

Fraud and Corruption Prevention

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Policy statement

NSW Department of Industry (the Department) is committed to building and maintaining a professional and ethical workplace. In doing so, it will safeguard the trust and confidence of the community by ensuring our staff does not engage in fraud and corruption. The Department is committed to:

- minimising the opportunities for fraud and corrupt conduct by employees, members of the public, contractors and clients
- detecting, investigating and disciplining/prosecuting fraud and corrupt conduct
- reporting fraud and corrupt conduct to ICAC and where appropriate to NSW Police
- taking a risk-based approach to the identification and mitigation of fraud and corruption

Scope

This policy applies to all divisions, offices, agencies and authorities of the Department. It applies to all ongoing staff, temporary/seconded employees, volunteers, board and committee members, clients and stakeholders. Any external party, e.g. contractors, consultants, outsourced service providers, suppliers and volunteers, involved in providing services to the Department, with or without re-imburement, are subject to this policy.

Requirements

1. Approach to fraud and corruption prevention

- a. In preventing fraud and corruption, the Department applies and is guided by:
 - the *Public Finance and Audit Act 1983*
 - the *Independent Commission Against Corruption (ICAC) Act 1988*
 - NSW Treasurer's Directions
 - NSW Treasury [TPP 15-03 Internal Audit and Risk Management Policy for the NSW Public Sector](#).
- b. The Executive and line management lead and advocate a healthy ethical culture within the Department through:
 - demonstrating ethical behaviour in day-to-day activities
 - communicating the benefits of ethical behaviour throughout the organisation
 - integrating strategies to prevent fraud and corruption in all departmental processes
 - instituting positive reinforcement of ethical behaviour.
- c. The Department publishes this policy as well as its values and ethical standards, articulated in the Code of Conduct and the Customer Service Charter, on its website.
- d. The Department conducts regular fraud and corruption risk assessment reviews to establish its risk profile and to provide management with information to deal with fraud and corruption in a cost effective way. These assessments:
 - are conducted in conjunction with the divisional risk management reviews and annual internal audits
 - address both internal and external risk of fraud and corruption
 - manage all the identified high risks on a quarterly basis

- are conducted at least every two to three years or shorter period if changes to the Department risk profile are made/perceived
- e. The Department has developed and resourced a Fraud and Corruption Prevention Strategy to implement this policy and to continually improve fraud and corruption controls and prevention strategies.

2. Internal controls

- a. The Department's internal financial and management controls require staff to follow defined standards of practice. These internal controls include:
- suitable recruitment procedures, induction, checking referee reports and educational qualifications
 - segregation of duties
 - security of records and information systems
 - consideration of risk and risk management strategies
 - supervision and internal checks
 - approvals within delegated authority
 - reconciliations
 - budget control
 - regular review of management reports
 - clear reporting lines
 - internal audit.
- b. The internal audit plan includes both scheduled and responsive reviews of compliance and the effectiveness of internal controls. The findings of these audits are reported to the Audit and Risk Committee with recommendations that address identified adverse trends or deficiencies.

3. Reporting fraud and corruption

- a. Staff may raise appropriate matters at any time with:
- their managers/supervisors,
 - their Deputy Secretary / Executive Director,
 - the Deputy Secretary Finance, Strategy & Operations (as the Department's Fraud Control Officer),
 - the Secretary.

All matters reported in good faith are thoroughly investigated using processes outlined in the fraud and corruption investigation procedure.

- b. Staff not wishing to report a matter internally may make reports or public interest disclosures to the following investigating authorities:
- ICAC (for fraud / corruption matters)
 - NSW Ombudsman (for maladministration matters)
 - Auditor-General (for serious and substantial waste of public money)
 - Information Commissioner (for government information contravention)
- c. Public Interest Disclosures (PIDs) are covered by the *Public Interest Disclosures Act 1994* and are handled as outlined in the *Public Interest Disclosures – Internal Reporting Policy and Procedure*.
- d. The Department has a statutory obligation to report suspected corruption, whether or not it involves a staff member, to the ICAC for investigation in spite of any duty of secrecy or other disclosure restriction. It is important to note that proof is not necessary. Because a statutory duty is being performed, a good faith report is protected from defamation action, even if the suspicion on which it is based turns out to be groundless.
- e. The Department must inform the police of any occurrence of fraud internally. There is no discretion in this matter. Even if a criminal matter has been reported to ICAC, it must still be reported to the police.

- f. The Department is subject to the requirements of the *Public Finance and Audit Act 1983* and as such, has an obligation to report discrepancies of material proportions to the Auditor-General as they may affect the annual audit opinion of the Department's financial statements.

4. Report outcomes

- a. The Department takes appropriate disciplinary action against staff members found guilty of fraudulent or corrupt conduct. This may include referral to the Police. Civil action may also be pursued in order to recover any losses of public money or property.
- b. Members of the public found to have perpetrated a fraudulent or corrupt act against the Department will be referred to the Police.

Procedures

- Fraud and corruption investigation
- Public Interest Disclosures – Internal Reporting

Roles and responsibilities

Secretary

The Secretary has ultimate responsibility for the effective and economical use of the Department's resources and for determining appropriate controls in managing fraud and corruption risks in the Department.

This responsibility is appropriately delegated to the Executive and managers as detailed in the Administrative delegations.

The Secretary is obliged, under section 11 of the ICAC Act, to report to the ICAC any matter that he/she reasonably suspects involves or may involve corrupt conduct.

Executive and senior management

Executive and senior management are responsible for ensuring that the Department's Fraud and Corruption Prevention Strategy is fully and effectively implemented.

Managers and supervisors

Managers and supervisors are responsible for understanding and implementing the Code of Conduct and other relevant policies and procedures. In particular, all managers are responsible for:

- leadership, guidance and support of staff in preventing fraud and corruption and modelling ethical behaviour
- setting/enforcing disciplinary standards
- identifying high fraud risk areas
- identifying specific sources of fraud or corruption risk
- participating in fraud and corruption risk assessment reviews
- implementing remedial action to address issues identified by the fraud and corruption risk assessment reviews
- assessing the cost/benefit of introducing anti-fraud procedures
- developing/modifying practices to reduce fraud and corruption risk
- monitoring the continued operation of controls to prevent fraud and corruption
- receiving reports of suspected fraud or corruption from staff
- reporting suspected fraud and corruption
- ensuring the protection of complainants who report fraudulent or corrupt activities.

Employees

All staff are responsible for preventing fraud and corruption and acting ethically. They must comply with controls, policies and procedures and reporting suspected incidences of fraudulent or corrupt behaviour through the lines of internal reporting, or directly to the ICAC.

To be able to actively and positively contribute to fraud and corruption prevention, all staff should:

- embrace an ethical work-place culture

- recognise the value and importance of personally contributing to fraud and corruption prevention
- develop an understanding of good work practices, systems and controls
- keep abreast of best practices for preventing fraud and corruption
- become aware of the different types of fraud and corruption that can occur in the workplace and how to detect them
- report suspected incidences of fraudulent or corrupt conduct in accordance with the procedures.

Fraud Control Officer and Public Interest Disclosure Coordinator

The Department's Fraud Control Officer and Public Interest Disclosure Coordinator is the Deputy Secretary, Finance Strategy and Operations. The role of the Fraud Control Officer and Public Interest Disclosure Coordinator is to:

- coordinate the Department's overall approach to fraud and corruption prevention
- develop and implement a Fraud and Corruption Strategy
- oversight implementation of the Fraud and Corruption Prevention Policy and accompanying Strategy; monitor progress
- oversight the development of fraud and corruption awareness/education training
- liaise with central agencies such as ICAC, NSW Ombudsman, NSW Audit Office and the Information Commissioner on fraud and corruption issues.

Safety considerations

Implementation of this policy involves assessment of the risk of fraudulent or corrupt conduct affecting the health and wellbeing of staff and clients/stakeholders and development of controls to eliminate or reduce this risk.

Delegations

- Administrative

Definitions

Fraud

Fraud is regarded as any practice that involves the use of deceit to confer some form of financial benefit upon the perpetrator (either directly or indirectly) and which results in some form of material loss to the entity defrauded.

Fraud is defined as dishonestly obtaining a benefit by deception or other means. This definition of fraud includes suspected fraud, incidents under investigation and completed incidents, whether the fraud was proved or not, and whether the incident was dealt with by a criminal, civil or administrative remedy (Volume Seven 2012 Audit office report).

Corruption

Corruption commonly involves the dishonest or preferential use of power or position, which has the result of one person or organisation being advantaged over another. It does not necessarily involve financial gain. The many forms of corruption are listed in Attachment 1.

The Independent Commission Against Corruption provides a more specific definition in Sections 7, 8 and 9 of the ICAC Act. For the purposes of the Act, corrupt conduct is that which:

- involves the dishonest or partial exercise of official functions by a public official
- involves a breach of public trust by a public official
- involves the misuse of information or material acquired in the course of official functions by a public official
- adversely affects the honest or impartial exercise of official functions by a public official, any group or body of public officials or any public authority – this involves the conduct of any person (whether or not a public official).

A key point is that corrupt conduct must involve intent to act dishonestly or with a corrupt motive. That is, corrupt acts are deliberate acts.

Forms of Corruption

The many forms of corruption include, but are not limited to:

- official misconduct (e.g. breach of trust, fraud in office, extortion or imposition)
- bribery
- blackmail
- obtaining or offering secret commissions
- fraud
- theft
- perverting the course of justice
- embezzlement
- election bribery
- election funding offences
- election fraud
- tax evasion
- revenue evasion
- currency violations
- illegal gambling
- obtaining financial benefit by vice engaged in by others
- bankruptcy and company violations
- forgery
- homicide or violence
- matters of the same or a similar nature to any listed above
- any conspiracy or attempt to conspire in relation to any of the above

Legislation

- *Annual Reports (Departments) Act 1985*
- *Crimes Act 1900*
- *Government Information (Public Access) Act 2009*
- *Government Sector Employment Act 2013*
- *Independent Commission Against Corruption Act 1988*
- *Ombudsman Act 1974*
- *Privacy and Personal Information Protection Act 1998*
- *Public Finance and Audit Act 1983*
- *Public Interest Disclosures Act 1994*
- *State Records Act 1998*

Related policies

- Code of Conduct
- Conflict of Interests
- Enterprise Risk Management Framework
- Gifts and Benefits
- Private or Secondary Employment
- Public Interest Disclosures – Internal Reporting

Other related documents

- Australian Standard: AS 8001-2008 Fraud and Corruption Control
- Australian/New Zealand Standard: ISO 31000:2009 Risk Management
- Behaving Ethically – A Guide for NSW Government Sector Employees
- NSW Department of Industry Customer Service Charter
- NSW Department of Industry Fraud and Corruption Prevention Strategy
- NSW Department of Industry Internal Audit Manual
- NSW Treasurer's Directions
- NSW Treasury TPP 15-03 [Internal Audit and Risk Management Policy for the NSW Public Sector](#)

Superseded documents

This policy replaces:

- *NSW Trade & Investment Fraud and Corruption Prevention Policy TI-P-146*

Revision history

Version	Date issued	Notes	By
1.0	will	Policy TI-P-146 updated to reflect current legislation references and administrative changes associated with the creation of the NSW Department of Industry.	Project Officer Corporate Governance
1.1	03/05/2017	Minor corrections to grammar.	Project Officer Corporate Governance

Review date

1 April 2018

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