

Policy

Fraud and Corruption Control

NSWHP_PD_024



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1. Overview

NSW Health Pathology has zero tolerance for fraud and corruption. This Policy records NSW Health Pathology's commitment to the prevention and detection of fraud and corruption, and provides a transparent framework for reporting, investigating and responding to fraud and corruption should it occur.

Fraud and corruption control is the responsibility of all Staff. The aim of this Policy is to foster an environment that actively:

- Discourages fraudulent and corrupt activities and
- Encourages all Staff to play a critical role in the detection of fraud and corruption, without fear of reprisals.

This will strengthen NSW Health Pathology's integrity and protect its people, culture, assets, interests and reputation.

Any instances of fraud or corruption identified will be fully investigated and appropriate disciplinary, recovery and criminal action will be vigorously pursued.

2. Background

NSW Health Pathology's approach to fraud and corruption, as set out in this Policy, has been designed to reflect:

- a) Minimum requirements outlined in NSW Treasury Circular TC18-02 (NSW Fraud and Corruption Control Policy)
- b) The NSW Auditor-General's Ten Attributes of Best Practice in Fraud Control and
- c) The standards, principles and strategies in Australian Standard AS 8001 – 2021-Corporate Governance – Fraud and Corruption Control.

Additional policies are identified in section 14 of this Policy.

3. Definitions

Corruption

'Corrupt Conduct' is broadly defined in Sections 8 and 9 of the *Independent Commission Against Corruption Act 1988* (NSW) (**ICAC Act**). The main element of corruption is the misuse of public office. Commonly, corruption involves the dishonest or partial use of power or position resulting in one person being advantaged over another. Corruption can take many forms including (but not limited to):

- A public official improperly using the knowledge, power or resources of their position for personal gain
- A public official dishonestly or improperly exercising their functions, breaching public trust or misusing information or resources acquired during the course of their official functions
- A member of the public influencing, or trying to influence, a public official to use his or her position in a way that is dishonest, biased or breaches public trust.

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In order to constitute 'corrupt conduct', the conduct must be more than trivial, and constitute or involve a criminal offence, a disciplinary offence or reasonable grounds for dismissal. For further information, please refer to the [NSW Health Managing Misconduct Policy Directive PD2018_031](#).

Fraud

Dishonest activity, by Staff or external persons, causing actual or potential financial loss, 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 for personal financial benefit.

Staff

Includes:

- Anyone employed by NSW Health Pathology whether on a permanent, casual or temporary basis
- Contractors (including visiting practitioners, recruitment agency staff and volunteers) working within or for NSW Health Pathology
- Students, researchers or anyone undertaking or delivering training, education or research in NSW Health Pathology.

4. Scope

This Policy is mandatory and applies to all NSW Health Pathology Staff.

5. 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, cash and information.

Unauthorised or illegal use of assets, information or services for private purposes, including:

- Email and the Internet
- Motor vehicles
- Clerical and other support
- Confidential or personal information
- Equipment, including computers, photocopiers, telephones and fax machines
- The NSW Health Pathology 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 or receiving bribes or other gifts in exchange for favourable treatment
- Nepotism in recruitment or promotion processes.

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

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- Unauthorised approval to pay
- Diversion of proceeds
- Unauthorised writing off debts.

Falsification of records, including:

- Timesheets/flexsheets
- Travel claims
- Purchase orders
- Petty cash vouchers
- Certificates of competency or qualification.

Manipulation of computer programs for improper purposes, such as:

- Unauthorised alteration of input data
- Misappropriation, destruction or suppression of output data
- Alteration of computerised data
- Alteration or misuse of software programs
- Unauthorised and /or deceptive electronic transfer of funds.

Further information on what constitutes corrupt conduct can be found on the Independent Commission Against Corruption's (**ICAC**) website: <https://www.icac.nsw.gov.au/about-corruption/what-is-corrupt-conduct>

6. Roles and Responsibilities

The **Chief Executive** has ultimate responsibility for:

- The fraud and corruption control framework
- Leading ethical behaviour and work practices
- As Principal Officer for the purposes of the ICAC Act, the Chief Executive has a duty to report to the Independent Commission Against Corruption (**ICAC**) any matter that the Chief Executive suspects on reasonable grounds concerns or may concern corrupt conduct.

The **Board** is responsible for providing effective and ethical governance of NSW Health Pathology and approving effective and comprehensive corporate governance frameworks.

The **Audit and Risk Management Committee** provides independent assistance to the Board and Chief Executive by:

- Reviewing NSW Health Pathology's fraud and corruption control framework and
- Seeking assurance that NSW Health Pathology has appropriate processes and systems in place to capture and effectively investigate fraud related information.

The **Strategic Leadership Team** are responsible for:

- Model and lead behaviour that is ethical and consistent with the Code of Conduct and CORE and RITE values
- Approving the fraud and corruption control framework (including this Policy)
- Implementing and enforcing the fraud and corruption control framework in accordance with this Policy
- Ensuring effective and correct use of delegations of authority.

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The **Director, Corporate Governance** is responsible for:

- Producing fraud and corruption policies, procedures and training
- Providing advice to senior management on investigation processes and reports
- Undertaking or procuring investigations in relation to alleged fraud or corruption
- Ensuring that investigation processes are best practice and in line with Ministry of Health Policies
- Maintaining a confidential register of all fraudulent and corrupt conduct (including actions taken and outcomes) to assist with monitoring and reporting to the Strategic Leadership Team and Audit and Risk Management Committee on fraud and corruption related trends and risks
- Facilitating external reporting by the Chief Executive to ICAC, NSW Police and other external agencies as required
- Performing the role of 'Disclosures Coordinator' for the purposes of the *Public Interest Disclosures Act 1994* (NSW), with responsibility for receiving public interest disclosures on behalf of NSW Health Pathology and providing six-monthly reports to the NSW Ombudsman containing statistical information on NSW Health Pathology's compliance with its obligations under the ICAC Act (see further section 12).

The **Executive Director, Workforce and Culture** is responsible for:

- Implementing and managing the Employee Induction program and ensuring that new Staff are aware of the requirements of the Code of Conduct and organisational culture and values
- Implementing and managing training and awareness in relation to the Code of Conduct and other ethical behaviour initiatives
- Overseeing employment screening
- Overseeing the fair application and management of the disciplinary process for dealing with fraudulent or corrupt conduct.

Internal Audit examines and evaluates the adequacy and effectiveness of processes, systems and controls established by management in relation to fraud and corruption, considering best practice and NSWHP's specific business needs and risks. Planning and delivery of internal audit projects should have regard to:

- Identifying significant fraud risks
- Appropriate mitigation strategies being in place and operational
- Changes to fraud risk are identified and communicated to enable appropriate response.

The **Chief Information Officer** is responsible for the Information Security Management System Framework and processes, systems and controls to mitigate risks of technology-enabled fraud and corruption and cybercrime.

All **managers** must:

- Model and promote behaviour that is ethical and consistent with the Code of Conduct and CORE and RITE values
- Undertake fraud and corruption risk assessments within their area of responsibility and notify the Manager, Audit and Risk of any risks required to be recorded in the Enterprise Risk Register
- Maintain effective systems of internal control, including correct use of delegations of authority
- Develop detection strategies for material fraud and corruption risks

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- Respond quickly and effectively where inappropriate behaviour is suspected or detected
- Maintain open channels of communication with all Staff and ensure Staff undertake compulsory fraud and corruption prevention training
- Support and protect Staff who report instances of fraudulent or corrupt behaviour.
- Reassess controls following detection of fraud or corruption

All **Staff** must:

- Act ethically and in accordance with the CORE and RITE values
- Abide by the Code of Conduct
- Promptly report behaviour that may be considered to be fraudulent, corrupt or in breach of the Code of Conduct to the Chief Executive, Director, Corporate Governance, their manager or to ICAC as appropriate
- Co-operate with any investigations and the implementation of fraud and corruption control strategies.
- Maintain accurate and complete records of NSWHP activity.

7. Ethical Framework

All Staff must comply with the NSW Health Code of Conduct and promote and uphold NSW Health Pathology's RITE values (Respect, Integrity, Teamwork and Excellence) as well as the CORE values (Collaboration, Openness, Respect, Empowerment) of the whole of NSW Health.

In addition, NSW Health Pathology maintains a range of ethical behaviour policies and procedures, including a Statement of Business Ethics, that align with the NSW Health Code of Conduct. All Staff must comply with these policies.

8. Fraud Prevention

Managers are to undertake fraud and corruption risk assessments at least annually and monitor the operation of internal controls to effectively mitigate these risks. Ad hoc fraud and corruption risk assessments should also be undertaken when there is significant change in the function, structure or activities within their area.

The Enterprise Risk Manager will provide guidance material for managers to undertake fraud and corruption risk assessments and assist management with their assessment where necessary.

NSW Health Pathology is committed to employing Staff that support our ethical values. Pre-employment screening is used to verify information supplied by candidates on their resumes and applications, and includes two reference checks prior to a position being offered and NSW Police check prior to the start of employment.

9. Fraud Awareness

The most common way in which fraud and corruption is detected is by observation by Staff. Every Staff member must have a general awareness of fraud and corruption and how they should respond if this type of activity is detected or suspected. NSW Health Pathology, through People and Culture, Strategic Communications and Corporate Governance, will promote a comprehensive fraud and corruption education and awareness program which will include:

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- Maintaining a fraud and corruption promotion activity calendar through various forms of media, including noticeboards, staff newsletters, organisation wide emails and intranet
- Requiring all Staff to undertake the online (HETI) Code of Conduct upon commencement
- Delivering targeted ethical awareness training to those areas with assessed higher fraud and corruption risks or where there is a higher incidence of these activities
- Embedding ethical behaviour content and RITE values in all Staff training packages
- Communicating to patients and the community NSW Health Pathology's zero tolerance for fraud and corruption through external publicity campaigns and providing guidance on how they can report suspected unethical behaviour.

10. Dealings with External Parties

From time to time NSW Health Pathology relies on services being delivered or supported by third parties. This adds further complexity to the issue of managing the risk of fraud and corruption committed by or against third parties. To manage the fraud and corruption risks associated with services sourced or delivered by third parties, NSW Health Pathology is committed to the following measures:

- Staff handling the engagement and management of third parties will be provided with training and education to ensure they are aware of the fraud and corruption risks with these arrangements
- Contracts engaging third parties will include clear accountabilities for managing fraud and corruption and include termination provisions if a third party breaches its fraud and corruption obligations
- All third parties will be issued with a copy of NSW Health Pathology's Statement of Business Ethics and provided with clear directions on reporting suspected fraudulent or corrupt behaviour.

11. Detection Systems

NSW Health Pathology has proactive detection measures to identify early warning signs including audits, clear delegations and segregation of duties in procurement decision-making, and a clear fraud and corruption reporting system set out in section 12 of this Policy. Where managers identify fraud and corruption risks they must implement robust internal control procedures to ensure the risks are managed effectively. Managers must undertake regular reviews of the control system and where possible implement other detection procedures to help identify irregularities.

The Enterprise Risk Manger will:

- a) Consider fraud and corruption risks in audits undertaken and
- b) Be available to assist management with evaluating the adequacy and effectiveness of their established controls for preventing or detecting possible fraud or corruption.

12. Fraud Reporting

All Staff are required to report any actual or suspected fraudulent or corrupt conduct. All reports will be handled confidentially and addressed objectively, and reporters will be protected from reprisals or retribution.

NSW Health Pathology provides a range of formal channels for Staff or other parties to report suspected corrupt or fraudulent activity. Internally, Staff can report to:

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- The Chief Executive
- The Director, Corporate Governance
- The Legal Counsel
- The Privacy, Right to Information and Records Officer
- Local HR Managers.

Alternatively, Staff have the option of making a public interest disclosure pursuant to the *Public Interest Disclosures Act 1994 (NSW)* in the manner outlined in the [NSW Health Public Interest Disclosures Policy Directive PD2016_027](#) and the [NSW Health Pathology Public Interest Disclosures Procedure NSWHP_PR_039](#), where the alleged conduct constitutes:

- Corruption
- Maladministration
- Serious and substantial waste
- Government information contravention or
- Local government pecuniary interest contravention.

The *Public Interest Disclosures Act 1994 (NSW)* provides Staff with statutory protection from reprisal when reporting suspected wrongdoing under a public disclosure. For more detailed information refer to the [NSW Health Public Interest Disclosures Policy Directive PD2016_027](#) and [NSW Health Pathology Public Interest Disclosures Procedure NSWHP_PR_039](#) which include details of all the categories of behaviour covered by the *Public Interest Disclosures Act 1994 (NSW)* and the processes for making public interest disclosures in NSW Health Pathology.

Staff should be aware of the provision in section 316(1) of the *Crimes Act 1900 (NSW)* which states that a failure to report a serious offence, including fraud, is an offence.

Members of the public, and other stakeholders such as suppliers or contractors, can report suspicions of fraud or corruption in writing or verbally to NSW Health Pathology's Director of Corporate Governance.

In most instances, reports of actual or suspected fraud or corruption can be addressed internally. However, if Staff have concerns that their report will not be dealt with appropriately then they have the option of reporting directly to ICAC.

All cases of alleged fraud and corruption will be notified by the Chief Executive to ICAC and the Compliance Unit, Legal and Regulatory Services Branch, NSW Ministry of Health, in accordance with the ICAC Act and the [NSW Health Corrupt Conduct – Reporting to the Independent Commission Against Corruption Policy Directive PD2016_029](#). All cases involving fraud and/or breaches of the *Crimes Act* will be notified to the NSW Police.

13. Investigations

All allegations of fraud or corruption reported in accordance with section 12 of this Policy against NSWHP Staff will be subject to an internal preliminary investigation which will be undertaken promptly in accordance with the [NSW Health Managing Misconduct Policy Directive PD2018_031](#).

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Investigations will observe the principles of procedural fairness and be conducted by appropriately skilled and experienced Staff who are independent of the business unit where the alleged behaviour has occurred. The investigator will identify as quickly as possible all parties involved (both internal and external); whether any funds or accounts need to be frozen and ensure prompt capture of any digital, documentary and physical evidence.

Preliminary fraud investigation reports are submitted to the Chief Executive who then decides what action is necessary to address the preliminary findings. Where the Chief Executive suspects, on reasonable grounds, that corrupt conduct (as defined in the ICAC Act) has, or may have, occurred, the Chief Executive is required to notify ICAC, who may decide to undertake their own investigation.

14. Response and Review

Once the Chief Executive has decided on the action to be taken in relation to the findings on an investigation pursuant to section 13, any disciplinary action and/or legal action (including notification to ICAC and NSW Police where appropriate) will commence immediately. Where a perpetrator has gained financial advantage or direct financial benefit at NSW Health Pathology's expense, recovery action will be initiated.

Where fraud or corruption has been detected, managers and SLT will reassess internal controls directly related to the incidence of fraud or corruption and consider whether remediation or enhancement of controls is required.

Consideration should be given to whether it is appropriate to notify any affected third parties on consultation with Corporate Governance.

15. Legal and Procedure Framework

This Policy is aligned with the following policies and legislation:

Legislation

- *Government Information (Public Access) Act 2009 No 52*
- *Health Records Information Privacy Act 2002 No 71*
- *Independent Commission Against Corruption Act 1988 No 35*
- *Public Interest Disclosures Act 1994 No 92*

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- *NSW Health Code of Conduct Policy Directive 2015_049*
- *NSW Health Conflicts of Interest and Gifts and Benefits PD2015_045*
- *NSW Health Corrupt Conduct – Reporting to the Independent Commission Against Corruption Policy Directive PD2016_029*

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- [NSW Health Electronic Information Security Policy Directive PD2013_033](#)
- [NSW Health Fraud Control Strategy Policy Directive PD2007_070](#)
- [NSW Health Managing Misconduct Policy Directive 2018_031](#)
- [NSW Health Pathology Conflicts of Interest and Gifts and Benefits Procedure NSWHP_PR_001](#)
- [NSW Health Pathology Public Interest Disclosures Procedure NSWHP_PR_039](#)
- [NSW Health Pathology Enterprise Risk Management Procedure NSWHP_PR_026](#)
- [NSW Health Pathology Statement of Business Ethics](#)
- [NSW Health Public Interest Disclosures Policy Directive PD2016_027](#)
- [NSW Health Risk Management - Enterprise-Wide Risk Management Policy and Framework PD2015_043](#)
- [NSW Health Procurement Policy Directive PD2019_028](#)

Additional guidance

- [ICAC videos](#)
- [ICAC workshops](#)

16. Risk

Risk Statement	The implementation of effective fraud and corruption control systems will help to protect against loss of assets, legal liability and reputational damage, ensure confidence in NSW Health Pathology's management and accountability frameworks, and demonstrate a commitment to the RITE and CORE values and high standards of ethical behaviour.
Risk Category	Leadership and Management

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17. Further Information

For further information, please contact:

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18. Version History

The approval and amendment history for this document must be listed in the following table.

Version No	Effective Date	Approved By	Approval Date	Procedure Author	Risk Rating	Sections Modified
1.0	05/11/2019	SLT	03/09/2019	Tammy Boone	Medium	New policy
2.0	31/12/2021	Director Corporate Governance	31/12/2021	Director Corporate Governance	Medium	Minor amendments