aware of Council's zero-tolerance stance towards Fraud, Corruption, Misconduct and Maladministration, including by:

- promoting Council's initiatives and policies regarding the control and prevention of Fraud, Corruption, Misconduct and Maladministration on Council's website, social media pages and at Council's offices;
- making reference to Council's Fraud, Corruption, Misconduct and Maladministration prevention initiatives in Council's Annual Report; and
- facilitating public access to all of the documents that constitute Council's Fraud, Corruption, Misconduct and Maladministration framework;
- ensuring all Elected Members and Workers are aware of their obligations in regard to the prevention and reporting of Fraud, Corruption, Misconduct and Maladministration within Council; and
- inclusion of preliminary education and/or awareness in the Induction process for new Workers, and providing refresher training when requested.

3.6. **False Disclosure**

3.6.1. A person who knowingly makes a false Disclosure or a false or misleading statement in a complaint, report or Disclosure is guilty of an offence under the ICAC Act or the PID Act.

3.6.2. A Worker who makes a false Disclosure or false or misleading statement in a complaint, report or Disclosure, in addition to being guilty of an offence, may face disciplinary action in accordance with relevant policies, processes or Code of Conduct, which may include dismissal.

4. Supporting Processes and Documents

Reporting Fraud, Corruption, Misconduct and Maladministration Process
Public Interest Disclosure Policy
Public Interest Disclosure Process

5. Related Policies

Code of Conduct for Council Members
Code of Conduct for Employees
Elected Members' Allowances and Benefits Policy
Human Resource Management Policy
Induction Policy
Volunteer Management Policy and Process
Volunteer Code of Conduct

6. Legislation and References

Local Government Act 1999
Local Government (General) (Employee Code of Conduct) Variation Regulation 2018
Independent Commission Against Corruption Act 2012
Public Interest Disclosure Act 2018
Ombudsman Act 1972

7. Review

This Policy will be reviewed by the Council in consultation with the relevant stakeholders, within four (4) years or more frequently if legislation or Council's need changes.

8.	Further Information

8.1. This Policy is available on Council's website at www.barossa.sa.gov.au. It can also be viewed electronically at Council's principal office at 43-51 Tanunda Road, Nuriootpa and all Council branches, during ordinary business hours. A copy of this Policy can be obtained at those venues upon payment of a fixed fee.

8.2. Complaints regarding this Policy or its application can be made to the Customer Service team on 8563 8444 or barossa@barossa.sa.gov.au at first instance, who will refer you to the most appropriate officer according to Council's *Customer Service Policy* (see clause 8.1 above for availability).

9.	Document Control

Corporate Plan Link:		6.2 Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.	
Document Owner:	Chief Executive Officer	**Document Control Officer:**	Team Leader Corporate Governance & Information Services
Audience:	External	**Next Review Date:**	21/12/2026
Version history			
Version No.	**Date**	**Description of Change**	
3.0	20/12/2022	Policy updated to reflect new legislation and Local Government Association's best practice model policy	
2.0	20/05/2014	Reviewed	
1.0	17/05/2011	Previous version	

10.	Definitions

Corruption (in Public Administration) *[as per section 5(1) of the ICAC Act]*	Conduct that constitutes: - a) an offence against Part 7 Division 4 (Offences relating to Public Officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences: (i) bribery or Corruption of Public Officers; (ii) threats or reprisals against Public Officers; (iii) abuse of public office; (iv) demanding or requiring benefit on basis of public office; (v) offences relating to appointment to public office; or b) 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 ba) an offence against the *Lobbyist Act 2015*, or an attempt to commit such as offence; or d) 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 effect the commission of the offence.
CEO	The Chief Executive Officer of The Barossa Council
Directions and Guidelines	The Directions and Guidelines issued by the Commissioner and as in force from time to time pursuant to section 20 of the ICAC Act and/or section 14 of the *Public Interest Disclosure Act 218*, which are available on the Commissioner's website: www.icac.sa.gov.au
Disclosure	Means an appropriate Disclosure of Public Interest Information, in accordance with the *Public Interest Disclosure Act*. For more information, please refer to Council's Public Interest Disclosure Policy and Public Interest Disclosure Process.
Employee	All full-time, part-time and casual employees of The Barossa Council including trainees, apprentices, and on-hire employees.
Electronic Document and Records Management System ("EDRMS")	An automated system used to manage the creation, use, management, storage and disposal of physical and electronic Documents and Records, for the purposes of supporting the creation, revision and management of digital Documents; improving Council's work-flow, and providing evidence of business activities.
False Disclosure	A Disclosure of information relating to Fraud or Corruption, Maladministration or Misconduct that is made by a person who knows the information to be false or misleading.
Fraud	Includes an intentional dishonest act or omission done with the purpose of deceiving. Note: unlike 'Corruption' there is no statutory definition of 'Fraud'. Fraud is a style of offending. The offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences. An ordinary meaning of Fraud is 'to obtain dishonestly that which the person is not entitled to'. Fraud is a broad label applicable to conduct or practices that involve knowingly dishonest or deceitful behaviour meant to obtain an unjust benefit. Dishonesty is the key element of fraudulent behaviour, as provided for under section 131 of the *Criminal Law Consolidation Act 1935*.
ICAC Act	The *Independent Commissioner Against Corruption Act 2012*.
Independent Commission Against Corruption and Commissioner	The Independent Commission Against Corruption is the body that has the function to identify, investigate and refer allegations of Corruption, Maladministration and Misconduct. The person holding or acting in the office of Commissioner has the powers and functions described at section 7 of the ICAC Act.
Maladministration and Misconduct (in	3) In this Act –

Public Administration) *[as per section 5(3) of the ICAC Act]*	maladministration in Public Administration has the same meaning as in the Ombudsman Act 1972; and misconduct in Public Administration has the same meaning as in the Ombudsman Act 1972.
Manager	Any Employee of the Council who is responsible for the direct supervision of a team of Employees or Volunteers, and/or, for the management of a Council Department.
Office for Public Integrity (OPI)	An office established under the *ICAC Act* that has the function to: a) receive and assess complaints about Public Administration from members of the public; b) receive and assess reports about Corruption, misconduct and maladministration in Public Administration from inquiry agencies (including the Ombudsman), the Council and Public Officers; c) refer complaints and reports to inquiry agencies, public authorities and Public Officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated; d) give direction or guidance to public authorities in circumstances approved by the Commissioner; e) perform other functions assigned to the Office by the Commissioner
PID Act	The *Public Interest Disclosure Act 2018*.
Public Administration	The administration of government policy (Macquarie dictionary). At section 4 of the *ICAC Act 2012* - without limiting the acts that may comprise Public Administration - an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of Public Administration. For the purposes of this Policy, references to Corruption, Misconduct and Maladministration are taken to mean references to such conduct in Public Administration.
Public Officer *[as per section 4 and Schedule 1 of the ICAC Act]*	Includes: • a Council Member of Council, including the Mayor; and • an Employee or officer of the Council; • a person performing contract work for Council; • a Volunteer of Council where they: a) hold a delegation from Council or the CEO; or b) in accordance with an Act, assist a Public Officer in the enforcement of the Act. (it will be rare for a Volunteer to be a Public Officer)
Responsible Officer	Person/s who have 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. Refer to Council's Public Interest Disclosure Policy and Process for a list of Council's Responsible Officers.
Volunteer	A person who is acting on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses). [As defined in the *Work Health Safety Act 2012*]

Serious or Systemic (in relation to Misconduct or Maladministration)	For the purposes of the ICAC Act, Misconduct or Maladministration in Public Administration will be taken to be **Serious or Systemic** if the Misconduct or Maladministration: - a) is of such a significant nature that it would undermine public confidence in the relevant public authority, or in Public Administration generally; and b) has significant implications for the relevant public authority or for Public Administration generally (rather than just for the individual Public Officer concerned). Note: further information about Serious or Systemic Misconduct or Maladministration is available at the ICAC website: www.icac.sa.gov.au/glossary
Supervisor	Any direct line Supervisor, including Chief Executive Officer, Director, Team Manager, Line Manager, Coordinator, Supervisor or Leading Worker who are responsible for Worker(s) reporting to them.
Worker	A person is a Worker if the person carries out work in any capacity for Council, including work as: (a) an Employee; or (b) a contractor or subcontractor; or (c) an Employee of a contractor or subcontractor; or (d) an Employee of a labour hire company who has been assigned to work in the person's business or undertaking; or (e) an outworker; or (f) an apprentice or trainee; or (g) a student gaining work experience; or (h) a Volunteer; or (i) a person of a prescribed class.

Appendix 1	Responsibilities and Accountability for Fraud, Corruption, Misconduct and Maladministration Prevention Actions

	Responsibility	Elected Members	Audit & Risk Cmt'e	CEO	Directors, Managers and Supervisors	Workers
	Governance and Ethics					
1	Comply with this Policy, the Process and any related legislation, policy or process.	✓	✓	✓	✓	✓
2	At all times in the performance of duties or in association with their role with Council, act in an ethical manner, with care, diligence, honesty and integrity.	✓	✓	✓	✓	✓
3	Promote a culture and environment in which Fraud, Corruption, misconduct and Maladministration is discouraged and not tolerated.	✓		✓	✓	✓
4	Remain scrupulous in the use of Council information, assets, funds, property, goods or services, including avoiding waste or misuse of Council resources, and being accountable for any Council property or resources under their control.	✓	✓	✓	✓	✓
5	Maintaining and enhancing the reputation of Council.	✓	✓	✓	✓	✓
	Awareness and Training					
1	Promote community awareness of the Council's commitment to the prevention of Fraud, Corruption, Misconduct ad Maladministration.	✓		✓	✓ (as appropriate)	✓ (as appropriate)
2	Managers and Supervisors ensure all Workers under their supervision have been educated regarding Fraud, Corruption, Maladministration and Misconduct. Workers should ensure that they have satisfactorily completed any training.			✓	✓	✓
3	Undertake awareness training or education regarding Fraud, Corruption, Maladministration and Misconduct.	✓		✓	✓	✓
4	Develop and deliver training to Employees and other Public Officers to promote ethical conduct and an ethical culture.			✓	✓	✓ (as appropriate)
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 behaviour and approaches to work which promote ethical behaviour in Council Workers.	✓		✓	✓	✓
	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 Maladministration.		✓	✓	✓	
2	Develop processes to deter Fraud, Corruption, Misconduct or Maladministration from occurring.		✓	✓	✓	✓
3	Where relevant, comply with the *Public Interest Disclosure Act 2018*, Council's *Public Interest Disclosure Policy* and *Public Interest Disclosure Process*.	✓		✓	✓	✓

	Responsibility	Elected Members	Audit & Risk Cmt'e	CEO	Directors, Managers and Supervisors	Workers
4	Ensure appropriate internal controls are in place and operating effectively to minimise the risks of incidents.		✓	✓	✓	
5	Ensure effective screening (eg. criminal history) of Employees, prospective Employees, Volunteers (as relevant) and contractors is undertaken in accordance with Council policies and processes, including by use of appropriate and effective contractual arrangements.			✓	✓	
6	Ensure all powers and authorities are appropriately delegated and sub-delegated in order to minimise the risk of Fraud, Corruption, Misconduct or Maladministration.	✓		✓	✓	✓ (as appropriate)
	Detection and Investigation					
1	Ensure that where appropriate, proper investigations are conducted into allegations of Fraud, Corruption, Misconduct or Maladministration.	✓		✓		
2	Facilitate cooperation with any investigations undertaken by an external authority.			✓		
3	Undertake risk assessments on a regular basis.		✓	✓	✓	✓
4	Provide mechanisms for receiving allegations of Fraud, Corruption, Misconduct and Maladministration.	✓		✓		
5	Investigate matters of Fraud, Corruption, Misconduct and Maladministration.	✓		✓		
6	Cooperate as required with any investigations undertaken whether internally or by an external authority.	✓		✓	✓	✓
	Monitoring and Reporting					
1	Report all instances of conduct reasonably suspected of involving Fraud, Corruption, Maladministration or Misconduct in accordance with the **Reporting Fraud, Corruption, Misconduct and Maladministration Process** and other relevant policies and processes if appropriate.			✓	✓	✓
2	Develop mechanisms for receiving allegations of Fraud, Corruption, Misconduct or Maladministration including appointing a Responsible Officer	✓		✓		
3	Work jointly with other areas of Council to coordinate activities relating to the control, prevention, detection and management of Fraud, Corruption, Misconduct or Maladministration.	✓		✓	✓	
4	Review the effectiveness of the implemented policies that ensure risks are identified and that controls implemented by management are adequate.	✓	✓	✓		