Fraud, Corruption, Misconduct and Maladministration Prevention Policy

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1. Introduction and Scope

1.1 The Gawler River Floodplain Management Authority (**GRFMA**) is committed to acting in the best interests of its constituent councils and the community and to upholding the principles of honesty, integrity and transparency.

1.2 The purpose of this Policy is to:

- provide a clear statement to all Board members and employees that fraudulent conduct, Corruption, Misconduct and/or Maladministration is not acceptable and will not be tolerated;
- protects GRFMA assets, interests and reputation from the risks associated with Fraud, Corruption, Misconduct and/or Maladministration;
- outline GRFMA's approach to the prevention, detection and response to Fraud, Corruption, Misconduct and Maladministration;
- foster an ethical environment and culture which is conscious of, actively discourages, does not tolerate and appropriately deals with Fraud, Corruption, Misconduct and Maladministration;
- educates GRFMA Board members, employees, contractors, consultants, volunteers and members of the public about

requirements and processes for reporting conduct reasonably suspected of being Fraud, Corruption, Misconduct and/or Maladministration;
- ensure that GRFMA develops a consistent approach to the establishment and maintenance of effective systems and internal controls to guard against fraud, corruption, misconduct and maladministration.

1.3 This Policy is intended to complement and be implemented in conjunction with the GRFMA Charter and GRFMA policies.
1.4 GRFMA will review and update this Policy following each general local government election (which results in new appointments to the Board).
1.5 This Policy applies to all GRFMA Board members, employees, contractors, consultants and volunteers of GRFMA.
1.6 This Policy is separate from any obligations which may arise under the *Public Interest Disclosure Act 2018* (SA).

2. Definitions

For the purposes of this Policy the following definitions apply:

2.1 ***Commissioner*** means the person holding or acting in the office of the principal officer of the Independent Commission Against Corruption per section 8 of the *ICAC Act.*

2.2 ***Corruption*** means corruption in public administration, as provided for in section 5(1) of the *ICAC Act*, and in particular means conduct that constitutes:

2.2.1 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; or

2.2.2 an 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

2.2.3 an offence against the *Lobbyist Act 2015*, or an attempt to commit such an offence; or

2.2.4 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 affect the commission of the offence.

2.3 ***GRFMA*** means Gawler River Floodplain Management Authority.

2.4 ***Employee*** refers to all GRFMA employees whether they are working in a full-time, part-time or casual capacity and includes persons employed by other entities (such as Constituent Councils) who are seconded to or otherwise placed in GRFMA.

2.5 ***Fraud*** includes an intentional dishonest act or omission done with the purpose of deceiving.

Note: There is no statutory or agreed common law definition of Fraud. Offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences. An ordinary or lay meaning of Fraud is 'to obtain dishonestly that which the person is not entitled to'. Fraud is a broad label applicable to conduct / practices that involve knowingly dishonest or deceitful behaviour meant to obtain an unjust benefit. Dishonesty is the key element in fraudulent behaviour, as provided for under section 131 of the *Criminal Law Consolidation Act 1935*.

2.6 ***ICAC Act*** is the *Independent Commission Against Corruption Act 2012.*

2.7 ***Maladministration*** means maladministration in public administration as defined in section 4(2) of the *Ombudsman Act* and in particular

2.8.1 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 resources; or
ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and

2.8.2 includes conduct resulting from impropriety, incompetence or negligence; and

2.8.3 is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

2.8 ***Misconduct*** means misconduct in public administration as defined in section 4(1) of the *Ombudsman Act* and in particular means *'an intentional and serious contravention of a code of conduct by a public officer while acting int heir capacity as a public officer that constitutes a ground of disciplinary action against the officer.'*

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

2.10.1 receive and assess complaints about public administration from members of the public;

2.10.2 receive and assess reports about corruption, misconduct and maladministration in public administration from inquiry agencies (including the Ombudsman), public authorities (including GRFMA) and public officers; and

2.10.3 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.

2.10 ***Ombudsman Act*** means the *Ombudsman Act 1972* (SA)

2.11 ***PID Act*** means the *Public Interest Disclosure Act 2018.*

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

- a GRFMA Board member; and
- an employee or officer of GRFMA;

2.13 ***Publish*** is defined in section 4 of the *ICAC Act,* and means publish by:

2.15.1 newspaper, radio or television;

2.15.2 internet or other electronic means of creating and sharing content with the public or participating social networking with the public; or

2.15.3 any similar means of communication with the public.

3. Prevention

3.1 GRFMA 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.

3.2 GRFMA also recognises that the most effective way to prevent the occurrence of Fraud, Corruption, Misconduct and Maladministration is to instill and continually reinforce a culture across GRFMA of acting lawfully, ethically and in a socially responsible manner, and to support this culture with the implementation of appropriate internal control mechanisms.

3.3 GRFMA expects Board members, employees, contractors, consultants and volunteers will assist in facilitating a sound ethical culture and preventing Fraud, Corruption, Misconduct and Maladministration by:

3.3.1 understanding the responsibilities of their positions;

3.3.2 familiarising themselves with GRFMA policies and procedures and adhering to them;

3.3.3 understanding what behaviour constitutes Fraud, Corruption, Misconduct and/or Maladministration;

3.3.4 maintaining an awareness of the strategies that have been implemented by GRFMA to minimise Fraud, Corruption, Misconduct and Maladministration;

3.3.5 being continuously vigilant to the potential for Fraud, Corruption, Misconduct and Maladministration to occur in the GRFMA environment; and

3.3.6 reporting suspected or actual occurrences of Fraud, Corruption, Misconduct and Maladministration in accordance with Part 5 and 6 of this Policy.

4. Educating for Awareness

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

4.2 GRFMA will, therefore, from time to time take proactive steps towards ensuring that the wider community is aware of GRFMA's zero-tolerance stance towards Fraud, Corruption, Misconduct and Maladministration, including by:

4.2.1 promoting GRFMA's initiatives and policies regarding the control and prevention of Fraud, Corruption, Misconduct and Maladministration on the GRFMA website and at GRFMA offices; and

4.2.2 referring to GRFMA's Fraud, Corruption, Misconduct and Maladministration initiatives in GRFMA's Annual Report.

5. Reporting Corruption, Misconduct or Maladministration

5.1 Any Public Officer who has or acquires knowledge of actual or reasonably suspected Corruption in GRFMA or in other public administration must report this information to the OPI as soon as practicable in accordance with the Directions and Guidelines for Public Officers published by the OPI pursuant to section 18B(1) of the *ICAC Act*.

5.1.1 A report to the OPI should be made using the online report form available at: http://publicintegrity.sa.gov.au

Note: Particulars of what a report should include are available in the Directions and Guidelines for Public Officers.

5.2 Any Public Officer who has or acquires knowledge of actual or reasonably suspected Misconduct or Maladministration should report this information to the Ombudsman as soon as practicable in accordance with the Ombudsman's Directions and Guidelines.

5.2.1 A report to the Ombudsman should be made using the online report form available at: https://www.ombudsman.sa.gov.au/make-a-report

Note: Particulars of what a report should include are available in the Ombudsman's Directions and Guidelines.

5.3 Any member of the public who has or acquires knowledge of reasonably suspected Corruption, Misconduct or Maladministration may make a complaint to the OPI or Ombudsman, as the case may be.

5.4 Nothing in this section is intended to prevent a Public Officer or member of the public from reporting reasonably suspected Corruption or Maladministration in GRFMA or in other public administration to another relevant authority for the purposes of the PID Act. Relevant authorities for the purposes of the PID Act include (depending on the circumstances) the Environment Protection Agency, the Auditor-General or a member of the police force. Such a disclosure may be protected under the PID Act.

5.5 Further information about reporting requirements is available at the OPI's website: https://publicintegrity.sa.gov.au and the Ombudsman's website: http://ombudsman.sa.gov.au

5.6 Where a GRFMA Board member, employee, contractor, consultant, volunteer or member of the public acquires knowledge of reasonably suspected Corruption, Misconduct or Maladministration in GRFMA, they are encouraged to also bring this matter to the attention of the Executive Officer (separate to any report or complaint made to OPI or the Ombudsman), but only if they feel comfortable to do so. The Executive Officer will endeavour to keep the matter confidential as far as practicable and to the extent permissible by law.

6. Reporting other Fraud

6.1 Where a GRFMA Board member, employee, contractor, consultant or volunteer has or acquires knowledge of actual or reasonably suspected Fraud or other similar conduct that does not constitute Corruption or Misconduct or Maladministration, that knowledge should be reported to GRFMA's Executive Officer. The Executive Officer will endeavour to keep the matter confidential as far as practicable and to the extent permissible by law.

7. Confidentiality and Publication Prohibitions

7.1 A person who receives information knowing that the information is connected with a matter that forms or is the subject of a complaint, report, assessment, investigation, referral or evaluation under the *ICAC Act* must not disclose that information, other than in the limited circumstances set out in section 54(3) of the *ICAC Act* or section 29A(3) of the *Ombudsman Act*.

7.2 A person must not, other than as authorised by the Commissioner or the Director of OPI in the case of matters under the *ICAC Act,* or the Ombudsman or a person approved by the Ombudsman in the case of matters under the *Ombudsman* Act, publish or cause to be published any of the following:

7.2.1 information tending to suggest that a particular person is, has been, may be, or may have been, the subject of a complaint, report, assessment, investigation or referral under the *ICAC Act* or the *Ombudsman Act*;

7.2.2 information that might enable a person who has made a complaint or report under the *ICAC Act* or the *Ombudsman Act* to be identified or located;

7.2.3 the fact that a person has made or may be about to make a complaint or report under the *ICAC Act* or the *Ombudsman Act;*

7.2.4 information that might enable a person who has given or may be about to give information or other evidence under the *ICAC Act* or the *Ombudsman Act* to be identified or located;

7.2.5 the fact that a person has given or may be about to give information or other evidence under the *ICAC Act* or the *Ombudsman Act*; or

7.2.6 any other information or evidence which the Commission or the Ombudsman has prohibited from publication.

7.3 A failure to comply with confidentiality requirements pursuant to the *ICAC Act* or the *Ombudsman Act* can constitute an offence. A GRFMA employee who fails to comply with these requirements may also face disciplinary action which may include dismissal from employment.

8. Action by the Executive Officer

8.1 Unless otherwise directed by the OPI, ICAC, Ombudsman or SAPOL, the Executive Officer 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 GRFMA. The investigation should:

8.1.1. occur as soon as practicable after the alleged incident; and

8.1.2. not impose on or detract from any investigation being undertaken by ICAC, the Ombudsman or SAPOL;

8.1.3. have regard to any recommendations in any report received from the ICAC, the Ombudsman or SAPOL on the incident.

8.2 The Executive Officer will, in conducting the investigation and deciding whether and how to report on the investigation to GRFMA, have regard to any confidentiality requirements under the *ICAC Act, Ombudsman Act* or *PID Act.*

8.3 Action taken by the Executive Officer following an investigation into alleged Fraud, Corruption, Misconduct or Maladministration may include disciplinary action against any employee involved in the incident.

9. False Disclosure

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

9.2 A GRFMA employee who makes a false disclosure may also face disciplinary action which may include dismissal from employment.

10. Availability of the Policy

10.1 This Policy will be available for inspection at GRFMA's offices during ordinary business hours and via GRFMA's website