



## (ES3) FRAUD, MISCONDUCT CONTROL AND RESILIENCE

### POLICY OBJECTIVE

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

### POLICY STATEMENT

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

### POLICY SCOPE:

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

The Shire's *'Statement of Business Ethics', its Code of Conduct for Council Members, Committee Members, and Candidates*, and *'CEO Directive D-PC2 Code of Conduct (Employees)'* outlines the integrity and ethical standards expected by the Shire to ensure business relationships between the Shire (and its Employees), suppliers and/or service providers exhibit the highest standards of integrity when conducting business.

Term	Definition
<b>Australian Standard</b>	AS8001-2021 – Fraud and Corruption Control.
<b>Bribe</b>	The Offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.
<b>CCC</b>	Corruption and Crime Commission.
<b>CEO</b>	Chief Executive Officer.
<b>Code of Conduct</b>	Principles, values, standards, and rules of behaviour that guide the decisions, procedures and systems of the Shire of Derby/West Kimberley.
<b>Corruption</b>	Dishonest activity in which a director, executive, manager, employee, or contractor of an entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity.  The concept of "corruption" can also involve corrupt conduct by the entity, or a person purporting to act on behalf of and in the interests of the entity, to secure some form of improper advantage for the entity.
<b>Employee</b>	A person employed by a local government in accordance with section 5.36 of the <i>Local Government Act 1995</i> including the CEO, Directors, Managers, officers, casual and contract employees.
<b>Fraud</b>	Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and where deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal purpose or the improper use of information or position for personal financial benefit.



Term	Definition
	The theft of property belonging to an entity by a person or persons internal to the entity but where deception is not used is also considered 'fraud' [for the purposes of this standard] (Source: AS8001:2008).
<b>Minor Misconduct</b>	Minor misconduct occurs if a public officer engages in conduct that: a. adversely affects the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or b. involves the performance of functions in a manner that is not honest or impartial; or c. involves a breach of the trust placed in the public officer; or d. involves the misuse of information or material that is in connection with their functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person; <b>and</b> constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person's office or employment. ( <i>Corruption, Crime and Misconduct Act 2003</i> ).
<b>Misconduct</b>	Means when a public officer abuses their position and/or authority for personal gain, to cause detriment to another person, or acts contrary to the public interest (Source: Corruption and Crime Commission).
<b>PID Act</b>	The <i>Public Interest Disclosure Act 2003</i> was introduced to encourage people to report wrongdoing within amongst other places, a Local government, and protect them when they do.
<b>PID Officer</b>	The ' <i>Public Interest Disclosure (PID) Officer</i> ' is the person who holds the specified position as the proper authority to receive public interest disclosures within the sphere of responsibility of the public authority. This person is designated by the Principal Executive Officer (PEO) under section 23(1)(a) of the PID Act.
<b>PSC</b>	Public Sector Commission.
<b>Public Interest Information</b>	means information that tends to show, in relation to its public function a public authority, a public officer, or a public sector contractor is, has been, or proposes to be, involved in: (a) improper conduct; or an act or omission that constitutes an offence under a written law; or a substantial unauthorised or irregular use of, or substantial mismanagement of, public resources; or an act done or omission that involves a substantial and specific risk of – (i) injury to public health; or (ii) prejudice to public safety; or (iii) harm to the environment; or matter of administration that can be investigated under section 14 of the Parliamentary Commissioner Act 1971. ( <i>Public Interest Disclosure Act 2003</i> ).
<b>Public Officer</b>	Includes a member, officer, or employee of an authority, board, corporation, commission, local government, council, committee or other similar body established for a public purpose under an Act ( <i>Corruption, Crime and Misconduct Act 2003</i> ).
<b>Public Authority</b>	Includes a council, committee, local government, regional local government or similar body established under a written law. ( <i>Corruption, Crime and Misconduct Act 2003</i> ).
<b>Serious Misconduct</b>	Serious misconduct occurs when: a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or



Term	Definition
	c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by two or more years' imprisonment. ( <i>Corruption, Crime and Misconduct Act 2003</i> ).

## 1. **IMPLEMENTATION**

This policy along with the 'Shire's two separate codes of conduct', the Shire's values and culture and its governance and risk management frameworks all operate in synergy to prevent, detect and respond to potential or actual fraud and misconduct.

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

### 1.1 **Reporting Serious or Minor Misconduct**

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

### 1.2 **Public Interest Disclosure**

Any person may make an appropriate disclosure of public interest information to the Shire, including anonymously.

If disclosures are made in accordance with the PID Act, the person making them is protected from reprisal. This means that the person enjoys immunity from civil or criminal liability, disciplinary action or dismissal.

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

### 1.3 **Disciplinary and Recovery Action**

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

## 2. **DISPUTE RESOLUTION**

All disputes in respect of this policy must be referred to the Deputy Chief Executive Officer in the first instance, and if unresolved, to the CEO.



# Shire of Derby / West Kimberley

Policy Details			
<b>Original Adoption date:</b>	28 February 2019 (Item 9.1.1, Res. 005/2019)	<b>Review Frequency:</b>	3 years
		<b>Next Review Due:</b>	February 2027
<b>Policy Implementing Officer or Team:</b>	Senior Management Team	<b>Policy Reviewer:</b>	Chief Executive Officer
<b>Legislative Head of Power (Act, Regulation, or Local Law):</b>	Public Interest Disclosure Act 2003 Corruption, Crime and Misconduct Act 2003		
<b>Related Documents (other Policies, Operational Procedures, Delegations, etc.):</b>	<p>Code of Conduct for Council Members, Committee Members, and Candidates</p> <p>CEO Directive D-PC2 Code of Conduct Employees</p> <p>Shire of Derby/West Kimberley Statement of Business Ethics</p> <p>Australian Standard for Fraud and Corruption Control (AS8001:2008/2021)</p> <p>Australian Standard for Organisational Codes of Conduct (AS8002:2003)</p> <p>Australian Standard for Whistleblower Protection (AS8004:2003)</p> <p>Australian National Audit Office – Fraud Control in Australian Government Entities</p> <p>Public Sector Commission: Public Sector Code of Ethics, Ethical Foundations – Commissioner’s Instruction 40, Integrity Strategy for WA Public Authorities 2020-2023</p> <p>Corruption &amp; Crime Commission: Agency Misconduct Management Systems and Misconduct</p> <p>Public Interest Disclosure Act 2003</p> <p>The joint Corruption &amp; Crime Commission/Public Sector Commission document titled “Notification of misconduct in Western Australia”</p> <p>Reporting Serious and Minor Misconduct Policy and Procedures</p> <p>Policy PC1 Risk and Opportunity Management Policy and Framework</p> <p>Gifts, Benefits and Conflict of Interest Policies/Codes/Procedures</p>		
Version Control Council Meeting Review Details:			
Review #:	Council Meeting Date:	Item/Resolution#:	
1.	24 June 2021	Item 11.2 Res. 57/21	
2.	24 February 2022	Item 11.5 Res. 07/22	
3.	30 March 2023	Item 10.1 Res. 15/23	
4.	19 January 2024	The Director Strategic Business utilised AUTHO33 Local Government Act 1995 s.5.45 Other matters relevant to delegations under this Division (Acting Through on behalf of the Chief Executive Officer), to make minor changes using delegation 1.1.34 Minor Amendments to Policies and Delegations. Synergy Record No. N21078	
5.	29 February 2024	Item 12.3 Res. 09/24	