

SOUTHERN REGION WASTE RESOURCE AUTHORITY (SRWRA)

(PO-41) FRAUD AND CORRUPTION PREVENTION POLICY

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1. Introduction

- 1.1 SRWRA is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency, which are all key components of good governance.
- 1.2 The SRWRA recognises that Fraud and Corruption in Public Administration have the potential to cause significant financial and non-financial harm and that, therefore, the prevention and control of Fraud and Corruption should feature predominantly within the systems and procedures of a responsible organisation.

2. Policy Statement

- 2.1 This Policy is designed to protect public funds and assets and the integrity, security and reputation of the SRWRA.
- 2.2 This Policy outlines the SRWRA approach to the prevention or minimisation, identification and control of fraudulent and/or corrupt activity and, summarises the associated responsibilities of Board Members and SRWRA Employees.
- 2.3 The SRWRA will not tolerate fraudulent or corrupt activity and is committed to its control and prevention by:
 - complying with the requirements of the Independent Commissioner Against Corruption Act 2012 (ICAC Act);
 - establishing and maintaining an effective system of internal controls and enforcing compliance with those controls;
 - regularly undertaking risk assessments to identify circumstances in which Fraud and Corruption could potentially occur;
 - implementing Fraud and Corruption prevention and mitigation strategies in its day to day operations;
 - taking appropriate action in response to allegations of fraudulent and/or corrupt activity including, reporting allegations in accordance with the ICAC Act and the reporting system established by the Independent Commissioner Against Corruption (ICAC) under section 20 of the ICAC Act and where allegations are substantiated, in addition to applicable criminal sanctions, may take disciplinary

action in accordance with the Codes of Conduct for Board Members and SRWRA Employees or, if relevant, an Employee's contract of employment with the SRWRA;

- ensuring all SRWRA Employees and Board Members are aware of their obligations in regards to the prevention of Fraud and Corruption within the SRWRA and the inclusion of preliminary education in any induction process;
- active participation in education and evaluation of practices relevant to Fraud and Corruption;
- fostering an ethical environment in which dishonest and fraudulent behaviour is not tolerated and actively discouraged;
- generating community awareness of the SRWRA's commitment to the prevention of Fraud and Corruption.

3. Scope

3.1 This Policy is intended to complement and be implemented in conjunction with other SRWRA policies, including:

- Whistle-blower Protection Policy;
- Risk Management Policy and Internal Control Procedures;
- Code of Conduct for SRWRA Employees;
- Code of Conduct for Board Members;

3.2 This Policy applies to all disclosures that relate to the actual or suspected occurrence of Fraud and/or Corruption within the SRWRA.

4. Definitions

For the purposes of this Policy the following definitions apply:

4.1 **Corruption** in public administration means:

- a) an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
 - (i) bribery or Corruption of public officers;
 - (ii) threats or reprisals against public officers;
 - (iii) abuse of public office;
 - (iv) demanding or requiring benefit on basis of public office;
 - (v) offences relating to appointment to public office.
- b) any other offence (including an offence against Part 5 (Offences of dishonesty) of the [Criminal Law Consolidation Act 1935](#)) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before

becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence (see Appendix 1 for examples of offences under the *Local Government Act 1999*, *Local Government (Elections) Act 1999* and *Development Act 1993*); or

- c) any of the following in relation to an offence referred to in a preceding paragraph:
 - (i) aiding, abetting, counselling or procuring the commission of the offence;
 - (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
 - (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
 - (iv) conspiring with others to effect the commission of the offence.

4.2 **Directions and Guidelines** is a reference to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act, which are available on the Commissioner's website (www.icac.sa.gov.au).

4.3 An **Employee** is any person who is employed by the SRWRA, but also includes any contractors, volunteers and consultants undertaking work for, or on behalf of the SRWRA.

4.4 A **False Disclosure** is a disclosure of information relating to Fraud or Corruption that is made by a person who knows the information to be false or, who is reckless as to whether it is false.

4.5 **Fraud** is an intentional dishonest act or omission done with the purpose of deceiving.

Note: unlike 'Corruption' there is no statutory definition of 'Fraud'. Fraud is a style of offending. The offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences.

4.6 **Independent Commissioner Against Corruption (Commissioner)** means the person holding or acting in the office of the Independent Commissioner Against Corruption.

4.7 **Manager** means any Employee of the SRWRA who is responsible for the direct supervision of other Employees, and/or, for the management of a SRWRA section.

4.8 **Office for Public Integrity (OPI)** is the office established under the *ICAC Act* that has the function to:

- (a) receive and assess complaints about public administration from members of the public;
- (b) receive and assess reports about Corruption, misconduct and maladministration in public administration from the Ombudsman, Councils (including Council Subsidiaries) and public officers;
- (c) make recommendations as to whether and by whom complaints and reports should be investigated;
- (d) perform other functions assigned to the Office by the Commissioner.

4.9 **Public administration** defined at section 4 of the *ICAC Act 2012* means without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.

4.10 **Public Officer** defined under the *ICAC Act 2012* includes:

- a Council Member;
- a member of a Local Government body (including a subsidiary of a Council established under the *Local Government Act 1999*) and
- an Employee or Officer of the Council.

(This also includes Board Members, employees and Officers of Council Subsidiaries of Councils such as SRWRA)

4.11 A **Responsible Officer** is a person (or persons) appointed by the Council pursuant to section 302B of the *Local Government Act 1999* who is (are) authorised to receive and act upon disclosures of public interest information reported to him/her under the *Whistle-blowers Protection Act 1993*. *(This also includes a person appointed by a Council Subsidiary such as SRWRA)*

5. Prevention

5.1 The SRWRA recognises that:

- the occurrence of Fraud and Corruption will prevail in an administrative environment where opportunities exist for waste, abuse and maladministration; and
- the most effective way to prevent the occurrence of Fraud and Corruption is to promote an ethical environment in which internal control mechanisms have been implemented.

5.2 In general, the SRWRA expects that Public Officers will assist in preventing Fraud and Corruption within the SRWRA by:

- understanding the responsibilities of their position;
- familiarising themselves with the SRWRA's policies and procedures and adhering to them;
- understanding what behaviour constitutes fraudulent and/or corrupt conduct;
- maintaining an awareness of the strategies that have been implemented by the SRWRA to minimise Fraud and Corruption;
- being continuously vigilant to the potential for Fraud and/or Corruption to occur; and
- reporting suspected or actual occurrences of Fraud or Corruption in accordance with Part 7 of this Policy.

5.3 Specific Responsibilities

5.3.1 Collectively, as the decision making body of the SRWRA, **Board Members** are responsible for ensuring that the **SRWRA**:

- promotes community awareness of the SRWRA's commitment to the prevention of Fraud and Corruption;
- provides adequate security for the prevention of Fraud and Corruption. This includes the provision of secure facilities for storage of assets, and procedures to deter fraudulent or corrupt activity from occurring;
- provides mechanisms for receiving allegations of Fraud or Corruption, including by ensuring a Responsible Officer is appointed;
- ensures that, where appropriate, proper investigations are conducted into allegations that involve Fraud or Corruption;
- makes reports in accordance with Part 7 of this Policy and facilitates cooperation with any investigation undertaken by an external authority (such as SAPOL or the Commissioner);
- ensures that all Employees are aware of their responsibilities in relation to Fraud and Corruption through the provision of appropriate and regular training;
- promotes a culture and environment in which Fraud and Corruption is actively discouraged and is readily reported should it occur; and
- undertakes a Fraud and Corruption risk assessment on a regular basis.

5.3.2 **Managers** are responsible for:

- the conduct of any Employees whom they supervise and, will be held accountable for such;
- any property under their control and, will be held accountable for such;
- reporting in accordance with Part 7 of this Policy;
- creating an environment in which Fraud and Corruption is discouraged and readily reported by Employees. Such an environment shall be fostered by the Manager's own attitude and behaviours to Fraud and Corruption and, by the accountability and integrity they both display and encourage from other Employees;
- ensuring that new Employees for whom they are responsible are aware of their responsibilities in relation to Fraud and Corruption and, of the standard of conduct expected from all Employees as outlined in the Code of Conduct for SRWRA's Employees and this Policy;
- identifying potential Fraud and Corruption risks; and
- leading by example to promote ethical behaviour.

5.3.3 **Employees** are responsible for:

- performing their functions and duties with care, diligence, honesty and integrity;
- conducting themselves in a professional manner at all times;

- adhering to these guidelines and other SRWRA procedures that have been established to prevent Fraud or Corruption;
- taking care for SRWRA's property which includes avoiding the waste or misuse of the SRWRA's resources;
- maintaining and enhancing the reputation of the SRWRA;
- remaining scrupulous in the use of SRWRA information, assets, funds, property, goods or services; and
- reporting in accordance with Part 7 of this Policy.

6. Fraud and Corruption Risk Assessment Process

- 6.1 The SRWRA's main objective in the prevention and control of Fraud and Corruption is to minimise the occurrence of Fraud and Corruption within the SRWRA. This objective is generally achieved by:
- identifying Fraud and Corruption Risks;
 - determining strategies to control those risks; and
 - defining responsibility for and, the time frame within which the strategies will be implemented.
- 6.2 Managers must be alert to the potential of Fraud and Corruption to occur and remain wary of factors which may leave the SRWRA vulnerable to Fraud and Corruption, including:
- changes to SRWRA delegations;
 - implementation of cost cutting measures;
 - contracting out and outsourcing;
 - the impact of new technology; and
 - changes to risk management practices.

7. Reporting Fraud and Corruption

Reporting Corruption in Public Administration to the OPI

Reports by Employees or Board Members to the OPI

- 7.1 Any Employee or Board Member who has or acquires knowledge of actual or suspected Corruption in public administration must report this information to the OPI as soon as practicable.
- 7.2 Where an Employee or Board Member suspects Corruption in public administration, that suspicion must be reasonably held. Section 6 of the Directions and Guidelines address what is required to form a reasonable suspicion. In this regard it is to be noted that suspicion is a state of mind that is distinct from a belief. It is not necessary for the Employee or Board Member to *believe* the relevant conduct amounts to Corruption in public administration. All that is required to make a report to the OPI is a reasonable suspicion based upon a proper consideration of the available facts (i.e. there must be a factual basis for the suspicion).
- 7.3 Reports to the OPI by an Employee or Board Member must be made in accordance with the reporting obligations contained in section 11 of the Directions and Guidelines. In particular, the following information must be included in the report:
- 7.3.1 the Employee or Board Member identity; and
 - 7.3.2 the identity of the SRWRA;
 - 7.3.3 the Employee's or Board Member's SRWRA address, telephone number and email.

- 7.4 In addition, the report must:
- 7.4.1 identify the matter by reference to the conduct that the Employee or Board Member suspects is Corruption in public administration; and
 - 7.4.2 expressly identify that the Employee or Board Member suspects the conduct to be Corruption; and
 - 7.4.3 identify any public officer or other person suspected of having engaged in the conduct; and
 - 7.4.4 be accompanied by:
 - 7.4.4.1 a statement as to how the Employee or Board Member became aware of the conduct; and
 - 7.4.4.2 the evidence known to the Employee or Board Member including any documentation relevant to the conduct; and
 - 7.4.4.3 a list of those persons who the Employee or Board Member believes can give evidence relevant to the conduct.
- 7.5 A report to the OPI by an Employee or Board Member must be made on the online report form available at www.icac.sa.gov.au.
- 7.6 Where the Employee's or Board Member's knowledge of Corruption has arisen due to a complaint/report he/she has received from another person (the informant), the Employee or Board Member should not include the informant's details in the report to the OPI if:
- 7.6.1 the report/complaint was made under the *Whistle-blowers Protection Act 1993*; and
 - 7.6.2 the informant has not consented to the informant's identity being divulged; and
 - 7.6.3 it is not necessary to divulge the identity of the informant to ensure that the matters to which the report to the OPI relates are properly investigated.
- 7.7 Nothing in this section is intended to prevent an Employee or Board Member from reporting Corruption in public administration internally to a Responsible Officer in accordance with the SRWRA's [Whistle-blowers Protection](#) Policy. Where an internal report relating to Corruption in public administration is received by another under the [Whistle-blowers Protection](#) Policy the Responsible Officer must report the matter to the OPI in accordance with this Policy.

Reports by the SRWRA to the OPI

- 7.8 Where the SRWRA (i.e. Board Members collectively) has or acquires knowledge of actual or suspected Corruption in public administration it must report this information to the OPI as soon as practicable after the SRWRA becomes aware of the matter. The Executive Officer is responsible for preparing a report to the OPI on behalf of the SRWRA for these purposes. The Executive Officer must prepare the report immediately upon receiving direction from the Board (such as via the Chairperson) to do so.

- 7.9 Any suspicion the SRWRA has regarding conduct that constitutes Corruption in public administration must be reasonably held. Section 6 of the Directions and Guidelines address what is required to form a reasonable suspicion. In this regard it is to be noted that suspicion is a state of mind that is distinct from a belief. It is not necessary for the SRWRA to *believe* the relevant conduct amounts to Corruption in public administration. All that is required to make a report to the OPI is a reasonable suspicion based upon a proper consideration of the available facts (i.e. there must be a factual basis for the suspicion).
- 7.10 The report must:
- 7.10.1 identify the matter by reference to the conduct that the SRWRA suspects is Corruption; and
 - 7.10.2 expressly identify that the SRWRA suspects the conduct to be Corruption in public administration; and
 - 7.10.3 identify any public officer or other person suspected of having engaged in the conduct; and
 - 7.10.4 be accompanied by:
 - 7.10.4.1 a statement as to how the SRWRA became aware of the conduct; and
 - 7.10.4.2 the evidence known to the SRWRA including any documentation relevant to the conduct; and
 - 7.10.4.3 a list of those persons who the SRWRA believes can give evidence relevant to the conduct.
- 7.11 A report to the OPI by the Executive Officer on behalf of the SRWRA must be made on the online report form available at www.icac.sa.gov.au.
- 7.12 Where the SRWRA's knowledge of Corruption has arisen due to a complaint/report it received from another person (the informant), the Executive Officer should not include the informant's details in the report to the OPI if:
- 7.12.1 the report/complaint was made under the *Whistle-blowers Protection Act 1993*; and
 - 7.12.2 the informant has not consented to the informant's identity being divulged; and
 - 7.12.3 it is not necessary to divulge the identity of the informant to ensure that the matters to which the report to the OPI relates are properly investigated.
- 7.13 Any consideration by the SRWRA of information relating to Corruption in public administration or a SRWRA report to the OPI during a Board meeting must be considered in confidence. The grounds under section 90(3)(f) and (g) of the *Local Government Act 1999* may be relied upon to move into confidence for these purposes.

Reporting Fraud

7.13 Any Employee or Board Member that has or acquires knowledge of actual or suspected Fraud that:

7.13.1 does not constitute Corruption in public administration¹; and

7.13.2 impacts or causes detriment (or has the potential to impact or cause detriment) to the SRWRA -

must report such information to the Responsible Officer or the Anti-Corruption branch of SAPOL.

7.15 A report made under clause 7.14 may be made under the *Whistle-blowers Protection Act 1993* and managed in accordance with the SRWRA's [Whistle-blower's Protection](#) Policy.

8. Action by the Executive Officer Following Report and/or Investigation into Fraud or Corruption

8.1 Following any report to the OPI or SAPOL under this Policy (or the [Whistle-blower's Protection](#) Policy as the case may be) of which the Executive Officer has knowledge and, subject to the finalisation of any investigation undertaken by the Commissioner or SAPOL, the Executive Officer will undertake a review into the area in which the Fraud or Corruption occurred to determine the cause for the breakdown in controls and, will report the findings of the review and provide recommendations (if any) to the Board. In undertaking any review, the Executive Officer will have regard to any recommendations received from the Commissioner or the Ombudsman.

8.2 In the event that allegations of Fraud and/or Corruption are substantiated, the SRWRA may take disciplinary action against any Employee who was involved.

9. False Disclosure

9.1 A person who knowingly makes a false or misleading statement in a complaint or report under the *ICAC Act* or makes a false or misleading disclosure, under the *Whistle-blowers Protection Act 1993*, is guilty of an offence.

9.2 An Employee who makes a false disclosure, in addition to being guilty of an offence, may face disciplinary action that may include dismissal.

¹ Such conduct may, for example, relate to persons who are not a public officer such as a non-elected member of a Council Committee and/or a member of a Development Assessment Panel.

10. Educating for Awareness

- 10.1 The SRWRA recognises that the success and credibility of this Policy will largely depend upon how effectively it is communicated throughout the organisation and beyond.
- 10.2 The SRWRA will, therefore, from time to time take proactive steps towards ensuring that the wider community is aware of the SRWRA's zero-tolerance stance towards Fraud and Corruption.
- 10.3 The SRWRA will increase community awareness by:
- promoting the SRWRA's initiatives and policies regarding the control and prevention of Fraud and Corruption on the SRWRA's website and at the SRWRA's offices;
 - make reference to the SRWRA's Fraud and Corruption initiatives in the SRWRA's Annual Report; and
 - facilitating public access to all of the documents that constitute the SRWRA's Fraud and Corruption framework.

11. Conclusion

- 11.1 The SRWRA has established a number of procedures to assist with the prevention and control of Fraud and Corruption. The effectiveness of these procedures will be continuously reviewed and assessed and will remain up to date with any future developments in Fraud and Corruption prevention and control techniques.
- 11.2 The SRWRA will review this Policy each year as a part of its Annual Policy Review.

APPENDIX 1 OFFENCES

This section only applies to council members and council employees. It is only there to remind council members what constitutes an offence under the Local Government Act. It does not apply to SRWRA. There will be other general offences applied to SRWRA.

Local Government Act 1999

(a) Council Members

Member duties (Sections 62(3) & (4))

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council.

Maximum Penalty: \$10,000.00 or imprisonment for two years.

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council.

Maximum Penalty: \$10,000.00 or imprisonment for two years.

Provision of false information (Section 69)

A member of a Council who submits a return under Chapter 5 Part 4 (Register of Interest) and Schedule 3 of the *Local Government Act 1999*, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum Penalty: \$10,000.00.

Restrictions on publication of information from Register of Interests (Section 71)

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice.

Maximum Penalty: \$10,000.00.

(b) Council Employees

Provision of false information (Section 117)

A Council employee who submits a return under Chapter 7 Part 4 Division 2 (Register of Interest) and that is to the knowledge of the employee false or misleading in a material

particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum Penalty: \$10,000.00.

Restrictions on disclosure (Section 119(1))

A Council employee must not disclose to any other person any information furnished pursuant to Chapter 7 Part 4 Division 2 (Register of Interests) unless the disclosure is necessary for the purposes of the preparation or use of the Register by the Chief Executive Officer or is made at a meeting of the Council, a Council Committee or a Subsidiary of the council.

Maximum Penalty: \$10,000.00.

Conflict of Interest (Section 120(1), (2) & (4))

The Chief Executive of a Council who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Council and must not, unless the Council otherwise determines during a Council meeting that is open to the public, act in relation to the matter.

Maximum Penalty: \$5,000.00.

An employee of the Council (other than the Chief Executive Officer) who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the council and must not, unless the council otherwise determines during a council meeting that is open to the public, act in relation to the matter.

Maximum Penalty: \$5,000.00.

If an employee is entitled to act in relation to a matter and the employee is providing advice or making recommendations to the Council or a Council Committee on the matter, the employee must also disclose the relevant interest to the Council or Council Committee.

Maximum Penalty: \$5,000.00.

CEO to Assist Auditor (Section 130)

The Chief Executive Officer must, at the request of the auditor of the Council, produce to the auditor for inspection the accounts, accounting records and other documents relating to the financial affairs or internal controls of the Council, or to any other matter that is being examined or considered by the auditor. The Chief Executive Officer must, at the request of the auditor of the Council, provide to the auditor explanations or information required by the auditor. A Chief Executive Officer must not, without reasonable excuse, fail to comply with subsection (1) or (2).

Maximum Penalty: \$10,000.00.

Other Investigations (Section 130A (4))

The Chief Executive Officer must, at the request of a person conducting an examination under section 130A(1) produce to the person for inspection any documents relevant to the examination, and provide to the person explanations or information required by the person.

Maximum Penalty: \$10,000.00.

Powers under this Act (Section 261(10))

An authorised person, or a person assisting an authorised person, who addresses offensive language to any other person; or without lawful authority hinders or obstructs or uses or threatens to use force in relation to any other person, is guilty of an offence.

Maximum Penalty: \$5,000.00

NOTE: This is not an exhaustive list of offences that may be committed by a public officer and fall within the definition of 'corruption' in accordance with section 5(1) (c) of the ICAC Act.