The District Council of Ceduna **POLICY**	**FRAUD & CORRUPTION**	Policy #	1.28 / 4
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Responsible Officer:	General Manager Corporate, People & Compliance		
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1. Introduction

1.1 The District Council of Ceduna ("the 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.

1.2 The Council 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 Council.

2. Policy Statement

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

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

2.3 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 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 Council Members and Council Employees or , if relevant, a Council Employee's contract of employment with the Council;
- ensuring all Council Employees and Council Members are aware of their obligations in regards to the prevention of Fraud and Corruption within the Council 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 actively discouraged; and
- generating community awareness of the Council'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 Council policies, including:

- Whistleblower Protection Policy;
- Risk Management and Internal Control Procedures;
- Code of Conduct for Council Employees;
- Code of Conduct for Council Members;
- Council Members Allowances and Benefits Policy; and

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

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 Council, but also includes any contractors, volunteers and consultants undertaking work for, or on behalf of the Council.

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

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, the Council 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.

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 *Whistleblowers Protection Act 1993*.

5. Prevention

5.1 The Council 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 Council expects that Public Officers will assist in preventing Fraud and Corruption within the Council by:

- understanding the responsibilities of their position;
- familiarising themselves with the Councils 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 Council 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 Council, ***Council Members*** are responsible for ensuring that the ***Council***:

- promotes community awareness of the Council'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 Council 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 Council procedures that have been established to prevent Fraud or Corruption;
- taking care for Council's property which includes avoiding the waste or misuse of the Council's resources;
- maintaining and enhancing the reputation of the Council;
- remaining scrupulous in the use of Council 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 Council's main objective in the prevention and control of Fraud and Corruption is to minimise the occurrence of Fraud and Corruption within the Council. 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 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; and
- changes to risk management practices.

7. Reporting Fraud and Corruption

Reporting Corruption in Public Administration to the OPI

Reports by Employees or Council Members to the OPI

7.1 Any Employee or Council 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 Council 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 Council 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 Council 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 Council Member identity; and
7.3.2 the identity of the Council;

7.3.3 the Employee's or Council Member's Council 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 Council Member suspects is Corruption in public administration; and

7.4.2 expressly identify that the Employee or Council 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 Council Member became aware of the conduct; and

7.4.4.2 the evidence known to the Employee or Council Member including any documentation relevant to the conduct; and

7.4.4.3 a list of those persons who the Employee or Council Member believes can give evidence relevant to the conduct.

7.5 A report to the OPI by an Employee or Council Member must be made on the online report form available at *www.icac.sa.gov.au*.

7.6 Where the Employee's or Council Member's knowledge of Corruption has arisen due to a complaint/report he/she has received from another person (the informant), the Employee or Council 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 *Whistleblowers 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 Council Member from reporting Corruption in public administration internally to a Responsible Officer in accordance with the Council's Whistleblowers Protection Policy. Where an internal report relating to Corruption in public administration is received by another under the Whistleblowers Protection Policy the Responsible Officer must report the matter to the OPI in accordance with this Policy.

Reports by the Council to the OPI

7.8 Where the Council (i.e. Council 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 Council becomes aware of the matter. The Chief Executive Officer is responsible for preparing a report to the OPI on behalf of the Council for these purposes. The

Chief Executive Officer must prepare the report immediately upon receiving direction from the Council (such as via the Mayor) to do so.

7.9 Any suspicion the Council 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 Council 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 Council suspects is Corruption; and

7.10.2 expressly identify that the Council 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 Council became aware of the conduct; and

7.10.4.2 the evidence known to the Council including any documentation relevant to the conduct; and

7.10.4.3 a list of those persons who the Council believes can give evidence relevant to the conduct.

7.11 A report to the OPI by the Chief Executive Officer on behalf of the Council must be made on the online report form available at www.icac.sa.gov.au.

7.12 Where the Council's knowledge of Corruption has arisen due to a complaint/report it received from another person (the informant), the Chief 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 *Whistleblowers 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 Council of information relating to Corruption in public administration or a Council report to the OPI during a Council 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

7.14 Any Employee or Council Member that has or acquires knowledge of actual or suspected Fraud that:

7.14.1 does not constitute Corruption in public administration;[1] and

7.14.2 impacts or causes detriment (or has the potential to impact or cause detriment) to the Council -must report such information to the Responsible Officer or the Anti-Corruption branch of SAPOL.

7.15 A report made under clause 714may be made under the *Whistleblowers Protection Act 1993* and managed in accordance with the Council's Whistleblower Protection Policy.

8. Action by the Chief 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 Whistleblower Protection Policy as the case may be) of which the Chief Executive Officer has knowledge and, subject to the finalisation of any investigation undertaken by the Commissioner or SAPOL, the Chief 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 Council. In undertaking any review, the Chief 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 Council 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 *Whistleblowers 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.

10. Educating for Awareness

10.1 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.

[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.

10.2 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 and Corruption.

10.3 The Council will increase community awareness by:

- promoting the Councils initiatives and policies regarding the control and prevention of Fraud and Corruption on the Councils website and at the Council's offices;
- make reference to the Council's Fraud and Corruption initiatives in the Council's Annual Report; and
- facilitating public access to all of the documents that constitute the Council's Fraud and Corruption framework.

11. Conclusion

11.1 The Council 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 Council will review this Policy within the first 12 months of each new term of Council.

APPENDIX 1
OFFENCES

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.

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: $2,500.00 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: $10,000.00

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: $10,000.00

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: $750.00

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: $4,000.00

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: $8,000.00 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 of any of their contents.

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

Maximum Penalty: $20,000.00

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: $15,000.00

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: $20,000.00

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: $15,000.00

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: $30,000.00

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.

Maximum Penalty: $30,000.00

In this section— benefit does not include a benefit that consists of remuneration or any condition of appointment or employment properly attaching or incidental to the work of a private certifier under this Act.

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: $8,000.00 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: $8,000.00 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: $10,000.00

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: $10,000.00

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: $10,000.00

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.*