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Related legislation:	<ul style="list-style-type: none"> • Local Government Act 2020 • Public Interest Disclosure Act 2012 • Independent Broad-based Anti-corruption Commission Act 2011 		
Related strategic documents, policies, or procedures:	<ul style="list-style-type: none"> • Australian Standard, AS8001-2008 Fraud and Corruption Control • Fraud and Corruption Control Plan • Fraud Incident Register • Reporting of Fraud Incidents Procedure • Conflict of Interest Policy • Protected Disclosure Policy • Protected Disclosure Procedure • Workplace Code of Conduct • Councillors' Code of Conduct • Risk Management Policy • Gifts and Hospitality Policy • Procurement Policy • Purchasing Card Policy • IBAC's "Directions for making mandatory notifications of suspected corruption" 		

Date	Version Number	Details of Version	Modified by
31/10/2019	1	Policy developed in new template	Principal Governance Officer

1. Purpose

The purpose of this policy is to establish Mount Alexander Shire Council's (Council) position in preventing fraud and corruption, and to demonstrate that Council is committed to the prevention, detection, and response¹ of any such occurrences.

2. Scope

This policy applies to the Councillors and employees (including full time, part time, casual employees, agency staff and students), contractors, volunteers, consultants and Community Asset Committees of management of Mount Alexander Shire Council. For the purpose of this policy, this cohort is referred to as members of the organisation.

3. Policy

Council will:

- not tolerate any form of fraud or corruption from members of the organisation
- will implement controls to prevent fraud and corruption occurring by external parties.

To support this position Council will implement a fraud and corruption prevention framework in accordance with Australian Standard *AS8001-2008 Fraud and Corruption Control* as a best practice approach to managing prevention of fraud and corruption in the organisation.

The fraud prevention framework will apply the Prevention, Detection, and Response² approach to underpin prevention of fraud and corruption and create an environment that:

- Promotes ethical and honest behaviour in the organisation.
- Expects reporting of suspected instances of fraud or corruption.
- Ensures that members of the organisation are educated about fraud prevention and detection.
- Communicates to all members of the organisation its intention to:
 - Suspend or dismiss members of the business involved in fraudulent or corrupt activity
 - Report fraudulent or corrupt activity to Victoria Police, or other external parties as required
 - Prosecute parties found to be involved in fraudulent or corrupt behaviour
 - Pursue recovery of any financial loss due to fraudulent or corrupt behaviour through civil proceedings.

In addition to this Council will:

- Implement internal controls that ensure fraudulent or corrupt activity is prevented, conflicts of interest are avoided, and work closely with the internal auditors and Audit and Risk Advisory Committee to ensure those controls are tested.

¹ Standards Australia, AS8001-2008 Fraud and Corruption Control, page 17

² Standards Australia, AS8001-2008 Fraud and Corruption Control, page 17

- Ensure all suspected incidents of fraudulent or corrupt activity are recorded and investigated, and appropriate action taken.
- Ensure members of the organisation have the qualifications they assert to have.
- Handle matters relating to fraud and corruption with the strictest confidence.

4. Confidentiality and Procedural Fairness

Cases of suspected fraud and any investigation resulting from them will be treated with seriousness and the highest degree of confidentiality at all times. Confidentiality of those who report fraud is guaranteed, and the reputation of those accused will be subject to the highest level of protection until a definite decision is reached.

There are significant penalties under the Public Interest Disclosure Act 2012 for breach of confidentiality to protect those who report fraudulent activity.

Members of the organisation who make complaints will not be victimised or disadvantaged. The member against whom the complaint is made will be treated with procedural fairness.

In order to avoid damaging the reputations of innocent persons initially suspected of wrongful conduct, and to protect Council from potential civil liability, the results of the audits or investigations undertaken in relation to a report of fraud or corruption will be disclosed and discussed only with those persons who require knowledge of each such investigation in the proper performance of their office or function.

A member of the organisation who feels that their confidentiality has been breached may initiate grievance action under Council's dispute resolution and grievance processes. Any person who feels they have been victimised as part of this process has recourse to Council's dispute resolution processes, and to the Public Interest Disclosure Procedure.

5. Mandatory Reporting by Principal Officer

5.1. Background

The Chief Executive Officer is nominated as relevant principal officer in the Independent Broad-based Anti-corruption Commission Act 2011.

From 1 December 2016 the relevant principal officer must notify Independent Broad-based Anti-Corruption Commission (IBAC) of any matter they suspect on reasonable grounds to involve corrupt conduct occurring or having occurred.

The obligation to report suspected corrupt conduct rests with the relevant principal officer. This obligation cannot be delegated. Where another person is acting as the relevant principal officer, the obligation applies to that person and vicariously the organisation. The relevant principal officer must notify IBAC of all instances of suspected corrupt conduct occurring in their own organisation, and suspected corrupt

conduct occurring in other organisations where it is connected with the relevant principal officer's duties, functions and exercise of powers. There is no legislative obligation for relevant principal officers to search out corrupt conduct, only to report it when suspected.

5.2. Policy

The Chief Executive Officer will use IBAC's Directions for making mandatory notifications of suspected corruption to assess whether there is a requirement to report. If so, IBAC's Mandatory Notification Form for Relevant Principal Officers will be completed by the Chief Executive Officer and submitted to IBAC.³

As per Section 4 of this policy, confidentiality and procedural fairness will receive the highest priority.

6. Requirements of Funding Organisations

6.1. Background

Some funding agencies, as a requirement of funding provided to organisations, require notification to the relevant Government department of any notification of suspected fraud or corruption within or concerning Council.

6.2. Policy

Any knowledge of a suspected fraud or corruption related to funding will be notified as a priority to the relevant funding department.

As per Section 4 of this policy, confidentiality and procedural fairness will receive the highest priority.

7. Definitions of Terms and Abbreviations Used

Term	Definition
Fraud	<p>As per the Australian Standard on Fraud and Corruption control (AS8001):</p> <ul style="list-style-type: none">• 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

³ <https://www.ibac.vic.gov.au/reporting-corruption/notifications>

Term	Definition
	<p>for use for a normal business purpose or the improper use of information or position for personal financial benefit.</p> <p>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.</p>
Examples of fraud	<p>Examples of fraud which occur in Australian business and therefore fall within the intended scope of the Standard are:</p> <ul style="list-style-type: none"> • Theft of plant and equipment by employees. • Theft of inventory by employees. • False invoicing (involving a staff member of the entity or a person external to the entity creating a fictitious invoice claiming payment for goods or services not delivered or exaggerating the value of goods delivered or services provided). • Theft of funds other than by way of false invoicing. • Theft of cash usually involving some form of concealment. • Accounts receivable fraud (misappropriation or misdirection of remittances received by an entity from a debtor). • Credit card fraud involving unauthorised use of a credit card or credit card number issued to another person or the use of stolen or fraudulently generated credit card numbers by merchants. • Theft of intellectual property or other confidential information. • Financial reporting fraud (falsification of the entity's financial statements with a view to obtaining some form of improper financial benefit). • Release or use of misleading or inaccurate information for the purposes of deceiving, misleading, or to hide wrongdoing. • Misuse of position by senior executives or Councillor in order to gain some form of financial advantage.
Corruption	<p>As per the Australian Standard on Fraud and Corruption control (AS8001):</p> <ul style="list-style-type: none"> • Dishonest activity in which a Councillor, 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 either directly or indirectly.
Examples of corruption	<p>Examples of corruption to which Australian entities are subject and which are therefore within the intended scope of a corruption control program contemplated by this Standard include:</p> <ul style="list-style-type: none"> • Payment or receipt of secret commissions (bribes), which may be paid in money or in some other form of value to the receiver

Term	Definition
	<p>and may relate to a specific decision or action by the receiver generally.</p> <ul style="list-style-type: none"> • Release of confidential information for other than a proper business purpose in exchange for some form of non-financial benefit or advantage accruing to the employee releasing the information. • Collusive tendering (the act of multiple tenderers for a particular contact colluding in preparation of their bids). • Payment or solicitation of donations for an improper political purpose. • Serious conflict of interest involving a Councillor or senior executive of an entity or other entity acting in his or her own self-interest rather than the interests of the entity to which he or she has been appointed (failing to declare to a Board an interest in a transaction the entity is about to enter into or excessive payment of remuneration to Councillors and senior executives). • Serious nepotism (favouritism towards relatives) or cronyism (favouritism towards friends or colleagues) where the appointee is inadequately qualified to perform the role to which he or she has been appointed. • Manipulation of the procurement process by favouring one tenderer over others or selectively providing information to some tenders. This frequently involves allowing tenders to resubmit a 'non-complying' tender after being provided with the details of other bids. • Gifts or entertainment intended to achieve a specific or general commercial outcome in the short or long-term – an essential element rendering conduct of this type corrupt would be that it is in breach of the entity's values, behavioural code or gifts policy or that was done without the appropriate transparency within one or more of the entities affected. • Bribing officials in order to secure a contract for the supply of goods or services.
Corrupt conduct	<p>For the purposes of the Independent Broad-based Anti-corruption Commission Act 2011 corrupt conduct means conduct—</p> <ol style="list-style-type: none"> (a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or (b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or (c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or

Term	Definition
	<p>(d) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or</p> <p>(da) of a person (the first person) intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and result in the first person or an associate of the first person obtaining—</p> <ul style="list-style-type: none"> (i) a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or (ii) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or (iii) a financial benefit or real or personal property; or (iv) any other direct or indirect monetary or proprietary gain—that they would not have otherwise obtained; or <p>(e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c), (d) or (da)—being conduct that would constitute a relevant offence.</p>
Procedural fairness	<p>Natural justice (procedural fairness) is a legal requirement that applies to administrative decision-making. It imposes a code of procedure to ensure that decision-making is fair and reasonable.</p> <p>Whether a decision complies with natural justice depends not on whether the decision itself was fair and reasonable, but on whether a fair and proper procedure was followed in making the decision.⁴</p>
Suspects on reasonable grounds	<p>Means there is a real possibility of corrupt conduct. ‘Suspicion’ is something less than belief, but requires more than idle speculation. It must be based on facts and circumstances that would be sufficient to make a reasonable person suspect corrupt conduct had occurred or was occurring. However, proof is not necessary, nor is it required that an individual or individuals be identified.</p>
Members of Council	<p>Councillors and employees (including full time, part time, casual employees, agency staff and students), contractors, volunteers, consultants and Community Asset Committees of management of Mount Alexander Shire Council.</p>

⁴ <https://www.ombudsman.vic.gov.au/About/Our-accountability/Code-of-Conduct>, Accessed 01/11/2019

8. Human Rights Statement

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act (2006). Mount Alexander Shire Council is committed to consultation and cooperation between management and employees. Mount Alexander Shire Council will formally involve the Workplace Consultative Committee in any workplace change that may affect employees.