



# CORPORATE POLICY NO 4.3 EMPLOYEE MISCONDUCT, FRAUD & CORRUPTION PREVENTION

## 1.0 STATEMENT

The SMRC will:

- Not tolerate misconduct, fraud or corruption by employees of the organisation;
- Ensure a just and co-ordinated approach in dealing with suspected acts of misconduct, fraud and corruption and by following clear Guidelines.
- Where appropriate, endeavour to safeguard the privacy and rights of individuals who are subject to the operation of this Policy, the Plan and Guidelines;
- Endeavour to protect the assets, interests and reputation from harmful events such as suspected misconduct, fraud, corruption or bribery.

By implementing this Policy, Plan and associated Investigation Guidelines, the SMRC endeavours to meet its reporting obligations under section 28 of the *Corruption and Crime Commission Act (WA) 2003*.

## 2.0 SCOPE

This Policy applies to all SMRC employees The Commission considers that labour hire workers are not Public Officers pursuant to the CCM Act.

## 3.0 OBJECTIVE

The SMRC is committed to:

- Minimising the opportunities for misconduct, fraud and corruption and by employees,
- Detecting, investigating and disciplining/prosecuting misconduct, fraud and corruption;
- Reporting suspected misconduct, fraud and corruption to the Public Sector Commission (PSC) or serious misconduct matters to the CCC and, where appropriate, the WA Police;
- Prevention; and
- Developing and utilising the Misconduct, Fraud & Corruption Investigation Guidelines in the event of an act of suspected misconduct, fraud, corruption, or bribery.

## 4.0 DEFINITIONS

Term	Definition
CCC/Commission	The Corruption and Crime Commission established under Section 8 of the <i>Corruption and Crime Commission Act (WA) 2003</i> .

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Term	Definition
Corrupt conduct	<p>Is taken from s4 of the <i>CCC Act</i> to describe where a public officer has:</p> <ul style="list-style-type: none"> <li>• Engaged in the dishonest or preferential use of power or position,</li> <li>• Committed a breach of public trust</li> <li>• Misused information or material acquired in the course of official functions</li> <li>• Acted corruptly or failed to act honourably in the performance of functions of his or her office or employment; or</li> <li>• Corruptly taken advantage of his or her office or employment as a public officer to obtain any benefit for himself or herself or for another person.</li> </ul>
Corruption	<p>Is defined in section 83 of the <i>Criminal Code (WA)</i> and is taken to mean any public officer who, without lawful authority or a reasonable excuse:</p> <ul style="list-style-type: none"> <li>• acts upon any knowledge or information obtained by reason of his or her office or employment;</li> <li>• acts in any matter, in the performance or discharge of the functions of his or her office or employment, for which he or she has, directly or indirectly, any pecuniary interest; or</li> <li>• acts corruptly in the performance or discharge of the functions of his or her office or employment</li> </ul> <p>so as to gain a benefit, whether pecuniary or otherwise, for himself or herself or any person, or so as to cause a detriment, whether pecuniary or otherwise, to any person.</p>
Fraud	<p>As a general dictionary definition includes inducing a course of action by deceit or other dishonest conduct, involving acts or omissions or the making of false statements, whether orally, in writing or by electronic means, with the object of obtaining money or other benefits from or of evading a liability to, the SMRC. Fraud is not restricted too monetary or material benefits and includes intangibles such as status and information and could include intellectual property.</p>
Misconduct	<p>At SMRC it includes the following interpretations of misconduct:</p> <ol style="list-style-type: none"> <li>1. <i>CCC Misconduct</i> as defined by section 4 of the <i>Corruption and Crime Commission Act (WA) 2000</i>;</li> <li>2. <i>Criminal and HR Misconduct</i>.</li> </ol> <p><i>CCC, Criminal and HR Misconduct</i> are further defined in the “Misconduct, Fraud &amp; Corruption Prevention Guidelines” document.</p>

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Term	Definition
Public Officer	It has the same meaning as in section 1(d) and (e) of <i>The Criminal Code (WA)</i> and refers to a person exercising authority under a written law, and includes a member, officer or employee of any authority, board, corporation, commission, municipality, council or committee or similar body established under a written law.
Principal Officer	Principal Officer is defined in section 3 of the CCM Act and may include the chief executive or chief employee of a department or organisation, or a specified person holding the office of Principal Officer. (CCC Guidelines for Notification of Serious Misconduct July 15)
Public Sector Commission (PSC)	The Public Sector Commission (PSC) is responsible for dealing with minor misconduct and for misconduct prevention and education
Serious Misconduct	Serious misconduct is conduct by a public officer: ☒ who acts corruptly or corruptly fails to act in the course of their duties; OR ☒ who corruptly takes advantage of their office or employment to obtain a benefit or to cause detriment to any person and/or organisation; OR ☒ who, in the course of their duties, commits an offence punishable by two or more years' imprisonment. (CCC Guidelines for Notification of Serious Misconduct July 15)
Suspicion on reasonable grounds	means a Principal Officer has made an assessment that their suspicion about the alleged serious misconduct is well-founded. Information about the alleged serious misconduct does not have to be in the direct knowledge of the Principal Officer but should be obtained from reliable sources. Suspicion on reasonable grounds requires some factual basis, and a stronger level of knowledge than mere speculation, rumour, gossip or innuendo. (CCC Guidelines for Notification of Serious Misconduct July 15)

### 5.0 ROLES & RESPONSIBILITIES

Key roles and responsibilities are outlined below. A more detailed description is included in the Misconduct, Fraud & Corruption Investigation Guidelines.

#### 5.1. Chief Executive Officer

5.1.1 The Chief Executive Officer has ultimate responsibility for managing corruption risks in the SMRC.

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5.1.2 The Chief Executive Officer is obliged, under Section 28 of the Corruption and Crime Commission Act (WA) 2003, to report any matter that he/she reasonably suspects involves or may involve corrupt conduct to the Public Sector Commission (PSC) or serious misconduct to the CCC.

## 5.2 Council/Senior Management

Council, Senior Management and the Audit & Risk Committee are responsible for ensuring that the SMRC Misconduct, Fraud & Corruption Prevention Plan is fully and effectively implemented and for adhering to the relevant Codes of Conduct for Councillors and Committee/Advisory Group Members.

## 5.3 Line Managers/Supervisors

Line managers and supervisors are responsible for understanding and implementing the Misconduct, Fraud & Corruption Plan, the Code of Conduct for Employees, and any other relevant policies and procedures supporting good governance within the organisation.

## 5.4 Employees

5.4.1 Employees are responsible for adhering to the Code of Conduct for Employees, the procedures outlined in the Misconduct, Fraud & Corruption Prevention Plan, and any other relevant policies and procedures supporting good governance within the organisation.

5.4.2 Employees are responsible for reporting corrupt conduct through the internal reporting framework, as per the flowcharts attached in the appendices of the Investigation Guidelines or specific advice from the SMRC's PID Officer.

## 6.0 CONTENT

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### 6.1 Principles

This Policy, its Guidelines and associated Plan establish the strategies, controls and processes for the prevention, detection and management of misconduct, fraudulent and corrupt behaviour, and for dealing fairly in specific matters relating to these behaviours. It aims to:

6.1.1 Raise the awareness of the potential circumstances of misconduct, fraud and corruption and the prevention of it at SMRC.

6.1.2 Give guidance and protection to staff and others who report misconduct, fraud and corruption (also called 'whistleblowers') to the SMRC or CCC, and to those staff members who form the basis of an allegation. For more information on the protection afforded to parties who report suspected misconduct, fraud and corruption, and those who are the subject of an allegation, see the Public Interest Disclosure Guidelines on the SMRC's staff intranet at: <http://intranet.smrc.com.au>.

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6.1.3 Outline the processes for any investigation into allegations of reported misconduct, fraud and corruption by both staff and elected members.

6.1.4 Outline the process for reporting suspected acts of misconduct to the Public Sector Commission (PSC) or Corruption and Crime Commission, and other external agencies.

NB: The CCC Act overrides the PID Act and if PID occurs and warrants reporting to the CCC, then the complainant will be advised of this requirement.

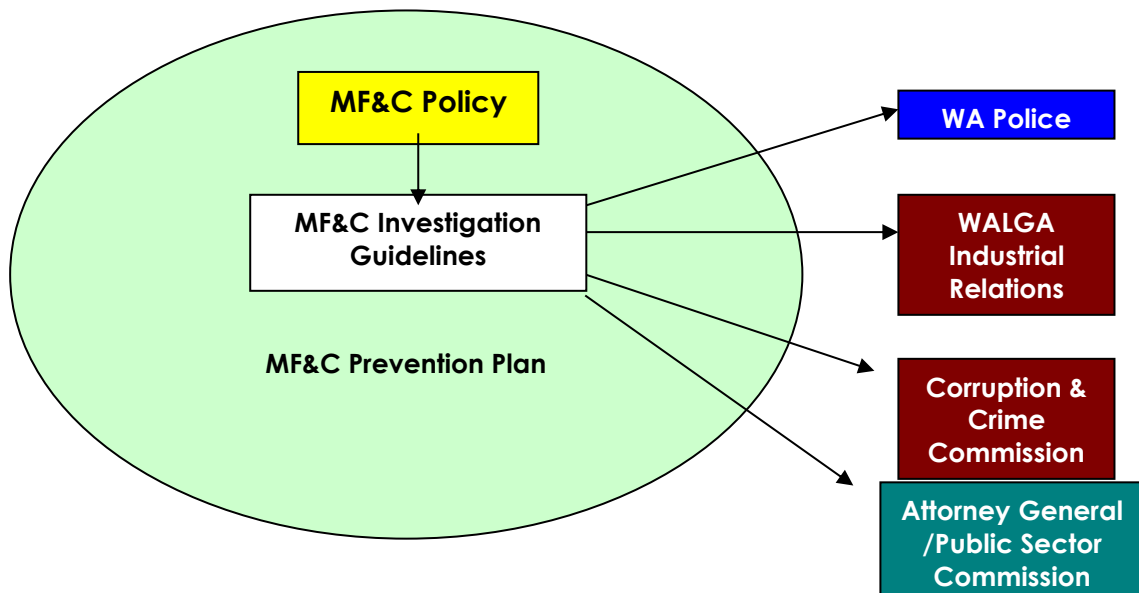
## 6.2 Procedures

The Policy requires the investigation of suspected acts of criminal misconduct by the SMRC’s Misconduct Case Management Team (MCMT), and of HR Misconduct in accordance with the staff member’s industrial agreement and relevant SMRC policies. It also requires the reporting of suspected acts of CCC misconduct to the Corruption and Crime Commission. The “Misconduct, Fraud & Corruption Investigation Guidelines” document sets out the procedures for such investigation in more detail.

## 6.3 Misconduct, Fraud & Corruption Prevention Plan

A Misconduct, Fraud & Corruption Prevention Plan has been developed to identify the corruption prevention outcomes required by SMRC, what is currently being done to achieve these outcomes, and what is still required to achieve these outcomes.

## 7.0 PROCESS MAP



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**8.0 REFERENCES & REVIEW**

<b>Statutory Compliance</b>	<ul style="list-style-type: none"> <li>▪</li> </ul>	
<b>Organisational Compliance</b>	<ul style="list-style-type: none"> <li>▪ Public Interest Disclosure Act (WA) 2003</li> <li>▪ Corruption and Crime Commission Act 2003</li> <li>▪ Fraud Prevention in the Western Australian Public Sector 1999 – a publication from the Ministry of the Premier and Cabinet (<i>now archived and replaced with circular 2009-25 Corruption Prevention</i>)</li> <li>▪ CCC Guidelines for Notification of Serious Misconduct July 15;</li> <li>▪ Notification of Misconduct in Western Australia; and</li> <li>▪ Summary of Misconduct Notification Categories Flow Chart</li> </ul>	
<b>Approved by</b>	Regional Council	
<b>Next Revision Date</b>	August 2023	
<b>Related Documents</b>	<ul style="list-style-type: none"> <li>• Misconduct, Fraud &amp; Corruption Prevention Plan</li> <li>• Misconduct, Fraud &amp; Corruption Investigation Guidelines</li> <li>• SMRC Risk Management Policy – Policy No. 4.2</li> <li>• Staff members’ related Industrial Agreements</li> <li>• SMRC Code of Conduct for Employees</li> <li>• Anti-Harassment, Bullying and Discrimination Policy</li> <li>• Grievance Resolution Procedure</li> </ul>	
<b>Policy Administration</b>	<b>Responsible Officer</b>	<b>Review Cycle</b>
Corporate	Executive Manager Corporate Services	Biennial
<b>Risk Rating</b>	High – A02 Employee Fraud or Corruption	
<b>Location of document</b>	SMRC Website Members Area Staff Intranet SMRC, 9 Aldous Place, Booragoon RRRC, 350 Bannister Road, Canning Vale Network IT	

**9.0 DOCUMENT CONTROL REGISTER**

Date	Review	No.	Author	Resp Officer	Council
2011/03	Original	1	CSM	DCS	27/10/2011
2013/08	Review	2	EMCS	EMCS	22/08/2013
2015	Review	3	EMCS	EMCS	27/08/2015
2017	Review	4	EMCS	EMCS	24/08/2017
2020	Review	5	EMCS	EMCS	26/11/2020
2021	Review	6	EMCS	EMCS	26/08/2021

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