

Fraud and Corruption Control Policy

Who needs to comply with this policy?

This policy and the related procedure applies to all Attorney-General's Department (AGD) employees and contractors, staff seconded from other agencies and members of Boards and Committees administered by AGD. Public Sector staff in AGD-related Statutory offices are required to apply this policy and the related procedure.

What is covered by this policy?

This policy applies to the following categories of conduct and examples, consistent with the *ICAC Act 2012* and the South Australian Public Sector Fraud and Corruption Control Policy:

Fraud & Corruption

- Theft of assets including equipment, cash, supplies or information.
- Unauthorised or illegal use of assets, information or services for private purpose, including using confidential information, motor vehicles, computers and the AGD logo.
- Payment or receipt of bribes.
- Manipulation or falsification of records including timesheets, travel claims, purchase orders, fictitious employees or vendors, improper writing off of debt.
- Manipulation of AGD financial reporting and financial records.
- Manipulation of the procurement process, including favouring one tender over others or selectively providing information.

Maladministration

- Conduct resulting in irregular & unauthorised use of public money.
- Substantial mismanagement of public resources.
- Other misconduct while acting in their official capacity.

Misconduct

- Contravention of Code of Conduct while acting as a public officer.

What is the AGD position?

AGD will not tolerate fraud, corruption, maladministration or misconduct. Proven instances of fraud and corruption, maladministration and misconduct by an AGD staff or members of Boards and Committees administered by AGD **could result in sanctions including dismissal.**

All those within the scope of this policy are expected to comply with their legal obligations, including those described in:

- *Independent Commissioner Against Corruption Act 2012 (ICAC Act)*
- *Public Sector Act 2009*
- *Whistleblowers Protection Act 1993*
- *Criminal Law Consolidation Act 1935*
- Code of Ethics for Public Sector Employees



AGD is committed to minimising the risk of fraud, corruption, maladministration and misconduct. As part of this commitment AGD will:

- Fulfil obligations under the *ICAC Act*.
- Implement the AGD Fraud and Corruption Control Procedure covering prevention, detection and reporting of fraud and corruption.
- Endeavour to eliminate the opportunities for corrupt conduct.
- Review internal controls to ensure weaknesses in the control environment are identified and controls are strengthened to prevent instances of fraud, corruption, maladministration and misconduct.
- Provide avenues by which concerns of suspected fraud, corruption, maladministration and misconduct can be reported and handled professionally.
- Vigorously investigate suspected and actual incidents of fraud, corruption, maladministration and misconduct.
- Ensure all investigations provide staff with procedural fairness and natural justice.

What are our responsibilities?

Detailed responsibilities by role, consistent with those set out in the SA Public Sector Fraud and Corruption Control Policy are shown in **Appendix 1**.

The following section summarises key responsibilities and principles.

The *AGD Chief Executive*:

- Has ultimate responsibility for managing fraud, corruption, maladministration and misconduct risks in AGD. This includes ensuring that AGD has a robust internal control environment in place.
- Must ensure that Business Unit Heads periodically confirm in writing that the Business Unit for which they are responsible has adequate controls in place to ensure compliance with this Policy.
- Is responsible for nominating one or more responsible officers, as required in the South Australian Public Sector Fraud and Corruption Control Policy.

All staff are:

- Expected to comply with their legal obligations and conditions of employment and to contribute to a culture of ethical and lawful behaviour.
- Should be aware of the potential for fraud, corruption, maladministration and misconduct within the workplace.
- Have an obligation to report any suspected fraud, corruption, maladministration and misconduct in accordance with the *ICAC Act*, and comply with this policy and the related AGD Fraud and Corruption Control Procedures.

Business Unit Heads are responsible for:

- Implementing this policy.
- Implementing and maintaining systems and a workplace culture that protect AGD against fraud, corruption, maladministration and misconduct and setting a culture that is intolerant of these and any other potential criminal conduct.
- Including fraud, corruption, maladministration and misconduct risks specific to their business unit in Business Unit Risk Registers.
- Reporting any fraud, corruption, maladministration and misconduct risks to the Director, Strategic Planning and Business Operations who maintains a whole of AGD Fraud and Corruption Register.

Responsible Officers

The Responsible Officers listed below to coordinate risk management activities in relation to fraud and corruption, and provide a central referral point for suspected fraud and corruption.

- Director, Strategic Planning and Business Operations
- Manager, Governance and Compliance, Office of the Public Trustee
- Executive Director, Finance People and Performance
- Business Manager, Forensic Science SA
- Manager, Business Services, Crown Solicitor's Office
- Deputy Commissioner, Consumer and Business Services
- Director, Workplace Education and Business Services, SafeWork SA (until 30 June 2018)

Audit and Risk Management Committee

The Audit and Risk Management Committee is responsible for reviewing risk assessments in relation to fraud and corruption and recommending process, within business units or across the agency, for inclusion AGD's internal audit program.

Confidentiality

Sections 54 56 of the ICAC Act prevents you from ***publishing or causing to be published*** that you have reported a person to the OPI, or that you intend to make a complaint or report, or any other information that might identify the person being reported. The intention of section 56 is to protect people from unnecessary reputational harm.

Section 54 of the ICAC Act details confidentiality obligations on those who become aware of information connected to a matter as a result of the administration of this Act.

Confidentiality provisions extend to the identity of those people who have made a complaint or report. The publishing of any information that may identify a person who has made a complaint or report is prohibited.

Framework

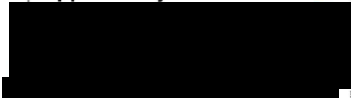
This Policy is part of AGD's control framework that complies with the Australian Standard AS 8001-2008 *Fraud and Corruption Control*, which is comprised of:

- [South Australian Public Sector Fraud and Corruption Control Policy](#)
- [South Australian Public Sector Code of Ethics](#)
- [Public Sector Act 2009](#)
- [Independent Commissioner Against Corruption Act 2012](#)
- [Independent Commissioner Against Corruption Directions and Guidelines for Public Officers](#)
- [Criminal Law Consolidation Act 1935](#)
- [Whistleblowers Protection Act 1983](#)
- [Commissioner for Public Sector Employment Guideline: Gifts and Benefits](#)
- [Attorney-General's Department Fraud and Corruption Control Procedure](#)
- [Attorney-General's Department Professional and Ethical Conduct Policy \(includes Gifts and Benefits, Conflict of Interest, and Outside Employment\)](#)

Key Controls

The Australian Standard AS 8001-2008 *Fraud and Corruption Control*, comprises five key controls; below is AGD's response to each control.

| Control | AGD Response |
|--------------------------------|--|
| 1. Governance and Ethics | Audit and Risk Management Committee monitors and reviews AGD policies, procedures and governance arrangements associated with financial and other controls. |
| 2. Awareness and Training | The Code of Ethics is provided to all employees as part of AGD's induction process. Business Unit Heads are responsible for including fraud risks specific to their business unit in Business Unit Risk Registers and for ensuring that staff have access to training. |
| 3. Fraud Prevention | Executive employees and other managers promote an ethical culture within AGD and promote the prevention, identification and reporting of fraud, corruption, maladministration and misconduct. |
| 4. Detection and Investigation | AGD ensures that controls are in place, including: segregation of duties; post transactional review; management reporting; internal audit program; a financial management compliance program. |
| 5. Monitoring and Reporting | AGD's Fraud and Corruption Control Procedure lists investigation activity. The ARMC reports to the Chief Executive annually. |

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| Date approved 10 / 4 / 2018 | Approved by  ACTING CHIEF EXECUTIVE | Date for review July 2020 | Responsible Unit Finance, People and Performance Division |
|------------------------------------|--|------------------------------|--|

**ATTORNEY-GENERAL'S DEPARTMENT
RESPONSIBILITIES AND ACCOUNTABILITY FOR FRAUD AND CORRUPTION**

| Responsibility | CE | BU Head | Resp Officers | ARMC | All |
|---|----|---------|---------------|------|-----|
| 1. Training - Executive employees and other managers will ensure all employees for whom they are responsible have received awareness training or education regarding fraud, corruption and other criminal conduct, maladministration and misconduct. | ✓ | ✓ | | | |
| 2. Code of Ethics is to be provided to all employees as part of any agency's induction process and whenever it is updated and reissued; employees are also alerted to their responsibilities under the <i>Public Sector (Honesty and Accountability) Act 1995</i> and the ICAC Directions and Guidelines. | | ✓ | | | |
| 3. Executive employees and other managers will promote an ethical culture within the agency they are employed in and promote the prevention, identification and reporting of any actual or suspected instances of fraud, corruption and other criminal conduct, maladministration and misconduct. | ✓ | ✓ | | | |
| 4. Agency chief executives or heads will ensure that branch or unit heads periodically confirm to them in writing that the area for which they are responsible has, over the previous relevant period, had adequate controls in place to ensure compliance with the Code of Ethics; <i>Public Sector Act 2009</i> ; <i>Public Sector (Honesty and Accountability) Act 1995</i> ; the ICAC Directions and Guidelines, this Policy or any agency-specific policy and any related whole of Government or agency-level policy, protocol or procedure and that they commit to ensuring compliance over the ensuing relevant period. The frequency of such reporting should be appropriate in consideration of the relative size and risk profile of the agency. | ✓ | ✓ | | | |
| 5. If the level of awareness in respect of the risk of fraud, corruption and other criminal conduct, misconduct and maladministration is found to be lacking at any level any agency, the chief executive or agency head will ensure additional targeted awareness training is facilitated . | ✓ | ✓ | | | |
| 6. The risk of fraud, corruption and other criminal conduct, misconduct and maladministration within agencies will be systematically identified, analysed and evaluated on a regular basis. | ✓ | ✓ | | | |
| 7. Agencies will investigate or otherwise address any suspected, alleged or proven instances of such conduct. | ✓ | ✓ | | | |
| 8. Agency-level policies and/or protocols or procedures will provide instruction to employees or other relevant public officers for the reporting of suspected or alleged fraud, corruption and other criminal conduct, misconduct and maladministration. | ✓ | ✓ | ✓ | | |
| 9. Appoint an employee or employees with appropriate seniority, qualifications and experience as a responsible officer(s) under this Policy or any agency-specific policy. | ✓ | | | | |

| Responsibility | CE | BU Head | Resp Officers | ARMC | All |
|--|----|---------|---------------|------|-----|
| 10. Awareness - Seek to ensure employees employed in and other relevant public officers administered by their agency are aware of their ethical obligations as public sector employees/officers, including, but not limited to, (as relevant) those pursuant to the <i>Public Sector Act 2009</i> , the Code of Ethics, the <i>Public Sector (Honesty and Accountability) Act 1995</i> ; <i>Independent Commissioner Against Corruption Act 2012</i> and the ICAC Directions and Guidelines and seek to ensure employees and other relevant public officers comply with such obligations. | ✓ | ✓ | | | |
| 11. Facilitate the creation of agency-level programs, protocols or procedures that encourage the minimisation, deterrence, detection and reporting of fraud, corruption and other criminal conduct, maladministration and misconduct. | ✓ | ✓ | | | |
| 12. Where relevant, ensure that conduct by employees or other relevant public officers that is reasonably suspected of being fraud, corruption and other criminal conduct, misconduct and maladministration is reported in accordance with the ICAC Directions and Guidelines and/or Code of Ethics and thoroughly investigated and otherwise appropriately managed seek to ensure appropriate action is taken in response to evidence of suspected or alleged fraud, corruption and other criminal conduct, misconduct and maladministration. | ✓ | ✓ | | | |
| 13. Foster a culture that makes active control of fraud, corruption and other criminal conduct, misconduct and maladministration the responsibility of all employees and other public officers. | ✓ | ✓ | ✓ | | ✓ |
| 14. Seek to identify fraud, corruption and other criminal conduct, misconduct and maladministration by employees and other public officers within an agency. | ✓ | ✓ | ✓ | | ✓ |
| 15. Oversee the development and delivery of training to employees and other relevant public officers to promote ethical conduct and an ethical culture. | | ✓ | ✓ | | |
| 16. Assess the risk of fraud, corruption and other criminal conduct, misconduct and maladministration in their area of responsibility and identify and implement appropriate risk management strategies. | ✓ | ✓ | | | |
| 17. Monitor the control systems in place, through informal information gathering, active supervision or formal information systems to minimise the risk of fraud, corruption and other criminal conduct, misconduct and maladministration. | ✓ | ✓ | ✓ | | |
| 18. Ensure appropriate security measures and clearances such as criminal and other background history checks and appropriate delegations are in place with regard to the prevention of fraud, corruption and other criminal conduct, misconduct and maladministration. | ✓ | ✓ | | | |
| 19. Attest to compliance with relevant policies, programs, protocols or procedures as necessary. | ✓ | ✓ | | | |
| 20. Ensure recommendations pertaining to the minimisation of risk, | ✓ | ✓ | | | |

| Responsibility | CE | BU Head | Resp Officers | ARMC | All |
|--|----|---------|-----------------------------|---------------|-----|
| detection, reporting or other management of actual or suspected fraud, corruption and other criminal conduct, misconduct and maladministration in their area of responsibility are implemented within acceptable timeframes. | | | | | |
| 21. Periodically review any relevant agency-level policies, programs, protocols or procedures and make recommendations to the Chief Executive or other agency head for amendment as appropriate. | | | ✓ | ✓ | |
| 22. Review the approach by Executive employees and other Managers in the relevant agency in respect of the maintenance of an effective internal control framework to seek to ensure it is sound and internal controls are consistently applied. | | | ✓ | | |
| 23. Review steps taken by Executive employees and other Managers to embed a workplace culture which is committed to ethical and lawful behaviour. | ✓ | ✓ | | ✓ | |
| 24. Review the process of developing and implementing control arrangements in respect of fraud, corruption and other criminal conduct, misconduct and maladministration. | | | ✓ | | |
| 25. Oversee and evaluate associated controls in relation to the risks of fraud, corruption and other criminal conduct, misconduct and maladministration as part of a risk management process within an agency. | | | ✓ | | |
| 26. Coordinate risk management activities in relation to fraud, corruption and other criminal conduct, misconduct and maladministration across agencies including monitoring, reviewing and reporting. | | | ✓ | | |
| 27. Coordinate risk assessments in relation to fraud, corruption and other criminal conduct, misconduct and maladministration periodically with regard to the size and complexity of the agency, ideally, at least every three years. | | | ✓ | | |
| 28. Coordinate the follow up of risk assessments in relation to fraud, corruption and other criminal conduct, misconduct and maladministration by ensuring that all timetabled strategies are implemented. | | | ✓ | | |
| 29. Establish and maintain a Fraud and Corruption Control Compliance Program for annual reporting to the Audit and Risk Committee or other responsible officer/s and the chief executive or agency head. | | | ✓ (Establish & Maintain) | ✓ (Review) | |
| 30. Provide a central referral point(s) for preliminary consideration of suspected or alleged fraud, corruption and other criminal conduct, misconduct and maladministration in an agency or in connection with its operations by employees or other public officers. | | | ✓ | | |
| 31. Seek to ensure conduct reasonably suspected of fraud, corruption and other criminal conduct, misconduct and maladministration by employees or other public officers is reported in compliance with the ICAC Directions and | ✓ | ✓ | ✓ | ✓ | ✓ |

| Responsibility | CE | BU Head | Resp Officers | ARMC | All |
|--|----|---------|---------------|------|-----|
| <i>Guidelines</i> and/or Code of Ethics - including ensuring agency-level obligations are complied with; seeking to ensure reporting obligations under the <i>Public Sector (Honesty and Accountability) Act 1995</i> are complied with. | | | | | |
| 32. Review risk assessments in relation to fraud, corruption and other criminal conduct, misconduct and maladministration and consider high risk areas for inclusion in an agency's Internal Audit planning. | | | | ✓ | |
| 33. Assist in seeking and/or if qualified and competent, provide advice to chief executives or agency heads, Executive employees or other Managers and other employees in dealing with incidences of suspected or alleged fraud, corruption and other criminal conduct, misconduct and maladministration. | | | ✓ | | |
| 34. Coordinate training or education or retraining or refresher education of employees and other public officers in relation to awareness and reporting of fraud, corruption and other criminal conduct, misconduct and maladministration. | | ✓ | ✓ | | |
| 35. Comply with South Australian Public Sector Fraud and Corruption Control Policy and any related legislation, policy, protocol or procedure. | ✓ | ✓ | ✓ | ✓ | ✓ |
| 36. Report all instances of conduct alleged or reasonably suspected to be fraud, corruption and other criminal conduct, maladministration and misconduct. Failure to report in compliance with the ICAC Directions and Guidelines and/or the Code of Ethics is misconduct and will render an employee liable to disciplinary action and may render other public officers subject to adverse action. | ✓ | ✓ | ✓ | | ✓ |
| 37. At all times act in an ethical manner in the performance of their duties or in association with their role as a public sector employee or other public officer including by complying with the <i>Public Sector (Honesty and Accountability) Act 1995</i> . | ✓ | ✓ | ✓ | ✓ | ✓ |
| 38. Where relevant, comply with the Whistleblowers Protection Act 1993 . | ✓ | ✓ | ✓ | | ✓ |
| 39. Implement risk management strategies in relation to fraud, corruption and other criminal conduct, Misconduct and maladministration as required and otherwise participate fully in management activities relating to control of such matters. | ✓ | ✓ | ✓ | | ✓ |