

Fraud and Corruption Prevention Policy



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Approved by: NSW State Librarian & CE and Executive

Policy owner/sponsor: Director, Operations & CFO

Policy Contact Officer: Senior Project Officer, Operations

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1. Summary

The fraud and corruption prevention policy is designed to ensure that the State Library establishes and maintains a healthy ethical culture. The policy addresses all aspects of fraud and corruption prevention, detection and investigation for the Library.

This policy compliments existing functions and responsibilities such as internal audit, independent external audit mechanisms and the Library's Audit and Risk Committee.

For the employee, the policy reinforces the requirement for all staff to act ethically in the performance of their duties. For managers, it specifies the controls required to identify, reduce and finally negate the Library's exposure to potential losses from error, fraud and corruption.

2. Policy statement

The purpose of this policy is to express the stance of the State Library on fraud and corruption and provide the framework for a consistent, transparent and accountable approach to corruption prevention and fraud control in the Library.

This policy applies to all employees and contractors / consultants engaged by the Library.

3. Legislative and Policy Framework

Most relevant legislation:

- *Annual Reports (Statutory Bodies) Act 1984*
- *Australian Standard: AS 8001-2003 Fraud and Corruption Control*
- *Australian/New Zealand Standard: ISO 31000:2009 Risk Management*
- *Crimes Act 1900*
- *Government Information (Public Access) Act 2009*
- *Independent Commission Against Corruption Act 1988*
- *Library Act 1939*
- *Ombudsman Act 1974*
- *Privacy and Personal Information Protection Act 1998*
- *Public Finance and Audit Act 1983*
- *Public Interest Disclosures Act 1994*

- *Public Sector Employment and Management Act 2002*
- *State Records Act 1998.*

Related and/or most relevant State Library and government policies:

- NSW Premier's Department Personnel Handbook, December 2012
- State Library / Department of Trade and Investment Public Interest Disclosure Policy and Procedures
- State Library Code of Conduct
- State Library Corporate Credit Card Policy
- State Library Email Policy
- State Library Enterprise Risk Management Framework and Policy
- State Library Gifts and Benefits Policy and Procedure
- State Library Information and Communications Technology (ICT) Services Policy
- State Library Internal Reporting - Public Interest Disclosures Policy
- State Library Privacy Management Plan
- State Library Procurement Policy
- State Library Records Management Policy.

4. Definitions and acronyms

- "CE" is the Chief Executive
- "CFO" is the Chief Financial Officer
- "Corruption" commonly involves the dishonest or preferential use of power or position, which has the result of one person or organisation being advantaged over another. It does not necessarily involve financial gain.

The Independent Commission Against Corruption, which is responsible for investigating corruption in the NSW public sector, provides a more specific definition in Sections 7 and 8 of the *ICAC Act 1988*.

For the purposes of the Act, corrupt conduct is that which:

- involves the dishonest or partial exercise of official functions by a public official
- involves a breach of public trust by a public official
- involves the misuse of information or material acquired in the course of official functions by a public official
- adversely affects the honest or impartial exercise of official functions by a public official, any group or body of public officials or any public authority – this involves the conduct of any person (whether or not a public official).

A key point to bear in mind is that corrupt conduct must involve intent to act dishonestly or with a corrupt motive. That is, corrupt acts are deliberate acts.

Corruption as defined by the *ICAC Act 1988* can take many forms, including (but not limited to):

- official misconduct (e.g. breach of trust, fraud in office, extortion or imposition)
- bribery
- blackmail
- obtaining or offering secret commissions
- fraud
- theft
- perverting the course of justice

- embezzlement
 - election bribery
 - election funding offences
 - election fraud
 - tax evasion
 - revenue evasion
 - currency violations
 - illegal gambling
 - obtaining financial benefit by vice engaged in by others
 - bankruptcy and company violations
 - forgery
 - homicide or violence
 - matters of the same or a similar nature to any listed above
 - any conspiracy or attempt to conspire in relation to any of the above.
- “Director General” means the Director General of NSW Department of Trade and Investment.
 - “Fraud” can be regarded as any practice that involves the use of deceit to confer some form of financial benefit upon the perpetrator (either directly or indirectly) and which results in some form of material loss to the entity defrauded.

In the NSW Auditor-General’s 1993 Report to Parliament, fraud was defined as a deliberate and premeditated turn of events, which involves the use of deception to gain advantage from a position of trust and authority. The report indicated that typical acts of fraud may include:

- acts of omission
 - theft
 - the making of false statements
 - evasion
 - manipulation of information
 - other acts of deception, including the deliberate falsification, concealment, destruction or use of falsified documentation used for a normal business purpose.
- “GIPAA” means the *Government Information (Public Access) Act 2009*
 - “ICAC” means the NSW Independent Commission Against Corruption.
 - “Investigating Authority” includes the ICAC, the NSW Ombudsman, the NSW Auditor General, the Police Integrity Commission and the Police Integrity Commission Inspector.
 - “Investigation” of a matter includes any examination of or any other inquiry within the meaning of the *Public Sector Employment and Management Act 2002* into the matter. This includes matters where it is decided to take no further action on the information and matters which arise by way of complaint or otherwise.
 - “Maladministration” is defined in section 11 of the *Public Interest Disclosures Act 1994* as conduct that involves action or inaction of a serious nature that is:
 - contrary to law; or
 - unreasonable, unjust, oppressive or improperly discriminatory; or
 - based wholly or partly on improper motives.
 - “Public Interest Disclosures” means disclosures which are protected under the Act if they:
 - are made:

- in accordance with the NSW Department of Trade and Investment Public Interest Disclosures – internal reporting policy; or
 - to the NSW State Librarian and Chief Executive; or
 - to one of the investigating authorities nominated in the Act; and
- show or tend to show corrupt conduct, maladministration, or serious and substantial waste of public money by the State Library or any of its staff; GIPAA contraventions; and
 - are made voluntarily.
- “Relevant disciplinary proceedings” are proceedings under Part 2.7 of the *Public Sector Employment and Management Act 2002* and its associated Guidelines.
 - “Risk” means a chance of something happening that will have an adverse impact on an organisation’s capacity to achieve its goal.
 - “Risk Management” means the process by which the impediments to an organisation’s achieving its objectives are professionally managed by identification, analysis, treatment and monitoring.
 - “Serious and Substantial Waste” means the uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss/wastage of public funds/resources.
 - “Staff” means State Library permanent and temporary employees; labour-hire contractors and volunteers.

5. Library’s commitment to fraud and corruption prevention

- a. Fraud or corruption committed against the Library will not be tolerated. In preventing fraud and corruption, the Library will apply and be guided by:
 - the *Public Finance and Audit Act 1983*
 - the *Independent Commission Against Corruption (ICAC) Act 1988*
 - NSW Treasurer’s Directions
 - NSW Treasury Internal Audit Guidelines.
- b. The Executive and line management will lead and advocate a healthy ethical culture within the Library through:
 - demonstrating ethical behaviour in day-to-day activities
 - communicating the benefits of ethical behaviour throughout the organisation
 - integrating strategies to prevent fraud or corruption in all Library processes
 - instituting positive reinforcement of ethical behaviour.
- c. The Library will publish its conduct and ethical standards, articulated in the Code of Conduct, on the Library’s website.

6. Fraud and corruption risk assessment reviews

- a. The Library will conduct fraud and corruption risk assessment reviews to establish the Library’s risk profile and to provide management with information to deal with fraud and corruption in a cost effective way. These assessments are conducted separately to risk management reviews and annual internal audits.

- b. At a minimum, fraud and corruption risk assessments must address both internal and external fraud and corruption risks (i.e. both employee and customer/client fraud), and the potential for collusion from the dual perspectives of employee-employee and customer-employee.
- c. Fraud and corruption risk assessments will be followed by the development and implementation of a plan to minimise and control the identified risks.
- d. The Library will conduct fraud and corruption risk assessment reviews every three years, in line with the recommendations of the NSW Audit Office.
- e. Staff at all levels and all locations should be involved in the fraud and corruption risk assessment process. Employees working 'on the ground' have detailed knowledge of Library practices and procedures, which can help expose and determine the risks to the Library.
- f. Fraud and corruption risk assessment reviews will be treated as confidential documents, in accordance with the sensitivity of the material included.

7. Internal controls

- a. The Library has established internal financial and management controls which require staff to follow defined standards of practice. These internal controls include:
 - suitable recruitment procedures, checking referee reports and educational qualifications
 - segregation of duties
 - security of records and information systems
 - consideration of risk and risk management strategies
 - supervision and internal checks
 - approvals within delegated authority
 - reconciliations
 - budget control
 - regular review of management reports
 - clear reporting lines
 - internal audit.
- b. The internal audit program includes both systematic and random audits to test compliance and the effectiveness of internal controls. The findings of these audits are reported to the Audit and Risk Committee with recommendations to address identified adverse trends or deficiencies.

8. Reporting fraud and corruption

- a. Staff may raise appropriate matters at any time with their managers, Director, the Director of Operations and CFO or the NSW State Librarian and CE. All matters reported in good faith will be thoroughly investigated using processes outlined in the Investigation Procedures in section 11.
- b. Staff not wishing to report a matter internally may make reports or public interest disclosures to the following investigating authorities:
 - ICAC (for fraud / corruption matters)
 - NSW Ombudsman (maladministration matters)
 - Auditor-General (for serious and substantial waste of public money)
 - Police

- Anti-Discrimination Board.
- c. Public Interest Disclosures are covered by the *Public Interest Disclosures Act 1994* will be handled as outlined in the Public Interest Disclosures Policy and Procedures.
 - d. The Library has a statutory obligation to report suspected corruption, whether or not it involves a staff member, to the Independent Commission Against Corruption (ICAC) for investigation in spite of any duty of secrecy or other disclosure restriction. It is important to note that proof is not necessary. Because a statutory duty is being performed, a good faith report is protected from defamation action, even if the suspicion on which it is based turns out to be groundless.
 - e. The Library must inform the police of any occurrence of fraud internally. There is no discretion in this matter. Even if a criminal matter has been reported to ICAC, it must still be reported to the police.
 - f. The Library is subject to the requirements of the *Public Finance and Audit Act 1983* and as such, has an obligation to report discrepancies of serious proportions to the Auditor-General as they may affect the annual audit and certification of the Library's financial statements.

9. Report outcomes

- a. The Library will take appropriate disciplinary action against any staff member found guilty of fraudulent or corrupt conduct. This may include referral to the Police. Civil action may also be pursued in order to recover any losses of public money or property.
- b. Any member of the public found to have perpetrated a fraudulent or corrupt act against the Library will be referred to the Police.

10. Responsibilities

Audit and Risk Committee of the Library Council of NSW

The Library's fraud and corruption prevention policy is reviewed and endorsed by the Audit and Risk Committee of the Library Council of NSW.

The NSW State Librarian & CE

The NSW State Librarian & CE approves the Library's fraud and corruption prevention policy and ratifies any disciplinary action.

The NSW State Librarian & CE is responsible for the effective and economical use of the Library's resources and for determining appropriate controls against corrupt conduct. Explicit in this is the need to:

- safeguard all assets
- assure the efficient use of resources
- satisfy all legislative requirements and other relevant directives
- facilitate effective and transparent accountability.

The Director, Operations & CFO

The Director, Operations & CFO, as the Fraud and Corruption Prevention Manager:

- coordinates the Library's overall approach towards fraud control
- oversees implementation of the Fraud and Corruption Prevention policy and monitoring progress

- facilitates a detailed fraud risk assessment within the Library
- oversees the development of fraud awareness / education programs
- liaises with central agencies such as ICAC, NSW Ombudsman and the NSW Audit Office on fraud issues.

Executives and Managers

Executives and Managers must take the lead and must ultimately take prime responsibility for ensuring that the Library has done all that is required to prevent and detect fraud and corruption. In particular, all Executive and managers are responsible for:

- leadership, guidance and support of staff in managing fraud and corruption and modelling ethical behaviour
- setting/enforcing disciplinary standards
- identifying high fraud risks areas
- identifying specific sources of fraud or corruption risk
- participating in fraud and corruption risk assessment reviews
- implementing remedial action to address issues identified by the fraud and corruption risk assessment reviews
- assessing the cost/benefit of introducing anti-fraud procedures
- developing/modifying practices to reduce fraud and corruption risk
- monitoring the continued operation of controls to prevent fraud and corruption
- receiving reports of suspected fraud or corruption from staff
- reporting suspected fraud and corruption
- ensuring the protection of complainants who report fraudulent or corrupt activities.

Staff

All staff have a responsibility to contribute towards eliminating fraud and corruption, by acting ethically, complying with controls, policies and procedures and reporting suspected incidences of corrupt or fraudulent behaviour.

To be able to actively and positively contribute to fraud and corruption control, all staff need to:

- embrace an ethical work-place culture
- recognise the value and importance of personally contributing to fraud and corruption control
- develop an understanding of good work practices, systems and controls
- keep abreast of best practices for preventing fraud and corruption
- become aware of the different types of fraud and corruption that can occur in the workplace and how to detect it
- report suspected incidences of fraudulent or corrupt conduct in accordance with the procedures.

11. Investigation Procedures

11.1 Initial Investigation

- a. Once fraud or corruption has been reported it must be handled seriously and investigated competently. The Library will explore all reports of fraud or corruption.
- b. All reports received by management will be submitted to the Fraud and Corruption Prevention Manager. Within the Library, the Fraud and Corruption Prevention Manager is the Director, Operations & CFO.

The Fraud and Corruption Prevention Manager will:

- record all reports received
 - make an initial assessment of each report and determine the appropriate action to be taken
 - coordinate the initial investigation by nominating an appropriate internal investigator in a timely manner to conduct an investigation to establish whether there is a reasonable basis for believing that fraud may have occurred
 - ensure the investigating officer is provided with full access and co-operation
 - keep all parties involved in the matter informed of status and process
 - report to the NSW State Librarian & CE on the results of each investigation and recommendations
 - ensure that approved recommendations are implemented.
- c. Where actual or suspected **corruption** has been identified and reported to management, the NSW State Librarian & CE must notify ICAC as required under the *ICAC Act 1988*.
 - d. In the case of fraud, during the initial investigation phase the aim is to impartially gather, assess and report facts rather than act as a prosecutor or advocate.
 - e. The Library aims to complete all initial investigations within 3 months.
 - f. If, following the initial investigation, a reasonable basis appears to have been established for believing that fraud may indeed have occurred, the NSW State Librarian & CE must report the matter to the Police and likewise advise the ICAC.
 - g. In this regard, the NSW Premier's Department Personnel Handbook (Chapter 9, Section 9.9.2) states:
"... the Department should advise the Police if the matter is also subject to an internal investigation. Unless there will be an impact on the Police investigation, there is usually no need to suspend the internal investigation. If appropriate all stages of dealing with as a disciplinary matter may be taken. If all stages are not completed and the officer is charged criminally it is usually appropriate to await the outcome of the court proceedings.
If the Police indicate that an internal investigation should be suspended, the grounds and reasons should be noted. Contact should be maintained with the Police, to ensure internal issues can be dealt with as quickly as possible."

11.2 Further investigations

- a. If the matter is reported to the Police and ICAC, the issue of further investigation of the alleged offence will be discussed with all parties involved in the matter in order to establish a satisfactory approach.
- b. If the Library needs to conduct further investigations, it is most likely that the services of an independent investigator will be utilised. Investigation actions should be consistent with commonly used best practice investigation standards, such as the Australian Government Investigation 2003. Ensuring the quality of outsourced investigations remains a departmental responsibility.
- c. Where it has been discussed and agreed with the external authorities that further investigation of a suspected fraud situation should be undertaken by the Library (using an independent investigator), the next step in the process is the development of an investigation plan.
- d. Library management will not become directly involved in an external investigation process or attempt to unduly influence the final report. Inquiries are specialised undertakings and require true independence to operate efficiently and effectively.
- e. The independent investigator will be asked to plan the investigation approach from the outset and to keep management fully informed throughout the process.

12. Conduct and disciplinary standards

- a. Code of Conduct
 - Library staff have an obligation to the people of NSW to carry out the business of the Library with efficiency, fairness, impartiality and honesty.
 - The Library's Code of Conduct conveys the standards of conduct and ethics expected of every individual employee appointed or engaged by the Library, and is part of the employment contract. The Code of Conduct also extends to consultants and contractors associated with the operations and functions of the Library.
 - The Code of Conduct is an important element in setting standards that assist in preventing fraud and corruption within the Library. The Fraud and Corruption Prevention policy and procedure supplement and complement the Code of Conduct.
- b. Standards of discipline
 - The Code of Conduct outlines that sanctions may be applied if the Code is breached. Such sanctions range from counselling to disciplinary action, laying of criminal charges or taking civil action.
 - In terms of disciplinary policy and practice, the Library adheres to the standards as set by the *Public Sector Employment and Management Act 2002* and the NSW Premier's Department Personnel Handbook, specifically those contained in Chapter 9 "Management of Conduct and Performance".

13. Reporting requirements

The Fraud and Corruption Prevention Manager will provide quarterly reports on fraud and corruption matters to the Library's NSW Audit and Risk Committee.

14. Procedures

Whistleblower Protection Procedures.

15. Recordkeeping

Full and accurate records of all fraud and corruption prevention activities such as reporting or investigations are to be maintained securely and registered in the State Library's recordkeeping systems in accordance with the Records Management Policy and the *State Records Act 1998*.

16. Approval

This policy was approved by the NSW State Librarian & CE and Executive on 3 July 2013.

17. Implementation

This policy is implemented on 3 July 2013.

18. History

This policy replaces the Fraud Control Policy, 2011 and the Fraud Control Management Plan, 2011.

19. Related Policy

This policy is related to State Library Code of Conduct and the Department of Trade and Investment's Internal Reporting - Public Interest Disclosures Policy.

Prepared by:
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3 July 2013

20. Document History and Version Control

Version	Date approved	Approved by	Endorsed by	Brief description
1.0	15 February 2011	NSW State Librarian & CE		First release
	3 February 2011		Audit & Risk Committee	
2.0	3 July 2013	NSW State Librarian & CE		Second Release