

Fraud and Corruption

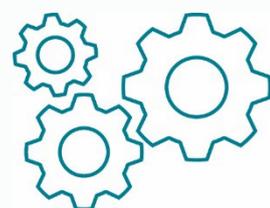
Control policy

Department of the Chief
Minister and Cabinet

Office of the
Commissioner for Public
Employment

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Background

This policy applies to employees of the Department of the Chief Minister and Cabinet (CM&C) and the Office of the Commissioner for Public Employment (OCPE), hereafter referred to as the “agencies”, as well as their contractors, consultants, board and committee members and any individual or groups undertaking activities or work for, or on behalf of, these agencies.

The agencies have a zero tolerance for fraudulent activities or behaviours. The Northern Territory Government (NTG) legislative framework, systems, policies and procedures are in place to aid the protection of public money and property, and to facilitate the integrity, security and the reputation of the Northern Territory Government.

Authorising environment

The agencies’ decision-making is based on legislation and other mandates and policies. Employees are required to have an awareness of their agency’s authorising environment and work within it, to prevent potential misuse of government assets and maximise accountabilities and operational effectiveness.

All agency policies are written in line with legislative and regulatory requirements. This policy has been drafted in line with the following:

- *Public Sector Employment and Management Act 1993* (PSEMA) and related subordinate legislation, policies, employment instructions and codes of practice and conduct
- *Independent Commissioner Against Corruption Act 2017*
- *Financial Management Act 1995*, and
- Treasurer’s Directions including Fraud Control.

This policy should be read in conjunction with all other agency fraud and corruption-related policies, procedures and guidelines.

Policy statement

Fraud and corruption are serious matters for the Northern Territory Government. Fraud and corruption undermines public confidence in government and can have significant impact on agencies.

The Northern Territory Government is committed to protecting its assets and resources against attempted fraudulent or corrupt behaviour. Any allegation, suspicion or incidents of fraud will be responded to in accordance with the timeframes and requirements outlined in relevant legislation, the Treasurer’s Directions and agency policies and procedures.

Objectives

This policy aims to:

- prevent incidents of fraud and corruption
- facilitate the detection of fraudulent and corrupt behaviours

- define responsibilities for disclosure and investigations of suspected fraud and corrupt behaviour
- confirm the agencies' obligation to protect those who report fraud and corruption in good faith, and
- commit the agencies to ensuring that appropriate action and discipline occur for those who commit acts of fraud or corruption.

Fraud and corrupt conduct

Definition of fraud

The 2021 Treasurer's Direction – Fraud Control defines fraud as:

1. Obtaining (or attempting to obtain) a financial benefit, or causing (or attempting to cause) a financial loss, by deception.
2. Obtaining a financial benefit includes obtaining for oneself, another person, or a third party.
3. Fraud requires more than carelessness, accident, or error – in these cases, an incident may be non-compliance rather than fraud.
4. Fraud may arise from improper conduct such as corrupt conduct, misconduct, unsatisfactory conduct and anti-democratic conduct where points 1 to 3 are satisfied.

Non-financial fraud is deliberately not included in the Treasurer's Direction however is considered under this policy. Examples of non-financial fraud include:

- Manipulation of reporting data to present results that are deceptive.
- A person fraudulently claiming to have qualifications or experience to obtain employment.
- Studies or research outcomes deliberately altered to enhance the likelihood of a preferred decision.
- Seeking or obtaining a benefit to which one is not entitled, for example, deliberately including false information in time sheets or not submitting leave applications when leave is taken.

Definition of corrupt conduct

The Office of the Independent Commissioner Against Corruption (ICAC) provides guidance in defining improper, including corrupt, conduct:

Improper conduct includes corrupt conduct, misconduct, unsatisfactory conduct and anti-democratic conduct.

1. *Corrupt conduct* is conduct engaged in by a public officer or by a public body that is either an offence punishable by a maximum term of imprisonment of at least two years, or conduct which would warrant termination of services.

Examples of improper or corrupt conduct include:

- disclosing confidential information
- misuse of public resources, including fraud
- not disclosing a private interest (in certain cases)

- accepting or requesting a bribe, and
 - falsifying documents, for example fraudulent invoices or reimbursement claims.
2. *Misconduct* is a breach of a code of conduct by a public officer while acting in his or her capacity as a public officer, for example discrimination, bullying, harassment and assault.
 3. *Unsatisfactory conduct* includes negligence, impropriety, illegality, incompetence leading to substantial mismanagement of public resources, or detriment to the public interest.
 4. *Anti-democratic conduct* includes electoral offences under the *Electoral Act 2004*, the *Local Government Act 2008* or the *Commonwealth Electoral Act 1918* affecting the reputation, power, resources or influence of a political party or a candidate. For example, undeclared political donations, push polling, inappropriate use of social media bots and improperly influencing voting behaviour.

Agencies' principles

The agencies will uphold the following principles to discourage fraud, corruption and otherwise improper conduct of employees.

Principle 1: Zero tolerance for fraud and corruption and improper conduct

The Northern Territory Government has a zero tolerance of fraud and corruption. This means that any allegation, suspicion or incidence of fraud will not be ignored. The agencies recognise that fraud and corrupt conduct is wrong and will actively work to avoid its occurrence. The agencies aim to foster an organisational culture which ensures the effective prevention of fraud and corruption as an integral part of their operating activities.

All employees are required to report fraud, corruption and improper conduct when it is identified. Any employee who wishes to ensure this is a protected, confidential, disclosure should follow the procedures outlined in the agencies' Protected Disclosure (whistleblower) policy. The agencies will then do all they can to protect their anonymity.

In line with the Northern Territory Government's zero tolerance of fraud and corruption, the agencies will pursue disciplinary and/or legal action where allegations of fraud or corruption are proven.

Principle 2: Strong leadership

The agencies recognise that strong executive leadership is essential in supporting effective fraud and corruption control. The agencies' governance structures provide for effective management and oversight through a 'top-down' and 'bottom-up' approach. Employees at all levels have responsibility for fraud and corruption control. Below are the roles and responsibilities of the agencies' officers and stakeholders:

- **Chief Executive (CE):** the Chief Executive of each agency is responsible for setting an ethical tone within the agency, fostering and maintaining a culture of fraud and corruption awareness and proactively managing the risk and incidence of fraud and corruption.
- **Senior Executive Boards:** the respective Senior Executive Boards of the agencies are responsible for ensuring a robust fraud and corruption control framework is in place, with adequate resources to develop, implement and manage the framework on an ongoing basis.

- **Audit and Risk Management Committee (ARMC):** provides independent assurance and assistance to the Chief Executives regarding agency fraud and corruption risks.
- **Executive Management:** provide essential support to the Chief Executives in setting the ethical tone of the agency and overseeing and managing strategic, compliance, regulatory and governance matters of the agencies. Executive Management will exhibit an observably high-level commitment to fraud and corruption control by demonstrating a positive and proactive attitude and supporting employees to understand and comply with the agencies' fraud and corruption policies, procedures and guidelines.
- **Director Governance, Information and Reporting (DGIR):** is responsible for:
 - development and implementation of the fraud and corruption control framework of the agencies
 - initiating and undertaking investigations of reported incidences and allegations of fraud and corrupt conduct, and
 - the coordination of fraud and corruption control training for agency employees, contractors and other relevant stakeholders.
- **Nominated recipients:** are appointed by the Chief Executive Officer of the agencies, pursuant to section 97 of the *ICAC Act*. Nominated recipients act on behalf of the Department and are responsible for providing advice about the process of making a disclosure, receiving disclosures from employees, facilitating disclosures to the ICAC, and protecting employees from retaliation. An employee wishing to make a protected communication through internal departmental processes should contact one of the department's nominated recipients. Employees can make a disclosure to the nominated recipient in person, or via phone or email.

In order for an employee's disclosure to constitute a protected communication and therefore be subject to protections under the *ICAC Act*, the employee must ensure the following:

- The employee must believe, on reasonable grounds, that the information they are disclosing would tend to show that improper conduct has occurred, is occurring or is at risk of occurring; or would assist the ICAC to perform the ICAC's functions; or would otherwise assist in the administration, or achieving the objectives of the *ICAC Act*.
- The employee must not provide information that they know or believe to be misleading. Something may be misleading because an employee discloses information that they know is not true. It may also be misleading if an employee chooses to omit something which is important to the facts.
- **All staff:** should lead by example. Each employee has a responsibility under the Code of Conduct and various legislation to behave ethically and lawfully, to recognise and actively discourage behaviours that may be considered fraudulent or corrupt, and to report suspected fraud or corruption. In order to be subject to protected disclosure provisions under the Act and agency policies and procedures, an employee must make their disclosure to the proper authority. The proper authorities include:
 - a nominated recipient within CM&C or OCPE
 - the Office of the ICAC
 - the Ombudsman or the Ombudsman's Office;

- the Auditor-General or the Auditor-General's Office;
- the Health and Community Complaints Commissioner or a staff member of the Commissioner;
- the Children's Commissioner; and
- the Environment Protection Authority.

Principle 3: Fraud control

The agencies will proactively prevent, detect and respond to risks associated with fraud. Fraud control will be actively considered in planning and conducting activities within the agencies, and incorporated in the agencies' risk management framework and internal audit programs.

Principle 4: Promotion of an ethical organisational culture

Chief Executives, executive management and all employees and contractors are responsible for promoting an ethical culture within their agency and throughout the Northern Territory Public Service. As public sector officers, the agencies' employees are required to report any unethical behaviour and improper conduct, which includes misconduct, corrupt acts or wrongdoing.

Employees must familiarise themselves with the Code of Conduct contained in *Employment Instruction 12* and be aware of all related legislation. Actively demonstrating behaviours contained in the Code of Conduct will assist in preventing, detecting and responding to fraud and corruption.

Principle 5: Promote fraud awareness

Agencies will ensure this policy is well understood by employees, contractors and third parties to ensure that they understand their obligation to report suspected fraud and corrupt conduct.

Providing awareness training to employees on the agencies' approach to fraud control and related policies is essential to a well-functioning control framework. The agencies are required to provide:

- i. fraud awareness, workplace behaviour, ethics and privacy training and conflict of interest training, for all employees at commencement and then regularly but no less than every two years, and
- ii. online awareness training for third party service providers such as contractors and board and committee members.

Principle 6: Ensure the independence of fraud and corruption control officers

Conduct and complaint matters relating to fraud and corruption will be managed by the Governance, Information and Reporting shared services function within the Department of the Chief Minister and Cabinet. Employees in this unit are authorised to receive disclosures and reports. The Director of Governance, Information and Reporting has a dotted reporting line to the independent Chair of the agencies' Audit and Risk Management Committee, strengthening the independence of the conduct and complaints function.

The agencies have committed to ensuring that employees with responsibility for fraud and corruption control will be supported to attain and maintain relevant qualifications, training and experience to effectively carry out their duties.

Principle 7: Commitment to confidentiality.

The agencies will handle allegations of fraud or corruption with appropriate confidentiality. The agencies will ensure that an investigation is conducted in accordance with all applicable laws of the Commonwealth and the Northern Territory and is in line with good practice.

Principle 8: Protection of persons making a report of fraud or corruption.

Reports and disclosures made in line with the Protected disclosure (whistleblower) policy and procedure will be treated as a “protected communication”. Please refer to that policy for information on what this means for those who make a report or disclosure.

Principle 9: Discipline employees who commit fraud and corruption

Legislative frameworks, both Commonwealth and Territory, along with Northern Territory Government values, principles and Code of Conduct are applicable to all Northern Territory Government employees, and should be used to shape and guide employees’ behaviour and decision making. Employees who do, or appear to, commit fraudulent or corrupt acts will be investigated and may be disciplined and reported to law enforcement agencies or regulators.

Authorities and legislation

- *Independent Commissioner Against Corruption Act (NT) 2017*
- *Financial Management Act 1995*
- *Information Act 2002*
- *Public Sector Employment and Management Act 1993 (PSEMA)*
- *Procurement Act 1995*
- PSEMA Employment Instruction 3 – Natural Justice
- PSEMA Employment Instruction 12 – Code of Conduct
- Treasurer’s Direction – Fraud control
- Treasurer’s Direction: Governance – Accountability Section G2.2 Internal Control
- Australian Standard 8001-2008 Fraud and Corruption Control

Approval

This policy is approved by:



Jodie Ryan
Chief Executive Officer
Department of the Chief Minister
and Cabinet

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Vicki Telfer
Commissioner for Public Employment

October 2021