



Fraud and Corruption Prevention Policy

Sutherland Shire Council

Document review and approval

This document has been approved by

| | Name | Minute No | Date approved |
|---|------------------------------------------------------------------|-----------|--------------------|
| 1 | <i>Finance, Resources & Management Committee – FIN057-08</i> | 269 | 24 September, 2007 |

Revision history

| Version | Author | Date | Revision |
|---------|---------------------------|---------------------------|-----------------------------------------------------------------------------------------------|
| 1 | <i>Internal Ombudsman</i> | <i>17 September, 2007</i> | <i>Original Version</i> |
| 2 | <i>Internal Ombudsman</i> | <i>23 February, 2012</i> | <i>Reviewed, no changes necessary</i> |
| 3 | <i>Internal Ombudsman</i> | <i>11 February, 2013</i> | <i>Reviewed, no changes necessary</i> |
| 4 | <i>Governance Manager</i> | <i>15 July, 2013</i> | <i>Removed all references to the Internal Ombudsman due to the abolition of this function</i> |
| 5 | <i>Governance Manager</i> | <i>24 March, 2014</i> | <i>Reviewed, no changes necessary</i> |

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1 Purpose

1.1 Introduction

Sutherland Shire Council (Council) is committed to the prevention, detection, investigation and prosecution of fraud and corruption related conduct. In addition to meeting its legislative obligations under the *Local Government Act 1993*, Council is also committed to educating staff and Councillors in relation to fraud indicators and corruption prevention activities.

Risk exposure from fraud and corruption related activities can be significant and the effective management and monitoring of this type of risk is vital. Council needs to be assured that appropriate and transparent management strategies, including the implementation of relevant policies, are subjected to monitoring and regular review. This Fraud and Corruption Prevention Policy provides an outline for the management of fraud and corruption related activities. It is consistent with and supported by Sutherland Shire Council's Code of Conduct for Councillors, Staff and Delegates of Council.

1.2 Corporate Vision and Values

Sutherland Shire's vision was developed by the people of Sutherland Shire in 1997 and incorporates Council's values and underpins this Policy.

Sutherland Shire's Vision is:

"A community working together, to attain safe, healthy and active lifestyles, through accountable decision-making, that achieves sustainable development and economic opportunities which respect people and nature."

This vision is realised through Council's commitment to community satisfaction; management by fact; continuous improvement; and ethics.

Councillors and staff are to act in accordance with Council's vision and values whilst undertaking Council related business. Sutherland Shire Council's *Code of Conduct for Councillors, Staff and Delegates* further articulates its values as:

"The values which underpin this Code of Conduct and which must be abided by are:

- *responsibility to the Council, its policies and decisions;*
- *respect for members of the community and colleagues;*
- *integrity of purpose and acting in the public interest;*
- *open and transparent decision-making; and*
- *responsive and efficient service."*

Council's vision and values set the framework for this Fraud and Corruption Prevention Policy.

2 Application

This Policy applies to all Council Officials. Council Officials are defined to include Councillors, members of council staff and delegates of Council. A delegate of Council is a person or body to whom a function of Council is delegated, such as staff, Councillors, community representatives, volunteers, consultants and contractors.

3 Definitions

3.1 What is fraud?

Fraud is defined in Australian Standard AS 8001-2003 as:

“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 whether or not 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 business purpose or the improper use of information or position.”

For the purpose of this Policy, fraud is not restricted to tangible benefits only and includes intangibles such as information which may not be in documentary form.

3.2 What is corruption?

For the purpose of this Policy, corruption and corrupt conduct will have the same meanings as defined in the *ICAC Act 1988* which is set out in Appendix 1.

In summary, corrupt conduct means any conduct which could affect the honest or impartial exercise of official functions, or may be a breach of trust, or may involve the misuse of any Council information by any Council Official.

3.3 What are the Elements of controlling Fraud and Corruption Risks?

The Australian Standard AS8001-2003 classifies the elements of controlling fraud and corruption risks into three categories:

Structural Elements: sound ethical culture, senior management commitment, periodic assessments of fraud and corruption risks, management and staff awareness, and fraud and corruption control planning.

Operational Elements: internal controls, fraud detection programs, mechanisms for reporting suspicions of fraud and corruption, dealing with detected or suspected fraud or corruption, line management accountability for the control of fraud and corruption risk, internal audit strategy, Policy for the protection of whistleblowers, allocation of resources to control fraud and corruption risks, insurance and pre-employment screening.

Maintenance Elements: review of the effectiveness of the fraud and corruption control strategies, ongoing monitoring of the ethical culture and review and adjustment of the fraud and corruption control plan.

These elements are considered throughout this Policy.

4 Key Signals and Risks

4.1 Fraud and Corruption Signals

There are a number of potential fraud and corruption signals which Councillors, staff and delegates of Council should be alert to, in identifying fraud and corrupt activities. These signals include:

- illogical excuses and reasons for unusual events or actions;
- senior staff involved in routine process work such as purchasing, ordering and receiving of goods;
- staff evidently living beyond their means, who have access to funds or control or influence over service providers;
- excessive staff turnover;
- staff who do not take holidays for extended periods;
- potential conflicts of interest not declared;
- excessive number of duties (*eg; both processing and approving the same transaction*);
- lack of separation in decision-making and performance of duties;
- undue secrecy, or excluding people from accessing available information;
- Council Officials who treat controls, policies and procedures as challenges to overcome or be defied;
- failure to conduct adequate reference checks on staff prior to employment;
- unauthorised changes to systems or work practices;
- missing documentation or a lack of record keeping;
- 'blind approval' where the person signing does not sight supporting documentation;
- duplicates only of invoices; and
- alteration of documents such as file notes, vehicle and equipment log books and timesheets.

- Councillors directing or influencing, or attempting to direct or influence any member of staff or other Council Official in the exercise of their official functions.
- Council Officials attempting to influence other Council Officials to approve Development Applications which do not meet Council codes or policy or refuse Development Applications which do meet Council codes or policies.

4.2 Fraud and Corruption Risks

Council has a number of fraud and corruption risks. Ongoing responsibility for these lies with Senior Managers.

Identified Fraud and Corruption Risks are to be considered when Council reviews risks to the organisation as a whole. Fraud and corruption risk areas for Council which require specific attention include the following:

- (a) Conflicts of Interest: Conflicts of Interest exist when Council Officials could be influenced, or a reasonable person would perceive that they could be influenced, by a personal interest when carrying out their public duty. Council has a *Conflicts of Interest Policy* and this should be referred to for guidance.
- (b) Bribes, including Gifts or Benefits: Council Officials must never demand or request any gift, benefit or bribe in connection with their Council work or duties or status with Council. Council has a *Gifts, Benefits and Hospitality Policy* and this should be referred to for guidance.
- (c) Information Technology: Council Officials are required to adhere to Council's information security requirements which protect the integrity of Council's information systems. The protection of confidential information is vital. Inappropriate use of Council's computer systems is not tolerated. Council has an *Information Security Policy* and an *Email and Internet Usage Policy* and these should be referred to for guidance.
- (d) Recruitment and Selection: Independence, accountability and transparency in recruitment and selection processes is vital. By adhering to these principles, Council has the ability to attract and retain the right personnel to enhance its performance. Council has a *Recruitment Policy* and this should be referred to for guidance.
- (e) Purchasing and Tendering: Council regularly contracts for the purchase and supply of a wide range of goods and services. Objectivity and impartiality in the assessment of goods and services to be purchased is vital. Council has a responsibility to ensure that physical security of the goods is maintained. Council also has a *Statement of Business Ethics*; a *Purchasing and Tendering Policy* and a *Conflicts of Interest Policy*. These should be referred to for guidance.
- (f) Development Applications: The Development Application and assessment process can be contentious and high risk in terms of corrupt activity, whereby potential applicants or objectors may want to unduly influence Council Officials in the course of their duties. Council has a *DA (Development Application) Guide* which documents the process for the assessment of development applications and this should be referred to for guidance.
- (g) Cash Handling: Theft of cash is one of the most basic frauds. Many areas of Council are involved in the handling of cash on a daily basis. All income is to be

promptly entered into accounting records and immediately secured and all cheques immediately endorsed. Procedures for cash handling are to be strictly adhered to across Council and should be referred to for guidance. Council has a *Cash Management Procedures Manual* which should be referred to for correct procedure.

- (h) Delegations: There are a number of provisions relating to delegations in the Local Government Act and these must be followed. Delegations give people the authority to make certain decisions, perform certain functions or undertake certain activities. Delegations must be formally documented, granted and retained on file. Delegated authority should not be exceeded by any person and each staff member is responsible for ensuring they are aware of the level of their delegated authority. Delegated authority should only be used in the course of undertaking council business. You should refer to Council's Legal Services Unit for further information on delegations..
- (i) Time Recording: Staff time is a valuable resource. All significant staff time is to be accounted for in the course of work. Council staff are required to be accountable for, and accurately record their time whilst undertaking council duties.
- (j) Use of Council Resources: Council resources are anything which is paid for, owned or controlled by the Council. It includes financial, material and human resources. Councillors and staff are expected to be efficient, economical and ethical in their use and management of Council resources. Council resources should only be used for Council purposes and in the public interest. Use of Council Resources for Private Purposes Policy should be referred to for guidance.
- (k) Stock Control: Council has a significant quantity of stock of both low and high value. Council staff should ensure adequate controls are enacted to reduce fraudulent activity associated with stock.
- (l) Obtaining Personal Benefit by Provision of Additional Service: Council provides a wide range of services to our community. In the provision of a service the situation may arise where a Council staff member is requested to provide additional services or carry out work further that is not programmed or authorised by Council. This can provide opportunity for a staff member to seek or receive a personal benefit or payment for the provision of the additional service. Using Council staff time and Council resources to provide a staff member with a personal benefit deprives Council of that benefit or income. Council's *Secondary Employment* Policy requires that all Council staff declare any work or employment additional to the duties required by Council.

5 Reporting

Under the Code of Conduct there is an obligation for each Council Official to report any improper conduct, which includes suspected fraudulent or corrupt behavior or

breaches of this Policy. An individual may report the matter either internally or externally as outlined below.

You should report your suspicions to only those people who absolutely need to know. This protects people from allegations that may not be proven and prevents the possible destruction of evidence.

5.1 Internally

Councillors, staff and delegates of Council must report as soon as possible any suspected fraudulent or corrupt behavior, to:

- their Supervisor, Manager or Director;
- General Manager;
- Mayor

Supervisors, Managers, Directors and the Office of the Internal Ombudsman have an obligation to immediately pass on the reports of suspected fraudulent or corrupt behavior or breaches of the Policy to the General Manager.

The only exception to this is where the General Manager is suspected of conduct relating to fraud and corruption, in which case the matter should be reported to the:

- Mayor;
- The relevant external agency.

5.2 External Agencies

Alternatively, matters relating to suspected fraudulent or corrupt activities can also be reported to the following external agencies.

- The Independent Commission Against Corruption – Telephone 8281 5999 (*in the case of allegations of fraud or corruption*).
- The Department of Local Government – Telephone 4428 4100 (*in the case of allegations relating to pecuniary interests*).
- NSW Police – Telephone 9281 0000 (*in the case of allegations relating to fraud*).
- NSW Electoral Commission – Telephone 9290 5999 (*in the case of allegations relating to election fraud*).

6 Responsibilities

6.1 Responsibilities as an Organisation

As an organisation, Council will ensure that:

- relevant risk exposures of significance to the Council are identified. The evaluation of risk is a critical determinant in Council's approach to fraud prevention and detection;
- relevant legal obligations are monitored to ensure that operating procedures and conditions meet these obligations;
- the Code of Conduct and associated policies are developed and publicised;
- appropriate fraud prevention and detection controls are incorporated when developing and maintaining computer and/or other systems;
- employees are properly trained and understand relevant Council policies and the legislative requirements of protection for informants under the *Protected Disclosures Act 1994*;
- an environment exists in which fraud and corruption related activity is discouraged; and
- effective investigation of allegations are undertaken, in the event of a report of fraud or corruption related activity, that they are notified to the NSW Police, the ICAC, the NSW Electoral Commission and/or the Department of Local Government for investigation and/or prosecution.

There are a number of specific responsibilities associated with the prevention of fraud and corruption related activity. These are set out below.

6.2 Councillors

Councillors have responsibility for directing and controlling the affairs of Council in accordance with the requirements of the *Local Government Act 1993*. Councillors have an obligation to report possible fraud and corruption related activities to the Mayor, or General Manager. Councillors should also provide support to other Councillors, the General Manager and/or staff who may make such disclosures or manage such disclosures in the course of their duties.

Councillors must:

- be aware of and comply with the requirements of this Policy, and all supporting procedures; and
- report suspected fraudulent or corrupt behavior or breaches of this Policy to the Mayor, or the General Manager, or external agencies.

6.3 General Manager

The General Manager has primary responsibility for the proper management of Council resources and the development and implementation of systems and practices to minimise the risk of fraud and corruption.

In addition to the responsibilities of Staff, Managers and Directors, the General Manager is responsible for:

- ensuring that, where required, matters reported under this Policy are properly investigated; and
- reporting criminal offences to the NSW Police and actual or suspected corrupt conduct to the Independent Commission against Corruption (ICAC) under section 11 of the *ICAC Act 1988*.

6.4 Directors and Managers

Directors and other senior staff are required to carry out the duties and functions set out in the policies of Council as adopted by Council from time to time. Further, they support the General Manager by ensuring that the corporate systems, policies and procedures are accountable and implemented, managed, reviewed and reported on a regular basis.

In addition to the responsibilities of all staff, Directors, Managers and other Senior Staff have an obligation to:

- ensure any matters of irregularity or suspected fraud or corruption reported to them are promptly forwarded to the General Manager and dealt with in accordance with this Policy;
- ensure that there are adequate measures in place to prevent and detect fraud and corruption within their area of responsibility;
- make staff aware of this Policy and the procedures required, including making them available for training sessions;
- ensure staff understand their responsibilities through adequate supervision, position descriptions; written procedures and the like;
- comply with legislative requirements and Council policies and procedures;
- respond positively to matters raised and advice provided by internal and external audit; the internal audit committee; and external oversight agencies;
- proactively encourage staff to raise suspected fraudulent or corrupt behavior or breaches of the Policy and to ensure staff are supported; and
- set an example by demonstrating principles of ethics, accountability and efficiency.

6.5 All Staff

Employees have a duty to ensure they adequately report any concerns they may have about the conduct of Council affairs including the use of Council assets and resources.

All staff are responsible for:

- being aware of this Policy;
- ensuring that they operate in accordance with Policy and legislative requirements to not participate in fraudulent or corrupt behavior;
- reporting in accordance with this Policy any suspicion of fraudulent or corrupt behavior; and
- reporting to the Public Officer, any deficiencies or suspected deficiencies with this Policy or control procedures.

6.6 Internal Audit Committee

The Internal Audit Committee is an essential element of internal control within the Council. The Committee oversees the work of the Internal Auditor thus ensuring the independence of this role. The Committee has a role in identifying any areas that may be susceptible to fraud and corruption related activities for possible audit review.

The Internal Audit Committee's duties and responsibilities in relation to corruption prevention are as follows:

- Review internal controls, key corporate risks and all audit-related matters.
- Ensure and support the independence and performance of the Internal Auditor and internal audit function.
- Encourage adherence to, and continuous improvement of, Council's policies, procedures, and practices at all levels.
- Review audit results by receiving, discussing and endorsing the Internal Auditor's Reports.
- In consultation with the management, the external auditors, and the internal auditor, consider the integrity of the Council's financial reporting processes, key corporate risks and organisational internal controls.
- Review steps management has taken to monitor, control, and report control exposures.
- Review significant findings reported by the external auditors and the internal auditors together with management's responses and take appropriate action to ensure they are appropriately dealt with.
- Review status of outstanding audit recommendations and take appropriate action to ensure they are appropriately dealt with.
- Review developments in corporate governance, risk management and auditing as advised by accountancy, auditing and regulatory bodies to encourage continuous improvement and current industry best practice.

- Liaise with the General Manager on significant internal audit issues.

External auditors shall plan any audit so that there is a reasonable expectation of detecting material misstatements in the financial statements resulting from fraud or corruption, or a breach of legislation.

6.7 Members of the Public

In accordance with the Statement of Business Ethics, Council requires all suppliers of goods and services, applicants, consultants, contactors, owners and applicants of development applications and anyone doing business, with Council to observe the following principles.

- Act ethically and honestly in all dealings with Council.
- Declare actual or perceived conflicts of interests as soon as the conflict becomes apparent.
- Comply with Council's procurement policies and procedures.
- Provide accurate and reliable information when required.
- Take all reasonable measures to prevent disclosure of confidential council information.
- Refrain from engaging in any form of collusive practice including offering Councillors, staff and delegates' inducements or incentives designed to improperly influence the conduct of their duties.
- Assist Council to prevent unethical practices in business relationships.

By making this document available publicly Council aims to demonstrate to the general community our commitment to addressing fraud. Further, there are some aspects of our Policy that do seek the involvement of people other than Councillors, staff and management.

We also invite members of the public, including our customers and service providers, to do the same. If you are not employed by Council, but you suspect fraud or corruption that involves Council in some way, please **report your suspicions** to any of the following:

- The General Manager.
- The Independent Commission Against Corruption – Telephone 8281 5999 (in the case of allegations of fraud or corruption).
- The Department of Local Government – Telephone 4428 4100 (in the case of allegations relating to pecuniary interests).
- NSW Police – Telephone 9281 0000 (in the case of allegations relating to criminal activity).
- NSW Electoral Commission – Telephone 9290 5999 (in the case of allegations relating to election fraud).

7 Monitoring

Council's commitment to fraud and corruption control will be met by actively investigating allegations of fraud or corrupt activity in a timely manner. As

appropriate Council will report fraudulent or corrupt activity to relevant authorities and/or initiate disciplinary action under the Code of Conduct.

The General Manager, assisted by Directors, Managers, and the Internal Audit Committee, will monitor fraud and corruption activities and identify and act on any trends that arise.

8 Protected Disclosures/Whistleblowers

Council is committed to supporting persons who report wrongdoing and who have done so voluntarily and in good faith and has adopted a Whistleblowers Policy to enact this support. It is also committed to the aims and objectives of the *Protected Disclosures Act 1994*.

If any person reports suspected fraud or corrupt conduct through the appropriate channels as set out above they may seek protection from detrimental action under the *Protected Disclosures Act 1994*. This protection may apply whether the matter is reported internally or externally.

If the matter is reported internally, the procedures for the granting of this protection would fall under Council's *Whistleblowers Policy*.

To receive this additional protection, the Protected Disclosures Coordinator (the Corporate Probity and Policy Manager) or the General Manager should be contacted. The *Whistleblowers Policy* should be referred to for guidance.

9 Conducting Investigations

9.1 Investigations

On receipt of an allegation of suspected fraudulent or corrupt behavior, the General Manager will determine if an investigation should be undertaken as well as its nature and scope. The General Manager will determine who will conduct the investigation and will give consideration to relevant legislation and council policies in making this determination.

Staff who carry out investigations must be impartial, sensitive to the rights of individuals and ensure that the purpose of any investigation is to discover all relevant facts and not only those which are suggestive of guilt.

9.2 External Notifications

The *Independent Commission Against Corruption Act 1988* requires the General Manager to report suspected instances of corrupt conduct, including fraud, to the Independent Commission Against Corruption.

9.3 Advice to Supervisors or Managers

Allegations of actual or suspected fraud or corrupt conduct can cause stress and disruption in the workplace. Information on investigations into allegations of this type should be on a strict 'need to know' basis.

Those who report suspicions should be encouraged to provide this information to only those people who absolutely need to know. This protects people from allegations that may not be proven and prevents the possible destruction of evidence

Who needs to know will vary from case to case. People in a work area may not know an investigation is occurring. Supervisor or managers should not promote or tolerate idle gossip. Statements based on gossip rather than fact can impede an investigation.

10 Responsible Officer

The Governance Manager is the officer responsible for the Fraud and Corruption Prevention Policy. These responsibilities specifically include:

- ensuring Policy is current and in line with legislation and/or Council's other policies;
- providing a point of contact for anyone wanting information or advice about the meaning and application of the Policy; and
- developing and implementing a training and communications strategy in liaison with the Training Unit and reviewing that strategy to assess effectiveness.

11 Review Date

To ensure the Fraud and Corruption Prevention Policy remains relevant, it will be reviewed every two (2) years. If legislative requirements alter, this Policy should be reviewed immediately to accord with these requirements.

12 Record Keeping, Confidentiality and Privacy

Council will maintain effective record keeping systems to demonstrate due process has been followed for all actions and decisions arising out of the implementation of this Policy. All investigative documentation will comply with relevant legislative provisions, will remain strictly confidential and will be retained in accordance with the *State Records Act 1998*. Applications to access documentation arising out of the implementation of this Policy can be made under Council's Access to Information Policy.

13 Breaches and Sanctions

A breach of the Fraud & Corruption Prevention Policy amounts to a breach of Council's Code of Conduct for Councillors, Staff and Delegates and therefore invokes the sanctions as outlined by that Code.

Criminal action may be taken against any person found to be in breach of any legislation.

14 Relevant Legislation

The following Legislation effects the operation of this Policy:

Local Government Act 1993 (NSW) (Act)
Local Government (General) Regulations 2005
Environmental Planning and Assessment Act 1979
Independent Commission against Corruption 1988 (NSW)
Protected Disclosures Act 1994 (NSW)
Crimes Act 1900 (NSW)

15 Related and Associated Council Policy and Procedures:

The following Council Policies and documents that are relevant to this Policy include:

Code of Conduct for Councillors, Staff and Delegates of Council;
Conflicts of Interest Policy and Procedures;
Councillor's Access to Information and their Interaction with Staff Policy;
DA (Development Application) Guide;
Email and Internet Usage Policy;
Gifts, Benefits and Hospitality Policy;
Information Security Policy;
Purchasing and Tendering Policy & Procedures;
Recruitment Policy;
Secondary Employment Policy;
Statement of Business Ethics;
Use of Council Resources for Private Purposes;
Whistleblowers Policy and Procedures;
Access to Information Policy; and
Cash Handling Procedures Manual.

16 Other Related External Reference Documents

The following documents may be useful for reference in relation the conducting of an investigation or inquiry:

- *'Fact-Finder - A 20-step guide to conducting an inquiry in your organisation'* Independent Commission Against Corruption, November 2003 ; and
- "Managing an organization through an ICAC Investigation: Practical advice for management' Independent Commission Against Corruption, August 2002 '

Definition of Corrupt Conduct from Independent Commission against Corruption Act, 1988.

Corrupt conduct is defined in the *Independent Commission against Corruption Act 1988* (ICAC Act 1988) as:

7 Corrupt conduct

- (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.*
- (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).*
- (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*

8 General nature of corrupt conduct

- (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.*

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 from this Act) and the Commission identifies that law in the report.*
- (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 Local Government Act 1993, but does not include a reference to any other breach of such a requirement.*