

Fraud and Corruption Control Procedure

Who needs to comply with this procedure?

This procedure and related policy 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 procedure and related policy.

Prevention and detection

Fraud and corruption prevention activities are the first line of defence and provide the most cost effective method of controlling fraud and corruption. Appendix 1 summarises corporate prevention and detection activities. Individual business units supplement these activities with controls specific to their circumstances, systems and processes.

Responding to suspected fraud, corruption, maladministration or misconduct

The *Independent Commissioner Against Corruption Act 2012 (ICAC Act)* requires that public officers report any **reasonable suspicion involving any corruption, or serious and systemic misconduct and maladministration** by public officers in respect of public administration.

All terms are defined in the ICAC Act. Examples of activities that could be considered to be fraud, corruption, misconduct or maladministration are provided below:

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, or demanding a benefit.
- 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.

The Independent Commission Against Corruption (ICAC) has limited the reporting obligations of public officers, public authorities and inquiry agencies to those matters of **misconduct** and **maladministration** which are either **serious** or **systemic**.



A matter may be considered **serious** if it:

- involves a senior public officer, such as a Manager or Executive
- involves alleged misconduct or maladministration that has resulted in a substantial loss or damage to assets
- involves allegations that would, if bring AGD or Government into disrepute
- is otherwise of particular prominence or importance.

A matter may be considered **systemic** if it:

- causes widespread disruption to services or programs
- affects a number of persons
- is spread throughout an agency or authority or is accepted or condoned
- involves a large sum of public money.

If you suspect fraud, corruption, maladministration or misconduct:

Step 1

Tell someone - You must tell someone at the earliest opportunity:

- Your Director or Business Unit Head or Executive Director
- The Chief Executive
- The Crown Solicitor (if the Chief Executive is suspected).

You can go directly to any of the above people, if you suspect that your Manager or Executive(s) might be involved.

If you wish to be covered by the Whistleblowers' Protection provisions, you must only report to the designated [responsible officers](#) listed on the AGD Intranet.

Do not approach the person about whom the allegation has been made. This may jeopardise a future investigation.

Step 2

Report: You have an obligation to lodge an online report to the Office for Public Integrity (OPI), as required by the Independent Commissioner Against Corruptions (ICAC) at: <https://icac.sa.gov.au/> about:

- all conduct reasonably suspected of being corruption; and
- serious or systemic misconduct or maladministration

Where a matter is required to be reported to the OPI, you must also report internally according to AGD policy. Confidentiality must be maintained, as outlined below. Further advice is available from OPI.

Reasonable suspicion of misconduct or maladministration that is not systemic or serious must be reported internally.

Step 3

Review and investigation: Initial agency review or preliminary investigation may have been undertaken before the matter is identified as reportable to OPI. The ICAC will determine if the matter should continue to be investigated internally or externally.

If suspected misconduct or maladministration is not systemic or serious it must be reported internally.

What if I don't have any proof of what happened?

You are required to report a reasonable suspicion, based on available information.

What if I don't report ?

All Public Sector staff are under obligations as public officers to report certain information pursuant to the Directions and Guidelines issued by the ICAC and/or the South Australian Public Sector Code of Ethics. **Failure to comply with these obligations may be an offence and/or misconduct.**

What happens when fraud, corruption, misconduct or maladministration is reported within AGD?

Managers, Business Unit Heads, Directors, Executive Directors must:

- Notify the Director, Strategic Planning and Business Operations provided the allegation does not relate to that person.
- Notify the Crown Solicitor, should the allegation relate to the Chief Executive.
- Notify as soon as reasonably practicable the Chief Executive, and the Executive Director Finance, People and Performance and relevant business unit Executive Director (provided the allegation does not relate to them).
- Record the matter on own Business Unit Risk Register.
- Notify matters that meet ICAC criteria as outlined above to the OPI.
- Depending on the scope and the severity of the incident, the relevant Business Unit Head, Director or Executive Director may coordinate an incident response group and seek support from AGD's internal auditors or others to review the matter. The response group may include representatives from a number of areas of Executive, Finance, Human Resources, Crown Solicitor's Office, Internal Audit and the relevant Business Unit Head as appropriate.

Director, Strategic Planning and Business Operations will:

- Record the matter on the *AGD Fraud and Corruption Register*.
- Notify the Chief Executive and Executive Director Finance, People & Performance, if appropriate, and if that has not already occurred.
- Notify the Chair of the Audit and Risk Management Committee and AGD's Internal Auditor's, if that has not already occurred.

The Director may participate in or coordinate an incident response group, if appropriate to the circumstances of the matter, as determined by the Executive Director Finance, People and Performance or Chief Executive.

Any response group established will consider:

- The approach to be taken to the person about whom the allegation is made.
- Any action necessary to support the person who made the allegation, consistent with the [Whistleblowers Protection Act 1983](#).
- Whether AGD have internal resources or require external assistance with investigations, including forensic accountants or IT specialists.
- What information should be communicated, to whom and when.

Outcomes of internal investigations will be reported to the Chief Executive and to the Audit and Risk Management Committee.

An internal investigation may reveal matters that trigger the requirement for reporting to the OPI, SA Police, the Auditor-General, the Commissioner for Public Sector Employment or other appropriate authority.

What happens when a report is made to the Office for Public Integrity?

Reports are assessed by the OPI, which makes a recommendation to the ICAC as to how the matter might be dealt with. The ICAC is not bound by the OPI assessment. The ICAC may deal with it in accordance with his own assessment.

In respect of corruption, the ICAC may:

- conduct an investigation
- refer the matter to the SA Police, or other law enforcement agency.

If a matter is assessed as raising a potential issue of serious or systemic misconduct or maladministration in public administration, the ICAC may either:

- refer the matter to an inquiry agency or a public authority for further action, and if considered appropriate, give directions on how the matter should be handled; or
- exercise the powers of the inquiry agency and deal with the matter himself.

Confidentiality - information not to be published

Section 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.

Breaches of these confidentiality provisions may incur penalties under the ICAC Act.

What if I am the employee being investigated, am I entitled to support?

If you are involved in a matter being investigated internally, you are entitled to be accompanied in any interview by a support person of your choice.

Date approved 10 / 4 / 2018	Approved by [REDACTED] ACTING CHIEF EXECUTIVE	Date for review July 2020	Responsible Unit Finance People and Performance Division
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PREVENTING AND DETECTING FRAUD AND CORRUPTION

Category	Overview of purpose and specific activities
1. Employee training	Training assists in the prevention and detection of fraud and corruption by raising the general level of awareness amongst employees. Training is included in the AGD induction program.
2. Code of Ethics	AGD promotes an ethical culture throughout the department and ensures that employees are made aware of the Code of Ethics for the South Australian Public Sector at the time of their induction.
3. Ethical conduct policy	This policy governs conduct including acceptance of gifts and benefits, declaring and managing conflicts of interest and gaining secondary or outside employment.
4. Employment screening	Employment screening includes verifying the identity and checking the criminal history of potential and current employees. Refer to: Criminal History Checks Policy
5. Supplier/contractor due diligence	Probity checks and the ongoing monitoring of major suppliers and contractors is an important fraud prevention strategy. Refer to: <ul style="list-style-type: none"> • State Procurement Board Policies and Guidelines • AGD Procurement Guidance Notes
6. Maintaining effective systems of internal control	Examples of internal control activities include authorisation and approval processes, verifications, reconciliations, segregation of duties and business performance reviews. Any of these activities may reveal an anomaly or irregularity that requires review. Refer to: <ul style="list-style-type: none"> • Financial Authorisation Policy • Financial Authorisation Procedures • HR delegations • Purchase card policy • Financial management compliance program
7. Confidentiality arrangements	Employees with access to key information or systems understand their responsibilities in relation to the use and disclosure of information they have access to as part of their duties.
8. Review transaction reports	Relevant transaction reports including financial transaction reports, use of financial authorisations, bonafide reports, leave reports, access to building, payments to overseas vendors are regularly reviewed.
9. Internal and external audits	Internal and external audits will assist management in identifying fraud and corruption risks and assessing the effectiveness of the controls in place to mitigate those risks.
10. Risk management framework	In identifying risks at both a Business Unit and enterprise level, fraud and corruption risks will be identified. The risk management framework will be used to guide forward internal audit activity, to review the controls for fraud and other risks identified.
11. Leave management	Managers receive excess leave balances and ensure employees take annual leave as appropriate. People may be reluctant to take leave as a fraud or irregularity, could be exposed in their absence.