

# ACI Internal Fraud and Corruption Control Policy

March 2021

TRIM: ACI/D19/3895

<b>Portfolio Area</b>	Finance and Corporate Affairs
<b>Applies to</b>	All staff, temporary and seconded employees, volunteers, Board and Committee members, clients and stakeholders. Any external party involved in providing services to the Agency of Clinical Innovation, with or without reimbursement, are subject to this policy.
<b>Reference Number</b>	ACI 19/101
<b>Date of Issue</b>	
<b>Replaces</b>	Revised policy
<b>Related Policy / Documents</b>	<a href="#">NSW Health Code of Conduct</a> <a href="#">NSW Health Public Interest Disclosures</a> <a href="#">NSW Health Conflict of Interests &amp; Gifts and Benefits</a> <a href="#">NSW Health Managing Performance Policy</a> <a href="#">NSW Treasury Circular TC 18-02</a>
<b>Purpose</b>	This policy details ACI's position on fraud and corruption. ACI has a zero tolerance approach to fraud and corruption and is committed to ensuring that the frameworks in place are robust.
<b>Policy Review</b>	The policy will be reviewed every two years by Finance and Corporate Affairs at ACI in accordance with the Ministry of Health and NSW Treasury requirements.

Version	Approved by	Date	Amendment Notes
1.1	Chief Executive	September 2019	New policy
1.2	Chief Executive	March 2021	Revised

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## Introduction

The Agency for Clinical Innovation (ACI) takes exposure to fraud seriously and has a zero tolerance for it occurring. The agency takes all reasonable measures to control fraud and properly manage public resources in a way that assures the integrity of the activities of the agency. Any alleged instance of fraud and/or corruption will be thoroughly investigated and appropriate disciplinary action will be taken. The ACI also has an obligation to report suspected corruption to the relevant authorities. Fraud prevention and control must be the responsibility of all staff and all levels of management, and not just selected people or units within the ACI. The ACI acknowledges that our staff are the best defence against fraudulent activity and play a critical role in preventing and detecting fraud. Staff are encouraged to familiarise themselves with this policy and to be aware of the role they can play.

## Key Definitions

### **Fraud.<sup>1</sup>**

Dishonest activity, by Department of Health employees, contractors, volunteers, work experience students or external persons, causing actual or potential financial loss to the Department, including the theft of moneys or other property. This includes the deliberate falsification, concealment, destruction or improper use of documentation used for a normal business purpose or the improper use of other information or position.

### **Corruption.<sup>2</sup>**

Corrupt conduct, as defined in the *Independent Commission against Corruption Act 1988* (the ICAC Act), is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation. While it can take many forms, corrupt conduct occurs when:

- a public official improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others
- a public official dishonestly exercises his or her official functions, or improperly exercises his or her official functions in a partial manner, breaches public trust or misuses information or material acquired during the course of his or her official functions
- a member of the public influences, or tries to influence, a public official to use his or her position in a way that affects the probity of the public official's exercise of functions
- a member of the public engages in conduct that could involve one of the matters set out in section 8(2A) of the ICAC Act where such conduct impairs, or could impair, public confidence in public administration.

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<sup>1</sup> Ministry of Health Fraud Control Strategy

[https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2007\\_070.pdf](https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2007_070.pdf)

<sup>2</sup> NSW ICAC What is corrupt conduct - <https://www.icac.nsw.gov.au/about-corruption/what-is-corrupt-conduct>.

## Fraud and Corruption Statement by the Chief Executive

As the Chief Executive of the Agency for Clinical Innovation (ACI) I am committed to preventing fraud and corruption and will ensure that appropriate measures are in place to protect all revenue, expenditure and assets from any attempt to gain illegal financial or other benefits. Any alleged case of fraud and/or corruption will be thoroughly investigated and appropriate disciplinary action will be taken against anyone who is found guilty of fraudulent or corrupt conduct. This may include referral to the Police. The ACI also has an obligation to report suspected corruption to the Independent Commission against Corruption.

Fraud and corruption control matters because we occupy, as government employees, positions of trust in relation to the management of public assets.

The ACI requires all workers at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. Our workers are anyone who carries out work for the ACI, including employees, volunteers, contractors (including agency staff and Visiting Practitioners), subcontractors, the employees of contractors and subcontractors, students, trainees and apprentices. All workers are responsible for reporting wrongdoing, including fraud and corrupt conduct. Under the NSW Health Code of Conduct, workers must:

- act in a way which protects and promotes the interests of NSW Health and the particular NSW Health agency where they work;
- ensure that their actions and decisions are not influenced by self-interest or considerations of personal gain or other improper motives;
- not accept bribes or inducements that are intended to influence their decisions or actions; and
- not accept gifts where they are, or could be reasonably interpreted as being, designed to secure influence or preferential treatment in favour of the giver.

NSW Health is committed to protecting any person who raises concerns about a breach of the Code from retaliation or reprisals. Any attempt to take detrimental action against a person who raises a legitimate breach of the Code will be treated seriously and may lead to disciplinary action. Further, it is a criminal offence to take reprisal against a whistle-blower under Section 20 of the Public Interest Disclosures Act 1994 where a disclosure falls within the scope of that Act.

The management team at the ACI will take all reasonable steps to implement systems and procedures that prevent fraud and corruption within the organisation. These steps will be informed through periodic risk assessments, process audits, NSW Health fraud and corruption prevention resources, and better practice guides available through the NSW Audit Office and Independent Commission Against Corruption. Senior Management will also ensure there are appropriate channels for workers to report fraudulent or corrupt behaviour, and that workers are made aware of the ways available to report it. The ACI will ensure all staff, contractors, suppliers and stakeholders are aware of their commitment to fraud and corruption prevention by:

- placing this statement on the ACI's website and regularly reminding staff of its intent;
- scheduling all workers to complete online fraud and corruption training as required; and
- undertaking regular fraud and corruption awareness activities.

**Jean-Frederic Levesque**  
**Chief Executive**

## Responsibilities

Fraud prevention and control must be the responsibility of all staff and all levels of management, and not just selected people or units within the organisation. Our staff are the best defence against fraudulent activity and play a critical role in preventing and detecting fraud. A Fraud & Corruption Prevention Accountability Matrix detailing key accountabilities to be performed for all levels of management and staff in the ACI is at Appendix 1.

### Staff

All staff are responsible for preventing fraud and corruption and acting ethically and must comply with controls, policies and procedures. All staff have a duty to report suspected fraudulent activity through the lines of internal reporting, or via other reporting channels.

### Directors and Managers

Directors and line management lead and advocate a healthy ethical culture within the Agency for Clinical Innovation through:

- demonstrating ethical behaviour in day-to-day activities;
- communicating the benefits of ethical behaviour throughout the organisation;
- integrating strategies to prevent fraud and corruption in all departmental processes; and
- instituting positive reinforcement of ethical behaviour.

When a Director or Manager receives a report of suspected fraud or corrupt conduct, it MUST be forwarded to the Chief Executive, the Associate Director Finance & Corporate Affairs, and the Manager Corporate Governance, Risk & Compliance for investigation and action.

### Corporate Governance, Risk & Compliance Manager

The Manager Corporate Governance, Risk & Compliance will:

- Coordinate the ACI's overall approach to fraud and corruption prevention.
- Develop and implement a Fraud and Corruption Strategy.
- Oversee the development of fraud and corruption awareness/education training.
- Liaise with central agencies such as ICAC, NSW Ombudsman, NSW Audit Office and the Information Commissioner on fraud and corruption issues.
- Provide oversight on the implementation of the Internal Fraud & Corruption Policy;
- Monitor progress for reporting to the Audit & Risk Management Committee and Board (as appropriate).
- Ensure fraud and corruption risk assessment reviews are conducted regularly to establish its risk profile and to provide management with information to deal with fraud and corruption in a cost-effective way.
- Coordinate and oversee the investigation following an allegation of Fraud or Corruption, except where the allegation is against them. In such instances investigations may be conducted by either a NSW Health staff member with appropriate experience, or outsourced to an appropriate pre-qualified organisation from the NSW Government Procurement portal.

### Chief Executive

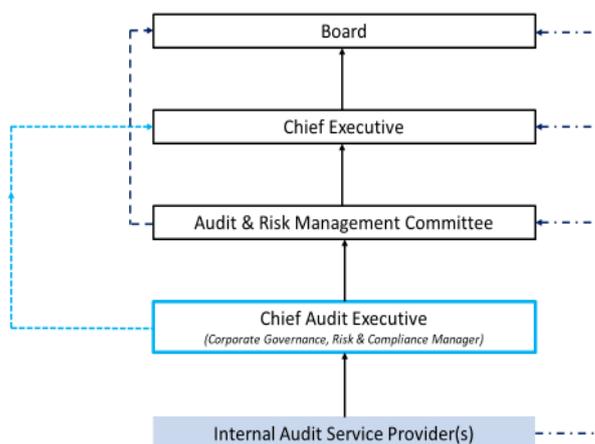
The Chief Executive has ultimate responsibility for the effective and economical use of the Organisation's resources and for determining appropriate controls in managing fraud and corruption risks. The Chief Executive is obliged, under section 11 of the ICAC Act, to report to the ICAC any matter that he/she reasonably suspects involves or may involve corrupt conduct.

When there is an allegation of fraud or corruption against the Director, Corporate Services the Chief Executive will coordinate and oversee the investigation. This responsibility may be delegated to an appropriately experienced, senior member of staff.

### **Audit & Risk Management Committee & Internal Audit**

The Charter for the Audit & Risk Management Committee (ARMC) specifically mentions fraud and fraud risk. The Committee will review the agency's fraud control plan and be satisfied that the agency has appropriate processes and systems in place to capture and effectively investigate fraud related information.

Internal Audit provides service to management by assessing the adequacy and effectiveness of the systems of internal control in ACI and reports to management on omissions, weaknesses or deficiencies that require corrective action. The risk and compliance structure involving the ARMC within ACI is overviewed in figure 1 below.



## **Fraud Prevention**

Directors and Managers are responsible for annually reviewing their areas of activity to assess potential risks, develop strategies to address those risks and to determine the effectiveness of the control mechanisms they have implemented. These strategies should be integrated into branch work practices and procedures, and also form part of staff discussions and performance reviews. Business plans should take into consideration these activities including but not limited to:

1. Monitoring their workplaces to identify and address situations that are likely to raise ethical dilemmas;
2. Ensuring that staff are not placed in potentially difficult or compromising situations;
3. Being available and supportive to staff who require guidance on conflicts of interest and other ethical dilemmas;
4. Fostering a work environment free of harassment, discrimination, victimisation, corruption, mal-administration and waste

5. Ensuring that staff are aware of the principles contained in the Code of Conduct and the established systems and procedures for addressing ethical problems – the Code’s advice on conflict of interest situations should be emphasized to all staff;
6. Supporting and protecting staff who report, in good faith, instances of potentially unethical or corrupt practices;
7. Ensuring that staff are treated fairly, equitably and in accordance with relevant legislation and policy;
8. Ensuring effective and correct use of delegations of authority;
9. Ensuring that all staff involved in contact with individuals or organisations external to the Department properly record their actions, comments and undertakings on Departmental files. This is a safeguard against false and malicious allegations against officers;
10. Ensuring all staff take at least two weeks continuous leave in any period of 12 months;
11. Ensuring that appropriate structured referee checks and pre-employment criminal record checks are completed for every recruitment action;
12. Setting a good example in actions and deeds; and
13. Supporting and providing assistance through the Employee Assistance Program, to staff identified as having “personal issues” such as substance abuse, addictions and gambling.

## Fraud Reporting

All staff have a duty to report suspected fraudulent activity. Reports of fraud or corruption can be made verbally or in writing. All matters reported in good faith are thoroughly investigated. The internal reporting system can be summarised as employees being encouraged to report to their immediate manager, or the Associate Director Finance & Corporate Affairs or the Chief Executive, or another ACI manager. The Corporate Governance Risk & Compliance Manager is to be copied in on all reports, if not the first instance by the reporting staff member, then immediately by the receiving manager. Staff are encouraged to raise their concerns at any time with their managers, but as an alternative they have the option of making a **Public Interest Disclosure** as outlined in **NSW Health’s [Public Interest Disclosure Policy](#)**. The *Public Interest Disclosures Act 1994* offers employees protection from reprisal when reporting fraudulent activity.

ACI’s Public Interest Disclosure Procedure is at **Appendix 3**.

Staff not wishing to report a matter internally may make reports or public interest disclosures to the following investigating authorities:

- Internal Audit Branch of the NSW Ministry of Health
- Secretary, NSW Health (for serious and substantial waste of public money)
- Independent Commission Against Corruption, ICAC (for fraud / corruption matters)
- NSW Ombudsman (for maladministration matters)
- Information Commissioner (for government information contravention)

Members of the public and other stakeholders, such as suppliers or contractors, can report suspicions of fraud or corruption by writing to or telephoning the Associate Director Finance & Corporate Affairs (02 9269 5500), or by email to [ACI-CorpGov@health.nsw.gov.au](mailto:ACI-CorpGov@health.nsw.gov.au) .

Matters referred to the Independent Commission against Corruption (ICAC) or NSW Police may lead to criminal proceedings. Offenders can expect to be required to repay the full cost of any theft, misappropriation or improper benefit, including interest. If the offender has monies owing by the Department, such sums may be offset against any inappropriate benefit obtained. To ensure we meet our obligations under legislation the ACI has developed this Internal Fraud and Corruption

Policy. This ensures that the ACI establishes and maintains appropriate systems of risk oversight and management, and that all reasonable measures are in place to prevent, detect and deal with fraud.

## Investigations

Investigations will be conducted with the urgency and priority established at the time the investigation is requested or as the circumstances determine. The provisions of the ICAC Act 1988 need to be complied with as well those under and the Public Interest Disclosure Act 1994 need to be considered, as well as the NSW Health's policy .Corrupt Conduct - Reporting to the Independent Commission Against Corruption (ICAC) - PD2016\_029.

Investigative work normally takes the form of a preliminary fact-finding investigation undertaken by a suitably qualified audit firm selected from the NSW Government panel contract SCM0005, and it is important that this work proceed at the earliest practicable opportunity, with findings to be supplied to the Chief Executive. with a base period for such work set at twelve weeks (to draft report stage). This does not include the time required for management comments, advice sought from Legal Branch and responses from those subject to the allegations.

The functional area being investigated to fund the cost of the fact-finding auditor, and any subsequent misconduct investigation if required.

An investigation Terms of Reference will need to be submitted the Chief Executive for approval and include nature of allegations, scope of work, resources, anticipated timeframe, context of environment, and statement of authority to do work.

When a contract internal audit firms is used, a dedicated resource from within the Finance & Corporate Affairs Directorate needs to be allocated to help source files, policies and procedures for the investigator, and to organise interview rooms and correspondence with all interviewees.

This may require significantly more effort than envisaged due to the care required in dealing with all staff and any external customers, and ensuring every person identified in the investigation process is a given every opportunity to present their version of events. The People, Culture & Workforce Manager must necessarily be consulted at each stage during the planning, conduct, reporting and follow up of all investigative activity.

If the fact-finding investigation recommends that there are sufficient grounds for a Misconduct Investigation to commence the Chief Executive must be advised immediately. The process for disciplinary action is covered in the NSW Health Policy Managing Misconduct (PD2018\_031), and the People, Culture & Workforce Manager, must take carriage of the matter. **All misconduct investigations must be performed by a trained investigator sourced from the Director Legal & Compliance at MoH.**

All probity related investigations must be reported to the next meeting of the Audit & Risk Management Committee (in de-identified form) by the CAE to identify the key risks and share lessons learnt. All external letters / reports regarding investigative matters should be signed out by the Chief Executive.

## Appendix 1 ACI Fraud & Corruption Accountability Matrix

Fraud & Corruption Prevention - Accountability Matrix							
Management Action	At least once	At Orientation	Ongoing	Fortnightly	Monthly	monthly	Annually
<b>Ethical Framework</b>							
Directors/Managers are to ensure that all staff member have read and understood the content/conditions of NSW Health's current Code of Conduct and staff member has signed a copy. This also applies to secondees and contractors. Whilst the employee only has to sign once, the Director should ensure annually that everyone has read, understood and signed the declaration.		x					x
Directors/Managers are to ensure all staff are aware of the policy on Conflict of Interest and Gifts and Benefits, perform duties in a fair and unbiased way and not make decisions which are affected by selfinterest or personal gain.		x					x
Conflicts (or potential conflicts) of interest (COI) are reported to the staff member's supervisor and recorded in the COI Register maintained by Finance and Corporate Affairs.			x				
All gifts and/or benefits received are reported via submission of the Gifts & Benefits form.			x				
Directors/Managers are to ensure all staff have attended Fraud Control Workshops.	x						
Directors/Managers are to ensure matters relating to Fraud Risk and Corruption within the ACI are to be referred to the Corporate Governance, Risk & Compliance Manager.			x				

## Fraud & Corruption Prevention - Accountability Matrix

Management Action	At least once	At Orientation	Ongoing	Fortnightly	Monthly	monthly	Annually
Directors/Managers are to ensure that all staff are aware of the policy on reporting corrupt conduct.		x					x
Directors/ Managers must identify, assess, eliminate or minimise the potential for workplace bullying and be aware of their responsibilities under the NSW Health policy on <i>The Prevention and Management of Workplace Bullying</i> .			x				
<b>Staffing</b>							
Directors / Managers are to ensure that all staff have signed a current, up to date, role description.		x	x				
Directors / Managers are to ensure that for all staff there is an annual performance agreement that sets out individual performance objectives linked to the corporate objective as well as capabilities they are required to demonstrate in their role.							x
Directors / Managers are to ensure that for all staff there are regular performance reviews of progress of achieving objectives of the performance agreement with a formal review at least annually.			x			x	
Directors / Managers are to ensure that a copy of each performance agreement and of each performance review is sent to People and Culture Team.							x

## Fraud & Corruption Prevention - Accountability Matrix

Management Action	At least once	At Orientation	Ongoing	Fortnightly	Monthly	monthly	Annually
<b>Attendance &amp; Leave Matters</b>							
Directors/ Managers are to review and endorse or reject Stafflink applications for leave.				x			
Directors/ Managers are to review and endorse or reject any Time in Lieu accruals prior to the time being accrued.			x				
Directors/ Managers to ensure sick leave is managed and reviewed in line with relevant policy.			x				
Directors/ Managers are to ensure all officers required to take at least 2 weeks continuous recreation leave every twelve months.							x
Directors/ Managers must review Staff-Link recreation leave balance and ensure that employees with excessive recreation leave balances (>30 days), do not accrue in excess of 30 days and ensure that staff who do have balances that exceed 30 days take immediate action to reduce leave.					x		
Directors/ Managers are to ensure that all ACI assets are returned prior to staff proceeding on extended leave.			x				
<b>Engagement of Consultants &amp; Contractors</b>							
Directors/ Managers are to ensure that the engagement and management of consultants is undertaken as required by the Goods and Services Procurement Policy Manual (Chapter 9) and NSW Procurement Board Direction PBD-2019-01.			x				
Directors/ Managers are to ensure that the engagement and management of contractors complies with Goods and Services Procurement policy.			x				

Directors/ Managers are to ensure Consultants or Contractors do not supervise employees or exercise delegations.			x				
Fraud & Corruption Prevention - Accountability Matrix							
Management Action	At least once	At Orientation	Ongoing	Fortnightly	Monthly	monthly	Annually
<b>Financial &amp; Expenditure Monitoring</b>							
Directors/ Managers are to ensure that the monthly finance report from Finance and Corporate Affairs correctly reflects the expenditure of the Directorate's cost centres					x		
Directors/ Managers are to ensure that Cabs should only be used for transport: i) when no departmental vehicles are available and/or public transport is not viable or ii) when staff cease work at an hour that is not conducive to safe travel on public transport			x				
Directors/ Managers are to ensure a receipt is obtained for all Cab trips and saved as the receipt for the expenditure.			x				
Directors/Managers are to ensure that unused CabCharge vouchers are returned within 14 days of issue.				Recommended	x		

## Fraud & Corruption Prevention - Accountability Matrix

Management Action	At least once	At Orientation	Ongoing	Fortnightly	Monthly	monthly	Annually
<b>Information Management and Communication</b>							
Directors/ Managers are to review the security of information/ documentation held by the Directorate, ensure privacy of patient information and that staff are aware of their obligations under the Health Records and Information Privacy Act 2002.			x				
Directors/ Managers are to ensure all staff have undertaken appropriate Recordkeeping training and are kept aware of their recordkeeping responsibilities.		x	x				
Directors/ Managers are to ensure that files no longer in use are reviewed and if not required, arrangements are made with Records Unit for disposal.						x	
Directors/ Managers are to ensure all staff are aware of the NSW Health policy for Electronic Information Security and Communications Systems and Use of NSW Health Communications Systems.		x	x				
Directors/ Managers are to ensure all staff read and sign the ACI Confidentiality, IP and Acceptable Use form and provide completed forms to the Associate Director, Finance and Corporate Affairs		x					x

Fraud Control Plan							
Management Action	At least once	At Orientation	Ongoing	Fortnightly	Monthly	monthly	Annually
Review of Fraud Risk Register by CAE as part of the formal annual refresh of the Risk Register and Strategic Internal Audit plan							
Review of timing of the next Fraud Risk Assessment to be incorporated in the annual update to the Strategic Internal Audit plan by the CAE.							
Annual Fraud Health Check staff survey, based on the NSW Audit Office Fraud Control Toolkit survey, to be issued by the Chief Executive, with results analysed to identify any systemic weakness in awareness levels and fraud controls.							
All finalised fraud investigation key details and results (respondent's details de-identified) inputted into a spreadsheet to track trends by CAE.							
NSW Ombudsman on-line PUBLIC I D awareness training all staff email from Chief Executive to be arranged by CAE.							
NSW ICAC on-line Corruption prevention in procurement / managing third parties course to arranged for relevant staff by the CAE.							
NSW ICAC, Australian National Audit Office, and NSW DPC better practice guidance on grant management to be issued annually to the Director FACA by the CAE for review and distribution.							
Fraud Risk Assessment to be performed by CAE with relevant management personnel each time the organisation structure is changed.							

## Appendix 2 Examples of fraud and corruption

The following list is not exhaustive but includes some of the more common examples of fraud and corruption in the public sector:

Theft of assets, such as:

- equipment, consumables, supplies, cash, and information.

Unauthorised or illegal use of assets:

- information or services for private purposes, including: computers, including email and the Internet;
- motor vehicles;
- clerical and other support;
- confidential information;
- equipment, including photocopiers, telephones and fax machines; and
- the ACI's, or any Health entity name or logo e.g. through use of letterhead or staff authority/access card.

Abuse of position and power for personal gain, such as:

- seeking and obtaining bribes or other gifts in exchange for favourable treatment; and
- Conflicts of interest in staff or contractor / consultancy appointments.

Manipulation and misuse of account payments, such as:

- fictitious employees on the payroll;
- ordering equipment for private and personal use;
- favouring suppliers whose costs are not as competitive as other suppliers;
- unauthorised approval to pay;
- diversion of proceeds; and
- writing off debts.

Falsification of records, including:

- timesheets / flex sheets;
- travel claims;
- purchase orders;
- petty cash vouchers; and
- certificates of competency or qualification.

Manipulation of computer programs for improper purposes, such as:

- unauthorized alteration of input data;
- misappropriation, destruction or suppression of output data;
- alteration of computerized data;
- alteration or misuse of software programs; and
- unauthorized and /or deceptive electronic transfer of funds.

## Appendix 3 Public Interest Disclosure Procedure

### Background

A Public Interest Disclosure (PID) is a report made by a public official that relates to serious wrongdoing which is a matter of public interest – namely corrupt conduct, maladministration, serious and substantial waste of public money, local government pecuniary interest contravention or government information contravention.

The *Public Interest Disclosures Act 1994* (NSW) (the PID Act) requires public authorities to have a policy and procedure for receiving, assessing and dealing with public interest disclosures.

A report in relation to the following categories of wrongdoing may be a public interest disclosure:

- Corrupt conduct
- Maladministration
- Serious and substantial waste
- Government information contravention
- Local government pecuniary interest contravention.

NSW Health is committed to being open and accountable by encouraging staff to raise their concerns about serious wrongdoing and by providing protection for those staff who speak out about wrongdoing.

NSW Health will support staff to report instances of wrongdoing.

NSW Health organisations will provide statistical information about public interest disclosures to the NSW Ombudsman for each six month period ending 30 June and 31 December.

As Principal Officers, Chief Executives of NSW Health organisations and the Secretary, NSW Ministry of Health have legislative responsibilities under the PID Act, which are outlined in the **NSW Health [Public Interest Disclosures policy](#)** (PD2016\_027).

### Responsibilities of staff

It is important that NSW Health staff contribute to a workplace where known or suspected wrongdoing is reported and dealt with appropriately.

All staff are required to:

- Report serious wrongdoing within NSW Health and support those who have made reports of wrongdoing;
- If requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and *maintaining confidentiality*; and
- Respect the rights of officers the subject of reports and treat them fairly
- Treat any staff member or person dealing with a report of wrongdoing with courtesy and respect.

### Staff must not:

- Victimise or harass anyone in connection with a report
- Knowingly make false or misleading reports of wrongdoing all staff are reminded of their obligation to adhere to the NSW Health Code of Conduct. A breach of the code could result in disciplinary action.

## Making a PID

### Written Reports

Written reports help to prevent confusion or misinterpretation. NSW Health has a reporting form to simplify this process. A copy of this form is attached at Appendix 5.

### Verbal Reports

A verbal report of wrongdoing (either face-to-face or over the telephone) will also receive the protections under the PID Act if it meets the legislative requirements for a public interest disclosure. A person making a verbal PID may be asked to sign a copy of the written record documenting the PID prepared by the person receiving the report.

### Anonymous Reports

An anonymous report may still be considered a PID if, the organisation determines that it meets the relevant legislative criteria. However, it is very difficult for the organisation to provide any protection to an anonymous reporter, or provide any support, information or feedback about what action has been taken following the report. Anonymous reporting may not prevent identification of the reporter by the subject of the report or other colleagues, and it is difficult for the organisation to prevent reprisal under these circumstances.

### When may a report be considered a PID

A report about the conduct of a public official or a public authority will be considered a PID if, on assessment, it is found to meet the criteria of a public interest disclosure under the PID Act. These requirements are:

- a) The report is one of the five categories of serious wrongdoing outlined below (refer s.2.5 of the Health PID Policy).
- b) The person making the report is a public official as defined by the PID Act.
- c) The report is made to an appropriate person (see 4.2 of the Health PID Policy).
- d) The person making the report honestly believes, on reasonable grounds that the information they are reporting shows, or tends to show, wrongdoing. This means that a public interest disclosure cannot be based on a mere allegation that is unsupported by any facts, circumstances or evidence. It is not necessary for the person reporting the wrongdoing to prove that wrongdoing occurred, but there must be some information to support their allegation.

A belief is considered to be an “honest belief” unless there is evidence to the contrary. Information which would show, or tend to show wrongdoing may include:

- Direct observation of wrongdoing
- Corroborative observation by others
- Evidence such as unbalanced accounts or contradictory records.

### When a report will not be considered a PID

Reports by staff are not PIDs if they:

- a) Do not meet all of the above requirements (including the requirement of seriousness),
- b) Mostly question the merits of government policy, or
- c) Are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

Note, in relation to point 'c', procedures consistent with the requirements of the, are to be followed by ACI management.

### **Who can receive a public interest disclosure?**

#### Within NSW Health

The Secretary, NSW Health

The Chief Executive of a NSW Health organisation

The disclosures coordinator of a NSW Health organisation A disclosures officer of a NSW Health organisation.

#### Chief Executive

The chief executive has ultimate responsibility for maintaining the internal reporting system and ensuring the organisation complies with the PID Act and this policy directive. The chief executive can receive reports from staff, and is required to:

- Appoint a disclosures coordinator
- Review reports assessed by the disclosures officer, to approve the disclosures officers recommendation whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with in consultation with the disclosures coordinator
- Ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- Make decisions following any investigation or appoint an appropriate decision-maker
- Take appropriate remedial/disciplinary action or systemic reform where wrongdoing is substantiated or systemic problems are identified
- Refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- Refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

#### Disclosures coordinator

The disclosures coordinator (PID coordinator) is appointed by the chief executive to receive and assess reports, and is the primary point of contact for the reporter. The disclosures coordinator has a responsibility to monitor compliance with the PID Act and this policy directive.

The PID coordinator will also undertake and/or supervise the following:

- A documented assessment of all reports to determine whether or not a report should be treated as a public interest disclosure
- A documented decision about how the report will be dealt with
- Coordinate the response to a report
- Acknowledge reports as required by the PID Act and provide updates and feedback to the reporter
- Assess whether it is possible and appropriate to keep the reporters identity confidential
- Conduct a documented risk assessment relating to the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- Where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- Monitor and ensure organisational compliance with the PID Act

- Provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act Provide the Compliance Unit at the Ministry of Health with a copy of their six-monthly report to the Ombudsman.
- Act as a Disclosure Officer when required.

The role of the disclosures coordinator is currently performed by the **Manager Corporate Governance, Risk & Compliance**.

An assessment guide for an internal report against criteria in the *Public Interest Disclosures Act 1994* is at **Appendix 5**.

### Disclosures Officers

Disclosures officers are additional points of contact within the internal reporting system that can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff to make reports. NSW Health disclosures officers receive training to enable them to conduct and document PID assessments and risk assessments.

Disclosures officers have a responsibility to:

- Document any reports received verbally, and have the document signed and dated by the reporter (if possible) Assist staff to make reports privately and discreetly when requested
- Discuss with the reporter any concerns they may have about reprisal or workplace conflict Conduct an assessment and forward reports to the disclosures coordinator or principal officer for approval and additional assessment where necessary
- Assist the disclosures coordinator with risk assessments and PID management
- Assist in raising awareness of the Public Interest Disclosures Act and the Public Interest Disclosures Policy within their organisation.

The following positions have been approved as disclosures officers:

- Associate Director Strategy, Communication, People and Engagement
- Associate Director Finance & Corporate Affairs
- People & Culture Manager
- Corporate Services, Risk & Compliance Manager

## Appendix 4 - Template – Report of Serious Wrongdoing

Details of reporter <i>(You can make an anonymous report by leaving this section blank)</i>							
Name:							
Position:							
Division/Unit:							
Select preferred method of contact <input type="checkbox"/>							
Phone							
Email:							
Postal address:							
Details of the wrongdoing being reported							
Description: <ul style="list-style-type: none"> <li>• <i>What happened?</i></li> <li>• <i>Where did this happen?</i></li> <li>• <i>When did this happen?</i></li> <li>• <i>Is it still happening?</i></li> </ul> <i>[Attach an additional page if required]</i>							
How did you become aware of this?							
Name and position of people involved in the wrongdoing:	<table border="1"> <thead> <tr> <th>Name</th> <th>Position</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> </tr> <tr> <td></td> <td></td> </tr> </tbody> </table>	Name	Position				
	Name	Position					
Attach any additional relevant information or indicate where supporting evidence may be found:	<table border="1"> <thead> <tr> <th>Supporting evidence</th> </tr> </thead> <tbody> <tr> <td></td> </tr> <tr> <td></td> </tr> </tbody> </table>	Supporting evidence					
Supporting evidence							
Name and position of other people who may have additional information:	<table border="1"> <thead> <tr> <th>Name</th> <th>Position</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> </tr> <tr> <td></td> <td></td> </tr> </tbody> </table>	Name	Position				
	Name	Position					
Statement							
I honestly believe that the above information shows or tends to show wrongdoing.							
<hr/> Signature of reporter <i>(Do not sign if you want to make an anonymous report)</i>	<hr/> Date report submitted <i>(Essential information)</i>						

## Appendix 5. Assessment of an internal report against the criteria in the Public Interest Disclosures Act 1994

For Completion by the Disclosure Coordinator

Public Interest Disclosures Act Criteria		Comments
1	<p>Is the reporter a public official?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Anonymous</p>	<p>If the reporter is not a <i>public official</i>, as defined in the PID Act the report is not a PID.</p> <p>If the reporter is anonymous, the content of the report may indicate that the reporter is a public official. In such cases it is always best to assume the reporter is a public official unless there is evidence to indicate the reporter is not a public official.</p>
2	<p>Is the report about the conduct of a public official or a public authority?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If the report is not about the conduct of a <i>public official</i> or <i>public authority</i>, as defined in the PID Act, the report is not a PID.</p>
3	<p>Is the report about one of the categories of conduct in the PID Act?</p> <p><input type="checkbox"/> Breach of the GIPA Act <input type="checkbox"/> Serious maladministration <input type="checkbox"/> LG pecuniary interest contravention <input type="checkbox"/> Corrupt conduct <input type="checkbox"/> Serious and substantial waste of public money</p>	<p>If the report is not about one of the categories of conduct in the PID Act it is not a PID.</p> <p>For more information about these categories of conduct see NSW Ombudsman PID Guideline B2.</p> <p><i>If you have answered 'no' because you believe the maladministration or waste of public money was not serious or substantial enough, clearly record your reasons over the page.</i></p>
4	<p>Does the reporter have <b>reasonable grounds</b> to believe that the information they have reported <b>shows or tends to show the alleged wrongdoing</b>?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p><b>Assume the reporter has an <i>honest belief</i> unless there is evidence to the contrary.</b></p> <p>If another person, given the same conditions, would take the same viewpoint, this is <i>reasonable grounds</i>.</p> <p>The reporter must be able to <i>show or tend to show</i> evidence of the alleged wrongdoing, i.e. they witnessed it or they have documentary or other evidence. It cannot be hearsay.</p> <p><i>If you have answered 'no', clearly record your reasons over the page.</i></p>
5	<p>Was the report made to the principal officer, or a public official nominated to receive disclosures in the public authority's Internal Reporting Policy?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If the report was not made to the <i>principal officer</i> or a <i>nominated disclosures officer</i> the report is not a PID.</p> <p>If the reporter has not made the report to an authorised person they should be redirected to one.</p>
6	<p>Does the report primarily question the merits of government policy?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If the report <i>primarily questions the merits of government policy</i> the report is not a PID.</p>
7	<p>Is there substantial evidence indicating that the report was made solely or substantially with the motive of avoiding dismissal or other disciplinary action?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If the report has been made <i>solely or substantially with the motive of avoiding dismissal or other disciplinary action</i> the report is not a PID.</p> <p><i>A high evidential threshold is required to conclude the reporter's motives were improper.</i></p> <p><i>If you have answered 'yes', you should have sound reasons and clearly record those reasons over the page.</i></p>

## Further comments

The PID assessment should be based on the content of the disclosure, not the outcome of any investigation.

An internal reporter does not have to explicitly indicate that they are making a PID or ask to be protected.

If in doubt, err on the side of caution and interpret the PID Act broadly – i.e. assume that the PID Act applies and proceed accordingly.

For further advice, please contact the NSW Ministry of Health at [compliance@doh.health.nsw.gov.au](mailto:compliance@doh.health.nsw.gov.au) 02 93919582 or alternatively contact the NSW Ombudsman PID Unit on [pid@ombo.nsw.gov.au](mailto:pid@ombo.nsw.gov.au) or 02 9286 1000.

## Assessment

Based on this assessment, should the report be treated as a Public Interest Disclosure?

Yes  No

If **yes**, was the PID made:

- incidental to the performance of reporter's day-to-day functions,  
 under a statutory or other legal obligation on the reporter,  
 otherwise.

\_\_\_\_\_  
Signature of disclosures coordinator

Date:

If **yes**, the following steps will be taken:

Provide reporter with a copy of the NSW Health PID policy and a written acknowledgement within 45 days of the disclosure being made.

**AND**

No further action **or** review issues

If **no**, the following steps will be taken:

## Reasons for decision