



# **FRAUD AND CORRUPTION CONTROL STRATEGY**

**JANUARY 2013**  
**Version 2.0**

<b>Document Title:</b>	Fraud and Corruption Control Strategy.
<b>Summary:</b>	<p>This policy document forms the Cancer Institute NSW Fraud and Corruption Control Strategy and draws together all governance elements applied within the Institute to manage the risk of fraud and corruption.</p> <p>The policy is designed to provide all staff with a clear understanding of their obligations and duties to prevent, deter and avoid corrupt practices (including fraud), maladministration and serious and substantial waste of public money, and makes clear the Institute's "<b>zero tolerance</b>" in relation to such matters</p>
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<b>Main Legislative Implications:</b>	<ul style="list-style-type: none"> <li>➤ <i>Independent Commission Against Corruption Act 1988.</i></li> <li>➤ <i>Protected Disclosures Act 1994.</i></li> <li>➤ <i>Crimes Act 1900.</i></li> </ul>
<b>Applicable Delegations of Authority:</b>	N/a.
<b>Related Cancer Institute NSW Policy</b>	<ul style="list-style-type: none"> <li>➤ Codes of Conduct &amp; Ethics – Employees, Board and Committee Members.</li> <li>➤ Managing Conflicts of Interest.</li> <li>➤ Acceptance of Gifts and Benefits.</li> <li>➤ Reporting of suspected Corrupt Conduct, Waste and Maladministration (including the making of a Protected Disclosure).</li> <li>➤ Reporting suspected Corrupt Conduct to the Independent Commission Against Corruption.</li> <li>➤ Acceptable use of Internet and Communications Equipment.</li> <li>➤ Discipline: Policy and Procedures.</li> <li>➤ Corporate Governance Framework.</li> <li>➤ Audit and Risk Committee – Charter.</li> </ul>

*Cancer Institute NSW*

*Fraud and Corruption Control Strategy*

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# 1 INTRODUCTION

Managing business risk is accepted as an important governance issue within government. By logical extension, controlling the risk of **fraud and corruption** is recognised as a critical element within the governance process that must be given close attention by the governing Boards and management of an agency.

Allied to this governance requirement is a “**whole-of-government**” **policy requirement**<sup>1</sup> that all NSW state public sector agencies develop and implement strategies to prevent fraud and corruption. Under this policy responsibility for implementing an effective strategy within the Cancer Institute NSW rests with the Board and Chief Executive Officer.

The fraud and corruption prevention model promoted under the “whole-of-government” policy features “**10 attributes of best practice**” which all NSW government agencies are required to address. A key attribute of government policy is the development of a **Fraud and Corruption Control Strategy** (policy) that serves to underpin the Cancer Institute NSW stance on fraud/corruption and which provides a framework and focus for the fraud/corruption prevention process.

This policy document forms the *Cancer Institute NSW Fraud and Corruption Control Strategy* and draws together all governance elements applied within the Institute to manage the risk of fraud and corruption.

The policy is designed to provide all staff with a clear understanding of their obligations and duties to prevent, deter and avoid corrupt practices (including fraud), maladministration and serious and substantial waste of public money, and makes clear the Institute’s “**zero tolerance**” in relation to such matters.

The governance elements that form the basis of the Institute’s policy are derived from the “10 attributes of best practice” advanced by the government (see following section).

Corruption prevention strategies adopted by the Cancer Institute NSW are designed to address the following elements which are commonly present when an individual is engaged in corrupt conduct:

1. Changing and guiding behaviour through tools such as codes of conduct, or activities such as ethics training, strengthening recruitment processes, and changing the organisational culture;
2. Reducing systemic opportunities by ensuring that there are clear policies, procedures and guidelines in place, and that these are effectively communicated; and
3. Ensuring that there are appropriate detection and enforcement mechanisms in place, including referral to external agencies such as the ICAC, appropriate internal investigation, comprehensive audit processes and sanctions for misconduct.

<sup>1</sup> Policy was issued by the NSW Premier’s Department – but jointly developed by the ICAC and the Audit Office of NSW.

## 2 FRAUD AND CORRUPTION - BEST PRACTICE GUIDELINES

Managing the risk of fraud and corruption within the NSW public sector is a matter that is given great importance by the government. The damage done to agencies by fraud and corruption can be enormous ranging from financial loss/waste, damage to organisational performance/service delivery, reputation, credibility, public/stakeholder confidence, political embarrassment and ultimately even the ongoing viability of the agency.

In the early 1990's the Government established a policy platform for fraud control that requires all agencies to implement a strategy for the prevention of fraud (and more generally, corruption). To support this policy platform the Premier's Department, in conjunction with the NSW Audit Office, issued a "best practice" guide that identifies governance attributes to which agencies should direct their attention in developing and implementing an effective and comprehensive approach to fraud and corruption prevention and control.

The "**critical factors for success**" (attributes) suggested under the "best practice" guide, that underpin the Cancer Institute NSW Fraud and Corruption Control Strategy, are outline below.

1.	<b>Fraud and Corruption Control Policy</b>	<p><b>Aim of Attribute</b> is to ensure that:</p> <ul style="list-style-type: none"> <li>• Agencies have in place the necessary policies, systems and procedures to minimise fraud in all places, and at all levels of an organisation;</li> <li>• Policies, systems and procedures respond, and are proportionate, to the fraud risks faced by the organisation.</li> </ul>
2.	<b>Responsibility and Accountability</b>	<p><b>Aim of Attribute</b> is to ensure that:</p> <ul style="list-style-type: none"> <li>• There is clear accountability and responsibility for implementation and monitoring of the fraud management strategy;</li> <li>• This accountability is well known by all staff at all levels and in all places of the organisation;</li> <li>• There is a common understanding that everyone in the organisation has a role to play in effective fraud management.</li> </ul>
3.	<b>Fraud Risk Assessment</b>	<p><b>Aim of Attribute</b> is to ensure that:</p> <ul style="list-style-type: none"> <li>• A separate fraud risk assessment is undertaken by the organisation;</li> <li>• The fraud risk assessment quantifies the level, nature and form of the risks to be managed;</li> <li>• Actions will be taken by the organisation to mitigate the risks identified in the fraud risk assessment.</li> </ul>
4.	<b>Employee Awareness</b>	<p><b>Aim of Attribute</b> is to ensure that:</p> <ul style="list-style-type: none"> <li>• All employees understand the ethical behaviours required of them in the workplace;</li> <li>• Training programs in ethical behaviours are in place across the organisation;</li> <li>• Training deals with the fraud risks faced by individuals in their workplaces.</li> </ul>

5.	<b>Customer and Community Awareness</b>	<p><b>Aim of Attribute</b> is to ensure that:</p> <ul style="list-style-type: none"> <li>• Customers and the community understand that the organisation will not accept fraudulent dealings/ transactions;</li> <li>• Customers are aware of the consequences of fraudulent dealings/transactions;</li> <li>• Information is available to customers about the quantity, quality and timeliness service delivery.</li> </ul>
6.	<b>Notification Systems</b>	<p><b>Aim of Attribute</b> is to ensure that:</p> <ul style="list-style-type: none"> <li>• Policies, systems and procedures are in place to encourage the reporting of suspect behaviours;</li> <li>• Fraud notification systems give the complainant the opportunity to report the suspect behaviours anonymously;</li> <li>• “Whistle-blowers” are protected by the organisation Policies, systems and procedures give equal opportunities to managers, staff, contractors, consultants, customers, suppliers etc to notify the organisation of suspect behaviours.</li> </ul>
7.	<b>Detection Systems</b>	<p><b>Aim of Attribute</b> is to ensure that:</p> <ul style="list-style-type: none"> <li>• Available data is thoroughly monitored and reviewed to ensure that irregularities and warning signals are picked up at a very early stage and flagged for further detailed review;</li> <li>• Internal audits regularly examine samples of medium and high risk financial decision making across the organisation;</li> <li>• Audit Committees make decisions, based on risk, about key systems and decisions to be audited;</li> <li>• Outcomes of audits are reported to executive management on a quarterly basis.</li> </ul>
8.	<b>External Notification Systems</b>	<p><b>Aim of Attribute</b> is to ensure that:</p> <ul style="list-style-type: none"> <li>• Agencies have policies which clearly identify the nature of suspect actions which require reporting to the Police, the ICAC, the Ombudsman etc;</li> <li>• External notification takes place as required in light of the above legal and policy requirements.</li> </ul>
9.	<b>Investigation Systems</b>	<p><b>Aim of Attribute</b> is to ensure that:</p> <ul style="list-style-type: none"> <li>• Procedures and other appropriate support (including training, where required) is provided to staff undertaking investigation activity on behalf of the organisation;</li> <li>• Investigation actions undertaken should be consistent with commonly used investigation standards;</li> <li>• Where appropriate expertise is not available internally, then external assistance should be sought;</li> <li>• All investigations consider what improvements can be made to policies, systems and procedures within the organisation;</li> <li>• All investigation reports are referred to the audit committee or an equivalent, and the organisation’s senior executive, for action.</li> </ul>

10.	<b>Conduct and Disciplinary Systems</b>	<p><b>Aim of Attribute</b> is to ensure that:</p> <ul style="list-style-type: none"> <li>• Employees understand that fraud will not be tolerated and that perpetrators will face disciplinary action;</li> <li>• Employees have access to written information to assist them understand their ethical obligations;</li> <li>• Approaches will be developed that are consistent with both perceived risks and the organisation's approach to human resources management.</li> </ul>
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*\*\*Based on the 2004 revision of the Audit Office's ten attributes for best practice for fraud control.*

Apart from these “best practice” elements the **Independent Commission Against Corruption (ICAC)** has, and continues to developed, “best practice” guidelines that assist public sector agencies to strengthen their strategic and operational focus in relation to the prevention, detection and investigation of corrupt conduct.

The role the ICAC plays in assisting public sector agencies to better manage their exposure to corrupt conduct is discussed in [section 4](#) below, together with an outline of the Institute's statutory obligations (under the ICAC Act) in relation to the reporting of suspected corrupt conduct.

### 3 DEFINITIONS

Definitions of some of the more common terms that apply when dealing with corruption are provided below.

<b>Code of Conduct</b>	Provides a framework for ethical decision making and articulates the standards of behaviour and actions expected of individuals who work within the Cancer Institute NSW. The Code explains the principles covering appropriate conduct in a variety of contexts and assist individuals to recognise and avoid behaviours that could potentially be corrupt or involve maladministration or waste, and it provides guidance with respect to the reporting of such matters.
<b>Conflict of interest</b>	<p>The term ‘conflict of interests’ refers to situations where a conflict arises between the public duty and private interests of a public official, which could improperly influence the performance of official duties and responsibilities.</p> <p>The types of conflicts that can occur include - actual, perceived/apparent or potential:</p> <ul style="list-style-type: none"> <li>• An actual conflict of interest involves a direct conflict between a public official's current duties and responsibilities and existing private interests.</li> <li>• A perceived or apparent conflict of interest can exist where it could be perceived, or appears, that a public official's private interests could improperly influence the performance of their duties – whether or not this is in fact the case.</li> <li>• A potential conflict of interest arises where a public official has private interests that could conflict with their official duties in the future.</li> </ul>

<p><b>Corrupt Conduct</b></p>	<p>Corrupt conduct is defined under the ICAC Act (section 8). It can generally be understood as the dishonest or partial exercise of public official functions; a breach of public trust (including improper acts or omissions, improper use of influence or position) and/or improper use of information acquired in the course of official functions. It may also involve the conduct of non-public officials that adversely affects the honest and impartial exercise of a public official's functions.</p> <p>For conduct to be considered corrupt under the ICAC Act definition it has to be serious enough to involve a criminal or disciplinary offence, be grounds for dismissal, or, in the case of Members of Parliament involve a substantial breach of their code of conduct.</p> <p>A more extensive definition of the term corrupt conduct is contained within Section 8 of the ICAC Act. This section is reproduced in <a href="#">section 3.1</a> below.</p>
<p><b>Fraud</b></p>	<p>There are many definitions of fraud available. At its simplest, fraud can be regarded as any practice which 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. A definition which has been used by the Audit Office of NSW is:</p> <p>“Fraud can be defined as a deliberate and premeditated turn of events which involves the use of deception to gain advantage from a position of trust and authority. The type of events include: acts of omission, theft, the making of false statements, evasion, manipulation of information and numerous other acts of deception.</p> <p><b>Note</b> - Fraud is regarded as a form of corrupt conduct (i.e. a subset within the definition of corruption) and therefore is subject to the same rules of reporting that apply to suspected corrupt conduct.</p>
<p><b>Maladministration</b></p>	<p>Maladministration is defined in the <i>Public Interest Disclosures Act 1994 (NSW)</i> as conduct that involves action or inaction of a serious nature that is:</p> <ul style="list-style-type: none"> <li>• contrary to law, or</li> <li>• unreasonable, unjust, oppressive or improperly discriminatory, or</li> <li>• based wholly or partly on improper motives.</li> </ul> <p>A range of examples of conduct that might be considered maladministration is outlined in the <b>Cancer Institute NSW Public Interest Disclosures Policy and Guidelines</b>.</p> <p>Maladministration can also include conduct considered corrupt under the ICAC Act.</p>
<p><b>Protected Disclosure</b></p>	<p>Is the disclosure in the public interest of corrupt conduct, maladministration and serious and substantial waste in the public sector made in accordance with the provisions of the <i>Protected Disclosures Act</i>.</p> <p>Employees who wish to make disclosures under the legislation receive protection from reprisals and an assurance that the matter raised in the disclosures are properly investigated.</p>
<p><b>Public Officials</b></p>	<p>For conduct to be considered corrupt under the <i>ICAC Act</i> it must involve a New South Wales public official or public authority. A public official is defined in the <i>ICAC Act</i> as an individual having public official functions or acting in a public official capacity. Public authority employees and individuals who are members of certain boards would be considered public officials. In some circumstances private contractors and consultants are also public officials.</p>

<b>Public Authority</b>	<p>A public authority is defined in section 3 of the <i>ICAC Act</i> and can include:</p> <ul style="list-style-type: none"> <li>• a government agency, administrative office or teaching service</li> <li>• a statutory body representing the Crown</li> <li>• a declared authority under the Public Service Act 1979</li> <li>• a local government authority</li> <li>• a body required to keep certain accounts under the <i>Public Finance and Audit Act 1983</i>, or over which the Auditor-General has powers of audit.</li> </ul>
<b>Serious and substantial waste</b>	<p>Serious and substantial waste is defined by the NSW Auditor-General as the uneconomical, inefficient or ineffective use of resources (including funds) which results in significant loss/wastage of public funds or resources.</p> <p>Examples of actions that would satisfy the above definition are provided in the <b>Cancer Institute NSW Public Interest Disclosures Policy and Guidelines</b>.</p>

### 3.1 ICAC ACT (SECTION 8) - GENERAL NATURE OF CORRUPT CONDUCT

(1) *Corrupt conduct is:*

- a.** any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
- b.** any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
- c.** any conduct of a public official or former public official that constitutes or involves a breach of public trust, or
- d.** any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.

(2) *Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:*

<ul style="list-style-type: none"> <li>• official misconduct</li> <li>• bribery</li> <li>• blackmail</li> <li>• obtaining or offering secret commissions</li> <li>• fraud</li> <li>• theft</li> <li>• perverting the course of justice</li> <li>• embezzlement</li> </ul>	<ul style="list-style-type: none"> <li>• revenue evasion</li> <li>• currency violations</li> <li>• illegal drug dealings</li> <li>• illegal gambling</li> <li>• obtaining financial benefit by vice engaged in by others</li> <li>• bankruptcy and company violations</li> <li>• harbouring criminals</li> <li>• forgery</li> </ul>
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| <ul style="list-style-type: none"> <li>• <i>election bribery</i></li> <li>• <i>election funding offences</i></li> <li>• <i>election fraud</i></li> <li>• <i>treating</i></li> <li>• <i>tax evasion</i></li> </ul> | <ul style="list-style-type: none"> <li>• <i>treason or other offences against the Sovereign</i></li> <li>• <i>homicide or violence</i></li> <li>• <i>matters of the same or a similar nature to any listed above</i></li> <li>• <i>any conspiracy or attempt in relation to any of the above.</i></li> </ul> |
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(3) Conduct may amount to corrupt conduct under this section even though it occurred before the commencement of this subsection, and it does not matter that some or all of the effects or other ingredients necessary to establish such corrupt conduct occurred before that commencement and that any person or persons involved are no longer public officials.

(4) Conduct committed by or in relation to a person who was not or is not a public official may amount to corrupt conduct under this section with respect to the exercise of his or her official functions after becoming a public official.

(5) Conduct may amount to corrupt conduct under this section even though it occurred outside the State or outside Australia, and matters listed in subsection (2) refer to:

- a. matters arising in the State or matters arising under the law of the State, or
- b. matters arising outside the State or outside Australia or matters arising under the law of the Commonwealth or under any other law.

(6) The specific mention of a kind of conduct in a provision of this section shall not be regarded as limiting the scope of any other provision of this section.

## 4 PUBLIC SECTOR CORRUPTION AND THE ICAC

The Independent Commission Against Corruption (ICAC) was formed in 1989 primarily to promote the integrity and accountability of public administration. The ICAC has three main functions:

- **Investigating** and publicly exposing corrupt conduct, involving or affecting **public authorities** or **public officials**, so lessons may be learned and its recurrence minimised;
- Actively **preventing** corruption by giving advice and assistance to build resistance to corruption in the public sector; and
- **Educating** the community and the public sector about corruption and its effects.

The *ICAC Act* gives the ICAC broad jurisdiction (and special powers) to **investigate** any allegation or circumstance which, in the ICAC's opinion, imply that corrupt conduct has occurred. As well, the ICAC can investigate conduct likely to allow, encourage or cause corrupt conduct. An ICAC investigation may begin as a result of:

- a report by any person;
- a report by the Chief Executive Officer of a public sector agency or General Manager of a local council;

- the ICAC's own initiative; and
- a reference by both houses of the NSW Parliament.

*Not all information referred to the ICAC is investigated. Under the Act the ICAC must, as far as practicable, direct its attention to serious and systemic corrupt conduct. Some matters are given priority because of their seriousness or because they are in the public interest*

As mentioned above an investigation may be initiated as a consequence of a report by the Chief Executive Officer of a public sector agency. In this regard it is important to note that **principal officers** of NSW public agencies have a **statutory obligation** under section 11 of the *ICAC Act* to report to the ICAC any matter the officer suspects, on reasonable grounds, may concern corrupt conduct.

To ensure compliance with this legislative obligation the Cancer Institute NSW has developed a specific policy concerning the reporting of suspected corrupt conduct to the ICAC – ***Guidelines for Reporting Corrupt Conduct to the ICAC***. This policy details the statutory requirements imposed on the Chief Cancer Officer, as the “Principle Officer”, and establishes procedures that support the reporting process.

In terms of its corruption education, research and prevention functions the ICAC has produced a large body of published work that is a valuable resource for public sector agencies wishing to enhance their corruption prevention strategies. These works can be accessed through the ICAC web site [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

## 5 CORRUPTION (FRAUD) RISK AREAS – CANCER INSTITUTE NSW

Preparation of the Institute’s initial (version 1.0) Fraud and Corruption Control Strategy involved an “**environmental (high level) scan**” of the organisation to identify areas of fraud and corruption exposure inherent to the functions and activities of the Institute. This analysis has been used to inform the development of the Fraud and Corruption Control Strategy and to assist in the communication of possible risk exposures and mitigation strategies to employees at all levels within the Institute.

Subsequent versions of Institute’s Fraud and Corruption Control Strategy will however, be informed by the conduct of a more detailed **Fraud/Corruption Risk Assessment** that will identify, using an appropriate risk assessment methodology<sup>2</sup>, the risks faced by the Institute, how these risks might arise and how they should be addressed. This approach aims to identify and address risks before problems occur.

The conduct of such an assessment (see attribute three - [section 2](#) above) is an important element of the government’s policy platform for fraud control.

<sup>2</sup>The methodology would involve - establishing the broad context; identifying risks; analysing risks in terms of the likelihood and potential consequences of the risks occurring; making a decision regarding the actions to be taken for each risk; treating the risks as required.

The **Audit and Risk Committee** has responsibility for ensuring that an effective **fraud /corruption risk assessment regime** operates across the Institute, including the development and implementation of effective risk minimisation strategies. The Committee will be assisted in this task by the Institute's **Internal Auditors**.

The initial scan of the Cancer Institute NSW shows that the Institute, (like many public sector agencies) is involved in functions and activities that have a moderate to high (inherent<sup>3</sup>) level of exposure to corruption risk. There are six primary areas of risk exposure to be managed by the Cancer Institute NSW. These are:

**a. Misuse /theft of public resources:** Misuse of resources is a broad category. An **indicative range** of fraudulent/corrupt actions that “fit” under this heading include, but are not limited to:

- false recording of attendance at work;
- not recording leave taken;
- performing private work on Cancer Institute NSW time;
- improper use of corporate credit card;
- theft of cash (e.g. petty cash);
- theft of materials or improper use of materials;
- excessive claiming of travel, private motor vehicle expenses;
- claiming reimbursement of “out of pocket” expenses when not related to official business;
- unauthorised use of Cancer Institute NSW motor vehicle;
- deliberate destruction/corruption of data to obtain a personal benefit;
- improper use of equipment (e.g. telephone, photocopies, computers etc);
- inappropriate use of communications equipment (i.e. Email and Internet);
- theft of intellectual property;
- payroll fraud – false person on payroll, falsely claiming overtime and other allowances, delayed terminations from payroll etc; and
- Improper disposal of assets.

**b. Conflict between public duty and private /professional interests and activities:** The experience of the ICAC is that conflict between private interest and public duty forms the basis of many allegations concerning corrupt conduct. This situation exists as it is common for public sector employees at all levels to have private interests outside their work that can create a situation where there is a real, perceived or potential conflict of interest. Within the Cancer Institute NSW conflicts between public duty and private interests can arise in relation to a number functions however, the main areas of potential exposure including:

- the procurement of goods and services;
- the allocation of funding/grants; and
- staff recruitment.

<sup>3</sup> Inherent level of risk means - potential level of risk before risk treatment measures have been taken into account.

- c. Procurement of goods and services** – There are a range of possible corruption risks inherent to the procurement function, these include but are not limited to:
- payment or solicitation of secret commission (bribes) either in cash or other form (eg building project completed at employee's private residence);
  - purchase of goods with public monies for private purposes;
  - specifications for tenders or expressions of interest intentionally biased towards a particular contractor;
  - unauthorised disclosure of sensitive information to enable a contractor to obtain a competitive advantage;
  - manipulation of the procurement process by favouring one tenderer over others;
  - payment of excessive and unsubstantiated contract variations;
  - payment for work not performed;
  - collusive bidding (by potential service provider);
  - overcharging (by service provider);
  - inappropriate acceptance of gift or benefit;
- d. Confidential Information** – From a corruption prevention perspective the unauthorised release of sensitive / private data/information for other than a business purpose, irrespective of whether release was for personal gain or favour, is the key risk issue to be managed.
- e. Grants** – From a corruption prevention perspective the failure to disclose and manage a conflict of interest is the key risk issue to be managed.
- f. Staff Recruitment** – There are a range of possible corruption risks inherent to the recruitment function, these include but are not limited to:
- applicant providing false information to support their application;
  - nepotism and cronyism where the appointee is inadequately qualified to perform the role; and
  - failure to disclose and properly manage a conflict of interest in the recruitment and selection process.

## 6 RESPONSIBILITY FOR FRAUD AND CORRUPTION PREVENTION WITHIN THE CANCER INSTITUTE NSW

The **Board of the Cancer Institute NSW and Chief Cancer Officer** have primary responsibility for implementing a corruption aware culture and operating, accounting and internal control systems and policies (governance arrangements) that act to deter, prevent and detect fraud and other corrupt practices.

The commitment of the Board and Chief Executive Officer to the creation of an ethical work environment, that is not permissive of fraudulent behaviour or other forms of corrupt conduct, is clearly established in the *Cancer Institute NSW Employee Code of Conduct and Ethics* and the *Cancer Institute NSW Public Interest Disclosures Policy and Guidelines*.

In recognition of this responsibility the Chief Cancer Officer, as Chief Executive Officer, is required by Auditing Standards (AUS 210) to provide an “**Management Representation Letter**”, as part of the annual audit of the Institute’s financial statements, confirming the Cancer Institute NSW has in place effective governance arrangements with respect to control systems that are designed to prevent and detect fraud and error (including the existence of an effective Internal Audit function).

While the Board and Chief Executive primarily are accountable for the effectiveness of the Institute’s fraud and corruption control strategy **directors and other managers** across the Cancer Institute NSW carry a shared responsibility to actively support and implement the strategy, including:

- understanding and supporting the Fraud and Corruption Control Policy;
- regularly reinforcing staff awareness and understanding of the Fraud and Corruption Control Policy, particularly internal reporting (protected disclosure) procedures;
- regularly reinforcing staff awareness and understanding of Cancer Institute NSW standards of conduct, as articulated in the Code of Conduct, and assisting staff to resolve ethical dilemmas;
- making new staff aware of the Fraud and Corruption Prevention Policy;
- setting and enforcing acceptable standards of behaviour;
- ensuring that proper management and administration systems (internal controls) are in place and followed;
- identifying high risk areas where corruption, maladministration and serious waste can occur and ensuring effective counter measures are in place;
- monitoring the effectiveness of internal controls relied upon to prevent fraud/corruption risk in their areas of responsibility and develop/modify local practices to reduce risk, as appropriate;
- correctly managing “public interest disclosures” received (in accordance with the Institute’s *Public Interest Disclosures: Policy and Guidelines*);
- supporting individuals who have made a legitimate disclosure and protect/maintain the confidentiality of persons they know or suspect to have made a disclosure; and
- reporting of unacceptable matters in accordance with the Institute’s *Public Interest Disclosures: Policy and Guidelines*.

It is through the active participation and actions of directors and managers that the Cancer Institute NSW will largely manage the risk of fraud and corruption.

**Employees** and others engaged to work for the Cancer Institute NSW have a responsibility to demonstrate fairness, integrity and sound professional and ethical practice at all times in every respect of their employment. Employees also have a responsibility to understand, observe and comply with Cancer Institute NSW ethical policies (in particular the Code of Conduct), and to embrace and promote an ethical culture and work environment that is not permissive of fraudulent behaviour or other forms of corrupt conduct.

Employees also have a particular responsibility to recognise and avoid behaviour that could potentially be corrupt or involve maladministration or waste and to report suspected incidences in accordance with the Cancer Institute's *Public Interest Disclosure: Policy and Guidelines*.

## 6.1 ROLE OF THE AUDIT AND RISK COMMITTEE

The Cancer Institute NSW Board has established an **Audit and Risk Management Committee** that has the primary objective of supporting the Board and the Chief Executive Officer to meet their governance responsibilities, obligations and duties, with particular reference to:

- financial reporting;
- internal control and risk management;
- compliance with laws, regulations and policy;
- ethical conduct, including **fraud and corruption prevention strategies**; and
- the internal and external audit functions.

The **Audit and Risk Committee**, together with management, are charged with the responsibility of ensuring that effective measures are in place to deal with the level and nature of fraud /corruption risk faced by the Cancer Institute NSW. In fulfilling this critical role the Committee will:

- coordinate the Institute's overall approach towards corruption control, including strategies to foster employee awareness and participation;
- review and endorse for Board approval policies and related action plans that promote ethical conduct and accountability throughout the Cancer Institute NSW, including the Fraud and Corruption Control Strategy;
- monitor that appropriate strategies are in place to manage the Institute's exposure to fraud and corrupt conduct;
- ensure an appropriate culture is in place to manage business risks with respect to existing Cancer Institute NSW functions and activities and new systems or functions which are proposed to be introduced;
- promote ethical conduct and accountability throughout the Cancer Institute NSW and monitor compliance with the Employee Code of Conduct and Ethics and Public Interest Disclosure reporting and investigation arrangements;
- receive reports and evaluate the results of investigations initiated as a consequence of a "Public Interest Disclosure" or a breach of the Institute's Code of Conduct and Ethics to ensure that appropriate measures are taken to correct policy, business or system weaknesses that may have been identified as a consequence of the investigation;
- monitor action taken within the Cancer Institute NSW with respect to matters referred to or received from external investigative bodies e.g. the Independent Commission Against Corruption, The NSW Ombudsmen, the Policy Service, the Audit Office of NSW etc;
- have input into the preparation of the "Management Representation Letter" that is required to be lodged with the Audit Office of NSW as part of the annual financial audit process;

- instigate special audits or investigations as may be necessary. Understand key issues arising from such investigations and be satisfied that matters are properly addressed and reported.

The Audit and Risk Committee is supported in the above role by the **Internal Audit Function**. The Internal Audit function is charged with the task of providing the Board and the Chief Executive Officer (through the Audit and Risk Committee) with independent and objective appraisal and recommendations concerning the full range of business functions and operations undertaken by the Cancer Institute NSW, including the adequacy of the Institute's fraud and corruption prevention strategies.

The Internal Audit function, at the direction of the Audit and Risk Committee, will assist management to undertake a **Fraud/Corruption Risk Assessment**, as discussed in [section 5](#) above, and monitor compliance with risk reduction strategies.

The Audit and Risk Committee, with the assistance of the Internal Auditor, will also ensure that **medium to high risk areas** are subject to audit review (from a fraud control perspective) and that resulting audit report recommendations are actioned.

## 7 EMPLOYEE AWARENESS OF FRAUD AND CORRUPTION CONTROL ARRANGEMENTS

A key element of the Institute's Fraud and Corruption Control strategy is creating awareness in the minds of all managers and employees of the various aspects of the Institute's strategy, the types of activities that are regarded as fraudulent or corrupt and how to respond if fraud or corruption is suspected.

An awareness of the Cancer Institute NSW Fraud and Corruption Control strategy will be fostered by:

<b>a.</b>	Providing all employees, with a copy of the Cancer Institute NSW Fraud and Corruption Control Policy, together with related Cancer Institute NSW ethical policies and guidelines being: <ul style="list-style-type: none"> <li>▪ Employee Code of Conduct and Ethics;</li> <li>▪ Conflict of Interest: Policy and Guidelines;</li> <li>▪ Public Interest Disclosures: Policy and Guidelines;</li> <li>▪ Acceptance of Gifts and Benefits: Policy and Guidelines;</li> <li>▪ Guidelines for Reporting Suspected Corrupt Conduct to the ICAC; and</li> <li>▪ Acceptable Use of Communication Devices: Policy and Guidelines</li> </ul>
<b>b.</b>	Providing all new employees with a copy of the above policies.
<b>c.</b>	Providing all Board and Committee members with copy of the above policies (together with a copy of the Board and Committees Codes of Conduct).
<b>d.</b>	Posting Cancer Institute NSW ethical policies on the Cancer Institute NSW Intranet site (when commissioned).
<b>e.</b>	Ensuring all employees receive training ("awareness seminars") in the Code of Conduct and related policies, in particular the Public Interest Disclosures Policy.

f.	Requiring employees to sign an acknowledgement that they have been provided with a copy of the Code of Conduct and related policies and that they have read and understand them.
g.	Ensuring all new employees receive induction training covering the Code of Conduct and related policies, in particular the Public Interest Disclosures Policy.
h.	Ensuring Code of Conduct standards, Public Interest Disclosure requirements and other ethical policies are integrated into existing “in-house” training and staff and managers meetings, as appropriate.
i.	Ensuring that refresher “information sessions” are held to remind employees of requirements.
j.	Ensuring specific training is given to managers, with particular emphasis on duties and obligations under the Public Interest Disclosures Policy.
k.	Amending employment contracts to make compliance with the Code of Conduct a condition of employment.
l.	Amending existing employment contract to ensure that specific sections of the contract match the Code.
m.	Ensuring all position descriptions include a reference to responsibilities under the Fraud and Corruption Control Policy and the obligation to report suspected corrupt conduct and other breaches of the Code of Conduct.
n.	Ensuring that consultants (temporary employees) and others are provided with a copy of the code and instruction on specific aspects of the code.
o.	Ensuring updates and changes to Fraud/Corruption policies and the Code of Conduct are effectively communicated to all employees.
p.	Publicising the results of fraud/corruption investigations and disciplinary actions, as appropriate.
q.	Ensuring staff can provide “feedback” on the effectiveness and relevance of the Code of Conduct and Ethics and related policies.
r.	Publicising delegations of authority with respect to the exercise of specific powers under the Code of Conduct and Ethics and related policies.
s.	Making available to employees relevant Corruption Prevention publications issued by the ICAC.

Implementation of an “**Employee Awareness**” strategy will be monitored by the Audit and Risk Committee.

## 7 INFORMING THE COMMUNITY OF FRAUD AND CORRUPTION CONTROL ARRANGEMENTS

The community and Cancer Institute NSW stakeholders have a right to expect that the Institute has taken all reasonable steps to minimise the potential for fraud and corruption. The provision of information to external parties indicates to readers and interested parties that the Cancer Institute NSW is active and serious about the prevention of corruption, and it advertises to clients and service providers that they are dealing with an organisation that applies ethical business practices and is active and serious about preventing corruption.

This aspect of the Institute’s Fraud and Corruption Control Policy will be achieved by:

a.	Ensuring that the Cancer Institute NSW Annual Report includes a clear statement from the Chief Executive about the Institute’s stance on fraud and corruption.
b.	Ensuring the Annual Report provides an outline of the governance arrangements within the Cancer Institute NSW that are designed to minimise the potential for fraud and corruption (see <i>Cancer Institute NSW Corporate Governance Framework</i> for a more complete outline of requirements).
c.	Ensuring the <i>Code of Conduct and Ethics</i> is included in the Cancer Institute NSW Annual Report (as required under Annual Reports legislation).
d.	Promoting within the Annual Report the <i>Cancer Institute NSW Complaints Handling: Policy and Guidelines</i> as a mechanism for reporting poor service delivery, for making a complaint concerning the conduct of an employee, or a decision taken or not taken by the Institute.
e.	Promoting within the Annual Report the Cancer Institute’s Customer Service Standards – i.e. a statement that details the key substantive aspects of the Institute’s service delivery to its clients (as required by Premier’s circulars and Annual Reports legislation).
f.	Providing private sector suppliers, contractors, consultants, tenderers and grant/funding recipients with a “ <b>Statement of Business Ethics</b> ” that communicates the Institute’s core values and ethical practices.
g.	Posting similar information, as described above, on the Cancer Institute NSW web site.

Implementation of the “**Community Awareness**” strategy will be monitored by the Audit and Risk Committee.

## 8 REPORTING SUSPECTED CORRUPT CONDUCT

The Cancer Institute NSW has established an “**Internal Reporting**” system for reporting disclosures of **corrupt conduct, maladministration, or serious and substantial waste of public money**. This system provides for such disclosures to be made as a “**Public Interest disclosure**” in terms of the *Public Interest Disclosures Act 1994*.

The Cancer Institute NSW Internal Reporting system is fully detailed in the *Cancer Institute NSW Public Interest Disclosures: Policy and Guideline*. This policy sets out:

- the obligation of employees to report corruption, maladministration, or serious and substantial waste of public money;
- defines what is meant by these terms;
- details the protection provided under the Act to persons making a disclosure and the rights of persons the subject of a disclosure;
- details the role and responsibilities of managers to receive and deal with disclosures;
- details the role and responsibility of the “**Disclosure Coordinator**” and the Chief Cancer Officer to deal with, investigate and report disclosures; and
- provides alternative avenues for making a disclosure – to external investigating bodies e.g. the ICAC, NSW Ombudsman, Audit Office etc.

All employees and managers are to familiarise themselves with this critical policy and are to ensure that all elements of the policy are correctly applied.

## 9 EXTERNAL NOTIFICATION OF FRAUD AND CORRUPTION

The **Chief Cancer Officer** has a statutory obligation to report criminal offences to the NSW Police Service and actual or suspected corrupt conduct to the Independent Commission Against Corruption.

### Reporting to the ICAC:

The ICAC Act imposes a statutory duty on the Chief Cancer Officer, as the “Principle Officer”, to report to the ICAC any matter that, on reasonable grounds, concerns or may concern corrupt conduct.

A detailed policy outlining the obligation of the Chief Cancer Officer to report suspected corrupt conduct, and which provides guidelines for making a report and the process the ICAC follows once a report is received, has been developed for use within the Cancer Institute NSW – *Guidelines for Reporting Corrupt Conduct to the Independent Commission Against Corruption*.

### Reporting to the Police Service:

If after initial investigation a reasonable basis appears to have been established for believing that fraud has occurred, the situation must be reported to the Police. All public sector agencies have an obligation to inform the Police of the occurrence of fraud. There is no discretion in this matter<sup>4</sup>. Likewise the ICAC (and the Audit Office) must also be advised.

### Reporting to the Auditor General of NSW:

All public sector agencies subject to the requirements of the *Public Finance and Audit Act* have an obligation to report discrepancies of serious proportions to the Auditor General. This allows the Auditor to reappraise the conduct of their audit. Late or no notification can result in an unfavorable audit result or delayed signing of the financial statements.

## 10 INVESTIGATING ALLEGATIONS OF FRAUD AND CORRUPT CONDUCT

From time to time the Institute will be required to investigate reports of **improper conduct**<sup>5</sup>. All such reports must initially be assessed (only sufficiently) to form a view that there is substance to the allegation, to determine the existence of improper or illegal conduct and to decide whether the matter should be investigated (and the form of the investigation), and the need to report the matter to another agency.

The decision to conduct, or not to conduct a formal investigation is made by the Chief Cancer Officer based on information provided by the complainant and the results of the initial assessment of the allegation/s.

<sup>4</sup> Section 316 of the Crimes Act of 1900 requires the Police Service to be informed of all such offences.

<sup>5</sup> The term improper conduct can cover a diverse range of matters including – fraud / theft, corruption, mismanagement, maladministration, workplace harassment and bullying, discrimination and other employment related grievances and general misconduct (including breach of Code of Conduct e.g. inappropriate release of information, use of internet etc).

A decision **not** to proceed to investigate a matter may be taken in circumstances where the allegation is found to be trivial, frivolous or vexatious; the alleged incident may be so old that the likelihood of proving it is so remote as not to justify an investigation; the allegation may be so general in nature as to be not capable of being objectively examined; it is more appropriate that the matter be referred to an investigating authority for formal investigation e.g. Police, ICAC, NSW Ombudsman etc.

Where a decision is taken not to proceed with a formal investigation the reasons are to be documented, and the complaint so advised. Where considered prudent, the advice of investigating authorities will be obtained to help inform the decision not to investigate a matter.

Where it is determined that a formal investigation will be undertaken the Chief Cancer Officer (or delegate) will choose to conduct the investigation “in house” or “contract in” the services of a trained investigator. In most instances it is envisaged that the services of a skilled investigator would be engaged to conduct an investigation.

The investigation of allegations of improper conduct, in all its possible forms, requires particular skills and expertise and the careful application of “**investigation standards**” that are appropriate to the size and nature of the alleged offence. It is beyond the scope of this document to detail these standards as they are quite extensive and vary according to the nature and size of the matter/s being investigated. However, a number of **Investigation Manuals** have been prepared for use by Public Sector agencies that provide guidance in this regard. The most notable of these guides are listed below.

Investigations conducted either “in house” or by “contracted” investigators need to be conducted in accordance with the principles contained within these guides.

- ***The Complaint Handlers Toolkit, NSW Ombudsman, May 2000.*** Part 3 provides an extensive guide (standards) for the investigation of complaints relating to administrative and disciplinary issues (including Protected Disclosures).
- ***Public Interest Disclosures Guidelines, NSW Ombudsman, January 2002.*** Section 4 of Part A provides an overview of investigation standards applicable when dealing with a Protected Disclosure.
- ***Practical Guide to Corruption Prevention, ICAC.*** Module 17 provides an overview of investigation standards applicable when dealing with allegations concerning fraud and corrupt conduct.
- ***Internal Investigations, ICAC, October 1997.*** Provides an extensive guide (standards) for the investigation of complaints alleging corruption, fraud or other criminal conduct.

The *Cancer Institute NSW Disciplinary Policy and Procedures* should also be consulted when dealing with complaints concerning misconduct as a disciplinary matter.

*Chapter 9 of the NSW Premier's Department Personnel Handbook* also provides some useful procedural guidelines for the purpose of dealing with allegations of misconduct as a disciplinary matter and the taking of disciplinary action against an officer for misconduct.