

FRAUD, CORRUPTION, MISCONDUCT AND MALADMINISTRATION PREVENTION POLICY

First Approved	4 July 2011
Status	Recommended
Review Frequency	4 yearly or as required
Last Reviewed	19 October 2020 (Resolution Ref ACM: 20743)
Next Review Due	October 2024
File Number	18.63.001 / PL202084
Responsible Division	Leadership
Related Documents	Code of Conduct for Employees Code of Conduct for Elected Members Elected Members Allowances and Benefits Policy Procurement Policy Public Interest Disclosure Policy Risk Management and Financial Internal Control Procedures
Applicable Legislation	<i>Local Government Act 1999</i> <i>Local Government (Elections) Act 1999</i> <i>Local Government (Accountability Framework) Act 2009</i> <i>Development Act 1993</i> <i>Independent Commissioner Against Corruption (ICAC) Act 2012</i> <i>Criminal Law Consolidation Act 1935</i> <i>Public Interest Disclosure Act 2018</i> <i>Ombudsman Act 1972</i>

Introduction

The Alexandrina Council 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.

The Council recognises that fraud, corruption, misconduct and maladministration in public administration have the potential to cause significant financial and non-financial harm. The prevention and control of fraud, corruption, misconduct and maladministration should therefore feature predominantly within the systems and procedures of a responsible Council.

Policy Statement

This Policy is designed to protect public funds and assets, and the integrity, security and reputation of the Council.

This Policy outlines the Council's approach to the prevention, detection and control of fraudulent and/or corrupt activity and, summarises the associated responsibilities of Elected Members and Council Employees.

The Council 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, corruption, misconduct and maladministration 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 under s.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 Elected Members and Council Employees or, if relevant, a Council Employee's contract of employment with the Council
- ensuring all Council Employees and Elected Members are aware of their obligations in regards to the prevention of fraud, corruption, misconduct and maladministration within the Council and the inclusion of preliminary education in any induction process
- active participation in education and evaluation of practices relevant to fraud, corruption, misconduct and maladministration
- fostering an ethical environment in which dishonest and fraudulent behaviour is actively discouraged
- generating community awareness of the Council's commitment to the prevention of fraud, corruption, misconduct and maladministration.

Scope

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

- Procurement Policy
- Public Interest Disclosure Policy
- Public Interest Disclosure Procedure
- Risk Management Policy
- Financial Internal Control Policy
- Code of Conduct for Employees
- Code of Conduct for Elected Members
- Elected Members Allowances and Benefits Policy.

This Policy applies to all disclosures that relate to the actual or suspected occurrence of fraud, corruption, misconduct and maladministration within the Council.

Definitions

For the purposes of this Policy the following definitions apply:

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

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- 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 former 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 1999*); or
- (c) or offence against the *Public Sector (Honesty and Accountability) Act 1995* or the *Public Corporations Act 1993*, or an attempt to commit such an offence; or
- (d) an offence against the *Lobbyist Act 1995*, or an attempt to commit such an offence; or
- (e) 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.

Directions and Guidelines is a reference to the Directions and Guidelines issued pursuant to s.20 of the *ICAC Act* and/or section 14 of the *Public Interest Act 2018*; which are available on the Commissioner's website (www.icac.sa.gov.au)

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

A **False Disclosure** is a disclosure of information relating to fraud or corruption, Maladministration or Misconduct that is made by a person who knows the information to be false or, who is reckless as to whether it is false.

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.

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

Maladministration in public administration is defined in section 5(4) of the *ICAC Act* and

- (a) means:
 - i. conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resource; or
 - ii. conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions
- (b) includes conduct resulting from impropriety, incompetence or negligence; and
- (c) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

Manager means any Employee of the Council who is responsible for the direct supervision of other Employees, and/or, for the management of a Council Department.

Misconduct in public administration is defined in section 5(3) of the *ICAC Act* and means:

- (a) contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or
- (b) other misconduct of a public officer while acting in his or her capacity as a public officer.
- (c) **Office for Public Integrity (OPI)** is the office established under the *ICAC Act* that has the function to: receive and assess complaints about public administration from members of the public; receive and assess reports about corruption, misconduct and maladministration in public administration from inquiry agencies (including the Ombudsman), public authorities (including the Council) and public officers; refer complaints and reports to inquiry agencies, public authorities and public officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated;
- (d) give direction and guidance to public authorities in circumstances approved by the Commissioner;
- (e) perform other functions assigned to the Office by the Commissioner.

PID Act means Public Interest Disclosure Act 2018

Public administration defined at s.4 of the *ICAC Act 2012* and, 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.

Public Officer has the meaning given by section 4 and Schedule 1 of the *ICAC Act 2012*, and includes:

- an Elected Member
- an Employee or Officer of the Council.

Relevant Authority for the purpose of the PID Act means the person or entity that receives an appropriate disclosure of public interest information in accordance with the PID Act.

A **Responsible Officer** is a person who has completed any training courses approved by the Commissioner for the purpose of the *Public Interest Disclosure Regulations 2019* and has been designated by Council as a responsible officer under section 12 of the *PID Act*.

For the purpose of the ICAC Act, misconduct or maladministration in public administration will be taken to be **serious or systemic** if the misconduct or maladministration –

- (a) is of such a significant nature that it would undermine public confidence in the relevant public authority, or in public administration generally; and
- (b) has significant implications for the relevant public authority or for public administration in general (rather than just for the individual public officer concerned).

Note: further information about serious or systemic misconduct or maladministration is available at the ICAC website: <https://icac.sa.gov.au/glossary>

Prevention

The Council recognises that:

- the occurrence of fraud, corruption, misconduct and maladministration will be more likely to prevail in an administrative environment where opportunities exist for waste and abuse. the most effective way to prevent the occurrence of fraud, corruption, misconduct and maladministration is to install and continually reinforce a culture across the Council of acting lawfully, ethically and in a socially responsible manner, and to support this culture with the implementation of appropriate internal control mechanisms.

In general, the Council expects that employees and Elected Members will assist in facilitating a sound ethical culture and preventing fraud, corruption, misconduct and maladministration by:

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

Specific Responsibilities:

Collectively, as the decision making body of the Council, *Elected Members* are responsible for ensuring that the *Council*:

- promotes community awareness of the Council's commitment to the prevention of fraud, corruption, misconduct and maladministration

- provides adequate security for the prevention of fraud, corruption, misconduct and maladministration. 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, corruption, misconduct or maladministration
- makes reports in accordance with 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, corruption, misconduct and maladministration through the provision of appropriate and regular training
- promotes a culture and environment in which fraud, corruption, misconduct and maladministration is actively discouraged and is readily reported should it occur
- undertakes a fraud, corruption, misconduct and maladministration risk assessment on a regular basis.

Manager's 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 this Policy
- creating an environment in which fraud, corruption, misconduct and maladministration is discouraged and readily reported by Employees. Such an environment shall be fostered by the Manager's own attitude and behaviours to fraud, corruption, misconduct and maladministration 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, , misconduct and maladministration and, of the standard of conduct expected from all Employees as outlined in the Council's *Employee Code of Conduct* and this Policy
- identifying potential fraud, corruption, misconduct and maladministration risks
- leading by example to promote ethical behaviour.

Employee's 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 Council procedures that have been established to prevent fraud, corruption, misconduct or maladministration
- taking care for Council's property which includes avoiding the waste or misuse of the Council's resources

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- maintaining and enhancing the reputation of the Council
 - remaining scrupulous in their use of the Council information, assets, funds, property, goods or services
 - reporting in accordance with this Policy.

Fraud, Corruption, Misconduct and Maladministration Risk Assessment Process

The Council's main objective in the prevention and control of fraud, corruption, misconduct and maladministration is to minimise the occurrence of fraud, corruption, misconduct and maladministration within the Council. This objective is generally achieved by:

- identifying fraud, corruption, misconduct and maladministration Risks
- determining strategies to control those risks
- defining responsibility for and, the time frame within which the strategies will be implemented.

Managers must be alert to the potential of fraud and corruption to occur and remain wary of factors which may leave the Council vulnerable to fraud and corruption, including:

- changes to Council delegations
- implementation of cost cutting measures
- contracting out and outsourcing
- the impact of new technology
- changes to risk management practices.

Reporting Corruption, or Systemic or Serious Misconduct and Maladministration

Reports by Employees or Elected Members to the OPI

Any Employee or Elected Member who has or acquires knowledge of actual or suspected corruption, or systematic or serious misconduct or maladministration in the Council or in other public administration must report this information to the OPI as soon as practicable.

All reasonable suspicions of corruption or systematic or serious misconduct or maladministration must be reported to the OPI in accordance with the Commissioner's reporting requirements as identified in the Commissioner's Directions and Guidelines.

- (a) A report to the OPI must be made using the online report form available at:
<https://icac.sa.gov.au/opi>

Note: Particulars of what a report should include are available in the ICAC Directions Guidelines

Nothing in this section is intended to prevent an Employee or Elected Member from reporting suspected Corruption or systematic or serious misconduct or maladministration in the Council or in other public administration to a Relevant Authority, like a Council's Responsible Officer, for the purpose of the PID Act. Such a disclosure may be protected under the PID Act and, if made to the Council's Responsible Officer, will be managed in accordance with the Council's Public Interest Disclosure Policy and Procedure. Public Officers are encouraged to have regard to the Council's Public Interest Disclosure Procedure when determining where to direct a disclosure.

Further information about reporting requirements is available at the ICAC website:
<http://icac.sa.gov.au/>

Reporting Fraud, Misconduct or Maladministration

Where an employee, Elected Member, contractor or volunteer has or acquires knowledge of actual or suspected fraud or other similar conduct that does not constitute corruption or systematic or serious misconduct or maladministration (and is therefore not required to be reported to the OPI), that knowledge should be reported to the Council's Responsible Officer. Such a disclosure may be protected under the PID Act and will be managed in accordance with the Council's Public Interest Disclosure Policy and Public Interest Disclosure Procedure.

Action by the Chief Executive Officer

Unless otherwise directed by OPI or SAPOL, the CEO will investigate how the alleged corruption, fraud, misconduct or maladministration occurred to determine the cause for the breakdown in controls and identify if any recommendations as to changes in policies, procedures or internal controls should be made to the Council. The investigation should:

- (a) occur as soon as practicable after the alleged incident; and
- (b) not impose on or detract from any investigation being undertaken by the OPI or SAPOL
- (c) have regard to any recommendations in any report received from the Commissioner or SAPOL on the incident

The CEO will, in conducting the investigation and deciding whether and how to report on the investigation to Council, have regard to the provisions of the Public Interest Disclosure Policy, and any confidentiality requirements under the PID Act and/or ICAC Act.

Action taken by the CEO following an investigation into alleged corruption, fraud, misconduct or maladministration may include disciplinary action against any employee involved in the incident.

False Disclosure

A person who knowingly makes a false disclosure or a false or misleading statement in a complaint or report will be guilty of an offence under the *ICAC Act* and the *PID Act*.

An employee who makes a false disclosure, may also face disciplinary action which may include dismissal from employment.

Educating for Awareness

The Council recognises that the success and credibility of this Policy will largely depend upon how effectively it is communicated throughout the organisation and beyond.

The Council will, therefore, from time to time take proactive steps towards ensuring that the wider community is aware of the Council's zero-tolerance stance towards fraud, corruption, misconduct and maladministration, including by:

- (a) promoting the Council's initiatives and policies regarding the control and prevention of fraud, corruption, misconduct and maladministration on the Council's website and at the Council's offices

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- (b) refereeing to the Council's fraud, corruption, misconduct and maladministration initiatives in the Council's Annual Report
 - (c) facilitating public access to all of the documents that constitute the Council's fraud, corruption, misconduct and maladministration framework.

The Council has established a number of procedures to assist with the prevention and control of fraud, corruption, misconduct and maladministration. The effectiveness of these procedures will be continuously reviewed and assessed and will remain up to date with any future developments in fraud, corruption, misconduct and maladministration prevention and control techniques.

Availability of Policy

This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.alexandrina.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

APPENDIX 1

OFFENCES

Local Government Act 1999

[a] Elected Members

Member duties (*Sections 62(3) , (4)(4a)*)

A member or former 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 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 or imprisonment for two years.

A member or former member of a council must not disclose information or a document in relation to which there is an order of a council or council committee effect under section 90 requiring the information or document to be treated confidentially.

Maximum Penalty: \$10,000 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

Restrictions on publication of information from Register of Interests (*Section 71(1) and (2)*)

A person must not –

- (a) publish 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
- (b) comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice.

If information or comment is published by a person in contravention of subsection (1), the person, and any other person who authorised the publication of the information or comment, is guilty of an offence.

Maximum Penalty: \$10,000

[a] Council Employees

Provision of false information (*Section 117*)

A Council employee who submits a return under *Chapter 7 Part 4 Division 2* (Register of Interests) 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

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 purpose of the preparation or use of the Register by the Chief Executive or is made at a meeting of the Council, a Council Committee or a Subsidiary of the council.

Maximum Penalty: \$10,000

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

The Chief Executive Officer 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

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

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

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

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 relating to the examination, and provide to the person explanations or information required by the person.

Maximum Penalty: \$10,000

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 obstructions or uses or threatens to use force in relation to any other person, is guilty of an offence.

Maximum Penalty: \$5,000

Local Government (Elections) Act 1999

Conduct of officers (*Section 65*)

An electoral officer must not fail, without proper excuse, to carry out his or her official duties in connection with the conduct of an election or poll.

Maximum Penalty: \$2,500 or imprisonment for six months

Offences (*Section 85*)

A person who fails to furnish a return that the person is required to furnish under Part 14 Division 1 within the time required is guilty of an offence.

Maximum Penalty: \$10,000

A person who furnishes a return or other information that the person is required to furnish under Division 1; and that contains a statement that is, to the knowledge of the person, false or misleading in a material particular, is guilty of an offence.

Maximum Penalty: \$10,000

Elected person refusing to act (*Section 91*)

A duly qualified person who, having been duly appointed or elected as a member of a council refuses to assume office and to act in it; or neglects to assume the office and to act in it for the first three ordinary meetings of the council (without leave of the council), is guilty of an offence.

Maximum Penalty: \$750

Development Act 1993

Powers of authorised officers to inspect and obtain information (*Section 19(11)*)

An authorised officer, or a person assisting an authorised officer, 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: \$4,000

Delegations (*Section 20(4)*)

Subject to section 20(7), a delegate must not act in any matter pursuant to the delegation in which the delegate has a direct or indirect private interest.

Maximum Penalty: \$8,000 or imprisonment for two years

Investigations (Section 31A(4))

An investigator may, for the purposes of an investigation, require a member or employee of the Council to answer, orally or in writing, questions put by the investigator, to the best of his or her knowledge, information and belief; require a person to whom questions are put under paragraph (a) to verify the answers to those questions by declaration; require a person to produce for examination by the investigator books, papers or other records relevant to the subject matter of the investigation; retain books, papers or other records produced under paragraph (c) for such reasonable period as the investigator thinks fit and make copies of any of them or any of their contents.

Subject to subsection .(8), a person who refuses or fails to comply with a requirement under s.31A(4) is guilty of an offence.

Maximum Penalty: \$20,000

Conflict of Interest (Regional Development Assessment Panel) (Section 34(7))

A member of a regional development assessment panel who has a direct or indirect personal or pecuniary interest in a matter before the regional development assessment panel (other than an indirect interest that exists in common with a substantial class of persons) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the panel; and must not take part in any hearings conducted by the panel, or in any deliberations or decision of the panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.

Maximum Penalty: \$15,000

Investigation of development assessment performance (Section 45A(3))

An investigator may, for the purposes of an investigation, require a member or employee of the relevant authority, or a public sector employee or council employee assigned or engaged to assist the relevant authority, to answer, orally or in writing, questions put by the investigator to the best of his or her knowledge, information and belief; require a person to whom questions are put under paragraph (a) to verify the answers to those questions by declaration; require a person to produce for examination by the investigator books, papers or other records relevant to the subject matter of the investigation; retain books, papers or other records produced under paragraph (c) for such reasonable period as the investigator thinks fit and make copies of any of them or of any of their contents.

Subject to section 45A(7), a person who refuses or fails to comply with a requirement under section 45A(3) is guilty of an offence.

Maximum Penalty: \$20,000

Conflict of Interest (Council Development Assessment Panel) (Section 56A(7))

A member of a council development assessment panel who has a direct or indirect personal or pecuniary interest in a matter before the council development assessment panel (other than an indirect interest that exists in common with a substantial class of persons) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the panel; and must not take part in any hearings conducted by the panel, or in any deliberations or decision of the panel, on the matter

and must be absent from the meeting when any deliberations are taking place or decision is being made.

Maximum Penalty: \$15,000

Declaration of Interest (Section 88B)

If a person commences any relevant proceedings; or becomes a party to any relevant proceedings; and the person has a commercial competitive interest in the proceedings, then the person must disclose the commercial competitive interest.

If a person commences any relevant proceedings; or becomes a party to any relevant proceedings; and the person receives, in connection with those proceedings, direct or indirect financial assistance from a person who has a commercial competitive interest in the proceedings, then both the person referred to in section 88B and the person who provided the financial assistance referred to in paragraph (b) must disclose the commercial competitive interest.

A disclosure must be made to the Registrar of the relevant court and to the other parties to the relevant proceedings in accordance with any requirements prescribed by the regulations.

A person who fails to make a disclosure in accordance with the requirements of this section is guilty of an offence.

Maximum Penalty: \$30,000

Interactions with a private certifier (section 97)

A person who improperly gives, offers or agrees to give a benefit to a private certifier or to a third person as a reward or inducement for an act done or to be done, or an omission made or to be made, by the private certifier in the performance of a function under this Act is guilty of an offence.

Confidential Information (Section 102)

A person performing any function under this Act must not use confidential information gained by virtue of his or her official position for the purpose of securing a private benefit for himself or herself personally or for some other person.

Maximum Penalty: \$8,000 or imprisonment for two years

A person performing any function under this Act must not intentionally disclose confidential information gained by virtue of his or her official position unless the disclosure is necessary for the proper performance of that function; or the disclosure is made to another who is also performing a function under this Act; or the disclosure is made with the consent of the person who furnished the information or to whom the information relates; or the disclosure is authorised or required under any other Act or law; or the disclosure is authorised or required by a court or tribunal constituted by law; or the disclosure is authorised by the regulations.

Maximum Penalty: \$8,000 or imprisonment for two years

Disclosure of financial interests – Compliance with Schedule (Schedule 2(4))

A prescribed member of an assessment panel who fails to comply with a requirement under Schedule 2 is guilty of an offence.

Maximum Penalty: \$10,000



A prescribed member of an assessment panel who submits a return under this Schedule 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

Restrictions on publication (Schedule 2 (5))

A person must not publish information derived from a register under Schedule 2 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 under Schedule 2 unless the comment is fair and published in the public interest and without malice.

If information or comment is published by a person in contravention of Schedule 2 clause 5(1), the person, and any person who authorised the publication of the information or comment, is guilty of an offence.

Maximum Penalty: \$10,000

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.*