

Fraud and Corruption Control Policy

South Australian
Public Sector

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**Government
of South Australia**

Office of the Commissioner
for Public Sector Employment

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Fraud and Corruption Control Policy: South Australian Public Sector

Date of Operation: 17 April 2025

OVERVIEW

The South Australian government and public sector is committed to the prevention, detection and control of fraud, corruption and other criminal conduct, misconduct, and maladministration in connection with the activities of public sector agencies. This policy can assist agencies in preventing, detecting and responding to fraud, corruption and other criminal conduct, misconduct and maladministration in public administration.

SCOPE

The policy applies to all agencies and employees¹ in the South Australian public sector employed in agencies covered by Treasurer's Instructions². The policy may be adopted by agencies not covered by Treasurer's Instructions.

For agencies covered by Treasurer's Instructions this policy may be adopted and applied by individual agencies. If agencies choose to produce agency-specific policies, this policy is the minimum standard that any agency-specific policy must be at least equivalent to, in the context of the relative size and risk profile of a particular agency.

Agencies are to develop agency-level protocols or procedures consistent with this policy or any agency-specific policy in respect of fraud and corruption, also tailored to the relative size and risk profile of the agency.

DEFINITIONS

The term fraud is a broad label. For the purposes of this policy and any related procedure, the term is defined as a dishonest activity causing actual or potential financial loss to any person or entity including the theft of moneys or other property by employees or persons external to the entity (this includes the deliberate falsification, concealment, destruction or use of falsified documents used or intended for normal business purposes, and the improper use of information or position or status for personal financial benefit).

Corruption in public administration is defined in section 5(1) of the *Independent Commission Against Corruption Act 2012*.

Misconduct is defined in section 3 of the *Public Sector Act 2009* (PS Act).

Misconduct in public administration is defined in section 4(1) of the *Ombudsman Act 1972*.

¹ The policy applies to employees but its content may be relevant to the conduct of non-employees whether they are public officers for the purposes of the *Independent Commission Against Corruption Act 2012* or not.

² Treasurer's Instructions are issued by the Treasurer under the authority of section 41 of the *Public Finance and Audit Act 1987*. Further information is available on [Department of Treasury and Finance website](#).

Maladministration in public administration is defined in section 4(2) of the *Ombudsman Act 1972*.

The legislative definitions are provided in Attachment A: Definitions in Legislation and Related Resources.

RELEVANT OBLIGATIONS

All public sector agencies and public sector employees are accountable for the efficient and effective use of public resources and must exhibit the highest levels of ethical behaviour.

The Code of Ethics for the South Australian Public Sector (Code of Ethics) is issued under section 15(1)(a) of the PS Act. It applies to and is binding on all public sector employees. The Code of Ethics is the code of conduct for the purposes of the PS Act.

The Code of Ethics is consistent with the PS Act's public sector principles. The Professional Conduct Standards in the Code of Ethics are its disciplinary provisions. Conduct which is contrary to those provisions is misconduct.

The following values are the foundation of ethical behaviour in the South Australian public sector:

- democracy
- impartiality
- accountability
- diversity.

Reporting obligations are also set out in the directions and guidelines issued by the Independent Commission Against Corruption (ICAC), the Office for Public Integrity (OPI) and Ombudsman SA. Public authorities including agencies, public officers and all public sector employees must comply with these directions and guidelines.

Policy

The South Australian government and public sector is strongly committed to an environment of sound governance, robust internal controls and a culture that will safeguard public resources. This policy reflects a commitment to the prevention and management of fraud, corruption and other criminal conduct, misconduct and maladministration, and the promotion of ethical and honest behaviour in the workplace and creation and maintenance of an appropriate workplace culture.

Agencies will not tolerate fraud, corruption and other criminal conduct, misconduct and maladministration and will investigate or address any conduct which is reasonably suspected, alleged or proven.

By behaving ethically, all employees demonstrate their commitment to the prevention, detection and reporting of any actual or suspected fraud, corruption and other criminal conduct, misconduct and maladministration. Advice on behaving in a manner consistent with ethical obligations can be found in the Code of Ethics and directions and guidelines issued by ICAC, OPI and Ombudsman SA.

This policy should be viewed as part of a fraud and corruption control framework within each public sector agency, guided by *Australian Standard AS 8001:2021 Fraud and Corruption Control* (AS8001:2021). Agencies should conduct annual reviews to amend as appropriate.

The South Australian public sector framework consists of the following key controls.

1. Governance and ethics

- this policy or any agency-specific policy and related agency-level protocols or procedures
- the PS Act
- the *Public Sector (Honesty and Accountability) Act 1995*
- relevant criminal legislation
- *the Independent Commission Against Corruption Act 2012*
- the Code of Ethics
- the directions and guidelines issued by ICAC, OPI and Ombudsman SA
- other whole-of-government or agency-level policy and protocols or procedures relating to the prevention, detection and control of fraud, corruption and other criminal conduct, maladministration and misconduct in connection with the activities of public sector agencies.

2. Awareness and training

- executive employees and other managers must ensure their employees receive awareness training or education regarding fraud, corruption and other criminal conduct, maladministration and misconduct. Such training, education, re-training or refresher education should occur periodically as appropriate and take into consideration the agency's size and risk profile.
- the Code of Ethics must be provided to all employees during the agency's induction process and whenever it is updated and reissued. Employees should also be alerted to their responsibilities under the *Public Sector (Honesty and Accountability) Act 1995* and the directions and guidelines issued by ICAC, OPI and Ombudsman SA.
- executive employees and other managers will promote an ethical culture within the agency they are employed in and promote the prevention, identification and reporting of any actual or suspected instances of fraud, corruption and other criminal conduct, maladministration and misconduct.

3. Fraud prevention

- this policy or any agency-specific policy and related agency-level protocols or procedures
- other whole of government or agency-level policy and protocols or procedures relating to the prevention, detection and control of fraud, corruption and other criminal conduct, misconduct and maladministration within activities involving public sector agencies.

4. Detection and investigation

- this policy or any agency-specific policy and related agency-level protocols or procedures.

5. Monitoring and reporting

- this policy and related agency-level protocols or procedures
- other whole of government or agency-level policy and protocols or procedures relating to the prevention, detection and control of fraud, corruption and other criminal conduct, maladministration and misconduct in connection with the activities of public sector agencies
- the Code of Ethics; *Public Sector (Honesty and Accountability) Act 1995*; PS Act; *Independent Commission Against Corruption Act 2012*; and the directions and guidelines issued by ICAC, OPI and Ombudsman SA
- and agency-level Financial Management Compliance policy, programs, protocols or procedures.

PREVENTION OF FRAUD, CORRUPTION AND OTHER CRIMINAL CONDUCT, MALADMINISTRATION AND MISCONDUCT

All public sector employees and other public officers should have a high level of awareness relating to the risk of fraud, corruption and other criminal conduct, misconduct and maladministration.

Proactive prevention is the key strategy for managing the risk of fraud, corruption and other criminal conduct, misconduct and maladministration through the facilitation of a sound ethical culture throughout the South Australian public sector.

Periodic training of employees and other relevant public officers in ethics and incorporating awareness of fraud, corruption and other criminal conduct, misconduct and maladministration will be conducted in agencies. In addition to an agency's induction process, training will occur with a frequency that is appropriate to the agency's size, complexity and risk profile.

Agency chief executives or heads will ensure that branch or unit heads periodically confirm in writing their area of responsibility has adequate controls in place to ensure compliance with:

- the Code of Ethics
- the PS Act
- *Public Sector (Honesty and Accountability) Act 1995*
- directions and guidelines issued by ICAC, OPI or Ombudsman SA
- this policy or any agency-specific policy and any related whole-of-government or agency-level policy, protocol or procedure.

They must also commit to ensuring compliance over the ensuing relevant period. The frequency of such reporting should consider the agency's size and risk profile.

If the level of awareness is lacking at any level in an agency, the chief executive or agency head will ensure additional targeted awareness training is facilitated.

DETECTION AND RESPONSE

The risk of fraud, corruption and other criminal conduct, misconduct and maladministration within agencies will be systematically identified, analysed and evaluated on a regular basis. Agencies will investigate or address any conduct that is suspected, alleged or proven.

All agencies will have a robust internal control environment relative to the size, complexity and risk profile of the agency encompassing:

- appropriate segregation of duties and authorisation procedures
- post transactional review
- analysis of management accounting reports
- identification of early warning signs
- data analytics
- a comprehensive internal audit program
- complaint management
- exit interviews
- a financial management compliance program to detect fraud, corruption and other criminal conduct, maladministration and misconduct.

In addition to the directions and guidelines issued by ICAC, OPI or Ombudsman SA, agency-level policies and protocols or procedures will provide instruction to employees or other relevant public officers for the reporting of suspected or alleged fraud, corruption and other criminal conduct, misconduct and maladministration.

Responsibilities and Accountability

The following section outlines the roles of key individuals and groups in the control of fraud, corruption and other criminal conduct, misconduct and maladministration within activities involving public sector agencies. Individuals and groups must take into consideration the agency's size and risk profile when undertaking these responsibilities.

CHIEF EXECUTIVES OR OTHER AGENCY HEADS

Chief executives or other agency heads will:

- appoint an employee or employees with appropriate seniority, qualifications, and experience as a responsible officer(s) under this policy or any agency-specific policy
- seek to ensure employees employed in and other relevant public officers administered by their agency are aware of their ethical obligations as public sector employees or officers including, but not limited to, those pursuant to the PS Act, the Code of Ethics, the *Public Sector (Honesty and Accountability) Act 1995*; *Independent Commission Against Corruption Act 2012* and the directions and guidelines issued by ICAC, OPI and Ombudsman SA and seek to ensure employees and other relevant public officers comply with such obligations
- facilitate the creation of agency-level programs, protocols or procedures that encourage the minimisation, deterrence, detection and reporting of fraud, corruption and other criminal conduct, maladministration and misconduct

- where relevant, ensure that conduct by employees or other relevant public officers that is reasonably suspected of being fraud, corruption and other criminal conduct, misconduct and maladministration is reported in line with the directions and guidelines issued by ICAC, OPI and Ombudsman SA, and the Code of Ethics, thoroughly investigated and otherwise appropriately managed
- seek to ensure appropriate action is taken in response to evidence of suspected or alleged fraud, corruption and other criminal conduct, misconduct and maladministration
- foster a culture that makes active control of fraud, corruption and other criminal conduct, misconduct and maladministration the responsibility of all employees and other public officers.

EXECUTIVE EMPLOYEES AND OTHER MANAGERS (INCLUDING BRANCH OR UNIT HEADS)

Executive employees and other managers responsible to a chief executive or other agency head will:

- seek to ensure compliance by employees with this policy and the agency's related fraud and corruption procedure, and promote an ethical culture within the agency
- seek to identify fraud, corruption and other criminal conduct, misconduct and maladministration by employees and other public officers within an agency
- oversee the development and delivery of training to employees and other relevant public officers to promote ethical conduct and an ethical culture
- assess the risk of fraud, corruption and other criminal conduct, misconduct and maladministration in their area of responsibility and identify and implement appropriate risk management strategies
- monitor the control systems in place, through informal information gathering, active supervision or formal information systems to minimise the risk of fraud, corruption and other criminal conduct, misconduct and maladministration
- ensure appropriate security measures and clearances such as criminal and other background history checks and appropriate delegations are in place regarding the prevention of fraud, corruption and other criminal conduct, misconduct and maladministration
- attest to compliance with relevant policies, programs, protocols or procedures as necessary
- ensure recommendations are implemented within acceptable timeframes to minimise the risk or support the detection, reporting or other management of actual or suspected fraud, corruption and other criminal conduct, misconduct and maladministration in their area of responsibility.

AUDIT AND RISK COMMITTEES

Audit and risk committees will:

- periodically review any relevant agency-level policies, programs, protocols or procedures and make recommendations to the chief executive or other agency head for amendment as appropriate
- review the approach by executive employees and other managers in the relevant agency in respect of the maintenance of an effective internal control framework to seek to ensure it is sound and internal controls are consistently applied
- review steps taken by executive employees and other managers to embed a workplace culture which is committed to ethical and lawful behaviour
- review the process of developing and implementing relevant control arrangements

- oversee and evaluate associated controls
- review relevant risk assessments and consider high risk areas for inclusion in an agency's internal audit planning
- seek qualified and competent advice to provide to chief executives or agency heads, executive employees or other managers and other employees in dealing with incidences of suspected or alleged fraud, corruption and other criminal conduct, misconduct and maladministration

RESPONSIBLE OFFICERS IN AGENCIES

Responsible officers in agencies will:

- periodically review any relevant agency-level policies, programs, protocols or procedures and make recommendations to the chief executive or other agency head for amendment as appropriate
- review the approach by executive employees and other managers in the relevant agency in respect of the maintenance of an effective internal control framework to seek to ensure it is sound and internal controls are consistently applied
- review steps taken by executive employees and other managers to embed a workplace culture which is committed to ethical and lawful behaviour
- review the process of developing and implementing relevant control arrangements
- oversee and evaluate associated controls
- coordinate relevant risk management activities across agencies including monitoring, reviewing and reporting
- coordinate relevant risk assessments periodically, but ideally, at least every three years
- coordinate the follow up of relevant risk assessments by ensuring that all timetabled strategies are implemented
- establish and maintain a fraud and corruption control compliance program for annual reporting to the audit and risk committee or other responsible officers and the chief executive or agency head
- provide a central referral for preliminary consideration of suspected or alleged fraud, corruption and other criminal conduct, misconduct and maladministration in an agency or in connection with its operations by employees or other public officers
- seek to ensure conduct reasonably suspected of fraud, corruption and other criminal conduct, misconduct and maladministration by employees or other public officers is reported in compliance with the directions and guidelines issued by ICAC, OPI and Ombudsman SA, and the Code of Ethics - including ensuring agency-level obligations are complied with.
- seek to ensure reporting obligations under the *Public Sector (Honesty and Accountability) Act 1995* are complied with
- review relevant risk assessments and consider high risk areas for inclusion in an agency's internal audit planning
- seek qualified and competent advice to provide to chief executives or agency heads, executive employees or other managers and other employees in dealing with incidences of suspected or alleged fraud, corruption and other criminal conduct, misconduct and maladministration

- coordinate training or education or retraining or refresher education of employees and other public officers in relation to awareness and reporting of fraud, corruption and other criminal conduct, misconduct and maladministration.

ALL EMPLOYEES AND OTHER RELEVANT PUBLIC OFFICERS

All employees and other relevant public officers will:

- comply with this policy and any related legislation, policy, protocol or procedure
- report all instances of conduct alleged or reasonably suspected to be fraud, corruption and other criminal conduct, maladministration and misconduct in accordance with the responsibilities detailed in the directions and guidelines of ICAC, OPI and Ombudsman SA, and the Code of Ethics.
- at all times act in an ethical manner in the performance of their duties or in association with their role as a public sector employee or other public officer including the *Public Sector (Honesty and Accountability) Act 1995*
- comply with the *Public Interest Disclosure Act 2018*
- implement risk management strategies in relation to fraud, corruption and other criminal conduct, misconduct and maladministration as required and otherwise participate fully in management.

Attachment A:
Definitions in Legislation and
Related Resources

DEFINITIONS IN LEGISLATION

Corruption in public administration is defined in section 5(1) of the *Independent Commission Against Corruption Act 2012* as:

- (1) **Corruption in public administration** means conduct that constitutes—
- (a) an offence against Part 7 Division 4 (Offences relating to public officers) of the [Criminal Law Consolidation Act 1935](#), which includes the following offences:
 - (i) bribery or corruption of public officers;
 - (ii) threats or reprisals against public officers;
 - (iii) abuse of public office;
 - (iv) demanding or requiring benefit on basis of public office;
 - (v) offences relating to appointment to public office; or
 - (b) an offence against the [Public Sector \(Honesty and Accountability\) Act 1995](#) or the [Public Corporations Act 1993](#), or an attempt to commit such an offence; or
 - (ba) an offence against the [Lobbyists Act 2015](#), or an attempt to commit such an offence; or
 - (d) any of the following in relation to an offence referred to in a preceding paragraph:
 - (i) aiding, abetting, counselling or procuring the commission of the offence;
 - (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
 - (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
 - (iv) conspiring with others to effect the commission of the offence.

Misconduct is defined in section 3 of the *Public Sector Act 2009* as:

misconduct means—

- (a) a breach of a disciplinary provision of the public sector code of conduct while in employment as a public sector employee; or
- (b) other misconduct while in employment as a public sector employee,

the term includes making a false statement in connection with an application for engagement as a public sector employee and being convicted, while in employment as a public sector employee, of an offence punishable by imprisonment;

Misconduct in public administration is defined in section 4(1) of the *Ombudsman Act 1972* as:

- (1) **Misconduct in public administration** means an intentional and serious contravention of a code of conduct by a public officer while acting in their capacity as a public officer that constitutes a ground for disciplinary action against the officer.

Maladministration in public administration is defined in section 4(2) of the *Ombudsman Act 1972* as:

- (2) **Maladministration in public administration**—
 - (a) means—
 - (i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
 - (ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and
 - (b) includes conduct resulting from impropriety, incompetence or negligence; and
 - (c) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.
- (3) Without limiting or extending the conduct that may comprise misconduct or maladministration in public administration, this Act applies to conduct that—
 - (a) occurred before the commencement of this section; or
 - (b) occurs outside this State; or
 - (c) comprises a failure to act; or
 - (d) is conduct of a person who was a public officer at the time of its occurrence but who has since ceased to be a public officer; or
 - (e) is conduct of a person who was not a public officer at the time of its occurrence but who has since become a public officer.
- (4) A reference in subsection (1) to a code of conduct does not include any statement of principles applicable in relation to the conduct of members of Parliament.

RELATED RESOURCES

Australian Standard AS 8001:2021 Fraud and Corruption Control

Public Sector Act 2009

Public Sector (Honesty and Accountability) Act 1995

Public Sector (Honesty and Accountability) Regulations 2010

Code of Ethics for the South Australian Public Sector

Independent Commission Against Corruption Act 2012

Treasurer's Instruction 2 Financial Management

Directions and guidelines issued by the Independent Commission Against Corruption, the Office for Public Integrity and the Ombudsman SA

Public Interest Disclosure Act 2018

Guideline of the Commissioner for Public Sector Employment – Management of Misconduct

Public Sector Integrity Framework – *Building Integrity*

Agency-level policies and protocols and procedures governing the management of suspected misconduct or other unsatisfactory performance

Agency-level financial management and control policies, protocols and procedures

**The Office of the Commissioner
for Public Sector Employment**

Street Address

Ground Floor, State
Administration Centre,
200 Victoria Square
(Tartanyangga),
Adelaide SA 5000

Mailing address

GPO Box 1045,
Adelaide SA 5001

E publicsector@sa.gov.au

T 1800 317 333

W publicsector.sa.gov.au



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