

Fraud Control Strategy - Department of Health, NSW

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Functional Sub group Corporate Administration - Governance
Personnel/Workforce - Conduct and ethics

Summary The strategy communicates the Department's position of not tolerating any act of fraud or corruption and emphasises that fraud prevention and control is the responsibility of all staff.

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This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

FRAUD CONTROL STRATEGY

1 Introduction

The Department of Health promotes an organisational culture that will not tolerate any act of fraud or corruption. This Fraud Control Strategy aims to foster an environment that actively discourages fraudulent activities in order to protect the Department's assets, interests and reputation, and to provide a transparent framework for reporting and investigating fraud should it occur.

Fraud prevention and control must be the responsibility of all staff and all levels of management, and not just selected people or units within the Department. The Department acknowledges that our staff are the best defense against fraudulent activity and play a critical role in preventing and detecting fraud. Staff are encouraged to familiarise themselves with the Department's fraud control strategy and to be aware of the role they can play.

Any instances of fraud detected, as being perpetrated against the Department, will be fully investigated and the perpetrators prosecuted to the maximum extent allowed under the law.

A cornerstone of this strategy is the mandatory requirement for Branch Directors or equivalent to undertake a fraud risk analysis on an annual basis in respect of their area of responsibility. The *Guide to Fraud Risk Assessment Tool* located on the Internal Audit Branch's intranet site has been introduced to assist Directors to assess the adequacy of existing controls and to determine if additional fraud counter measures are required.

1.1 Overview

This Fraud Control Strategy sets out the fraud control and prevention policies and procedures of the Department of Health. It details the Department's approach to the prevention, detection, reporting and investigation of fraud and corruption. It also identifies current activities that may be susceptible to fraud and corruption, and provides strategies for better management and control of those activities.

Effective implementation of this strategy will help ensure that public confidence in the integrity of the Department of Health is maintained and our ability to minimize the loss of resources due to fraud can assist us to achieve our strategic goals.

1.2 Department of Health's Policy and Attitude to Fraud and Corruption

The Department of Health promotes an organisational culture that does not tolerate any act of fraud or corruption. This Fraud Control Strategy is designed to put this principle into practice.

Apart from the legal consequences of fraud and corruption, improper acts have the potential to damage the Department's public image and reputation. Unresolved allegations can also undermine an otherwise credible position and reflect negatively on innocent individuals.

Title: Fraud Control Strategy

All staff must be above fraud and corruption. Sanctions will apply to those who are not. In addition, staff must act so they are not perceived to be involved in such activities. Through transparent and accountable decision-making, together with open discussion by staff and managers about the risks of fraud and corruption, the Department seeks to foster an organisational climate that does not tolerate fraud or corruption.

The Department will deal fairly with all parties in the course of investigating allegations of fraud or corruption. However, if fraud or corruption is proven, appropriate sanctions and/or disciplinary proceedings under the Public Sector Employment and Management Act 2002 will be applied. Matters referred to the Independent Commission Against Corruption (ICAC) or NSW Police may lead to criminal proceedings. Offenders can expect to be required to repay the full cost of any theft, misappropriation or improper benefit, including interest. If the offender has monies owing by the Department, such sums may be offset against any inappropriate benefit obtained.

The prevention of fraud and corruption requires that all staff members act ethically and professionally in accordance with the *NSW Health Code of Conduct (PD2005_626)*.

1.3 Relationship with other Policy Directives

In addition to the Code of Conduct, this Strategy has a close relationship with the following:

- Protected Disclosure Policy PD2005_263
- Corrupt Conduct – reporting to the Independent Commission Against Corruption PD2005_173
- Managing Conflicts of Interest PD2005_469
- NSW Government Personnel Handbook (Chapter 9 — Discipline).

The Department's approach to fraud and corruption, as set out in this strategy, is designed to include the Auditor-General's *Ten Attributes of Best Practice in Fraud Control* <http://www.audit.nsw.gov.au/> and is based on the standards, principles and strategies set out in Australian Standard AS 8001 – 2003- *Corporate Governance – Fraud and Corruption Control*.

2 Definitions of fraud and corruption

Fraud and corruption can be distinguished from other forms of unethical behaviour. The following definitions are based on those contained in the Australian Standard for Fraud and Corruption Control (AS 8001-2003).

Corruption

Dishonest activity in which a director, executive, manager, employee, contractor, volunteer or work experience student acts contrary to the interests of the Department and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity.

Fraud

Dishonest activity, by Department of Health employees, contractors, volunteers, work experience students or external persons, causing actual or potential financial loss to the Department, including the theft of moneys or other property. This includes the deliberate falsification, concealment, destruction or improper use of documentation used for a normal business purpose or the improper use of other information or position.

Examples of fraud and corruption are provided in **Appendix 1**

3 Roles and responsibilities

3.1 Director-General and Executive

The Code of Conduct and Ethics for Public Sector Executives sets out the following responsibilities for the Director-General and the Executive:

- To maintain public confidence in the integrity of the public sector, it is essential that public sector executives exhibit, and are seen to exhibit, the highest ethical standards in carrying out their duties. Executives must pursue, and be seen to pursue, the best interests of the people of New South Wales.
- Public officials are expected to act in the public interest and to demonstrate ethical behaviour in carrying out their official duties. Executives have special responsibilities by virtue of their positions of authority and their high levels of accountability for decision-making and leadership.
- The successful development of an ethical environment relies upon Chief Executives and senior management leading ethical behaviour and ethical work practices in their organisations.

The Director General and Executive consider and approve all policies and procedures relating to the control and investigation of fraud and corruption.

The Director-General has a duty to report to the Independent Commission Against Corruption any matter that is suspected on reasonable grounds to be corrupt conduct.

Auditing Standard AUS210 requires the Director-General and the Chief Financial Officer to provide the Audit Office of NSW with an annual written representation that they have in place the systems and procedures to deal effectively with fraud.

All reasonable suspicions of fraud or corruption are reported to the Director-General who decides what action should be initiated to assess the concerns raised. The Director-General must receive and approve of an investigation plan before a fraud investigation commences.

Title: Fraud Control Strategy

All fraud and corruption investigation reports are referred back to the Director General who then decides what action is necessary to address the investigation findings. Options available to the Director-General include disciplinary action, referral to the Police for prosecution and appropriate recovery action.

3.2 Corporate Governance and Risk Management Branch

The Director Corporate Governance and Risk Management and branch staff are responsible for:

- Producing fraud and corruption policies, procedures and training proposals;
- Providing advice to senior management on investigation processes and reports.
- Maintaining a data base of all corrupt conduct(including fraud) incidents reported to ICAC for NSW Health and reporting of trends etc

The Director, Corporate Governance and Risk Management is also the Department's nominated Corrupt Conduct and Protected Disclosures Officer.

3.3 Internal Audit Branch

Internal Audit Branch provides service to management by assessing the adequacy and effectiveness of the systems of internal control in the Department and reports to management on omissions, weaknesses or deficiencies that require corrective action.

The Branch undertakes investigations of possible fraud that it detects and also investigates allegations of fraudulent activity reported to the Department if the allegation relates solely to the Department and does not involve other public health organisations.

Prior to commencing an investigation of fraud, the Manager, Internal Audit must submit an investigation plan to the Director-General. The Investigation plan must describe the terms of reference for the investigation, the resources and methodology to be used and the anticipated timeframe for concluding the investigation.

Maintains the *Fraud Risk Assessment* tool on the Internal Audit Branch website and provides advice and assistance as required to Branch Directors during the conduct of fraud risk assessments.

Provides assurance to the Director-General through the Risk Management and Audit Committee that fraud control procedures are in place and operating effectively. This is achieved by conducting a compliance review of all Departmental business units/branches within a 3 year cycle to ensure that Directors have completed a fraud risk assessment utilizing the *Fraud Risk*

Title: Fraud Control Strategy

Assessment tool on the Internal Audit Branch website. The results of this review are to be submitted to the Risk Management and Audit Committee.

The Manager, Internal Audit reports all incidents of fraud to the Risk Management and Audit Committee setting out:

- Date of report
- Details of the incident
- Circumstances surrounding the events
- Identified business process and internal control weaknesses or deficiencies

The Manager, Internal Audit will maintain a register of all reported fraud incidents. At the end of each financial year, the data in the register should be provided to the Risk Management and Audit Committee. The committee can use this data to support their advice to the Director-General and Chief Financial Officer that the Department has systems in place to meet its obligations under AUS210.

3.4 Risk Management and Audit Committee

The Committee's key task is to provide reasonable assurance to the Director-General that systems of internal control that will mitigate the impact of fraud are of a high standard, are cost effective and are functioning as intended.

The Committee is responsible for reviewing the Department's compliance with laws, regulations, ethics, policies and rules regarding conflict of interest, misconduct, or fraud and the resolution of these cases and follow up on findings and recommendations.

Reports to the Director-General and Chief Financial Officer the annual data collected in the register of reported/suspected fraud incidents as required by AUS210.

Advises the Director-General and Chief Financial Officer of its assessment of the status of the Department's systems for mitigating fraud as required by AUS210.

3.5 Branch Directors

Branch Directors at all levels of the Department are primarily responsible for fraud prevention and detection. Directors must ensure that effective fraud and corruption prevention risk management strategies and staff awareness programs are established in their workplaces.

Title: Fraud Control Strategy

All Branch Directors are responsible for:

- Completing an annual fraud risk assessment utilising the *Fraud Risk Assessment* tool located on the Department's Work Support Centre <http://internal.health.nsw.gov.au/employinfo/> ;
- Monitoring their workplaces to identify and address situations that are likely to raise ethical dilemmas;
- Ensuring that staff are not placed in potentially difficult or compromising situations;
- Being available and supportive to staff who require guidance on conflicts of interest and other ethical dilemmas;
- Fostering a work environment free of harassment, discrimination, victimisation, corruption, mal-administration and waste
- Ensuring that staff are aware of the principles contained in the Code of Conduct and the established systems and procedures for addressing ethical problems – The Code's advice on conflict of interest situations should be emphasized to all staff;
- Supporting and protecting staff who report, in good faith, instances of potentially unethical or corrupt practices;
- Ensuring that staff are treated fairly, equitably and in accordance with relevant legislation and policy;
- Ensuring effective and correct use of delegations of authority;
- Ensuring that all staff involved in contact with individuals or organisations external to the Department properly record their actions, comments and undertakings on Departmental files. This is a safeguard against false and malicious allegations against officers;
- Ensuring all staff take at least two weeks continuous leave in any period of 12 months
- Ensuring that appropriate structured referee checks and pre employment criminal record checks are completed for every recruitment action.
- Setting a good example in actions and deeds
- Supporting and providing assistance through the Employee Assistance Program, to staff identified as having "personal issues" such as substance abuse, addictions and gambling.

3.6 All Departmental Staff

All staff, contractors, consultants and volunteers must act ethically and not engage in, assist or tolerate any fraudulent or corrupt activity. If an employee knows about or has good reason to suspect possible corrupt conduct, including fraudulent activity, within the Department, he/she must report that information to the Director-General or the Director, Corporate Governance and Risk Management or their immediate manager or another manager or to ICAC.

The Protected Disclosures Act 1994 offers employees protection from reprisal when reporting fraudulent activity. Further details on reporting and protection from reprisal are described in *Corrupt Conduct – reporting to the Independent Commission Against Corruption PD2005_173* and *Protected Disclosure Policy PD2005_263*.

4 Fraud and Corruption Risk Management

4.1 Areas at Risk of Fraud

An important part of fraud and corruption prevention is understanding where the areas of risk are in relation to the Department's responsibilities and functions. Based on studies by ICAC and the Queensland Crime and Misconduct Commission, the following public sector operational areas and functions are perceived to have high fraud and corruption risk ratings:

- *financial functions* — such as the receipt of cash, revenue collection and payment systems, salaries and allowances, and entertainment expenses
- *construction, development and planning functions* — ranging from land rezoning or development applications to construction and building activities
- *regulatory functions* — involving the inspection, regulation or monitoring of facilities and operational practices, including the issue of fines or other sanctions
- *licensing functions* — such as the issue of qualifications or licences to indicate proficiency or enable the performance of certain activities
- *demand driven or allocation-based functions* — where demand often exceeds supply, including the allocation of services or grants of public funds, or the provision of subsidies, financial assistance, concessions or other relief
- *procurement and purchasing functions* — including e-commerce activities, tendering, contract management and administration
- other functions involving the exercise of discretion, or where there are regular dealings between public sector and private sector personnel (especially operations that are remotely based or have minimal supervision).

Examples of fraud and corruption are provided in Appendix 1 and in the *Fraud Assessment Tool* available on the Department's Work Support Centre <http://internal.health.nsw.gov.au/employinfo/>

4.2 Regular fraud risk assessment

Managers are responsible for annually reviewing their areas of activity to assess potential risks, develop strategies to address those risks and to determine the effectiveness of the control mechanisms they have implemented. These strategies should be integrated into branch work practices and procedures, and also form part of staff discussions and performance reviews. Branch Business Plans should reflect these activities.

To assist managers, a *Fraud Risk Assessment* tool has been installed on the Department's Work Support Centre. The assessment tool can help managers and staff to assess the adequacy of existing controls and to determine whether additional fraud countermeasures are required.

The Manager, Internal Audit Branch is available to provide advice and assistance to managers in completing the assessment tool. Branches that are subject to regular review by Internal Audit Branch eg salaries, should discuss with the Manager, Internal Audit, the need to complete the annual review so that duplication is avoided.

Internal Audit Branch will conduct a compliance review of all Departmental business units/branches on a 3 year cycle to ensure that managers have completed their fraud risk assessment to a satisfactory standard.

5 Procedures for Reporting Fraud

All Departmental staff has a duty to report suspected fraudulent activity.

The Department of Health has developed and published policies and processes to facilitate the reporting of suspicions of fraud or other corrupt conduct. Staff should be aware of the reporting systems described in *Protected Disclosure Policy PD2005_263* and *Corrupt Conduct – reporting to the Independent Commission Against Corruption PD2005_173*. Details of making a protected disclosure can be found on Corporate Personnel Service's website.

The internal reporting system can be summarized as; employees can report to their immediate manager, or another manager, or Director Corporate Governance and Risk Management or the Director-General. The protected disclosure reporting system complements existing communication channels between managers and staff. Staff are encouraged to continue to raise their concerns at any time with their managers, but as an alternative they have the option of making a protected disclosure in the manner outlined in *Protected Disclosure Policy PD2005_263*. The Protected Disclosures Act 1994 offers employees protection from reprisal when reporting fraudulent activity.

Members of the public, and other stakeholders such as suppliers or contractors can report suspicions of fraud or corruption by writing to or telephoning the Director Corporate Governance and Risk Management (9391 9000), or by email to nswhealth@doh.health.nsw.gov.au.

Anonymous reports from members of the public will be treated in accordance with the merits of the issues raised and the adequacy of the information provided.

6 Procedures for Fraud and Corruption Investigation

The decision to investigate a suspected incident of fraud is made by the Director-General based on the advice of the Manager, Internal Audit or Director, Corporate Governance and Risk Management.

The Director, Corporate Governance and Risk Management or Manager, Internal Audit will make an assessment of the issues and available information related to the suspected fraud before advising the Director-General. This may include preliminary enquiries that involve a review of relevant documentation and/or an interview with the complainant or persons related to the suspected incident.

Before an investigation commences, the Director-General must receive and approve of an investigation plan that describes the terms of reference for the investigation, the resources and methodology to be used and the anticipated timeframe for concluding the investigation.

Investigations will be undertaken by:

- **Internal Audit Branch** when the fraud incident is related solely to the Department and does not involve other public health organisations;
- **Corporate Governance and Risk Management Branch** when the fraud incident relates to organisations external to the Department;
- **Contracted external investigators** arranged and managed by either Internal Audit Branch or Corporate Governance and Risk Management Branch.

Contracted investigators will be used when departmental investigative resources are not available or when an additional 'arms length' level of independence is required.

All investigations are conducted in accordance with and to the standards contained in the Department's "*Protocol for Investigations*" and "*Investigation Manual*".

Fraud investigation reports are submitted to the Director-General who then decides what action is necessary to address the investigation findings.

The Department will deal fairly with all parties in the course of investigating allegations of fraud or corruption. However, if fraud or corruption is proven, appropriate sanctions and/or disciplinary proceedings under the Public Sector Employment and Management Act 2002 will be applied. Matters referred to the Independent Commission Against Corruption (ICAC) or NSW Police may lead

Title: Fraud Control Strategy

to criminal proceedings. Offenders can expect to be required to repay the full cost of any theft, misappropriation or improper benefit, including interest. If the offender has monies owing by the Department, such sums may be offset against any inappropriate benefit obtained.

7 Communication of Fraud Control Strategy

Even the most clearly written Fraud Control Strategy will have limited effect in influencing the ethical culture of an organisation or reducing the incidence of fraud and corruption if staff are not fully conversant with the document and have an understanding of how the requirements outlined translate into their day to day environment.

Communication of the Strategy will specifically be undertaken as hereunder:

Recruitment Action:

- Include a copy of the Strategy in job information packages;
- Refer to the Strategy in job/position descriptions;
- Make an awareness of public sector values part of the job selection criteria;
- Ask questions in job interviews regarding the Code of Conduct and public sector values, including what prospective employees understand by acting “honestly”;
- Include in Induction processes information and guidance on the Code of Conduct including the behaviours and standards expected within the Department;

Learning and Development:

- Ethics education will form part of the Department’s learning and development strategy;
- Undertaking, by staff and Directors of corruption resistance training;
- Placement of document on the Department’s Work Support Centre and regular e-mail broadcasts to staff to make them aware of its existence and need to be aware of the provisions of the Strategy and the Code of Conduct;
- Inclusion of references to the Strategy and Code of Conduct in Director-General’s Newsletters on an ad-hoc basis;
- Inclusion of a Fraud Control self assessment tool on the Department’s Work Support Centre for compulsory use by Branch Directors

8 Review of Fraud Control Strategy

Corporate Governance and Risk Management Branch has responsibility for ensuring that this Fraud Control Strategy is subject to an on-going process of continuous improvement, monitoring and adjustment to ensure its viability in addressing current fraud control issues.

Professor Debora Picone AM
Director-General

Appendix 1

Examples of fraud and corruption

The following list is not exhaustive but includes some of the more common examples of fraud and corruption in the public sector:

Theft of assets, such as:

- equipment
- consumables or supplies
- cash
- information.

Unauthorised or illegal use of assets, information or services for private purposes, including:

- computers, including email and the Internet
- motor vehicles
- clerical and other support
- confidential information
- equipment, including photocopiers, telephones and fax machines
- the Departmental name or logo e.g. through use of letterhead or staff authority/access card.

Abuse of position and power for personal gain, such as:

- seeking and obtaining bribes or other gifts in exchange for favourable treatment
- nepotism in staff appointments.

Manipulation and misuse of account payments, such as:

- fictitious employees on the payroll
- ordering equipment for private and personal use
- favouring suppliers whose costs are not as competitive as other suppliers
- unauthorised approval to pay
- diversion of proceeds
- writing off debts.

Falsification of records, including:

- timesheets/flexsheets
- travel claims
- purchase orders
- petty cash vouchers
- certificates of competency or qualification

Manipulation of computer programs for improper purposes, such as:

- unauthorized alteration of input data
- misappropriation, destruction or suppression of output data
- alteration of computerized data
- alteration or misuse of software programs
- unauthorized and /or deceptive electronic transfer of funds