



(ES3) FRAUD, MISCONDUCT CONTROL AND RESILIENCE

POLICY OBJECTIVE

To articulate the Shire of Derby/West Kimberley's commitment to a zero-tolerance approach to fraud, misconduct, bribery and corruption (Fraud and Misconduct) and to building resilience through the identification and implementation of strategies to prevent, detect and respond to Fraud and Misconduct.

POLICY STATEMENT

The Shire adopts a zero-tolerance approach to Fraud and Misconduct and will appropriately deal with all allegations and suspected instances of Fraud and Misconduct. This includes notifying, reporting or referring any such instances to the appropriate authority for investigation and possible prosecution. The Shire will seek to recover any losses incurred after considering all relevant issues.

POLICY SCOPE:

The management of Fraud and Misconduct is a collective responsibility of all persons engaged or closely associated with the Shire in any capacity.

The Shire's 'Statement of Business Ethics' and 'Code of Conduct (Employees)' outlines the integrity and ethical standards expected by the Shire to ensure business relationships between the Shire (and its Employees), suppliers and/or service providers exhibit the highest standards of integrity when conducting business.

Term	Definition
Australian Standard	AS8001-2008 – Fraud and Corruption Control.
Bribe	The Offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.
CCC	Corruption and Crime Commission.
CEO	Chief Executive Officer.
Code of Conduct	Principles, values, standards, and rules of behaviour that guide the decisions, procedures and systems of the Shire of Derby/West Kimberley.
Corruption	Dishonest activity in which a director, executive, manager, employee, or contractor of an entity acts contrary to the interests of the entity 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. The concept of "corruption" [within this standard] can also involve corrupt conduct by the entity, or a person purporting to act on behalf of and in the interests of the entity, in order to secure some form of improper advantage for the entity.
Employee	A person employed by a local government in accordance with section 5.36 of the LGA including the CEO, Directors, Managers, officers, casual and contract employees.
Fraud	Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and where deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal purpose or the improper use of information or position for personal financial benefit.



Term	Definition
	The theft of property belonging to an entity by a person or persons internal to the entity but where deception is not used is also considered 'fraud' [for the purposes of this standard] (Source: AS8001:2008).
LGA	Local Government Act 1995.
Minor Misconduct	Minor misconduct occurs if a public officer engages in conduct that: <ul style="list-style-type: none"> a. adversely affects the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or b. involves the performance of functions in a manner that is not honest or impartial; or c. involves a breach of the trust placed in the public officer; or d. involves the misuse of information or material that is in connection with their functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person; and constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person's office or employment. (<i>Corruption, Crime and Misconduct Act 2003</i>).
Misconduct	Means when a public officer abuses their position and/or authority for personal gain, to cause detriment to another person, or acts contrary to the public interest (Source: Corruption and Crime Commission).
PID Act	The <i>Public Interest Disclosure Act 2003</i> was introduced to encourage people to report wrongdoing within amongst other places, a Local government, and protect them when they do.
PID Officer	<i>The 'Public Interest Disclosure (PID) Officer' is the person who holds the specified position as the proper authority to receive public interest disclosures within the sphere of responsibility of the public authority. This person is designated by the Principal Executive Officer (PEO) under section 23(1)(a) of the PID Act.</i>
PSC	Public Sector Commission.
Public Interest Information	means information that tends to show, in relation to its public function a public authority, a public officer, or a public sector contractor is, has been, or proposes to be, involved in: <ul style="list-style-type: none"> (a) improper conduct; or an act or omission that constitutes an offence under a written law; or a substantial unauthorised or irregular use of, or substantial mismanagement of, public resources; or an act done or omission that involves a substantial and specific risk of – <ul style="list-style-type: none"> (i) injury to public health; or (ii) prejudice to public safety; or (iii) harm to the environment; or matter of administration that can be investigated under section 14 of the Parliamentary Commissioner Act 1971. (<i>Public Interest Disclosure Act 2003</i>).
Public Officer	Includes a member, officer, or employee of an authority, board, corporation, commission, local government, council, committee or other similar body established for a public purpose under an Act(<i>Corruption, Crime and Misconduct Act 2003</i>).
Public Authority	Includes a council, committee, local government, regional local government or similar body established under a written law. (<i>Corruption, Crime and Misconduct Act 2003</i>).
Serious Misconduct	Serious misconduct occurs when: <ul style="list-style-type: none"> a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or



Term	Definition
	b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by two or more years' imprisonment. (<i>Corruption, Crime and Misconduct Act 2003</i>).

1. **IMPLEMENTATION**

This Policy along with the 'Code of Conduct (Employees)', the Shire's values and culture and its governance and risk management frameworks all operate in synergy to prevent, detect and respond to potential or actual fraud and misconduct.

The Framework establishes the strategies and processes by which the Shire will determine specific practices, plans and procedures to manage the prevention and detection of fraudulent activities, the related investigation and, where appropriate, referral of incidents to the appropriate authorities.

1.2 **Reporting Serious or Minor Misconduct**

A Public Officer or any other person may report to the CCC or the PSC any matter which that person suspects on reasonable grounds concerns or may concern serious or minor misconduct. Information on reporting to the appropriate authority is available on the Shire's public website.

1.3 **Public Interest Disclosure**

Any person may make an appropriate disclosure of public interest information to the Shire. The legislation which governs such disclosures is the PID Act.

A disclosure can be made by anyone and may be made anonymously. If disclosures are made in accordance with the PID Act, the person making them is protected from reprisal. This means that the person enjoys immunity from civil or criminal liability and is protected from any disciplinary action or dismissal.

The PID Act requires local governments to appoint a PID Officer to whom disclosures may be made. The PID Officer should be consulted when considering whether to make a disclosure. Information on public interest disclosures and the Shire's PID Officers are maintained on the Shire's public website.

1.4 **Disciplinary and Recovery Action**

The Shire will respond to all instances of Fraud and Misconduct which may lead to termination, in accordance with its disciplinary process. The Shire will also seek to recover any losses it may have suffered through Fraud and Misconduct.

2. **DISPUTE RESOLUTION**

All disputes in respect of this Policy must be referred to the Director Corporate Services in the first instance, and if unresolved, to the CEO.

3. **WHO NEEDS TO KNOW ABOUT THIS POLICY?**

All Councillors and Employees will need to be aware of this Policy and its implications, together with other stakeholders, including contractors and consultants.



Shire of Derby / West Kimberley

Policy Details			
Original Adoption date:	28 February 2019 (Item 9.1.1, Res. 005/2019)	Review Frequency (Annual/Bi-ennial):	Annually
		Next Review Due:	February 2024
Policy Implementing Officer or Team:	Senior Management Team	Policy Reviewer:	Chief Executive Officer
Legislative Head of Power (Act, Regulation, or Local Law):	Public Interest Disclosure Act 2003 Corruption, Crime and Misconduct Act 2003		
Related Documents (other Policies, Operational Procedures, Delegations, etc.):	<p>Code of Conduct (Employees) Shire of Derby/West Kimberley Statement of Business Ethics Australian Standard for Fraud and Corruption Control (AS8001:2008) Australian Standard for Organisational Codes of Conduct (AS8002:2003) Australian Standard for Whistleblower Protection (AS8004:2003) Australian National Audit Office – Fraud Control in Australian Government Entities Public Sector Commission: Code of Ethics Principles Conduct Guide and Accountable and Ethical Decision Making Modules</p> <p>Corruption & Crime Commission: Agency Misconduct Management Systems and Misconduct Resistance Framework Public Interest Disclosure Act 2003</p> <p>Reporting Serious and Minor Misconduct Policy and Procedures</p> <p>Policy PC1 Risk and Opportunity Management Policy and Framework</p> <p>Gifts, Benefits and Conflict of Interest Policies/Codes/Procedures</p>		
Version Control Council Meeting Review Details:			
Review #:	Council Meeting Date:	Item/Resolution#:	
1.	24 June 2021	Item 11.2 Res. No. 57/21	
2.	24 February 2022	Item 11.5 Res. No. 07/22	
3.	30 March 2023	Item 10.1 Res. No. 15/23	