

# **Fraud and corruption control policy**

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### NSW Ombudsman

Level 24, 580 George Street  
Sydney NSW 2000

**Phone:** (02) 9286 1000

**Toll free (outside Sydney Metro Area):** 1800 451 524

**Website:** [ombo.nsw.gov.au](http://ombo.nsw.gov.au)

**Email:** [info@ombo.nsw.gov.au](mailto:info@ombo.nsw.gov.au)

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## 1. Introduction

The NSW Ombudsman's Office (**Office**) takes a zero-tolerance approach to fraud and corruption.

This does not mean all fraud or corruption can be avoided, but that the Office:

- has in place controls and strategies designed to prevent, detect, and respond to fraud and corruption, and
- will respond to, assess, refer, or investigate all allegations of fraud and corruption, as the situation requires.

This Policy:

- describes what conduct might amount to fraud or corruption
- sets out the obligations of staff in regard to fraud and corruption, and
- explains how staff can report suspected or alleged fraud or corruption.

## 2. Application

The Policy applies to all staff of the Office in their dealings with internal and external parties. For the purposes of this Policy, 'staff' is defined to include:

- ongoing, temporary, and casual employees of, and employees on secondment to, the Office
- statutory officers
- contractors and agency staff engaged to perform work for, or on behalf of the Office
- students and volunteers engaged with the Office for the purposes of work experience or in any other capacity, and
- consultants whose engagement requires adherence to the Policy.

In addition to this Policy, staff must comply with any relevant legislative, industrial, and administrative requirements, other relevant Office policies, and any lawful direction made by a person with the authority to give such a direction.

## 3. Interaction with other Ombudsman policies

Be aware that conduct, a report or an allegation that requires steps to be taken under this policy may **also** require steps to be taken under:

- the Ombudsman's Public Interest Disclosure Policy
- the Ombudsman's Code of Ethics and Conduct, and
- the *Independent Commission Against Corruption Act 1988* s11.

If you are unsure about whether you need to take action under another policy or statutory obligation, please contact the Governance and Risk Unit or speak with your manager.

## 4. What is fraud?

Fraud is conduct directed at dishonestly obtaining a financial or other benefit (either directly or indirectly) through deception. A person can be found to have engaged in fraud even where someone unrelated to them is the beneficiary or where no benefit eventuates.

Conduct that may constitute fraud includes, but is not limited to:

- theft
- falsifying documents such as invoices, timesheets, or travel claims
- making false statements
- creating false or misleading records of a false vendor in a procurement process
- misuse of Office Purchasing Cards
- running a private business during working hours or unreasonable use of office consumables; and
- seeking or obtaining a benefit by deception.

Certain types of fraudulent conduct may also amount to corruption (see below) or to offences under Part 4AA of the [Crimes Act 1900](#).

## 5. What is corrupt conduct?

‘Corrupt conduct’ is defined in sections 7-9 of the [Independent Commission Against Corruption Act 1988 \(ICAC Act\)](#). Guidance is set out on ICAC’s website at: [www.icac.nsw.gov.au/about-corruption/what-is-corrupt-conduct](http://www.icac.nsw.gov.au/about-corruption/what-is-corrupt-conduct).

Generally speaking, if something falls within your common-sense understanding of corruption, it is likely to be ‘corrupt conduct’ under the ICAC Act. Some of the more obvious forms of corrupt conduct include:

- theft or misuse of public monies or assets
- fraud or falsification of documents
- bribery
- the partial exercise of functions to favour a private interest rather than the public interest (e.g., nepotism in employment decisions or undeclared conflicts of interest in procurement decisions), and
- the taking of detrimental action against a person for making a Public Interest Disclosure (**PID**).

Corrupt conduct can be committed by either a public official or a private individual because it includes conduct that might adversely affect the exercise of official conduct by public officials. For example, the offering of a bribe is corrupt conduct, even if it is not accepted by a public official. Other conduct by private individuals, such as blackmail, or offering a secret commission, could also constitute corrupt conduct.

## 6. Your obligations

1. Staff must not engage in any fraudulent or corrupt conduct.
2. Where a staff member suspects that fraud has occurred, and that that fraud might amount to a criminal offence, the matter must be referred to a member of the Executive who will assess if the

matter should be reported to the NSW Police Force. If a person knows or believes that fraudulent conduct that is a ‘serious indictable offence’ (an offence that is punishable by imprisonment for five or more years) has occurred, a failure to bring that fraud to the attention of the Police may itself amount to a criminal offence (see section 316 of the [Crimes Act 1900](#)).

All staff are responsible for assisting the Office to manage the risks of fraud and corruption, including following this policy. This includes reporting suspected incidents of fraud and corrupt conduct.

## 7. Roles and responsibilities

Who?	Responsibilities
Ombudsman	Has ultimate responsibility for the Office’s Fraud and Corruption Control Framework <sup>1</sup> .
Disclosure Officers (individuals nominated to receive voluntary disclosures under the <i>Public Interest Disclosures Act 2022 (PID Act)</i> )	Are responsible for assessing reports of fraud and/or corruption and consult with the Ombudsman on the appropriate course of action.
Chief Operating Officer	Has overall responsibility to coordinate and implement the Office’s fraud and corruption control plan, including responding to incidents of identified or reported fraud and/or corruption.

Further details of roles and responsibilities in relation to fraud and corruption control are outlined within the Office’s Fraud and Corruption Control Plan<sup>2</sup>.

## 8. Fraud and Corruption Control Framework

The Office has a framework for dealing with fraud and corruption, comprising ten attributes that prevent, detect, and respond to fraud.

Attribute	Prevent	Detect	Respond
1. Leadership	✓		
2. Ethical Framework	✓	✓	✓
3. Responsibility and structures	✓		
4. Policy	✓		
5. Prevention systems	✓		
6. Fraud Awareness	✓		
7. Third Party management systems	✓	✓	

<sup>1</sup> The Fraud and Corruption Control Framework is embedded in the Office’s Fraud and Corruption Control Plan. It is further described in the section ‘Fraud and Corruption Control Framework.’

<sup>2</sup> This Plan is available on the Ombudsman’s intranet.

Attribute	Prevent	Detect	Respond
8. Notifications systems		✓	✓
9. Detection systems		✓	
10. Investigation systems			✓

More detail about each of these attributes is set out in the Fraud and Corruption Control Plan.

## 8.1 Fraud and Corruption Prevention

The Office undertakes fraud and corruption risk assessments against processes across the organisation every two years. The Chief Operating Officer oversees the ongoing management of fraud and corruption control strategies focused on preventing or minimising incidences of fraud and corruption. These strategies include (though are not limited to):

- Providing awareness training to all staff, educating staff on the risk of fraud and corruption and their responsibilities to report any incidents
- Due diligence checks when onboarding new staff and suppliers
- Declaration and management of conflicts of interest
- System-level controls across business areas including segregation of duties, delegation approval, system access restrictions and authorisation approvals, and
- Preparation of a risk register for procurement activities above a certain threshold for tendering purposes.

## 8.2 Fraud and Corruption Detection

The Chief Operating Officer oversees the ongoing management of fraud and corruption control strategies focused on detecting incidences of fraud and corruption. These strategies include (but are not limited to):

- Analysis of monthly financial reports
- Complaint management processes (including whistleblower protection), and
- Opportunity for the conduct of exit interviews.

## 8.3 Fraud and Corruption Response

The Office responds to all reports of fraudulent or corrupt activities. Apart from obligations under the *Crimes Act 1900* to report certain kinds of suspected criminal activity, the Ombudsman personally has a duty to report to ICAC any matter that the Ombudsman suspects on reasonable grounds concerns or may concern corrupt conduct: see section 11 of the [ICAC Act](#). In other circumstances, incidents may require internal investigation or be referred to an appropriately qualified external investigator.

## 9. Reporting alleged or suspected fraud or corruption

Staff are required to report suspected fraud or corruption of which they become aware in the course of their work to the Ombudsman. The Office also encourages stakeholders and suppliers to report suspected fraud, corruption, or other unethical behaviour to the Ombudsman.

Internal reports of fraud or corruption will be handled in accordance with the [Public Interest Disclosure Policy](#).

## 10. Responding to alleged or suspected fraud or corruption

Key principles governing the Office's investigation of fraud and corruption include the following:

- All reports of suspected fraud or corruption are promptly assessed, and when appropriate, investigated
- Procedural fairness will apply
- The findings of any investigation will be acted on as soon as practicable.

## 11. Confidentiality

Every endeavour will be made to ensure that any allegations of fraud or corruption, and subsequent investigations, are handled confidentially. However, there may be situations where confidentiality is not possible or appropriate. This will be discussed with the reporter. While anonymous reports are not encouraged, there may be situations where someone may not want to identify themselves. While the Office will accept anonymous reports, anonymity may limit the Office's ability to seek further information to assess the report adequately. Where a report is being dealt with as a PID, the reporter will be advised of the protections available to them under the PID Act. For more information about PIDs, see the [Public Interest Disclosure Policy](#).

## 12. Ombudsman Approval



Paul Miller

**NSW Ombudsman**