

# **KU-RING-GAI COUNCIL**

## **FRAUD AND CORRUPTION PREVENTION PLAN**

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1.

# INTRODUCTION

## Introduction

The Audit Office of New South Wales has defined fraud as:

A deliberate and premeditated turn of events which involves the use of deception to gain advantage from a position of trust and authority. The type of events which include: acts of omission, theft, the making of false statements, evasion, manipulation of information and various acts of deception.

A concise definition of corruption is even more difficult. In general terms corruption involves:

improper acts or omissions; improper use of influence or position; and/or improper use of information.

Council's objectives to fraud and corruption prevention are embodied in its Fraud and Corruption Prevention Policy. Fraud and Corruption Prevention Policy at Appendix A.

Ku-ring-gai Council is committed to high ethical standards. The Fraud and Corruption Prevention Policy is aimed at helping Ku-ring-gai Council to maintain these high standards.

The Fraud and Corruption Prevention Policy details Ku-ring-gai Council's commitment to fraud and corruption prevention.

The strategy put forward in the policy, draws together all the initiatives designed to deal with the prevention, detection and investigation of any possible fraud or corruption in, and against, Ku-ring-gai Council.

The Fraud and Corruption Prevention Policy provides Ku-ring-gai Council's strategic approach to fraud prevention, detection and investigation.

It will be the responsibility of each Department, Section or Business Unit to provide relevant procedural information and training to their managers and staff in order that the objectives of the Fraud and Corruption Prevention Policy are achieved.

### 1.1 AIM

The aims of the policy are as follows:

- to reduce the likelihood of employees and members of the public acting in a fraudulent or corrupt manner towards Ku-ring-gai Council.
- to reduce opportunities in Ku-ring-gai Council for fraud and corrupt activity.

- to improve the possibility of detecting those employees or members of the public who do act in a fraudulent or corrupt manner.
- to ensure appropriate action is taken with employees or members of the public found to have acted in a fraudulent or corrupt manner.
- to clearly define the responsibility levels of both employees and managers for prevention, detection and investigation of fraud and corruption.
- to ensure employees and managers have the necessary tools and understanding to meet these responsibilities.

## **1.2. FRAUD AND CORRUPTION PREVENTION PLAN**

The plan examines the following areas:

Section 2 explains Ku-ring-gai Council's strategy in controlling fraud and corruption.

Section 3 deals with Organisational Responsibility. It contains the responsibilities for the implementation and co-ordination of all aspects of the Fraud and Corruption Prevention Plan across all aspects of Ku-ring-gai Council's operations.

Section 4 contains details of the procedures and systems implemented for the internal reporting and recording of suspected fraud and corruption situations, management of investigation information and distribution of information.

Section 5 deals with the mechanisms and policies designed to protect complainants from being disadvantaged as a result of reporting fraudulent or corrupt activities.

Section 6 deals with the standards of expected behavior established by Ku-ring-gai Council and the policy and procedures relating to discipline of staff found to be fraudulent or corrupt.

Section 7 deals with Investigation Standards and outlines the mechanisms and documentation Ku-ring-gai Council has in place to ensure efficient and effective handling of suspected fraud and corruption situations.

Section 8 deals with Employee Awareness and outlines the plan of action to raise awareness and modify attitudes across Ku-ring-gai Council concerning fraud and corruption.

Section 9 deals with Fraud Risk Assessment and contains the program designed to identify specific areas of fraud and corruption risk and the development of countermeasures and action plans to reduce unacceptable risks.

Section 10 contains the guidelines for reporting suspected fraud and corruption

to external authorities, especially the Independent Commission Against Corruption and NSW Police.

Section 11 deals with Customer and Community Awareness. This section will outline actions taken by Ku-ring-gai Council to raise the level of customer and community awareness of Ku-ring-gai Council's ongoing efforts regarding fraud and corruption prevention.

### **1.3 AUDIT OFFICE OF NSW**

The Fraud and Corruption Prevention Plan is in line with the Fraud Control Guidelines developed by the Audit Office of NSW.

### **1.4 DISTRIBUTION**

The Fraud and Corruption Prevention Plan is to be provided to the management of each Department, Section or Business Unit and an executive summary will be provided to all team leaders and employees. Updates of the Fraud and Corruption Prevention Plan will be provided by the Internal Ombudsman.

**2.**

**FORMAL, INTEGRATED  
AND COMPREHENSIVE  
FRAUD AND  
CORRUPTION  
PREVENTION  
STRATEGY**

## **2.1 FRAUD AND CORRUPTION PREVENTION STRATEGY**

The Fraud and Corruption Prevention Strategy brings together all the initiatives Ku-ring-gai Council has put in place to prevent and investigate alleged fraud and corrupt conduct.

### **THE PROGRAM**

Standards of acceptable behavior have been established and will be reviewed periodically. The standards have been stated in the Ku-ring-gai Council Code of Conduct and related policies and guidelines.

These include:

- \* Internal Reporting Policy – Public Interest Disclosures;
- \* Employee induction documentation;
- \* Conflicts of Interest Policy;
- \* Internal Audit Charter and Audit Committee Charter,
- \* Internal Ombudsman Guidelines ;
- \* Gifts and Benefits Policy;
- \* Statement of Business Ethics,

The Code of Conduct has been distributed to all employees. Employee's understanding and ownership of the Code will be attained through training and awareness sessions.

The training and awareness sessions will help ensure that employees understand the issues involved and Ku-ring-gai Council's position on those issues.

The Code of Conduct and relevant policies have been integrated into appropriate training activities to ensure that the training and awareness sessions are not a one-off process. The training is updated regularly to ensure employees are trained on changes to legislation and Council Policy and that the issues remain fresh in the minds of the employees.

The training given to employees will explore the meaning of fraud and corruption so that they are better able to avoid such behavior.

Other education and awareness initiatives will also be undertaken to reinforce Ku-ring-gai Council's position. It is proposed to give training in managing fraud and corruption prevention controls to managers in order to make them more

aware of their responsibilities, and to enable them to more easily meet those responsibilities.

The Internal Reporting Policy – Public Interest Disclosures states Ku-ring-gai Council's position on fraud or corrupt conduct and related issues (attached at Appendix B).

It states that Ku-ring-gai Council will not tolerate corrupt conduct, maladministration or serious and substantial waste of public money. Managers need to ensure that their areas of operation have adequate systems of internal control to prevent and detect possible fraud and corruption. It is a management responsibility which cannot be delegated.

Employees have a responsibility to report all possible fraud or corrupt conduct. This covers suspected fraud or corrupt conduct by Ku-ring-gai Council employees or by clients or customers.

People who report possible fraud or corruption are not to be, and will not be disadvantaged because of their reporting. Ku-ring-gai Council will take steps to protect from intimidation, persons who report suspected fraud or corruption.

The identity of people reporting fraud or corruption is to be kept confidential, insofar as possible.

The General Manager has the responsibility of ensuring all reports of suspected fraud or corruption are investigated.

The investigation procedures will be in accordance with Ku-ring-gai Council's Code of Conduct, Internal Ombudsman Guidelines and the Complaint Management Policy. Investigation reports will be written on all investigations into allegations of fraud or corrupt conduct.

The investigation report will not make any recommendations on what action, if any, should be taken with the employee. The report will merely indicate if there is any evidence to support or refute the allegations.

Disciplinary action will be taken against those employees found to have behaved in a fraudulent or corrupt manner. The disciplinary action will be in terms of the procedures outlined in Ku-ring-gai Council's Code of Conduct.

Reports will be made to the Independent Commission Against Corruption in accordance with their requirements of Sections 11 and 53 of the Independent Commission Against Corruption Act.

Where appropriate, the involvement of other external bodies will be sought. These bodies include the NSW Police and the NSW Ombudsman. The organisational responsibility for actions related to controlling fraud or corruption have been defined and are explained under Section 3 *Organisational Responsibility Structure for Fraud and Corruption Prevention*.

The Internal Audit function examines risk areas on a periodic basis within Ku-ring-gai Council.

The conduct of periodic Fraud Risk Assessment Reviews will be incorporated into the work performed by the functions of the Office of the Internal Ombudsman and the Co-ordinator Risk Management. The reviews will be undertaken primarily when changes to systems occur, but also periodically as part of the standard internal audit work.

Ku-ring-gai Council will use the annual report, posters and news articles to inform their customers and the community on their commitment to reduce instances of fraud and corruption. Ku-ring-gai Council's Providing a Service to Customers Policy, will be amended to contain a statement outlining its commitment to eliminating fraud and corruption.

The components of the Fraud and Corruption Prevention Plan will operate in a comprehensive manner to ensure that the maximum benefit is obtained. For instance if an investigation report reveals an opportunity for fraud or corruption, the internal audit work and risk assessments will take cognisance of this, and the training and awareness emphasis might be altered accordingly. The continuing analysis and review of all elements of the Fraud and Corruption Prevention Plan will ensure the strategy remains cost effective and contemporary.

The Fraud and Corruption Prevention Plan and its components will be examined periodically to ensure that they are operating in an effective manner. A Fraud and Corruption Prevention Plan implementation and review timetable will be developed and monitored through the Audit Committee. The determination of the time frames and priorities is the responsibility of the Audit Committee.

It will be the responsibility of the Office of the Internal Ombudsman to keep the Fraud and Corruption Prevention Plan up to date and issue updates to managers and to all employees through training.

**3.**

**ORGANISATIONAL  
RESPONSIBILITY  
STRUCTURE FOR  
FRAUD AND  
CORRUPTION  
PREVENTION**

### **3. ORGANISATIONAL RESPONSIBILITY - LINES OF AUTHORITY**

#### **3.1 EMPLOYEES**

All employees have a responsibility to report all instances of fraud or corrupt conduct.

Where employees suspect fraud or corrupt conduct by Ku-ring-gai Council employees they should report to one of the following:-

General Manager; or  
Directors and Managers; or  
The Office of the Internal Ombudsman  
I.C.A.C.  
A Nominated Disclosure Officer (as defined in the Protected  
Interest Disclosures Act 1994

Employees should also report fraud or corrupt conduct involving members of the public (external fraud), and affecting Ku-ring-gai Council.

#### **3.2. MANAGERS/TEAM LEADERS**

Managers/Team Leaders are to ensure that their staff understand the standards of expected behavior as outlined in the Code of Conduct and relevant policies and procedures.

They are to ensure that reports received in respect to suspected fraud or corruption, maladministration and serious and substantial waste are referred to the General Manager or the Internal Ombudsman without delay.

Where evidence indicates that employees have been involved in fraud or corrupt conduct the General Manager will undertake disciplinary action. This action is to be taken in accordance with Ku-ring-gai Council's Code of Conduct.

Disciplinary action, if considered necessary, is to be taken promptly following completion of the investigation report.

The person who conducted the investigation is not to be involved in the disciplinary action.

Managers/Team Leaders have a duty to maintain the confidentiality of people making reports and the subject matter of reports.

Managers/Team Leaders must take all reasonable steps to ensure that employees who have reported in accordance with the reporting procedure are not disadvantaged or suffer detrimental action.

Managers are responsible for identifying high fraud risk areas and specific

sources of fraud risk. They must also monitor the continued operation of controls to prevent fraud in their area.

### **3.3 INTERNAL OMBUDSMAN**

The Ku-ring-gai Council Internal Ombudsman will carry out the function of Fraud and Corruption Prevention Coordinator. He or she will provide an alternative internal reporting channel and shall clearly document all reports made. The coordinator shall report all such matters to the General Manager, or in the case of a report about the conduct of the General Manager, to the Mayor.

The Coordinator shall, as and when directed by the General Manager:-

- (1) Prepare follow-up action on reports including the recommended investigation approach and the details required by external agencies.
- (2) Draft letters of referral to external agencies.
- (3) When referred to him/her by the General Manager, co-ordinate or undertake internal investigations; report investigation findings and recommend remedial or disciplinary action.
- (4) Provide feedback to the person making the initial report.

### **3.4. GENERAL MANAGER**

The General Manager shall be the principal internal reporting channel and has the role and direct responsibility for authorising investigations and any disciplinary or corrective action required. The General Manager has an obligation to report criminal offences to the Police as well as actual or suspected corruption to the Independent Commission Against Corruption.

In particular, the General Manager will ensure that the following procedures are followed:-

- prepare an initial assessment of each report, and take appropriate follow up action.
- determine who is going to conduct investigation into any allegation received.
- provide feedback to the person who made the initial report.
- advise the person against whom the complaint is made at the completion of the investigation of the outcome of any investigation, irrespective of the findings.
- record all allegations on the Ku-ring-gai Council fraud database/register.
- monitor all investigations for timeliness and quality.
- notify all instances of fraud or corruption involving Ku-ring-gai Council to the Independent Commission Against Corruption in accordance with Section 11 of the I.C.A.C. Act.

- co-ordinate the conduct and evaluation of risk assessments and ensure that identified risks are promptly addressed.
- keep the Ku-ring-gai Council's Fraud and Corruption Prevention Plan up to date and reflecting the current corporate position on fraud and corruption prevention.
- issue up-dates of the Fraud and Corruption Prevention Plan.

### **3.5 KU-RING-GAI COUNCIL AUDIT COMMITTEE**

#### **COMPOSITION**

The Audit Committee which comprises the following membership shall act in an oversight role in the planning and monitoring of fraud and corruption prevention activity:

Members	Two independent external community members
	Two Ku-ring-gai Councillors
Invitees	General Manager
	Internal Ombudsman
	Internal Auditor
	Manager Finance
	External Auditor

#### **ROLE**

The Audit Committee is to provide an oversight role. This role is designed to ensure that Ku-ring-gai Council has an effective Fraud and Corruption Prevention Plan which effectively deals with the prevention, detection and investigation of fraud and corruption issues and meets the expectations of relevant outside bodies.

It is the objective of this committee:

- to co-ordinate the elements which form Ku-ring-gai Council's Fraud and Corruption Prevention Plan
- to set priorities for the development and implementation of corporate wide fraud and corruption prevention initiatives.
- to provide an on-going review and promotion of Ku-ring-gai Council's overall Fraud and Corruption Prevention Plan.
- to ensure that Ku-ring-gai Council's Fraud and Corruption Prevention Plan is meeting the expectations of outside bodies.

The Audit Committee will meet at least quarterly. Fraud and Corruption Prevention shall be a standing agenda item reported via the Internal Ombudsman. An action list of initiatives agreed to in the Fraud and Corruption

Prevention Plan will be monitored and updated via the Audit Committee.

4.

**INTERNAL REPORTING  
STRUCTURE FOR  
FRAUD AND  
CORRUPTION  
INVESTIGATION**

## **4.1 INTERNAL FRAUD AND CORRUPTION REPORTING SYSTEM**

Details of Ku-ring-gai Council's Internal Fraud Reporting System are outlined in the Code of Conduct and the Internal Reporting Policy – Public Interest Disclosures.

### **4.1.1 CODE OF CONDUCT**

The Code of Conduct states:

- 11.6 You should report suspected breaches of the code of conduct by Councillors, members of staff of Council (excluding the general manager) or delegates to the general manager in writing.
- 11.7 Where you believe that the general manager has breached the code of conduct, you should report the matter to the Mayor in writing.
- 11.8 Where you believe that an administrator has breached the code of conduct, you should report the matter to the Minister for Local Government in writing.

Officials therefore have a duty to report any corrupt conduct, involving or affecting Ku-ring-gai Council, of which they are aware, or which they suspect.

Persons making such reports will be protected against reprisals for doing so. It is an offence against the *Public Interest Disclosures Act 1994* to take detrimental action against people who make such reports. The matter reported will be handled in a confidential manner and they will be informed of the result of any investigation undertaken.

### **4.1.2 REPORTING FRAUD AND CORRUPTION**

The Internal Reporting Policy - Public Interest Disclosures (7.1) states that staff are encouraged to report known or suspected incidences of corrupt conduct, maladministration or serious and substantial waste in accordance with the policy.

The policy provides for reports to be made to:-

- the Mayor;
- the General Manager,
- any Director,
- the Public Interest Disclosures Coordinator,

- any Nominated Disclosure Officer,
- the Independent Commission Against Corruption for reports of corrupt conduct; or
- the NSW Ombudsman for reports of maladministration.

The following information should be noted.

"It is preferable that reports are not made anonymously so that:

- you can be contacted if further information is required or clarification is needed; and
- it will be easier for you to claim the protection of the Public Interest Disclosures Act 1994.

However anonymous reports will be accepted."

"All reports will be investigated and the person making the report will be informed of the results of the investigation.

Ku-ring-gai Council or the investigating authority to whom the report is made, must notify within six months the employee who made the disclosure of the action taken or proposed in respect of the disclosure."

#### **4.1.3 EXPLANATIONS AND DETAILS**

Employees have the option of reporting suspected corruption, maladministration and serious and substantial waste through a number of alternative reporting channels. This is in accordance with the recommendation made in the guidelines issued jointly by ICAC, the Audit Office of NSW and the NSW Ombudsman. Persons wishing to make a disclosure have the option of reporting to the officer and external agencies listed above at 4.1.2. The availability of a number of persons in that regard will ensure that there is always somebody available to whom reports can be made. A list of Nominated Disclosure Officers is published on the Council's intranet. All staff are advised of the Nominated Disclosure Officer network during Code of Conduct training as part of compulsory induction training.

In addition to reporting to individuals in Ku-ring-gai Council, employees have the option of reporting directly to the relevant outside bodies. If employees therefore feel there is nobody in Ku-ring-gai Council that they can report to, there is still another option which will ensure that they do report.

Reports may be made directly to the General Manager. This clearly demonstrates the seriousness with which the issue is regarded by the General Manager, in that he is prepared to spend time receiving reports from anybody in the organisation.

It is clearly stated that anonymous reports will be accepted. This will help ensure that if employees fear discrimination, they will still report.

It is clearly stated that people who report are not to be disadvantaged because of their reporting. Breaching this provision would be a disciplinary offence as well as a breach of the *Public Interest Disclosures Act 1994*.

If anybody believes that they are being disadvantaged they may report this to the General Manager or the Internal Ombudsman (Public Interest Disclosure Coordinator). The option is again given to employees to take the matter outside of Ku-ring-gai Council to help ensure that action is taken if they feel that they are being disadvantaged.

#### **4.1.4 FALSE AND MISCHIEVOUS REPORTING**

It is not considered appropriate to have any specific provisions threatening action against employees who make false and mischievous reports. To have such provisions would serve to discourage employees from reporting even where they have genuine suspicions.

It is considered that there is a small risk of employees making false or mischievous reports compared to the greater risk of scaring off employees who have genuine suspicions.

It is also considered that having provisions against false or mischievous reporting could encourage employees to do their own "mini-investigations" to gather evidence to verify their claims out of fear that otherwise they could be subject to the provisions. This would provide problems when undertaking thorough investigations.

It is believed that the damage that false or mischievous reporting can do is minimal as all reports are investigated and false reports will be shown to be false.

The position will be reviewed periodically to assess whether changes to this approach are advisable.

#### **4.1.5 DISTRIBUTION**

All employees are given a copy of the Code of Conduct and are required to sign that they have read and agree to abide by the Code of Conduct.

Additionally, employees are given instruction during Code of Conduct training in how to report fraud, corruption, maladministration, serious and substantial waste and breaches of the Code of Conduct.

## **4.2 PROCEDURES FOR RECEIVING REPORTS OF SUSPECTED CORRUPTION, MALADMINISTRATION AND SERIOUS AND SUBSTANTIAL WASTE**

It is the responsibility of all Ku-ring-gai Council employees to report suspected corruption, maladministration and serious and substantial wastage.

This can include corruption, maladministration and serious and substantial wastage by Ku-ring-gai Council employees (internal) or by customers, contractors or suppliers to Ku-ring-gai Council (external).

If the employee witnesses, or becomes aware of such activity they can report the matter directly to officers listed at 4.1.2.

A manager receiving enquiries about reporting such situations must either receive a report or refer the enquirer, without delay, to either the General Manager or the Internal Ombudsman.

All reports will be referred to the General Manager for assessment and/or investigation.

All allegations of suspected corruption, maladministration and serious and substantial wastage will be recorded on the Investigation Database. If it is considered that the matter does not warrant investigation, the reason will be recorded on the Database and the informant advised.

## **4.3 RECORD KEEPING AND INFORMATION PROTECTION**

It is essential that information provided by employees and members of the public is - kept, as far as possible, confidential. It is also necessary to provide adequate security over information gathered during an investigation. This process will be managed via secure containers on Council's TRIM system.

### **4.3.1 INTERNAL REPORTING POLICY – PUBLIC INTEREST DISCLOSURES**

The policy states under confidentiality:

"The identity of people reporting in accordance with this reporting policy is to be kept confidential, insofar as possible.

The subject matter of the report is to be treated as confidential. Information which could identify, or tend to identify, the person making a disclosure must not be disclosed except as specifically provided in Section 22 of the Public Interest Disclosures Act.

### **4.3.2 EXPLANATION AND DETAILS**

The identity of the employee reporting will be kept confidential insofar as possible. It is not possible to give an absolute guarantee of confidentiality as the identity of employees reporting could become known in litigation, in an appeal situation or under the Government Information (Public Access) Act.

The identity of any people suspected of fraud or corrupt conduct will be kept confidential, insofar as possible. The identity may need to be revealed in the course of the investigation or in order to protect the assets or resources of Kuring-gai Council.

Informing the person who made the report, the results of the investigation will show them that action has been taken and will encourage them and others to report any other instances.

The Internal Ombudsman (Protected Disclosures Coordinator) will maintain a database to ensure that all items reported are followed up and reports made to the necessary authorities.

Only the Internal Ombudsman will have access to this database.

### **4.3.3 INFORMANT PROTECTION**

The provisions and explanations noted above will help ensure that the requirements are met for protecting people who report.

It is the intention of Ku-ring-gai Council that employees will feel comfortable and secure in reporting and will in fact report such conduct. The measures in place, including the Internal Reporting Policy – Public Interest Disclosures will be reviewed periodically to ensure that this is happening, insofar as possible.

The responsibility for this review is that of the Internal Ombudsman.

### **4.3.4 DISTRIBUTION**

All employees will be given instruction on the whereabouts and content and use of the Internal Reporting Policy – Public Interest Disclosures. This will be provided through Code of Conduct training periodically and always on new employee induction.

#### **4.4 PROCEDURES FOR RECORD. KEEPING AND INFORMATION**

It is essential that allegations of corrupt conduct maladministration and serious and substantial waste, evidence collected during investigations and the results of investigations are properly:

- collected;
- recorded;
- stored; and
- secured.

The following measures should be adhered to:-

1. Investigation files and reports should be kept securely locked when not in use. They should not be left unattended on desks even for short periods.
2. Access to files and reports should only be given to people for official purposes and on a needs basis.
3. People to whom access is given must observe the same security procedures. This should be explained to them.
4. The name of the person suspected of the conduct should not be mentioned on the cover of any files.
5. The name of the person who reported the suspected conduct should not be mentioned on the cover of any file.
6. No information from the investigation report is to be attached to any employee's personnel file.
7. Retention and destruction of investigation records will be in accordance with "Procedures for Retention and Destruction of Investigation Records" (to be developed).

## **4.5 MANAGEMENT CONTROL STRUCTURES – MONITOR INVESTIGATIONS**

It is essential that all allegations are received and indexed onto the Investigation Database, maintained by the Internal Ombudsman.

A schedule will be provided to the Ku-ring-gai Council Audit Committee on a quarterly basis and will include the following information.

- number of investigations brought forward from previous quarter,
- number of allegations reviewed in the period,
- allegations identified by type
- allegations by directorate
- allegations referred
- number of matters to carry forward

All investigation action, including any managerial disciplinary action, if applicable, is expected to be completed in a timely manner dependent on the complexity of the issues being investigated.

All preventative action, if any, required by management as recommended and agreed with the investigator is to be implemented within agreed timeframes.

The Internal Ombudsman is responsible for analysing and undertaking trend analysis of information contained on the database.

## **4.6 INVESTIGATION DATABASE**

The investigation database is designed to:

- \* Ensure that all allegations of fraud and corruption are investigated; and
- \* Provide strategic information which will allow analysis of system weaknesses and location/organisational trends.

### **4.6.1 SECURITY**

The database will be contained in a secure container on Council's TRIM system with only the Internal Ombudsman having access.

### **4.6.2 CONTENT**

The fraud database will:

- (i) Capture all allegations.  
This will ensure all allegations are assessed and investigated where it is considered appropriate.
- (ii) Record progress of investigations. This will enable monitoring to ensure all investigations are completed in a timely manner.
- (iii) Record results of investigations  
This will enable:
  - \* assessment of the level of fraud risk being faced by Ku-ring-gai Council;
  - \* assessment of the adequacy of resources applied to addressing the problem of fraud and corruption; and
  - \* corruption prevention projects to be undertaken.

**5.**

**PUBLIC INTEREST  
DISCLOSURES**

## **5.1 Strategy for Protecting Employees and Members of the Public Who Report**

The Code of Conduct and the Internal Reporting Policy – Public Interest Disclosures have been designed to encourage employees to report suspected corruption, maladministration and serious and substantial waste. Making reporting a requirement of every employee enables them to more easily justify reporting than if it was a voluntary option.

The commitment by Ku-ring-gai Council to the above policies is in the spirit of the Public Interest Disclosures Act 1994.

### **5.1.1 DISTRIBUTION OF CODE OF CONDUCT AND INTERNAL REPORTING POLICY – PUBLIC INTEREST DISCLOSURES.**

A copy of the Code is distributed to every employee.

All new employees are given training in the Code of Conduct. The training includes instruction on the Internal Report Policy – Public Interest Disclosures.

### **5.1.2 TRAINING**

Encouraging employees to report instances of suspected fraud and corruption is included in training courses for employees.

All managers are to attend a training course in which they discuss issues relating to ethics, the Code of Conduct and learn about the meaning of fraud and corruption, why reporting is important and how to report.

All new employees joining Ku-ring-gai Council are instructed in the Code of Conduct. Refresher training is provided to all employees periodically (approximately three years).

It is anticipated that employees will be reminded through training activities of the need to report and the method for doing so.

The Internal Ombudsman will ensure that the training program undertaken by Ku-ring-gai Council adequately addresses the reporting issues.

### **5.1.3 KU-RING-GAI COUNCIL EMPLOYEE AWARENESS**

Information on how to report and to whom will be published in relevant internal communications periodically.

A poster encouraging employees to report corruption, maladministration and serious and substantial waste will be distributed to all Ku-ring-gai Council locations.

It will be the responsibility of all managers to ensure that it is displayed.

## **5.2**

# **INTERNAL REPORTING POLICY – PUBLIC INTEREST DISCLOSURES**

## **5.2 Internal Reporting Policy – Public Interest Disclosures**

### **Objectives**

To ensure that Ku-ring-gai Council is committed to an ethical workplace free of corruption, maladministration and wastage in order to achieve the following outcomes:-

- \* staff reporting any suspected corruption, maladministration and serious and substantial wastage; and
- \* staff not being disadvantaged or suffering detrimental action because of their reporting.

### **Definitions**

'Corruption' occurs when:

- \* a public official carries out public duties dishonestly or unfairly;
- \* anyone (including a public official) does something that could result in a public official carrying out public duties dishonestly or unfairly;
- \* anyone (including a public official) does something that has a detrimental effect on official functions, and which involves any of a wide range of matters, including (for example) fraud, official misconduct, violence;
- \* a public official (or former public official) breaches public trust; or
- \* a public official (or former public official) misuses information or material obtained in the course of duty.

'Maladministration' is conduct that involves action or inaction of a serious nature that is:

- \* contrary to law;
- \* unreasonable, unjust, oppressive or improperly discriminatory; or
- \* based wholly or partly on improper motives.

'Serious and substantial waste' refers to any uneconomic, inefficient or ineffective use of resources, authorised or unauthorised, which results in significant loss/wastage of public funds/resources.

### **Our Commitment**

Ku-ring-gai Council is committed to an ethical workplace, free of corruption, maladministration and wastage.

It is the responsibility of all staff to prevent corruption, maladministration and wastage. Managers have a responsibility to establish systems of control to minimise corruption, maladministration and wastage.

### **Responsibility to Report**

Every person has a responsibility to report:

- \* corrupt conduct;

- \* maladministration; or
- \* serious and substantial waste, or
- \* Government information contravention.

### **Who to Report to**

If a person wishes to have the protection afforded under the Public Interest Disclosures Act, 1994 they must report to one of the following:-

- \* the General Manager; or
- \* the Internal Ombudsman; or
- \* any nominated disclosure officer; or
- \* the Independent Commission Against Corruption (tel: 02 8281 5999) for reports of corrupt conduct and for reports of serious and substantial waste which involve corruption; or
- \* the NSW Ombudsman (tel: 02 9286 1000 or 1800 451 524 outside Sydney Metropolitan) for reports of serious and substantial waste which involve maladministration.
- \* the Division of Local Government in the Department of Premier and Cabinet.

### **About Reports**

You do not need to have proof that corrupt conduct, maladministration or serious and substantial wastage is occurring; you merely need to suspect on reasonable grounds that the information tends to show one of the above type of behaviour.

Anonymous reports will be accepted. However it is preferable that reports are not made anonymous so that:

- \* you can be contacted if further information is required or clarification is needed; and
- \* it will be easier for you to claim the protection of the Public Interest Disclosures Act 1994.

### **Protected Reports**

People who report corrupt conduct, maladministration or serious and substantial wastage are not to be, and will not be disadvantaged because of their reporting.

All reports of corrupt conduct, maladministration or serious and substantial waste made in accordance with this policy will be afforded the protection of the Public Interest Disclosures Act 1994; other than reports that:

- \* primarily question the merits of government policy; or
- \* are made solely or substantially with the motive of avoiding dismissal or disciplinary action.

### **Detrimental Action**

It is unacceptable for anybody to take detrimental action against a person for making a report in accordance with this policy, other than official disciplinary procedures for vexatious reports.

It is an offence under the Public Interest Disclosures Act 1994 to take detrimental action against another person that is substantially in reprisal for the other person making a protected disclosure.

Detrimental action means any action causing, compromising or involving any of the following:

- \* injury, damage or loss;
- \* intimidation or harassment;
- \* discrimination, disadvantage or adverse treatment in relation to employment;
- \* dismissal from, or prejudice in, employment;
- \* disciplinary proceedings.

If you believe that you are being disadvantaged or that detrimental action has been taken against you for reporting in accordance with this policy, you can report this to any of the people to whom reports of corrupt conduct, maladministration or serious and substantial waste can be made.

If necessary, Ku-ring-gai Council will take steps to protect from intimidation people who report in accordance with this policy.

### **Reports to be Investigated**

All reports of corrupt conduct, maladministration or serious and substantial waste will be investigated. The person making the report will be informed of the results of the investigation.

### **Confidentiality**

The identity of people reporting in accordance with this policy must be kept confidential, insofar as possible. Information which could identify or tend to identify the person who has made a protected disclosure must not be disclosed unless:-

1. the person consents in writing, or
2. the principles of natural justice apply, or
3. disclosure is in the public interest.

### **Disclosure to a Member of Parliament or a Journalist**

A disclosure to a member of Parliament or a journalist is protected if all of the following apply:

1. the person making the disclosure must already have made substantially the same disclosure in accordance with this policy; and
2. the person making the disclosure must have reasonable grounds for believing that the disclosure is substantially true; and
3. the disclosure must be substantially true; and
4. Ku-ring-gai Council or the investigating authority to whom the report was made or referred;
  - must have decided not to investigate the matter;

- decided to investigate the matter but did not complete the investigation within 6 months of the original disclosure;
- investigated the matter but not recommended the taking of any action or result in respect of the matter; or
- must have failed to notify the person making the disclosure, within 6 months of the disclosure being made, of whether or not the matter is to be investigated.

## **Breach of this Policy**

Breaches of this policy may result in disciplinary action. Infringements of the Public Interest Disclosures Act 1994 may result in criminal action.

## **Accountability**

### Employees

Employees must report suspected corruption, maladministration and serious and substantial waste.

Employees must not disadvantage or engage in detrimental action against people who have reported in accordance with the policy.

### Supervisors/Team Leaders

Supervisors have a responsibility to direct enquirers to this policy and to refer to the General Manager or the Internal Ombudsman/Fraud Prevention Co-ordinator all persons who enquire about making a report.

Supervisors have a duty to maintain the confidentiality of people making reports and the subject matter of reports.

Supervisors must take all reasonable steps to ensure that people who have reported in accordance with the policy are not disadvantaged or suffer detrimental action.

### Managers

Managers will provide an alternative internal reporting channel, document clearly all reports received and refer them to the General Manager.

Otherwise, Managers have the same responsibility as supervisors.

Managers have a responsibility to establish systems of control to minimize corruption, maladministration and wastage.

### Internal Ombudsman (Public Interest Disclosures Coordinator)

The Coordinator will provide an alternative internal reporting channel and shall clearly document all reports made to him/her.

The Coordinator shall, as and when directed by the General Manager:-

1. Prepare follow-up action on reports including the recommended investigation

- approach and the details required by external agencies.
2. Draft letters of referral to external agencies.
  3. When referred to him/her by the General Manager, co-ordinate or undertake internal investigations; report investigation findings and recommend remedial action or disciplinary action.
  4. Provide feedback to the person making the initial report.

### General Manager

The General Manager shall be the principal internal reporting channel and has the sole and direct responsibility for authorising investigations and any disciplinary or corrective action required.

The General Manager has an obligation to report criminal offences to the Police as well as actual or suspected corruption to the Independent Commission Against Corruption.

## **5.3 Procedures for Receiving Reports of Suspected Discrimination**

When a person reports that he or she has been discriminated against because he or she has previously reported suspected corruption, maladministration or serious and substantial waste the following details should be obtained:

### **DETAILS OF PERSON MAKING REPORT**

- \* name of person making report
- \* contact details
- \* department, section or business unit and other relevant details.

### **DETAILS OF ORIGINAL REPORT**

- \* details of original report
- \* who knows that he or she made the original report and how did they find out?

### **DETAILS OF PERSON/S DISCRIMINATING**

- \* name of the person/s discriminating
- \* location, etc. of the person/s discriminating
- \* how did the person find out about the report
- \* a description of what form the discrimination has taken
- \* how often the discrimination has occurred

### **DETAILS OF PEOPLE WHO CAN HELP IN THE INVESTIGATION**

- \* names and details of anybody who witnessed the discrimination
- \* names and details of anybody who has knowledge of the discrimination

### **DETAILS OF POSSIBLE EVIDENCE**

- \* any evidence the person has to support the allegation of discrimination
- \* any evidence that exists to support the allegation

## **OTHER RELEVANT INFORMATION**

- \* any other information that might assist with the investigation

## **MANAGER'S/TEAM LEADER'S RESPONSIBILITY**

Managers/Team Leaders are to refer all allegations of suspected discrimination to the Internal Ombudsman.

**6.**

**CONDUCT AND  
DISCIPLINARY  
STANDARDS**

## **6.1 KU-RING-GAI COUNCIL CODE OF CONDUCT**

The Ku-ring-gai Council Code of Conduct is a formal and current document. It was adopted by Council in February 2009. The document was last reviewed prior to it being adopted by Council, after some changes were made to the model Code of Conduct by the NSW Department of Local Government. The Ku-ring-gai Code of Conduct is the same as the model Code of Conduct. A copy of the Ku-ring-gai Code of Conduct is attached at Appendix C.

### **6.1.1 Content**

The Ku-ring-gai Code of Conduct is divided into three parts, being:

Part 1 Context – establishes the purposes and principles that are used to interpret the standards in the Code.

Part 2 Standards of Conduct – set out the conduct obligations required of Council officials. The Code lists a number of acts that may breach the Code of Conduct, including general conduct which may bring Council into disrepute and specific acts such as harassment and discrimination, conflict of interests, political donations, secondary employment, gifts and benefits, improper use of influence, private and confidential information, use of Council resources and reporting of breaches of the code.

Part 3 Procedures – contains the complaint handling procedures, complaint assessment criteria and the operating guidelines for the conduct review committee/reviewer. This part should be used to guide the management of complaints about breaches of the Code.

### **6.1.2 Distribution**

A hard copy of the Code of Conduct is provided to all new employees at their entry on duty interview. It is a requirement under the Code of Conduct that all persons affected by the Code sign an agreement acknowledging that they have read and agree to abide by same.

Affected persons of the Code include council officials. Council officials are all full, part-time and casual employees, delegates of council and volunteers.

### **6.1.3 Training**

As part of the normal induction process for all persons affected by the Code, training is provided. The training consists of a three and a half hour training session based on training package guidelines published by the Division of Local Government. The course includes a number of group activities to assist participants in their understanding of the key principles of the Code.

Training is also provided on an ad hoc basis to new delegates to Council. In general this refers to members of Council's various reference committees. From time to time ad hoc training may be provided in response to a disciplinary process, eg – a recommendation from the General Manager requiring a staff member to undergo

further training as a consequence of a substantiated breach of the Code of Conduct.

#### **6.1.4 Disciplinary standards**

Council does not have a separate policy or procedure outlining disciplinary standards. Council relies on the disciplinary standards as set out in part three of it's Code of Conduct.

**7.**

**INVESTIGATION  
STANDARDS**

## **7.1 Investigations**

### **7.1 INTRODUCTION**

In order to ensure that investigations are carried out properly and the appropriate authorities reported to, the following measures have and will be undertaken:

- \* training will be provided to the staff who will be undertaking the investigations;
- \* investigation guidelines are available for use by those staff;
- \* an internal reporting system has been established; and
- \* an external reporting system has been established.

### **7.2. INVESTIGATION TRAINING**

All staff nominated to undertake the investigation of alleged fraud and corrupt conduct will attend a course in conducting investigations.

It is important that these staff attend the course in order to:

- \* ensure that the rights of staff are not violated through inappropriate investigation processes;
- \* protect the investigators and Ku-ring-gai Council from the possible adverse legal and financial consequences of not conducting investigations properly; and
- \* help ensure that actions taken as a result of investigations are upheld in any appeals or review situations.

The training will cover the following:

- \* legal elements of fraud and corruption;
- \* receiving reports of suspected corruption, maladministration and serious and substantial wastage;
- \* laws of evidence;
- \* handling allegations;
- \* assessing allegations;
- \* planning the investigations;
- \* gathering evidence;
- \* assessing evidence; and
- \* the investigation report.

Training to staff about developments in the field of investigations and related matters, specialist and refresher training will be provided as the need arises.

### **7.3 INVESTIGATION GUIDELINES**

The Investigations Guidelines cover both procedural and technical aspects of investigations.

### **7.4 INTERNAL REPORTING SYSTEM**

The effectiveness of the investigation process is dependant upon having an appropriate fraud and corruption reporting system in place.

Ku-ring-gai Council's Internal Reporting Policy – Public Interest Disclosures and Code of Conduct training will raise the level of awareness of all employees of the Internal Reporting System.

The following issues will also be addressed:

#### **7.4.1 Fraud Database**

The database has been developed in-house and is maintained by the Internal Ombudsman/Fraud and Corruption Prevention Coordinator.

### **7.5. EXTERNAL REPORTING SYSTEM**

There is no discretion in the reporting of fraud to either the Police or the Independent Commission Against Corruption.

Contact with other external bodies may also be required or beneficial under certain circumstances.

To ensure Ku-ring-gai Council meets the requirements of outside bodies, procedures for reporting to the following outside bodies will be developed:

1. Independent Commission Against Corruption
2. Police Service
3. NSW Ombudsman

**8.**

**EMPLOYEE  
AWARENESS**

# **8.1**

## **Education & Awareness Project Plan**

# Education and Awareness Project Plan

## 8.1 INTRODUCTION & SCOPE

It is proposed to introduce a program of ongoing initiatives to bring the issues of fraud prevention, detection and reporting to the attention of all employees of Ku-ring-gai Council. Training will represent just one of a range of initiatives, with the training being tailored for the different groups within Ku-ring-gai Council.

The objectives of the education and awareness project are to:

- \* Raise awareness and modify attitudes within Ku-ring-gai Council concerning fraud and corruption maladministration and serious and substantial waste;
- \* Communicate standards of ethical behavior to all employees;
- \* Explain the Reporting System and improve the commitment of employees to report.

These will be achieved through:

- \* distributing an Internal Reporting Policy – Public Interest Disclosures;
- \* running fraud awareness and code of conduct workshops for all staff of Ku-ring-gai Council.
- \* from the awareness sessions gain feedback from staff to review the Code of Conduct having regard for the requirements of the Public Interest Disclosures Act, 1994.
- \* launching and distributing a revised Code of Conduct (when applicable);
- \* utilising posters, internal publications and other media to increase the awareness of staff of ethics issues and fraud control;
- \* distributing the Fraud and Corruption Prevention Plan to Directors, managers and supervisors.
- \* monitoring the education and awareness activities.

## 8.2 CODE OF CONDUCT

After any revisions of the Code of Conduct are approved it should be launched as follows:

1. The Code will be printed in an attractive format to help ensure that staff give it adequate attention.
2. A message about the Code from the General Manager will be prepared for distribution with the Code.

3. The Code together with the General Manager's message will be distributed to every member of staff. All managers/team leaders will be responsible for ensuring that every staff member receives a copy of the Code.
4. Articles about the revised Code will be included in internal newsletters.

Training in the Code of Conduct will be incorporated into induction training given to new employees. It will also be incorporated into other relevant training programs for staff. These will be finalised after the initial training which will be given as part of the training and awareness program.

### **8.3 FRAUD AWARENESS AND CODE OF CONDUCT TRAINING**

Fraud prevention is a management responsibility and it is essential that managers understand and are given the tools to meet this responsibility.

Training workshops in fraud awareness and the Code of Conduct will be given to managers, team leaders and staff.

#### **8.3.1 Senior Managers Workshop**

All managers will attend half day workshops in fraud awareness and the Code of Conduct.

The aims of the workshop are:

- \* To ensure managers are aware that fraud prevention is a management responsibility;
- \* To explain Ku-ring-gai Council's Fraud and Corruption Prevention Strategy
- \* To strengthen the ability of managers and team leaders to apply Ku-ring-gai Council's Code of Conduct in day-to-day decisions.
- \* To provide a forum in which attendees can identify specific ethical issues and areas of vulnerability and develop strategies for dealing with them.

The workshop will cover the following:

#### **FRAUD AND CORRUPTION AWARENESS**

- \* the meaning of corrupt conduct
- \* case studies
- \* Ku-ring-gai Council's Fraud Prevention Strategy

- \* Reporting corruption, maladministration and serious and substantial wastage conduct

## RISK ASSESSMENTS

- \* explanation of the methodology
- \* exercises designed for managers to identify their risks
- \* how to evaluate effectiveness of controls
- \* determining residual risk

## CODE OF CONDUCT AND ETHICS ISSUES

- \* What is a Code of Conduct?
- \* Benefits of a Code of Conduct
- \* Discussion on each element of the Code of Conduct with emphasis on:
  - (i) Conflicts of Interest
    - case studies
  - (ii) Gifts and Benefits
    - case studies
  - (iii) Inappropriate Use of Resources
    - case studies
  - (iv) Inappropriate Use of Information
    - case studies
  - (v) Compliance and Disciplinary Action

The workshops will be limited to approximately 25 attendees per workshop. This will help ensure that the concerns of attendees are adequately addressed.

The case studies will be tailored for each group to ensure that they are relevant for attendees.

It is proposed that training will be conducted periodically (approximately every three years).

### **8.3.2 Team Leaders/Staff Workshop**

These workshops will cover the following:

#### FRAUD AWARENESS

- \* the meaning of corrupt conduct
- \* Ku-ring-gai Council's commitment to maintaining an ethical workplace
- \* reporting corruption, maladministration and serious and substantial wastage.

## CODE OF CONDUCT

- \* what is a Code of Conduct
- \* benefits of a Code of Conduct
- \* discussion on the elements of the Code with emphasis on those elements most relevant to the group being addressed.

The workshops will also be limited to approximately 25 people and the case studies will be tailored for each group.

Discussion and case studies as per 8.3.1.

## **8.4 OTHER MEDIA**

### **8.4.1 Internal Publications**

Internal publications will be utilised to help ensure that staff are aware of ethical issues and fraud and corruption control.

As noted above articles will be published about the Code of Conduct and the Internal Reporting Policy – Public Interest Disclosures. This will happen soon after the issue of any revised Code.

Every second issue of the internal publications will contain an item dealing with ethics issues and fraud control.

### **8.4.2 Other Media**

Other media will be utilised to improve the awareness of staff as considered appropriate, such as the production of posters.

## **8.5 DISTRIBUTING FRAUD AND CORRUPTION PREVENTION PLAN TO MANAGERS**

The Fraud and Corruption Prevention Plan will be distributed to Managers to ensure that their awareness remains high and to encourage their participation in, and ownership of, fraud control activities.

The distribution will be made within one month of the Fraud and Corruption Policy being adopted by Council. The distribution will be undertaken by the Internal Ombudsman/Fraud and Corruption Prevention Coordinator.

The Fraud and Corruption Prevention Plan will be updated periodically. The master copy will be kept by the Internal Ombudsman/Fraud and Corruption Prevention Coordinator, who will be responsible for distributing updated material.

## **8.6 MONITORING THE EDUCATION AND AWARENESS ACTIVITIES**

The Audit Committee will monitor the education and awareness activities to ensure that they meet the needs of Ku-ring-gai Council.

The training plan will be amended from time to time to ensure that it remains flexible and adequately addresses the issues.

The training plan will be amended to take account of information and feedback from:

- \* managers/team leaders and staff;
- \* investigation reports;
- \* internal audit reports;
- \* fraud risk assessments; and
- \* reports received from the Independent Commission Against Corruption and other relevant organisations.

**9.**

**FRAUD RISK  
ASSESSMENTS**

# 9.1

## **Fraud Risk Assessment Methodology**

## 9.1.1 Overview

A essential element of Ku-ring-gai Council's Fraud Control Strategy is to:

- \* ascertain the risks of fraud and corruption;
- \* assess whether the controls to overcome those risks are adequate; and
- \* where the controls are not adequate to implement improvements to the systems of control, insofar as practical.

In order to enable Ku-ring-gai Council to complete this task each area within Council will be asked to assess, analyse, test controls and recommend improvements for their area. These assessments and the provision of assistance will be the responsibility of the Internal Ombudsman. Templates will be used per those already being used by the Risk Management Coordinator, for consistency and ease of comparison of results.

The threats of fraud or corruption should be listed. The meanings of fraud and corruption are explained and an appendix contains the definition of corruption contained in the Independent Commission Against Corruption Act.

For each threat of fraud or corruption, the controls to overcome those threats should be listed. An explanation of the threats, including the areas of threat and the sources of threat, is contained in the relevant section.

The weaknesses in the controls should be listed.

The importance of the control weaknesses is then assessed by allocating weightings to the weaknesses. This will enable remedial action to be taken in a structured and cost-effective manner.

Recommendations are then made for the improvement of the controls which are inadequate.

## 9.1.2 The Meaning of Fraud and Corruption

### Fraud

Fraud is generally taken to mean obtaining an illegal advantage through the use of deception.

It includes bribery, secret commissions and conspiracy to defraud.

There are a number of offences in the Crimes Act relating to fraud related activities.

### Corruption

"Corruption" occurs when:

- \* a public official carries out public duties dishonestly or unfairly;
- \* anyone (including a public official) does something that could result in a public official carrying out public duties dishonestly or unfairly;
- \* anyone (including a public official) does something that has a detrimental effect on official functions, and which involves any of a wide range of matters, including (for example) fraud, bribery, official misconduct, violence;
- \* a public official (or former public official) breaches public trust; or
- \* a public official (or former public official) misuses information or material obtained in the course of duty.

The above conduct would only be considered to be corrupt if could constitute or involve:

- \* a disciplinary offence;
- \* a criminal offence; or
- \* reasonable grounds for dismissing, dispensing with the services of, or otherwise terminating the services of a public official.

The definition of corruption is contained in sections 7, 8 and 9 of the ICAC Act. The full definition is contained in Appendix A.

### **9.1.3 Threats**

You need to consider the threats of fraud and corruption against Ku-ring-gai Council. Threats are to be considered if they involve financial or non-financial 'assets'. For example threats to revenue and resources will be considered as well as threats to the reputation of Ku-ring-gai Council or the safety of its staff and the public.

#### **Areas of Threat**

The threats of fraud and corruption may be to:

- \* resources;
- \* revenue;
- \* activities and services;
- \* reputation;
- \* staff/client/public safety;
- \* information;
- \* partial exercise of functions; and
- \* external threats.

#### **Sources of Threats**

Threats of fraud and corruption may arise from:

- \* staff from within the area;
- \* staff from other areas;
- \* managers;
- \* contractors and consultants;
- \* suppliers;
- \* clients, customers;
- \* other third parties; and
- \* members of the public and other organisations.

Threats should be listed regardless of what controls exist to overcome those threats.

When completing the forms you may find it useful to use the headings listed above in the section entitled "Areas of Threat".

## 9.1.4 Controls

### What Are Controls?

Controls form the system designed to ensure that Ku-ring-gai Council meets its basic mission (key objectives) within the constraints of the environment in which it operates.

Controls should protect the resources, revenue and information of the organisation and ensure compliance with legal and appropriate ethical standards.

### Examples of Controls

Controls include:

- \* separation of duties;
- \* rotation of duties
- \* policies and procedures;
- \* training;
- \* the ethical culture;
- \* checking;
- \* supervision;
- \* management information;
- \* performance indicators and monitoring;
- \* physical protection of resources.

### Objectives of Controls

The aim of controls is to help Ku-ring-gai Council meet its key objectives. Controls that are effective in meeting this aim will invariably be good controls for ensuring that fraud and corruption are prevented and detected.

As far as fraud and corruption are concerned, controls should:

- \* prevent fraud and corruption insofar as practical;
- \* ensure that any fraud or corruption occurring is detected, insofar as practical;
- \* ensure that the perpetrators of fraud or corruption that is detected, can be identified, insofar as practical; and

\* assist the investigation and proof of the fraud or corruption.

## **Adding Value**

It is important that controls add value to Ku-ring-gai Council. In other words they should not cost more than the estimated potential loss that they are designed to prevent. When assessing the potential loss to Ku-ring-gai Council you should consider non-financial issues such as embarrassment to Ku-ring-gai Council, threats to staff and public safety, costs to third parties, etc.

## **Responsibility for Controls**

Controls are the responsibility of everybody in Ku-ring-gai Council, especially managers. It is a responsibility that managers cannot delegate away.

## **9.1.5 Weaknesses**

### **Identifying Weaknesses**

There is a weakness in the controls if:

- \* they are inadequate to prevent fraud or corruption occurring; or
- \* they are inadequate to quickly and easily identify any fraud or corruption that is occurring so that the perpetrator could not successfully get away with the fraud or corruption.

## 9.1.6 Weighting

The weighting measures how important each control weakness is to Ku-ring-gai Council.

There are two aspects to the weighting:

1. How probable is it that the control will be overcome and the threat carried out?
2. What is the estimated cost to the organisation (in both financial and non-financial terms) of the control being overcome and the threat being carried out.

Both of these must be considered in arriving at the weighting.

The rating should be from one to five.

One = low importance for Ku-ring-gai Council. The probability of the control being overcome multiplied by the estimated loss if the control was overcome, is low.

Five = high importance for Ku-ring-gai Council. The probability of the control being overcome multiplied by the estimated loss if the control was overcome, is high.

## 9.1.7 Recommendations for Improvement

If there are weaknesses in the system of controls you should recommend how the controls can be improved.

The improvements considered should generally include:

- \* separating of duties;
- \* rotation of duties;
- \* policies and procedures;
- \* training;
- \* the ethical culture;
- \* checking;
- \* supervision;
- \* management information;
- \* performance indicators and monitoring;
- \* physical protection of resources; and
- \* other appropriate controls.

### **Cost Effective**

In recommending improvements you should bear in mind that the improvements should be cost effective. In other words the cost of improving the controls should not be greater than the likely loss which may result because of inadequacies in the controls.

If you are unsure about the cost effectiveness of improving controls you should list the improvements rather than leave them off the forms.

## **All Areas**

You should not limit yourself to improvements in your own area of responsibility. For example if you think that putting additional checks in the computer programs or having the computer produce exception reports will help improve the system of controls then you should list these improvements even though you are not responsible for the information services area.

**10.**

**EXTERNAL  
NOTIFICATIONS**

## **10.1 Reporting to the Independent Commission Against Corruption**

### **10.1.1 DUTY TO REPORT**

The duty to report belongs to the principal officer. The principal officer at Ku-ring-gai Council is the General Manager.

The duty to report cannot be delegated.

Where another person is acting as principal officer during periods of leave or absence, the duty applies to that person.

### **10.1.2 REASONABLE GROUNDS**

Section 11 of the ICAC Act requires that the principal officer report "any matter that the officer suspects on reasonable grounds concerns or may concern corrupt conduct".

"Suspects on reasonable grounds" means there is a real possibility that corrupt conduct is or may be involved. Proof is not necessary.

Where there is uncertainty about any issue relating to reporting, the ICAC should be contacted to obtain clarification.

### **10.1.3 TIMELINESS**

The ICAC Act contains no provision permitting delay. As soon as a reasonable suspicion is formed that corrupt conduct is or may be involved, there must be a report made to the ICAC.

### **10.1.4 INTERNAL SYSTEM**

The internal system of reporting suspected corrupt conduct in Ku-ring-gai Council is contained in the Internal Reporting Policy – Public Interest Disclosures and the Fraud and Corruption Prevention Plan. This system is designed to ensure that all reports are made ultimately to the General Manager.

### **10.1.5 CONFIDENTIALITY**

The ICAC states:

"It is important that reports to the Commission be made without advising the person(s) to whom the report relates, and without publicity. Confidential handling of reports helps avoid prejudice to the investigation and unnecessarily hurt or embarrass individuals.

Where the complaint originated from outside the department or agency, the Commission would prefer that the complainant not be advised of the

referral until the Commission responds to the department or agency. Where the complaint is made from within the agency confidential advice to the employee that the matter has been referred may be warranted."

In the course of investigations it may be necessary to advise the person to whom the report relates. As this will be in the course of the investigation it will not prejudice the investigation and unnecessarily hurt or embarrass individuals.

Where the complaint comes via ICAC then the matter will be discussed with officials from ICAC before taking any investigative action.

#### **10.1.6 PROTECTION FROM DEFAMATION ACTION**

Because a statutory duty is being performed, reports made under section 11 of the ICAC Act in good faith are protected from defamation action, even if the suspicion on which it is based turns out to be groundless. Reference may be made to section 17K of the Defamation Act 1974.

#### **10.1.8 SERIOUS MATTERS**

Serious matters need to be reported to ICAC as soon as the General Manager becomes aware of them.

Matters regarded as serious include corrupt conduct or possible corrupt conduct which it is suspected incorporates one or more of the following characteristics:

- \* serious criminal offences, including those relating to corruption offences such as bribery, the payment of secret commissions and so on;
- \* an organised scheme or plan;
- \* systematic practices occurring over time or involving a number of staff;
- \* public officials who hold senior or sensitive positions;
- \* misconduct sufficient to result in dismissal;
- \* persons who have obtained or expect to obtain money or other benefit or advantage which in the circumstances could not be regarded as merely token; and
- \* matters which may commence as minor matters but subsequently change significantly in scope and nature.

The most insignificant or trivial matters are excluded from the definition of *corrupt conduct*. To be corrupt, conduct must also involve:

- \* a criminal offence under New South Wales law or any other law which could apply in the particular circumstances; or
- \* a disciplinary offence which could lead to disciplinary action under any law

including regulations; or

\* reasonable grounds to dismiss or terminate the services of a public official.

## **10.2 Reporting to Other Authorities**

It may be advisable to report suspected corruption to other authorities. These include the Police Service, Ombudsman, Department of Local Government and others.

### **10.2.1 POLICE**

As soon as it becomes apparent that a criminal offence has been committed the NSW Police Service has to be contacted.

The nearest police station to the area of the suspected criminal offence is to be contacted. Contact should be made by the manager of the area, where the suspected fraud or corrupt conduct has occurred.

The NSW Police Service will be informed of the internal investigation process and their comments and advice will be sought in relation to the investigation of the offence. The investigators will liaise with the Police Service during the investigation and when the investigation is completed.

### **10.2.2 OTHER AUTHORITIES**

Reports will be made to other authorities based on the requirements of the authorities, as advised to the Ku-ring-gai Council. The decisions about reporting will be made by the General Manager or the Audit Committee as considered appropriate.

It is not considered useful to list all the situations in which reports to authorities will be made due to the fact that the most senior management will be making the decision. The decision will be based on the facts of each individual situation.

**11.**

**CUSTOMER  
AND  
COMMUNITY  
AWARENESS**

## **11.1 Objectives**

Ku-ring-gai Council has an obligation to protect the organisation from financial loss. One area which poses a high risk to this objective is fraud and corruption perpetrated by customers or members of the community. The identified risks need to be controlled in a number of ways including educating this external group as to Ku-ring-gai Council's non tolerance of any fraud or corruption.

## **11.2 Statement of Business Ethics**

All individuals and organisations seeking to do business with Ku-ring-gai Council are made aware of the Statement of Business Ethics ( attached at Appendix D).

The Statement of Business Ethics sets out the ethical framework in which Council operates and explains our expectations from anyone dealing Council in a business arrangement. The Statement of Business Ethics is published on Council's website and explains that we operate under a Code of Conduct and adhere to the principles thereof. It sets out our expectations of external parties and explains what they can expect from us.

Specific information is provided in relation to gifts, sponsorships, conflicts of interest and secondary employment.

## **11.3 Annual Report**

Council provides information in the form of a clear statement concerning its stance on fraud and corruption. The statement also provides an outline of our strategies to prevent that type of behavior.

## **11.4 Newsletters**

Council to provide information as per 11.3 above, in the community newsletter "Ku-ring-gai Update" and also in the periodic Mayoral message.

## **11.5 Procurement**

Ku-ring-gai Council's commitment to an ethical culture is embodied in all current procurement policy and procedures, including Purchasing, Tendering and Engagement of Consultants procedures.