

Fraud and Improper Conduct Control Policy

Department of the Chief Minister and Cabinet
Office of the Commissioner for Public Employment
Department of Treasury and Finance

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1. Background

The fraud and improper conduct policy has been established to facilitate the development of controls that will aid in the detection and prevention of fraud against the central agencies. This policy applies to employees of the Department of the Chief Minister and Cabinet (CM&C), including the Office of the Commissioner for Public Employment (OCPE), and the Department of Treasury and Finance (DTF), hereafter referred to as the “agencies”, as well as their contractors, consultants, board and committee members and any individual or groups undertaking activities or work for, or on behalf of, these agencies, hereafter referred to as “third parties”.

The central agencies lead, coordinate, resource and oversee sector-wide initiatives to deliver government priorities. As central agencies we will often be asked to lead and coordinate strategies or programs where outcomes can only be achieved with multiple agencies working together. We provide essential advice and assistance on strategic issues such as finance and investment facilitation, workforce management, policy, service delivery and innovation. In an environment that demands greater collaboration and accountability within the government sector, we provide leadership on whole of government issues and we must build trust by modelling ethical behaviour, and applying principles and values consistently in decision-making. The agencies have recognised this must be incorporated in all levels across their programs and activities and have worked to build this into their corporate strategies and governance frameworks. We cannot expect others to follow our leadership if we cannot ourselves model the behaviours we expect of them.

The agencies have a zero tolerance for dishonest, fraudulent or corrupt behaviour. The Northern Territory Government (NTG) legislative framework, systems, policies and procedures are in place to aid the protection of public money and property, and to facilitate the culture of integrity, security and the reputation of the NTG. This is reflected in agencies’ business planning activities and incorporated into day to day operations and management.

The agencies’ values remind us of the behaviours that are expected of us by our peers, government and the Northern Territory public.

- **Commitment to Service** – we put our clients and stakeholders at the centre of everything we do. We are professional, dedicated and demonstrate resilience when faced with challenges. We build and sustain relationships, are timely in our responses with colleagues and clients and always follow through.
- **Ethical Practical** – we uphold the highest standards or practice and act with integrity in all that we do. We are honest, transparent and always strive to do what is right.
- **Respect** – we are considerate. We care how we make people feel. We turn up to meetings prepared, on time, listen and participate fully. We are professional with everyone.
- **Accountability** – we take personal responsibility for our actions and behaviours. We clarify responsibilities, set clear rules and expectations, empower people to take ownership of tasks and proactively measure results to establish a culture of learning and improvement.
- **Impartiality** – we research, engage and consider all views. We seek to understand. We are self-aware and make informed decisions based on evidence and good judgement.
- **Diversity** – we encourage inclusion and think to ask and test views. We value and respect all people of all persuasions, and acknowledge there are different perspectives and ways of doing things.

2. Objectives

An effective agency control structure, which incorporates fraud control, will foster ethical and professional business practices, increase accountability, and contribute to high-quality results.

This means the agencies will take all steps necessary to prevent, detect and respond to fraud and corruption relating to their organisations and will:

- prevent incidents of fraud and improper conduct,
- facilitate the detection of fraud and improper conduct,
- define responsibilities for disclosure and investigations of suspected fraud and improper conduct,
- confirm the agencies' obligation to protect those who report fraud and improper conduct in good faith, and
- commit the agencies to ensuring that appropriate action and discipline occur for those who commit acts of fraud or improper conduct.

3. Policy statement

Fraud and improper conduct are taken seriously by the Northern Territory Government. Fraud and improper conduct can undermine confidence of the public, government and our peers in our ability to deliver government priorities and undermine the trust others place in us to partner, coordinate and lead quality government policy, programs and services.

The agencies have zero tolerance of fraud. Allegations, suspicions or incidents of fraud are taken seriously and will be investigated and appropriately addressed. The agencies will pursue disciplinary, civil and/or criminal action as appropriate.

The agencies are committed to protecting their assets and resources against attempted fraudulent or improper conduct. Any allegation, suspicion or incidents of fraud will be responded to in accordance with the timeframes and requirements outlined in relevant legislation, the Treasurer's Directions and agency policies and procedures.

The agencies' employees and third parties play a crucial role in reducing the agencies' exposure to fraud and corruption. The fraud and corruption control plan and procedures (the Plan) is intended as guidance to support staff in the prevention and detection of, and response to, fraud and corruption.

4. Authority

The agencies' decision-making is based on legislation and other Government objectives and policies. Employees are required to have an awareness of their agency's authorising environment and work within it, to prevent potential misuse of government assets and maximise accountabilities and operational effectiveness.

All agency policies are written in line with legislative and regulatory requirements. This policy has been drafted in line with the following:

- *Independent Commissioner Against Corruption Act 2017*
- *Financial Management Act 1995*
- *Information Act 2002*

- *Public Sector Employment and Management Act 1993 (PSEMA)*
- *Procurement Act 1995*

5. Fraud and improper conduct

5.1. Definition of fraud

According to the Treasurer's Directions – Fraud Control:

1. Fraud is defined as obtaining (or attempting to obtain) a financial benefit, or causing (or attempting to cause) a financial loss, by deception.
2. Obtaining a financial benefit includes obtaining for oneself, another person, or a third party.
3. Fraud requires more than carelessness, accident, or error – in these cases, an incident may be non-compliance rather than fraud.
4. Fraud may arise from improper conduct such as corrupt conduct, misconduct, unsatisfactory conduct and anti-democratic conduct where points 1 to 3 are satisfied.

Fraud does not need to be purely financial, and non-financial fraud is considered under this policy. Examples of non-financial fraud include:

- Manipulating reporting data to present results that are deceptive.
- Inadequate disclosure of information.
- Misusing or using government assets or resources for personal use.
- A person fraudulently claiming to have qualifications or experience to obtain employment.
- Altering studies or research outcomes deliberately to enhance the likelihood of a preferred decision.

5.2. Definition of improper conduct

The Office of the Independent Commissioner Against Corruption (ICAC) provides guidance in defining improper conduct. Section 9 of the *ICAC Act* defines *improper conduct* as corrupt conduct, misconduct, unsatisfactory conduct and anti-democratic conduct. The full definitions are available in the ICAC's [mandatory reporting guidelines](#). A summary of these definitions is below:

1. **Corrupt conduct** (section 10) is conduct, connected to public affairs that is engaged in by a public officer or by a public body, that is an offence punishable by a maximum term of imprisonment of at least two years, or conduct which would warrant termination of services.

Examples of corrupt conduct include:

- disclosing confidential information
- misuse of public resources, including fraud
- not disclosing a private interest (in certain cases)
- accepting or requesting a bribe
- falsifying documents, for example fraudulent invoices or reimbursement claims.

2. **Misconduct** (section 11) is a breach of a code of conduct by a public officer while acting in his or her capacity as a public officer, including discrimination, bullying, harassment and assault.

3. **Unsatisfactory conduct** (section 12) is conduct that includes negligence, impropriety, illegality, or incompetence resulting in substantial mismanagement or inappropriate use of public resources, or detriment to the public interest.
4. **Anti-democratic conduct** (section 15) includes electoral offences under the *Electoral Act 2004* or *Local Government Act 2008* affecting the reputation, power, resources or influence of a political party or a candidate. Examples of anti-democratic conduct include undeclared political donations, push polling, inappropriate use of social media bots and improperly influencing voting behaviour.

Under the *ICAC Act*, third parties are considered public bodies and employees are considered public officers. Public bodies and public officers are subject to [mandatory reporting guidelines](#) and **must** report corrupt conduct and anti-democratic conduct to the Office of the ICAC unless they know it has already been reported.

5.3. Definition of unethical behaviour

NTPS employees are in a position of trust requiring standards of behaviour that reflect community expectations and therefore must abide by a code of conduct. Unethical behaviour is conduct which does not conform to the acceptable standards or expectations of the NT Public Sector under the PSEMA Employment Instruction 12 – Code of Conduct.

6. Agencies' principles

The agencies will uphold the following principles to discourage fraud and improper conduct of employees, volunteers and contractors.

Principle 1: Zero tolerance for fraud and improper conduct

The Northern Territory Government has a zero tolerance of fraud and improper conduct. This means that any allegation, suspicion or incidence of fraud will not be ignored. The agencies recognise that fraud and improper conduct is wrong and will actively work to avoid its occurrence. The agencies aim to foster an organisational culture which ensures the effective prevention of fraud and improper conduct as an integral part of their operating activities.

All employees are required to report fraud and improper conduct when it is identified. Any employee who wishes to ensure this is a protected, confidential disclosure should follow the procedures outlined in the agencies' Protected Disclosure (Whistleblower) policy. The agencies will then do all they can to protect the employee's anonymity.

In line with the Northern Territory Government's zero tolerance of fraud and improper conduct, the agencies will pursue disciplinary and/or legal action where allegations of fraud or improper conduct are proven.

Principle 2: Strong leadership

The agencies recognise that strong executive leadership is essential in supporting effective fraud and improper conduct control. The agencies' governance structures provide for effective management and oversight through a 'top-down' and 'bottom-up' approach. Employees at all levels have responsibility for fraud and improper conduct control. Below are the roles and responsibilities of the agencies' officers and stakeholders:

- **Heads of Agencies:** the head of each agency is responsible for setting an ethical tone within the agency, fostering and maintaining a culture of fraud and improper conduct awareness and proactively managing the risk and incidence of fraud and improper conduct. They are responsible for setting their agency's strategy and direction, the oversight of its service delivery and legislative compliance, and meeting risk management standards. The role requires liaison with government, other NTG agencies, the community, and business stakeholders to ensure the public can have trust and confidence in the agency and the strategic programs, initiatives and services it leads across government.
- **Senior executive boards:** the senior executive boards of the agencies are responsible for ensuring a robust fraud and improper conduct control framework is in place, with adequate resources to develop, implement and manage the framework on an ongoing basis in their agency.
- **Audit and Risk Management Committee:** provides independent assurance and assistance to the Heads of Agencies regarding agency fraud and improper conduct risks.
- **Executive management:** provide essential support to the Heads of Agencies in setting the ethical tone of their agency and overseeing and managing strategic, compliance, regulatory and governance matters of their agency. Executive managers will exhibit an observably high level of commitment to fraud and improper conduct control by demonstrating a positive and proactive attitude and supporting employees to understand and comply with the agencies' fraud and improper conduct policies, procedures and guidelines.
- **Director Governance, Information and Reporting:** is responsible for:
 - developing and implementing the fraud and improper conduct control framework of the agencies
 - initiating and undertaking investigations of reported incidences and allegations of fraud and improper conduct, and
 - coordinating fraud and improper conduct control training for agency employees, contractors and other relevant stakeholders.
- **Nominated recipients:** are appointed by the Heads of Agencies of the agencies, pursuant to section 97 of the *ICAC Act*. Nominated recipients act on behalf of the agencies and are responsible for providing advice about the process of making a disclosure, receiving disclosures from employees, facilitating disclosures to the ICAC, and protecting employees from retaliation. An employee wishing to make a protected communication through internal processes should contact one of the agencies' nominated recipients. Employees can make a disclosure to the nominated recipient in person, or via phone or email.

In order for an employee's disclosure to constitute a protected communication and therefore be subject to protections under the *ICAC Act*, the employee must ensure the following:

- the employee must believe, on reasonable grounds, that the information they are disclosing would tend to show that improper conduct has occurred, is occurring or is at risk of occurring; or would assist the ICAC to perform the ICAC's functions; or would otherwise assist in the administration, or achieving the objectives of the *ICAC Act*, and
- the employee must not provide information that they know or believe to be misleading. Something may be misleading because an employee discloses information that they know is not true. It may also be misleading if an employee chooses to omit something important.

- **All staff:** should lead by example. Each has a responsibility under the Code of Conduct and/or various legislation to behave ethically and lawfully, to recognise and actively discourage behaviours that may be considered fraudulent or improper conduct.

All staff who suspect improper conduct has occurred must report their suspicion. Employees can make a verbal or written report to their manager or director. Alternatively, should an employee be required to make a report as a protected communication under the *ICAC Act*, the employee should contact the proper authorities. The proper authorities include:

- a nominated recipient within DTF, OCPE or CM&C
 - the Accountable Officers of agencies
 - the Office of the ICAC
 - the Ombudsman or the Ombudsman's Office
 - the Auditor-General or the Auditor-General's Office
 - the Health and Community Complaints Commissioner or a staff member of the Commissioner
 - the Children's Commissioner, or
 - the Environment Protection Authority.
- **Third parties:** are urged to be aware of the agency's fraud and improper conduct policy and to put in place mechanisms to guarantee that third-party service providers adhere to the high degree of accountability and ethical standards required by the agencies.

Principle 3: Fraud and improper conduct control

The agencies will proactively prevent, detect and respond to risks associated with fraud and improper conduct. Fraud control will be actively considered in planning and conducting activities within the agencies, and incorporated in the agencies' risk management framework, internal audit programs and the Plan.

Principle 4: Promotion of an ethical organisational culture

Heads of Agencies, executive managers, employees, are responsible for promoting an ethical culture within their agencies and throughout the Northern Territory Public Service. As public sector officers, employees are required to report any unethical behaviour and improper conduct, which includes misconduct, corrupt acts, or wrongdoing.

The Northern Territory Public Sector Values and Code of Conduct describe behaviours expected of the public service that includes honesty, diligence, avoidance of conflict of interest, and proper use of information. Breaches of the Code of Conduct may involve unethical behaviour, and the agencies have formal procedures for examining any potential breach. Actively demonstrating the behaviours contained in the Code of Conduct will assist in preventing, detecting and responding to fraud and improper conduct.

The agencies have strategic and corporate plans that include promotion of integrity and trust across the agencies. These are reflected in business plans and applied in day to day decision making.

Principle 5: Promote fraud and improper conduct awareness

The agencies will ensure this policy is provided to and well understood by employees and third parties to ensure that they understand their obligation to report suspected fraud and improper conduct.

Providing awareness training to employees on the agencies' approach to fraud, improper conduct, ethical behaviour and related policies is essential to a well-functioning control framework. The agencies are required to provide:

- i. fraud and improper conduct awareness, conflict of interest, privacy and appropriate workplace behaviour training for all employees at commencement and then regularly (at least every two years), and
- ii. online awareness training for third parties.

Principle 6: Ensure the independence of fraud and improper conduct control officers

Governance, Information and Reporting shared services function within the Department of the Chief Minister and Cabinet is authorised to receive disclosures and reports.

The agencies have committed to ensuring that nominated recipients with responsibility for fraud and improper conduct control will be supported to attain and maintain relevant qualifications, training and experience to effectively carry out their duties.

Principle 7: Commitment to confidentiality

The agencies will handle allegations of fraud or improper conduct with appropriate confidentiality. The agencies will ensure that an investigation is conducted in accordance with all applicable laws of the Commonwealth and the Northern Territory and is in line with good practice.

Principle 8: Protection of persons making a report of fraud or improper conduct

Reports and disclosures made in line with the Protected Disclosure (Whistleblower) policy and procedure will be treated as a "protected communication". Please refer to that policy for information on what this means for those who make a report or disclosure.

Principle 9: Discipline employees who commit fraud or improper conduct

Legislative frameworks, both Commonwealth and Territory, along with Northern Territory Government values, principles and Code of Conduct are applicable to all Northern Territory Government employees, and should be used to shape and guide employees' behaviour and decision making. Employees who do, or appear to, commit fraudulent or improper acts will be investigated and may be disciplined and or reported to law enforcement agencies or regulators.

7. Approval

This policy is approved by:

Kathleen Robinson
Chief Executive Officer
Department of the Chief Minister
and Cabinet

Vicki Telfer
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Department of Treasury and
Finance

10 June 2022

15 June 2022

7 June 2022

8. Authority and legislation

- *Independent Commissioner Against Corruption Act 2017*
- *Financial Management Act 1995*
- *Information Act 2002*
- *Public Sector Employment and Management Act 1993 (PSEMA)*
- *Procurement Act 1995*
- PSEMA Employment Instruction 3 – Natural Justice
- PSEMA Employment Instruction 12 – Code of Conduct
- Treasurer’s Direction – Fraud control
- Treasurer’s Direction: Governance – Accountability Section G2.2 Internal Control
- Treasurer’s Direction: Funds Management – Part 5 Section 5 Losses
- Australian Standard 8001-2008 Fraud and Corruption Control

9. Document control

Document title	Fraud and Improper Conduct Control Policy
Contact details	CM&C Shared Services Governance, Information and Reporting CM&C.disclosure@nt.gov.au OCPE.disclosure@nt.gov.au DTF.disclosure@nt.gov.au
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1.0	November 2019	Director Governance, Information and Reporting	New policy
1.1	27 July 2020	A/Manager Governance	Updated contact email addresses for each agency
1.2	27 October 2020	A/Audit and Risk Manager	Updated agency name and contact email address for CM&C
1.3	27 September 2021	Manager Risk	Updated principle 2 to include nominated recipients and additional staff responsibilities And updated section 5 for 2021 Treasurer's Direction.
2.0	1 June 2022	Director Governance, Information and Reporting	Incorporation of improper conduct into policy and update to provide context regarding role of the central agencies.