
Cessnock City Council Fraud Control and Corruption Prevention (FCCP) Policy

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1. POLICY OBJECTIVES

1.1. The objectives of this Policy is to:

- 1.1.1. Provide a framework for the prevention, detection, investigation and correction of Fraudulent and or Corrupt activity,
- 1.1.2. Protect Council's assets, including Council's financial assets,
- 1.1.3. Protect the integrity, security and reputation of Council and Council Officials, and
- 1.1.4. Maintain a high level of services to the community.

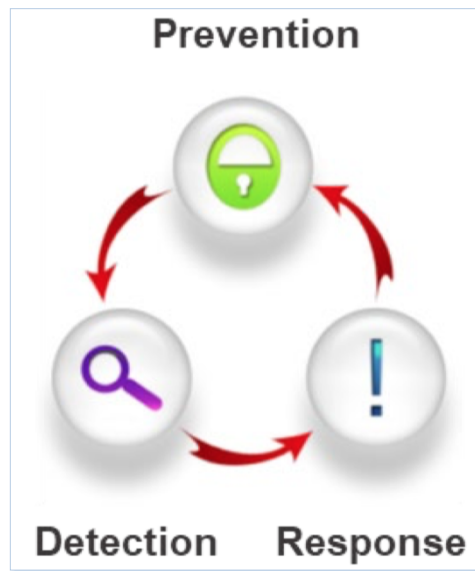
2. POLICY SCOPE

2.1. This policy applies to all Council Officials section 355 Committee members, external representatives on any Council committees, working parties and other entities, external stakeholders such as suppliers, contractors and consultants and third parties with regard to functions and operations undertaken for or on behalf of Council.

3. POLICY STATEMENT

3.1. Council is committed to minimising the incidence of Fraud and Corruption by implementing and regularly reviewing a range of strategies that aim to prevent, detect and respond to Fraud and Corruption.

Fraud Control and Corruption Prevention Themes



4. WHAT IS FRAUD AND CORRUPTION?

4.1. **Fraud** is defined as dishonestly obtaining a financial or other benefit (either directly or indirectly) by deception. It includes deliberate and premeditated deception to gain advantage from a position of trust and authority. This includes acts of omission, theft, making false statements, evasion, manipulation of information and numerous other acts of deception.

4.2. Corruption, in summary, is any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions. Refer to the definitions section for further details and examples of what Corruption is.

Examples of Fraudulent and/or Corrupt activities

Assets	Inventory
<ul style="list-style-type: none"> Repeated and/or unexplained loss of assets – particularly portable and attractive assets such as laptops, mobiles phones, digital cameras Unauthorised disposal of assets 	<ul style="list-style-type: none"> Unexplained losses/theft of inventory Unexplained/unauthorised inventory charges to cost centres
Unauthorised use of assets	Information systems
<ul style="list-style-type: none"> Use of office equipment for private purposes Private use of external equipment such as tools, power tools, small plant Use of Councils resources such as paper, stationery for private purposes Unauthorised private use of motor vehicles Unauthorised private use of fuel 	<ul style="list-style-type: none"> Inappropriate use of computer systems i.e. access to the internet of unreasonable private usage Access to inappropriate sites Access to the system by unauthorised users Access to and provision of confidential information Unauthorised access to EFT processes
Human Resources	Purchasing/procurement
<ul style="list-style-type: none"> Theft of time – persons using work hours to conduct a private business Excessive and/or unsubstantiated claims for overtime Fraudulent completion of attendance sheets and/or timesheets Labour charges in excess of expectations Fraudulent workers compensation claims Non-compliance to HR policies 	<ul style="list-style-type: none"> Non-compliance with Council procurement policies including bypass of the correct approval process Undisclosed personal/pecuniary interests of staff involved in a procurement of contract process Collusive practices between suppliers and procurement/purchasing officers Staff obtaining quotes from the same suppliers (to comply with policy) but not effectively market testing

5. FRAUD CONTROL AND CORRUPTION PREVENTION (FCCP)

5.1. Council's approach to Fraud control and Corruption prevention is based on ten attributes of Fraud control within the themes of prevention, detection and response:

The Ten Attributes of Fraud control

Attribute		Theme	Page
Attribute one	Leadership	Prevention	4
Attribute two	Ethical framework	Prevention, Detection, Response	5
Attribute three	Responsibility structures	Prevention, Detection, Response	6
Attribute four	Policy	Prevention	8
Attribute five	Prevention systems	Prevention	8
	Fraud and Corruption awareness		9
Attribute six	Third party management systems	Prevention, Response	10
Attribute seven	Notification system	Prevention, Response	11
Attribute eight	Detection systems	Detection, Response	11
Attribute nine	Detection systems	Detection	11
Attribute ten	Investigation systems	Response	12

6. ATTRIBUTE ONE: LEADERSHIP

6.1. A successful Fraud Control and Corruption Prevention (FCCP) Framework is led by committed and accountable executives. The General Manager has ultimate responsibility for the implementation of the FCCP Framework and endorsing the FCCP activities within Council.

6.2. The General Manager is supported by senior management (the Executive Leadership Team (ELT)), the Audit and Risk Committee and the Governance Team. The ELT are accountable for monitoring the implementation of the FCCP Framework.

6.3. Both the General Manager and the ELT are expected to demonstrate a 'tone-from-the-top' approach to Fraud control and Corruption prevention by refraining from corrupt conduct as well as conduct that allows, encourages or causes corrupt conduct. This includes:

- 6.3.1. not exempt themselves from policy and procedure requirements to which other Council Officials are expected to adhere,
- 6.3.2. personally attend Code of Conduct, ethics and Corruption training, even if they feel they already understand the content,
- 6.3.3. disclose their own actual and perceived conflicts of interest and visibly comply with Council's Code of Conduct,

- 6.3.4. devote sufficient resources to preventing, detecting and investigating misconduct,
- 6.3.5. personally reward or praise subordinates and colleagues that behave ethically,
- 6.3.6. refrain from setting perverse incentives, such as formal key performance indicators that could drive unethical behaviour (for example, an unrealistic delivery date or savings target) or informal cues (for example, telling someone to “just get it done, I don’t care how”),
- 6.3.7. get involved in approving and promoting key policies such as Council’s code of Conduct, and look for opportunities to raise ethics and anti-corruption messages outside of formal training,
- 6.3.8. not tolerate rationalisations that can contribute to Corrupt conduct (for example, “*It’s only taxpayers’ money*”, “*It’s always been done this way*” or “*Nobody is getting hurt*”),
- 6.3.9. ensure Council’s risk management framework considers the risk of Corrupt conduct,
- 6.3.10. encourage a “speak up” culture, where Council Officials can voice concerns about unethical conduct and suspected Corruption,
- 6.3.11. act on red flags such as staff refusing to take annual leave or resisting accountability,
- 6.3.12. encourage compliance with the law, especially in relation to the use of Council’s funds and resources,
- 6.3.13. welcome internal audit and external reviews as an opportunity to demonstrate the proper use of public resources and, where possible, improve existing processes,
- 6.3.14. strive for continuous improvement and efficiency and effectiveness.

7. ATTRIBUTE TWO: ETHICAL FRAMEWORK

- 7.1. The following has been adopted /established to guide the ethical behaviour of Council Officials:
 - 7.1.1. Code of Conduct and Procedures;
 - 7.1.2. Set of core Values & Behaviours;
 - 7.1.3. Internal Reporting – Public Interest Disclosures Policy and Guideline; and
 - 7.1.4. Statement of Business Ethics.
- 7.2. These documents are available to staff on the Intranet and Councillors on the Councillor Hub. These documents are reviewed regularly to ensure they are up to date and in line with the relevant standards.
- 7.3. Council Officials are required to evidence their commitment to acceptable standards of ethical behaviours by signing the Code of Conduct upon commencement of their employment/engagement and every time they attend ‘refresher’ training.

8. ATTRIBUTE THREE: RESPONSIBILITY STRUCTURES

8.1. General Manager

8.1.1. The General Manager shall be responsible to ensure that:

- a) appropriate Fraud and Corruption risk management strategies are in place;
- b) resources are allocated as necessary to minimise any risk of Fraud and/or Corruption that may be identified;
- c) ethical standards are set and communicated throughout the area of Council's operations;
- d) Reported Fraud and Corruption is investigated promptly, dealt with appropriately, and that policies or procedures are reviewed to prevent recurrence where necessary; and
- e) All Fraud and Corruption risk management initiatives are implemented within Council.
- f) Ensures relevant agencies (NSW Police and ICAC) are advised about Fraud and/or Corruption committed by Council Officials when required in accordance with section 11(2) of the *Independent Commission Against Corruption Act 1988* (NSW);

8.2. ELT

8.2.1. The ELT are responsible for endorsing this policy, demonstrating ethical behaviour and supporting the General Manager.

8.3. Public Interest Disclosures (PID) Coordinator or their delegate

8.3.1. The PID Coordinator, Director Corporate and Community Services, has a central role in dealing with reports made and:

- a) Is authorised to receive reports of Fraud and/or Corruption;
- b) Assesses reports of Fraud and/or Corruption and refers them to the General Manager or Mayor where appropriate,
- c) Advises the Manager Human resources of allegations of Fraud and/or Corruption;
- d) Ensures investigations are conducted thoroughly.

8.4. Finance and Administration Manager

8.4.1. Administers this policy,

8.4.2. Ensures this policy is reviewed and updated in accordance with its schedule below,

8.4.3. Conducts a FCCP Health Check every two years,

8.4.4. Oversees the implementation of a Fraud and Corruption education program,

8.4.5. Ensures key developments in FCCP are incorporated into Council processes,

8.4.6. Provides an annual status report to the ELT and Audit and Risk Committee on the FCCP Strategy and details of any Fraud and/or Corruption investigations conducted during the year,

8.4.7. Maintains the Fraud Database and provides a summary to be included in Council's annual report, and

8.4.8. Maintains a FCCP Plan to ensure that key actions, responsibilities and timeframes are identified and reported on.

8.5. Human Resources Manager

8.5.1. The Human Resources Manager is responsible for ensuring the welfare of Council Officials involved in an allegation of Fraud and/or Corruption and that any breaches of conduct and behaviour are properly managed in accordance with Council's Industrial Relations Framework.

8.6. All managers, coordinators, principals and team leaders

8.6.1. All staff with managerial or supervisory responsibilities, must ensure in their area of responsibility that:

- a) Decisions or conduct are lawful;
- b) Decisions or conduct are consistent with Council policies/procedures and the Code of Conduct;
- c) All conflicts of interest are disclosed and managed so that outcomes are not affected by private gain;
- d) Decisions or conduct can be justified in terms of the public interest;
- e) Decisions or conduct would withstand public scrutiny, and,
- f) They report suspected Fraud and/or Corruption and are aware of their responsibilities for managing Fraud and/or Corruption risks.

8.7. Risk Management

8.7.1. Conduct a Fraud and Corruption Risk Assessment as required but no less than every two years,

8.7.2. Review and update the Fraud Risk Assessment every two years,

8.7.3. Develop, in consultation with key stakeholders, strategies and measures to mitigate or prevent Fraud and Corruption.

8.7.4. Advise management and ELT of any Fraud and Corruption risks identified within Council.

8.8. Audit and Risk committee

8.8.1. The Audit and Risk Committee provides independent assistance to the General Manager by monitoring and providing advice on the adequacy of the FCCP Framework and the processes and systems in place to capture and effectively investigate Fraud and Corruption related information.

8.8.2. This includes periodically reviewing the FCCP Framework and other strategies and their implementation.

8.9. Internal Audit

8.9.1. Ensure Council's FCCP resources are periodically subjected to controls and testing through internal audit activities.

8.9.2. Assist in the deterrence of Fraud and/or Corruption by examining and evaluating the adequacy and the effectiveness of the system of internal control, commensurate with the extent of the potential exposure/risk in the various segments of Council's operations.

8.9.3. If the Internal Auditor suspects potential wrongdoing, the appropriate authorities within Council should be informed in line with existing Council policies and procedures. The Internal Auditor may recommend appropriate

investigation considered necessary in the circumstances. Thereafter the Internal Auditor should follow up to see that the internal auditing activity's responsibilities have been met.

- 8.9.4. Ensure high risk Fraud and Corruption areas, such as procurement and payroll, are included in the three-year internal audit plan.

8.10. All Councillors, staff, contractors, consultants and volunteers

8.10.1. Each individual has a responsibility to:

- a) Adhere to ethical standards in their respective area and provide their colleagues with guidance and support as required;
- b) Observe and support the requirements of the relevant Council policies and procedures; and
- c) Report all suspected Fraud, Corruption and inappropriate behaviour as per Council's Internal Reporting- Public Interest Disclosures policy.

9. ATTRIBUTE FOUR: FRAUD CONTROL AND CORRUPTION PREVENTION POLICY

9.1. This policy sets out Council's system of FCCP and covers the responsibilities for managing Fraud and Corruption at Council.

9.2. This policy does not operate in isolation and has strong links to the resources listed in clause 7.1. It sets out the system of Fraud control and Corruption prevention and covers the responsibilities for managing Fraud and Corruption within Council.

10. ATTRIBUTE FIVE: PREVENTION SYSTEMS

10.1. Council's prevention system consists of the following elements:

- 10.1.1. Fraud and Corruption Risk Assessment;
- 10.1.2. FCCP Plan;
- 10.1.3. FCCP Database;
- 10.1.4. Ethical workforce;
- 10.1.5. Ethical workforce and culture,
- 10.1.6. Digital Strategy August 2018.

10.2. Fraud and Corruption Risk Assessment

10.2.1. The Fraud and Corruption Risk Assessment is a proactive effort to:

- a) Identify areas where Fraud or Corruption risks exist;
- b) Evaluate how effective controls are to mitigate those risks; and
- c) Determine actions necessary to eliminate any gaps.

10.2.2. The Fraud and Corruption Risk Assessment includes responsibilities and timeframes for action and reporting, and as such is carried out when there is a substantial change in the function, structure or activities of Council and at minimum every two years.

10.2.3. The Finance and Administration Manager is responsible for monitoring the results over time and for reporting the results of the Fraud and Corruption Risk Assessment to ELT and the Audit and Risk Committee bi-annually.

10.3. FCCP Plan

10.3.1. The FCCP Plan contains all the key Fraud control and Corruption prevention activities of Council, responsibilities and timeframes for action and information on review mechanisms. It is linked to the Fraud and Corruption Risk Assessment and other Fraud control activities (such as Fraud Control Health Check) and contains details of the risks requiring treatment, controls and mitigation strategies in place.

10.3.2. The FCCP Plan is regularly reviewed and updated, with outcomes and results reported to ELT and the Audit and Risk Committee bi-annually.

10.4. FCCP Database

10.4.1. Council uses its Electronic Document Management System as its FCCP Database to record all incidents of Fraud and Corruption affecting Council, including actions taken and the outcomes. It is regularly reviewed to identify any systematic issues that need attention.

10.4.2. Council will analyse reports of Fraud and Corruption to assist identify potential weaknesses in internal controls and publish de-identified reports on its Intranet to demonstrate the action taken in response to Fraud and Corruption.

10.5. Ethical workforce and culture

10.5.1. Council is committed to engaging Council Officials and involving external representatives in our committees and other bodies/groups that support Council Values.

10.5.2. Council's approach to recruitment is that positions are filled on a merit basis by implementing the measures outlined in the FCCP plan.

10.5.3. Council's Values of ethical culture are incorporated in Council's performance development plans as a criterion in periodic reviews.

10.5.4. Council's controlled documents framework is developed to promote effective Fraud and Corruption prevention by implementing the following measures:

- a) Council values are embedded in the development, review and implementation of policies and its supporting documents to achieve consistent decision-making and appropriate resolution of ethical dilemmas even when there are no rules to follow. This in turn aids in the prevention and/or control of Fraud and Corruption;
- b) Accountability is implemented through policies and procedures that require record-keeping and reporting.

11. ATTRIBUTE SIX: FRAUD AWARENESS

11.1. A key element of this policy is:

11.1.1. Creating awareness about the different aspects of the strategy among staff, stakeholders and suppliers;

11.1.2. Creating awareness about what activities are considered Fraudulent;

11.1.3. Providing information on how to respond if Fraud is suspected.

11.2. Staff awareness

11.2.1. Staff need to understand Fraud and Corruption is not tolerated and the consequences of committing Fraud and Corruption. They need to be aware of:

- a) what Fraud and Corruption is,
- b) common types of Fraud and Corruption they may encounter,
- c) their responsibilities,
- d) how to report suspected Fraud and Corruption,

11.2.2. Staff have a responsibility to contribute to eliminating Fraud and Corruption.

11.3. Staff training

11.3.1. Staff will be made aware of this policy and ethical conduct expectations through:

- a) Council's induction training for new Council Officials,
- b) Periodic 'refresher' training.

11.4. Ethical Behaviour policies/protocols/procedures

11.4.1. Council has a range of ethical behaviour policies/protocols/procedures to support Council Officials which are available on Council's Intranet, website and/or Councillor Hub including:

- a) Internal Reporting - Public Interest Disclosures Policy and Guideline;
- b) Gifts and Benefits Procedure;
- c) Code of Conduct and Procedures;
- d) Acceptable Use of ICT Resources Protocol;
- e) Grievance Protocol;
- f) Statement of Business Ethics;
- g) Credit Card Protocol.

12. ATTRIBUTE SEVEN: THIRD PARTY MANAGEMENT SYSTEMS

12.1. Council is committed to ensuring our stakeholders and suppliers are aware of Council's commitment to ethical behaviour. Council has established appropriate internal controls, segregation of duties and delegation of authority to deal with third parties.

12.2. Council has established a Statement of Business Ethics to reinforce the expected standards of behaviour for suppliers and is published on Council's website and Vendor panel for easy access.

12.3. Third party management also includes managing Council Officials' conflict of interests. Council's Code of Conduct outlines the process of managing conflict of interests, including making declarations appropriately and in a timely manner, and declaring secondary employment.

13. ATTRIBUTE EIGHT: NOTIFICATION SYSTEMS

- 13.1. Council requires Council Officials and encourages its stakeholders and suppliers to report known or suspected Fraud, Corruption or unethical behaviour, in line with Council's Internal Reporting – Public Interest Disclosures Policy.
- 13.2. Council Officials should be aware of the provision in section 316(1) of the *Crimes Act 1900* (NSW) in that a failure to report a serious offence including Fraud, is an offence.
- 13.3. Members of the community can and are encouraged to report suspected Fraud and/or Corruption in line with the information published on Council's website, outlining the process and the relevant form.
- 13.4. Any substantial Fraud will be referred to the relevant external body, the NSW Police Force, the Crown Solicitor, the Director of Public Prosecutions, the NSW Ombudsman or the ICAC. Where, on reasonable grounds, there is suspicion that Corrupt conduct has occurred, the General Manager has a duty under section 11 of the *Independent Commission against Corruption Act 1988* (NSW) to report it to the ICAC as soon as the suspicion arises. This is irrespective of how insignificant or minor the allegation.

14. ATTRIBUTE NINE: DETECTION SYSTEMS

- 14.1. The early detection of Fraud and Corruption is an essential element for Council to prevent, minimise and eliminate it.
- 14.2. It should be the aim of Council Officials to detect Fraud or Corruption as soon as possible after it occurs.
- 14.3. A risk-based internal audit program implement by the Internal Auditor is a strategy that regularly examines processes across Council to detect irregularities. Internal audit recommendations are recorded in a recommendations register and are followed up regularly, with responsibility assigned to individuals and clear timeframes set for response. Outcomes of reviews are reported to the Audit and Risk Committee on a quarterly basis. Management uses internal audit findings as an opportunity to improve processes.
- 14.4. Council Officials may be able to detect and deter Fraud and Corruption through the following internal control measures:
 - 14.4.1. Segregations of duties;
 - 14.4.2. Approvals and authorisation;
 - 14.4.3. Verification;
 - 14.4.4. Reconciliations and reviews;
 - 14.4.5. Non-conformance monitoring and reporting;
 - 14.4.6. Management reviews;
 - 14.4.7. Risk assessments;
 - 14.4.8. Physical security;
 - 14.4.9. Job rotation;
 - 14.4.10. Internal and external audits.
- 14.5. Council Officials should be aware of the following:

- 14.5.1. Staff being first to arrive in the morning and/or last to leave at night;
- 14.5.2. Egotistical (e.g. scornful of system controls);
- 14.5.3. A risk taker or rule breaker;
- 14.5.4. Reluctance to take leave;
- 14.5.5. Refusal of promotion;
- 14.5.6. Unexplained wealth;
- 14.5.7. Sudden change of lifestyle;
- 14.5.8. New staff resigning quickly;
- 14.5.9. Cosy relationship with suppliers/contractors;
- 14.5.10. Suppliers/contractors who insist on dealing with one particular member of staff;
- 14.5.11. Staff who are disgruntled at work – a complainer;
- 14.5.12. Greedy or has genuine financial need.

15. ATTRIBUTE TEN: INVESTIGATION SYSTEMS

15.1. Preliminary Assessment

- 15.1.1. When an allegation of Fraud or Corruption is made as a Public Interest Disclosure, the Disclosures Coordinator will undertake a preliminary assessment and may recommend that the matter be referred to an external body or that a full investigation be conducted. The complainant will be advised and action taken as appropriate in accordance with Council's Internal Reporting - Public Interest Disclosure Policy.

15.2. Maintaining Confidentiality

- 15.2.1. Where possible and appropriate Council is committed to taking steps to keep the reporter's identity, and the fact they have reported wrongdoing, confidential as outlined in Council's Internal Reporting - Public Interest Disclosure Policy.

16. RECORDS MANAGEMENT

- 16.1.1. Council Officials must maintain all records relevant to administering this policy in accordance with Council's Records Management Policy.

17. POLICY DEFINITIONS

Act	means the <i>Local Government Act 1993 (NSW) (LGA)</i>
Council	means Cessnock City Council
Council Officials	means staff employed on a full-time, part-time, permanent or casual basis, Councillors, contractors, consultants and volunteers
Code of Conduct	means the Model Code of Conduct that is applicable to all Council officials and as required by s440(3) of the LGA.
Corruption	<p>means the definitions in sections 7, 8 and 9 of the <i>Independent Commission Against Corruption Act 1988 (NSW)</i>.</p> <p>7 Corrupt conduct</p> <p>(1) For the purposes of this Act, corrupt conduct is any conduct which falls within the description of corrupt conduct in either or both of subsections (1) and (2) of section 8, but which is not excluded by section 9.</p> <p>(2) Conduct comprising a conspiracy or attempt to commit or engage in conduct that would be corrupt conduct under section 8 (1) or (2) shall itself be regarded as corrupt conduct under section 8 (1) or (2).</p> <p>(3) Conduct comprising such a conspiracy or attempt is not excluded by section 9 if, had the conspiracy or attempt been brought to fruition in further conduct, the further conduct could constitute or involve an offence or grounds referred to in that section.</p> <p>8 General nature of corrupt conduct</p> <p>(1) Corrupt conduct is:</p> <p>(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</p> <p>(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</p> <p>(c) any conduct of a public official or former public official that constitutes or involves a breach of public trust, or</p> <p>(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.</p> <p>(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:</p> <p>(a) official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition),</p>

- (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.

(2A) Corrupt conduct is also any conduct of any person (whether or not a public official) that impairs, or that could impair, public confidence in public administration and which could involve any of the following matters:

(a) collusive tendering,

(b) fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources,

(c) dishonestly obtaining or assisting in obtaining, or dishonestly benefiting from, the payment or application of public funds for private advantage or the disposition of public assets for private advantage,

(d) defrauding the public revenue,

(e) fraudulently obtaining or retaining employment or appointment as a public official.

(3) Conduct may amount to corrupt conduct under subsection (1), (2) or (2A) even though it occurred before the commencement of that 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. This subsection extends to a person seeking to become a public official even if the person fails to become 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) or (2A) 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.

9 Limitation on nature of corrupt conduct

(1) Despite section 8, conduct does not amount to corrupt conduct unless it could constitute or involve:

(a) a criminal offence, or

(b) a disciplinary offence, or

(c) reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or

(d) in the case of conduct of a Minister of the Crown or a member of a House of Parliament—a substantial breach of an applicable code of conduct.

(2) It does not matter that proceedings or action for such an offence can no longer be brought or continued, or that action for such dismissal, dispensing or other termination can no longer be taken.

(3) For the purposes of this section:

"applicable code of conduct" means, in relation to:

(a) a Minister of the Crown—a ministerial code of conduct prescribed or adopted for the purposes of this section by the regulations, or

(b) a member of the Legislative Council or of the Legislative Assembly (including a Minister of the Crown)—a code of conduct adopted for the purposes of this section by resolution of the House concerned.

"criminal offence" means a criminal offence under the law of the State or under any other law relevant to the conduct in question.

"disciplinary offence" includes any misconduct, irregularity, neglect of duty, breach of discipline or other matter that constitutes or may constitute grounds for disciplinary action under any law.

(4) Subject to subsection (5), conduct of a Minister of the Crown or a member of a House of Parliament which falls within the description of corrupt conduct in section 8 is not excluded by this section if it is conduct that would cause a reasonable person to believe that it would bring the integrity of the office concerned or of Parliament into serious disrepute.

(5) Without otherwise limiting the matters that it can under section 74A (1) include in a report under section 74, the Commission is not authorised to include a finding or opinion that a specified person has, by engaging in conduct of a kind referred to in subsection (4), engaged in corrupt conduct, unless the Commission is satisfied that the conduct constitutes a breach of a law (apart

	<p>from this Act) and the Commission identifies that law in the report.</p> <p>(6) A reference to a disciplinary offence in this section and sections 74A and 74B includes a reference to a substantial breach of an applicable requirement of a code of conduct required to be complied with under section 440 (5) of the <i>Local Government Act 1993</i>, but does not include a reference to any other breach of such a requirement.</p>
Public Interest Disclosure	means a disclosure of suspected wrongdoing in accordance with the <i>Public Interest Disclosures Act 2013</i> (NSW) and Council's Internal Reporting – Public Interest Disclosures Policy.
Fraud	means dishonestly obtaining a financial or other benefit (either directly or indirectly) by deception. It includes deliberate and premeditated deception to gain advantage from a position of trust and authority. This includes acts of omission, theft, making false statements, evasion, manipulation of information and numerous other acts of deception
Fraud Control and Corruption Prevention (FCCP) Framework	<p>means the framework designed to control Fraud and prevent Corruption within Council and consists of the following elements:</p> <ul style="list-style-type: none"> ▪ Fraud Control Policy ▪ Fraud Health Check ▪ Fraud Risk Assessment ▪ Fraud Control Plan ▪ Internal Reporting – Public Interest Consideration Policy and Guideline ▪ Fraud Control and Corruption Prevention Strategy

18. POLICY ADMINISTRATION

Business Group	Corporate and Community Services
Responsible Officer	Finance and Administration Manager
Associated Procedure (if any)	NIL
Policy Review Date	Three years from date of adoption unless legislated otherwise
File Number / Document Number	DOC2020/027334
Relevant Legislation (reference specific sections)	<p>This policy supports Council's compliance with the following legislation:</p> <ul style="list-style-type: none"> ▪ 316(1) of <i>Crimes Act 1900</i> (NSW) ▪ section 11(2) of the <i>Independent Commission Against Corruption Act 1988</i> (NSW); ▪ <i>Local Government Act 1993</i> (NSW) ▪ <i>Local Government (General) Regulation 2005</i> (NSW) ▪ <i>Public Interest Disclosures Act 1994</i> (NSW)
Relevant desired outcome or objectives	<p><i>Civic leadership and effective governance</i></p> <p>Objective 5.3 Making Council more responsive to the community</p>
Related Policies / Protocols / Procedures / Documents	<ul style="list-style-type: none"> ▪ Code of Conduct (DOC2018/086716) ▪ Procedures for the Administration of Code of Conduct (DOC2018/086682) ▪ Internal Reporting – Public Interest Disclosure Policy (DOC2018/093182) ▪ Internal Reporting – Public Interest Disclosure Guideline (DOC2019/036684) ▪ Workplace Grievance Notification Form (DOC2013/046519) ▪ Internal Reporting Form (DOC2018/100287) ▪ Checklist of Internal Report Form (DOC2018/100281) ▪ Initial Assessment of Internal Report Form (DOC2018/100284) ▪ PID Acknowledgment letter template (DOC2018/100290) ▪ PID Risk Assessment (DOC2018/094061) ▪ Fraud Risk Assessment (DOC2019/063233) ▪ Assessment of an Internal Report Form (DOC2018/100276) ▪ Records Management Policy (DOC2019/038769) ▪ Fraud Register (DOC2020/047035) ▪ Statement of Business Ethics (DOC2020/023338) ▪ FCCP Database (Folder 20/42) ▪ Cessnock City Council Digital Strategy August 2018 (DOC2018/068296).

19. POLICY AUTHORISATION

No.	Authorised Function	Authorised Business Unit / Role(s)
1.	Receive and handle reports made by the public (via Council's website) alleging Fraud or Corruption	Public Interest Disclosure Coordinator or delegate

20. POLICY HISTORY

Revision	Date Approved / Authority	Description Of Changes
1	17/06/2020 CC49/2020	New policy adopted