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IPC Fraud Control Policy and Framework

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Introduction

The NSW community expects public officials to perform their duties with honesty and in the best interests of the public. The Information and Privacy Commission (IPC) is committed to demonstrating the highest ethical standards and to establishing and maintaining community, regulated sectors, stakeholder and Government confidence.

The *NSW Government Ethical Framework*, the *IPC Values Framework* and the *IPC Code of Conduct* outline the public sector and organisational core values and principles of behaviour that are expected of all IPC employees. The IPC is committed to incorporating the Ethical Framework, Values and Code of Conduct in the workplace culture, systems, practices and service delivery to deliver improvements in public trust, employee relations and productivity.

The IPC has an *Enterprise Risk Management Policy and Framework* (ERMP) and undertakes an annual risk assessment which is reviewed once a quarter, to identify areas where fraud risks exist, to evaluate how effective controls are to mitigate those risks and to determine actions necessary to eliminate any gaps. The Chief Audit Executive is responsible for reporting the results of the risk assessment to the Chief Executive Officer (CEO) and the Audit and Risk Committee (ARC). The ARC also oversees the progress and implementation of recommendations from all internal audits.

This *Fraud Control Policy and Framework* (Policy) sits below and supports the ERMP. The ERMP sets out the overall IPC approach to the management of risk. Within the ERMP, Corruption and Fraud are identified as one of the categories of risks that is considered (Section 8.3). This *Fraud Control Policy and Framework* provides direction on the strategies adopted by the IPC for implementing and monitoring fraud and corruption prevention, detection and response initiatives and activities within the broader ERMP (See Figure 1).

The purpose of this Policy is to provide guidance to staff on:

- what fraud and corruption is
- how the IPC manages or mitigates the risk of fraud and corruption occurring
- how staff can report incidents of fraud and corruption appropriately
- how the IPC investigates fraud and corruption.

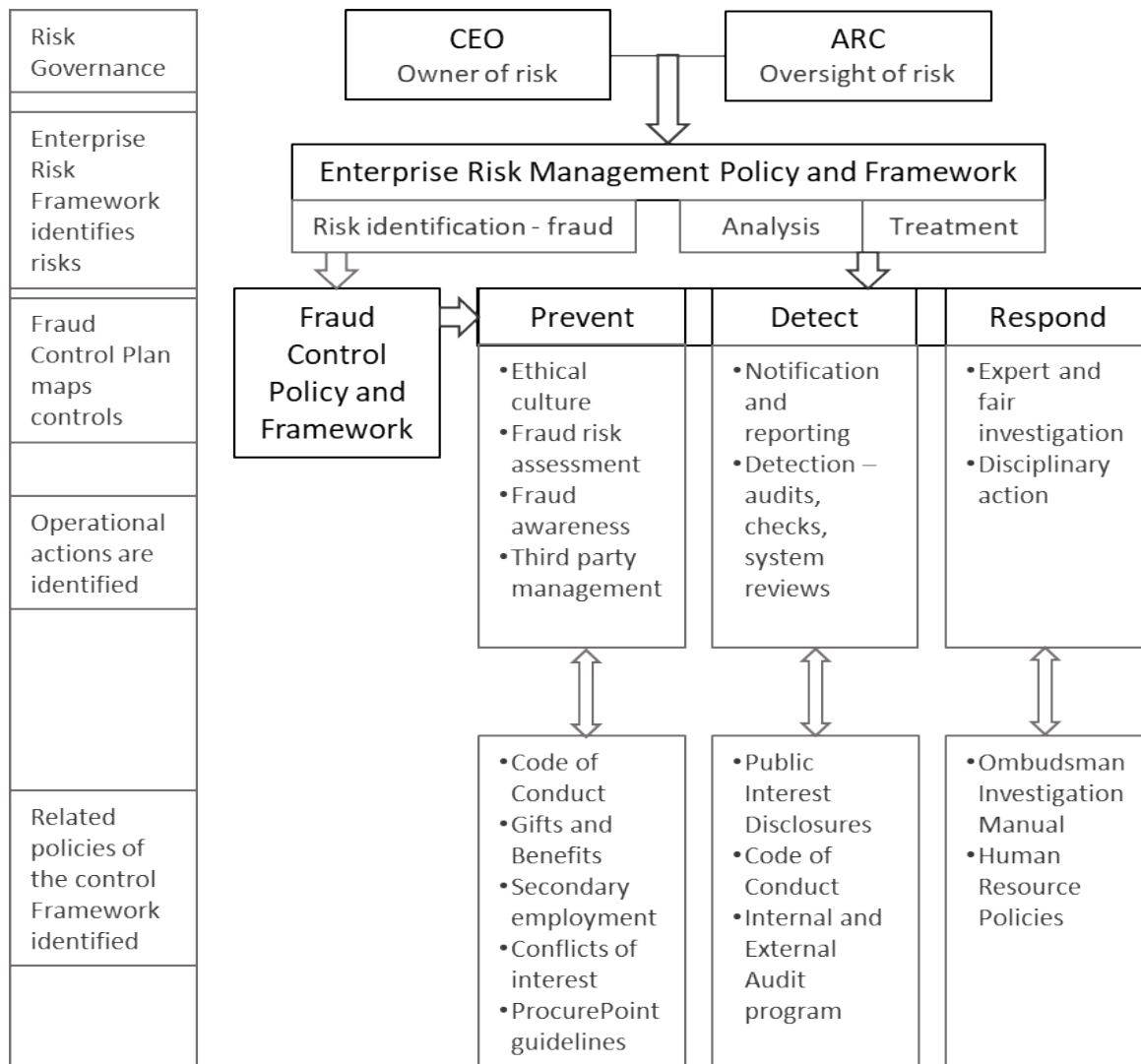


Figure 1. The relationship between the ERMP and the IPC Fraud Control Policy and Framework

1. Definitions

1.1 Corruption

Corrupt conduct is not a mistake or carelessness. Corruption is defined by Australian Standard AS8001 – 2021 as:

“an activity in which a person associated with an organisation acts contrary to the interest of the organisation and abusees their position of trust in order to achieve advantage or advantage for another person or organisation.”

Corrupt conduct tends to show a deliberate intent or an improper purpose and motivation and may involve conduct such as abuse of an official position for personal gain or the improper personal gain of others; collusion with other parties to circumvent government controls for personal gain; or dishonesty.

Corruption is any deliberate or intentional wrongdoing and often involves:

- acting on a conflict of interest
- failure to disclose acceptance of gifts or hospitality

- acceptance of a bribe
- collusion with other parties
- misuse of internet or email or government information
- release of confidential or private information or intellectual property.

1.2 Fraud

Fraud is defined by Australian Standard AS8001 – 2021 as:

“Dishonest activity causing actual or potential financial loss to any person or entity including theft of monies or other property by employees or persons external to the entity and where deception is used at the time, immediately before or immediately following the activity.”

The concept of fraud overlaps the concept of corruption but is often distinguished from corruption by virtue of the use of deception around the time of the act. This includes the deliberate falsification, concealment or destruction of documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit.

The theft of property belonging to the IPC by a person or persons internal to the entity but where deception is not used is also considered ‘fraud’ for the purposes of this Standard.

NOTE: The concept of fraud within the meaning of the Standard can involve fraudulent or corrupt conduct by internal or external parties targeting the entity or fraudulent or corrupt conduct by the entity itself targeting external parties.

1.3 Examples of fraud or corruption

- Theft of equipment, consumables/stores, funds, information, intellectual property.
- Unauthorised use of equipment, staff resources, consumables/stores, system passwords, building access cards, corporate credit cards (Pcards), corporate identity, confidential information, intellectual property.
- Misuse of government information for improper or unlawful purpose.
- Falsification/fabrication of information, e.g. leave and attendance records, travel claims, petty cash claims, academic qualifications, records of work experience, purchase orders, and payment vouchers.
- Misuse of position or authority for personal gain or benefit of associates, e.g. seeking or acceptance of bribes, nepotism in staff appointments, favouring uncompetitive suppliers, failure to obtain competitive quotes, ordering of equipment or stores for personal use.

2. Policy statement

The IPC is committed to an organisational culture that promotes a high standard of integrity and accountability by demonstrating professional behaviours that are consistent with our role and values and provides clear direction in supporting an effective risk management strategy, including fraud and corruption risk.

A failure to detect and address fraud and corruption can:

- undermine the public’s trust in government and decrease the value of our services
- have the potential to undermine the IPC’s reputation and corporate culture
- reduce our ability to achieve our objectives.

The IPC has zero tolerance for fraudulent and corrupt conduct.

All employees have a key responsibility to safeguard against damage and loss through fraud, corruption or misconduct. All employees have an obligation to support efforts to reduce associated risk by behaving with integrity and professionalism in undertaking their duties.

Where employees detect suspected or actual fraud and corruption they have a responsibility to take all necessary steps to report such conduct as required under the [IPC Code of Conduct](#) and the [IPC Public Interest Disclosure Internal Reporting Policy](#).

Suspected fraud or corruption will be reported, investigated and resolved in accordance with internal policies and relevant legislation. All legal obligations to the principles of procedural fairness and natural justice will be met.

3. Policy scope

This Policy applies to:

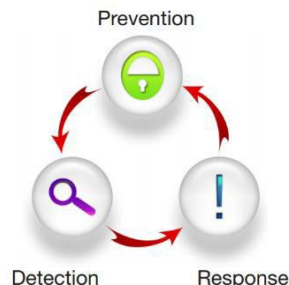
- all employees whether by way of appointment, secondment, contract, temporary arrangement or volunteering, work experience, trainees and interns; and
- any external party involved in providing goods or services to the IPC, such as contractors, consultants, outsourced service providers and suppliers.

4. Legislative and governance framework

- *Government Sector Employment Act 2013*
- *Independent Commission Against Corruption Act 1988*
- *Public Interest Disclosures Act 2022*
- *Government Sector Finance Act 2018*
- *Ombudsman Act 1974*
- Audit Office of NSW Fraud Control Improvement Kit – February 2015
- *State Records Act 1998*
- NSW Treasury Circular, TC18 -02 2018 NSW Fraud and Corruption Control Policy
- Fraud and Corruption Control Australian Standard 8001-2021
- Department of Customer Service Fraud and Corruption Control Policy – February 2021
- Code of Ethics and Conduct for the NSW public sector
- IPC Enterprise Risk Management Policy and Framework
- IPC Values Framework
- IPC Code of Conduct
- IPC Public Interests Disclosures Policy
- IPC Statement of Business Ethics
- IPC Governance Framework and Action Plan 2023-2024.

5. Fraud and corruption control framework

The Fraud and Corruption Control Framework is aligned to AS 8001-2008, is structured around prevention, detection and response, and enlivened by commitment (planning and resourcing, leadership and accountability) and continuous improvement.



6. Commitment

6.1 Planning and resourcing

The Fraud Control Policy and Framework is an integral part of the IPC's overall risk management system and details its approach to fraud and corruption prevention, detection, response and monitoring and evaluation initiatives.

The IPC is committed to an honest and ethical environment that minimizes fraud and corruption as far as practical. This includes:

- enhancing the ethical culture and expecting all our people to model appropriate behaviour
- encouraging and helping others to be honest and ethical
- making it as difficult as practical for fraud or corruption to occur
- ensuring timely detection and investigation of fraud or corruption and taking appropriate and visible action
- making it easy for our people to report and disclose fraud and corruption should they see or suspect it
- implementing our Fraud and Corruption Control Plan.

All of the IPC must model ethical behaviour. Employees of the IPC or anyone who is engaged by the IPC, is bound by the Code of Ethics and are expected to always:

- act in the public interest
- uphold the law and comply with the relevant legislation
- comply with all internal policies and procedures
- work with the public sector key values in mind – integrity, trust, service and accountability together with the IPC's specific values.

The Policy is reviewed annually.

The IPC ARC has oversight of the IPC's fraud and corruption activities and reviews how the IPC performs periodically in line with the ARC Calendar. The program includes:

- a fraud control plan

- reviewing fraud risk as part of the risk management process
- conducting targeted internal audits
- updating the code of conduct and other related policies (e.g. gifts and benefits policy and conflict of interests policy)
- requiring staff to consider these issues as part of the performance and development process
- conducting annual certifications over financial systems as well as a general legislative compliance program.

6.2 Leadership and accountabilities

The most important factor in ensuring the success of the Policy is the commitment and attitude of leaders and staff in the IPC. The CEO has overall responsibility to ensure an effective fraud and corruption control strategy is operating that identifies potential risks and takes action to mitigate such risks. The Government Sector Employment Act 2013 (GSE Act) gives heads of agencies responsibility for the general conduct and management of their agencies in accordance with the core values of the Ethical Framework for the government sector. The CEO and the Executive:

- Demonstrate commitment to fraud and corruption control.

The specific roles, responsibilities and accountabilities of the CEO, Managers and Directors, Chief Audit Executive, Employees, Consultants and Contractors and the Audit and Risk Committee, as they relate to risk management, are laid out in Section 7 of the ERMP and therefore apply specifically to the management of the category of fraud and corruption risks identified in Section 8.3 of the ERMP.

7. Prevention

There are four distinct elements that work in unison to prevent fraud and corruption from occurring within the IPC: an ethical culture; fraud risk assessments; fraud prevention awareness; and third party management systems.

7.1 An ethical culture

The IPC Executive and Management Team have a key role in fostering and encouraging an ethical environment that is committed to preventing, detecting, and reporting fraud and corruption and to implementing the relevant control mechanisms.

The IPC Executive and Management Team provides leadership to all IPC staff by making ethical decisions and demonstrating ethical conduct in all their dealings with staff and others. Regular all-staff meetings promote the importance of the IPC having an ethical culture and the importance of employees displaying conduct that demonstrates IPC values. There is also a requirement that the Executive annually declare any interests that may create or be capable of being seen as conflicting with their official duties. All IPC meetings require a declaration of interest.

The GSE Act establishes a legal requirement for all people employed in the government sector to act ethically and in the public interest. The IPC commits to the four government sector core values and 18 principles that guide their implementation as well as the Code of Ethics and Conduct for the NSW public sector. IPC employees have developed an IPC Values Framework which cascades from this sector-wide framework and sets out the organisation values as:

- Accountable
- Proactive
- Integrity
- Service focussed
- Independent
- Trust.

An ethical culture is built and maintained throughout the IPC by the Executive and Management Team:

- establishing and upholding the IPC's values as published in the Code of Conduct
- conducting regular assessments of the ethical culture for comparisons of performance over time
- developing, regularly reviewing and communicating policies and procedures that support fraud and corruption control.

Within the IPC reference should be made to its ethical behaviour policies including the Code of Conduct, Gifts and Benefits, Secondary Employment and Conflicts of Interest policies.

7.2 Fraud risk assessments

Fraud and corruption risk is regularly assessed across all areas of the IPC as part of the risk assessment process described in the ERMP. The IPC Executive is to consider the sources of fraud and corruption risk, likelihood and impact of the consequences in line with the ERMP. The Executive is to identify and monitor appropriate treatments. The Executive ensures:

- fraud and corruption risks are identified, analysed and evaluated via a Fraud Risk Assessment

- treatment action plans are put in place to remediate controls identified as weak or missing
- key controls are tested or reviewed as appropriate
- there is regular monitoring and review of changes to the fraud and corruption risk environment.

The IPC ERMP contains the requirements for risk management in the IPC. It sets a standardised approach to systematically manage risk in line with the international and Australian standard on Risk Management. The primary purpose of the Framework is to:

- Integrate risk management principles and processes into corporate and business unit planning; policy development, project management, change management and strategic and operational decision making
- Create and support a management culture that is risk aware, not risk averse, and which encourages and supports innovation by ensuring that management decisions are informed by a balanced analysis of both opportunity and risk.

The Framework applies to:

- All IPC employees and any consultant or contractor engaged to perform work for the IPC
- All management processes including strategic and business planning, policy development, project management, change management and decision making at both the strategic and operational levels.

7.3 Fraud prevention awareness

IPC employees have an awareness of fraud and corruption and how to respond if activity is detected or suspected. External parties involved in providing goods or services to the IPC, such as contractors, consultants, outsourced service providers and suppliers are aware that the IPC is committed to fraud prevention. The Executive ensures:

- employees understand the IPC's principles and values and are aware of their fraud and corruption control responsibilities
- regular fraud and corruption awareness raising is conducted
- the IPC communicates to external parties its commitment to manage fraud and corruption risks.

Through general communication, staff meetings and training refreshers, IPC staff are provided with access to resources including as made available by:

- Independent Commission Against Corruption
- Department of Customer Service
- NSW Audit Office
- NSW Ombudsman.

7.4 Third party management systems

Third parties deliver services to the IPC. Identifying responsibility and awareness for managing fraud committed by and against third parties is important for fraud control. The Executive ensures:

- employees with responsibilities for dealing with third parties are identified and provided training and awareness for managing fraud and corruption committed by and against third parties
- employees disclose conflicts of interest and secondary employment

- employees with responsibilities dealing with third parties are aware of fraud and corruption control responsibilities
- third-party financial, IT and HR services are appropriately focused on detecting possible irregularities and fraud
- third parties are subject to appropriate due diligence and contractual obligations and accountabilities are clearly identified
- suppliers understand the Statement of Business Ethics, including no gifts policy. The values of the IPC as outlined in the Values Framework are:
 - accountable
 - service focused
 - proactive
 - independent
 - integrity
 - trust.

The IPC has a Code of Conduct and a Values Framework which highlight the need to act with integrity. The Code of Conduct reflects:

- the need to report instances of corruption
- undertake ethical decision making
- to identify and actively manage conflicts of interest
- policies regarding secondary employment
- managing gifts and benefits.

Further, the IPC procurement activities should be undertaken in accordance with the NSW ProcurePoint guidelines which set the parameters for engaging third party suppliers.

8. Detection

There are two distinct elements of this Policy that work together to detect fraud and corruption: Notification systems that facilitate the reporting of suspect behaviour and detection systems that screen for suspicious behaviour.

8.1 Notification systems

Reporting of suspicious behaviour is the most important mechanism by which fraud is detected. The IPC has in place systems and procedures to facilitate notification of suspected fraud or corrupt conduct, both internally and externally. Whistle-blowers are protected. The Executive ensures:

- the IPC's culture supports the reporting of suspicions of fraud and corruption
- employees understand the policies and systems by which reports can be made both internally and to external bodies such as the NSW Police and the Independent Commission Against Corruption (ICAC)
- protection is provided to whistle-blowers and is communicated to employees regularly
- suspected frauds and corruption are reported to the CEO and ARC.

The Director Business Improvement, or CEO nominee, must be informed of any suspected or actual fraud or corruption to ensure the application of this policy and advice to the CEO/Information Commissioner to assist in responding appropriately. An alternative reporting line is to the Chief Audit Executive, or to the Chair of the Audit and Risk Committee, where warranted by the circumstances.

The IPC maintains a Public Interest Disclosures Internal Reporting policy which provides further information on reporting wrongdoing in the workplace. Some reports of wrongdoing may be classified as “protected disclosures” under the Public Interest Disclosures Act 2022 (PID Act). This policy specifically addresses those types of reports.

Other reports of wrongdoing may not meet the definition of “protected disclosures”, however the IPC supports and encourages such reports, as we do not condone or tolerate wrongdoing in the workplace. In addition to this policy, staff should refer to the IPC Code of Conduct as this sets out the standards of conduct and behaviour we expect of all of our staff.

8.2 Detection systems

Detection systems are designed to discover fraud and misconduct when it occurs.

The IPC has a risk-based fraud and corruption detection program, based on the fraud and corruption risk assessment. Internal Audit and External Audit consider fraud when conducting audits. The Executive ensures:

- the annual internal audit program is risk-based
- internal management checks are conducted on high risk areas including payroll, procurement, accounts payable and contracting
- early warning signs and irregularities are acted on quickly
- segregations, delegations and oversight arrangements are reviewed.

9. Response

Where the IPC has reason to suspect fraud or corruption may have taken place, the IPC will respond by investigating and if necessary taking disciplinary action and/or other action as appropriate including notification to other bodies.

9.1 Investigations

Investigations of suspected fraud or corrupt conduct are to be carried out in an expert, fair and timely manner. The Executive ensures:

- the IPC adheres to the documented investigation procedures laid out in the IPC Public Interest Disclosure Internal Reporting Policy and following guidance available in the NSW Ombudsman Investigation Manual
- investigations are carried out by independent and qualified staff.

All staff must co-operate with any investigation of suspicion or reported fraud or corruption and assist as required.

9.2 Disciplinary Action

Disciplinary action is taken when suspected wrongdoing is validated. Appropriate insurance is in place to recover losses arising from internal fraudulent conduct.

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The Executive ensures:

- disciplinary procedures are maintained that are proportionate in response; and
- employees are informed that fraud and corruption will result in disciplinary action.

All disciplinary action is undertaken in accordance with the Human Resource Policies put in place by the Department of Customer Service in accordance with the arrangements for provision of corporate service supports to the IPC. Guidance is also provided by the Strategic Human Resource advisor at the Department of Customer Service in relation to all disciplinary action.

10. Continuous improvement

Continuous improvement is undertaken to ensure the currency of the Fraud Control Policy and Framework.

The fraud and corruption risk environment is regularly monitored and analysed to validate that risks are current, there are adequate preventative and detective measures in place to manage the risks, and that internal controls are effective. The Executive ensures:

- effective monitoring and analysis of fraud and corruption control data
- processes are in place to learn from non-compliance with internal controls that may lead to instances of fraud or corrupt conduct
- monitoring of the implementation of Internal Audit recommendations.

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