

Internal policy document

CEC Fraud and Corruption Control Framework

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Summary:	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 CEC. The CEC 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.
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1. Introduction

The Clinical Excellence Commission (CEC) 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 CEC 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 CEC. The CEC 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. A list of examples of fraud and corruption can be found at [Appendix 2](#).

2. Key Definitions

Fraud.¹

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.²

Corrupt conduct, as defined in the *Independent Commission against Corruption Act 1988* ("ICAC Act), is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect an 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.

¹ Ministry of Health Fraud Control Strategy https://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2007_070.pdf

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

3. Fraud and Corruption Statement by the Chief Executive

As the Chief Executive of the Clinical Excellence Commission (CEC) 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 CEC 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 CEC 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 CEC, 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; and
- 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 CEC 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 CEC will ensure all staff, contractors, suppliers and stakeholders are aware of their commitment to fraud and corruption prevention by:

- placing this statement on the CEC'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.

Carrie Marr

Chief Executive

4. 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 CEC can be found 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 Clinical Excellence Commission 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 Director Corporate Services, 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 CEC's overall approach to fraud and corruption prevention.
- Implement and maintain the Fraud and Corruption Control Framework.
- 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.
- Monitor progress for reporting to the Audit & Risk Management Committee and Board (as appropriate).
- Ensure fraud and corruption risk assessments / 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 instance's investigations may be conducted by either an NSW Health staff member with appropriate experience or outsourced to an appropriate pre-qualified organisation from an NSW Government panel contract.

Chief Executive

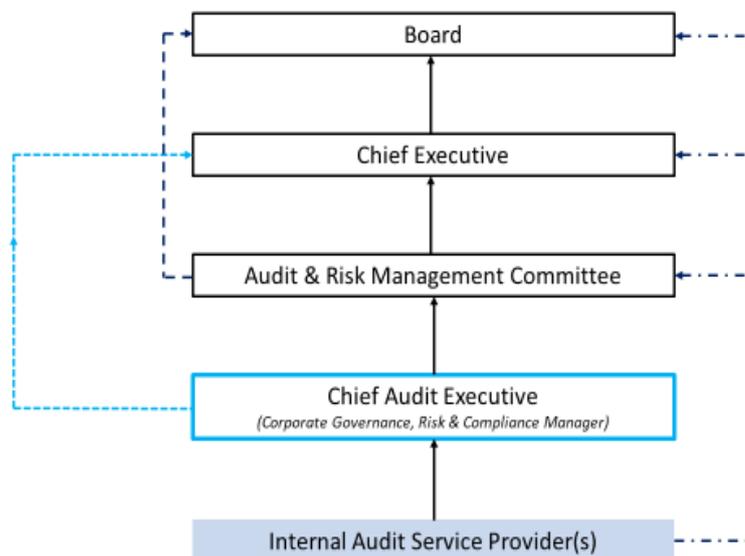
The Chief Executive has ultimate responsibility for the effective and economical use of the Organisation's resources and for determining appropriate controls in managing fraud and corruption risks. The Chief Executive is obliged, under section 11 of the ICAC Act, to report to the ICAC any matter that 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 references 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 CEC and reports to management on omissions, weaknesses or deficiencies that require corrective action. The risk and compliance structure involving the ARMC within CEC is overviewed in figure 1 below.



5. 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 emphasised 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.

6. Fraud Reporting & Investigations

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 Director Corporate Services or the Chief Executive, or another CEC 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.

CEC's Public Interest Disclosure Procedure is at section 9.

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 Director Corporate Services (mobile 0428 876 953), or by email to CEC-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.

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) - PD 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 Corporate Services Directorate CEC 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 Director Corporate Services and or 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.

7. Gifts & Benefits

A gift or benefit is anything of value that is offered to a staff member that is over and above their normal salary or employment entitlements. This can include free (or less than market value) accommodation, entertainment, hospitality, travel or material goods.

Staff may be offered gifts or benefits for a variety of reasons and in many different circumstances. The way that the CEC and its staff members handle these situations is crucial to avoiding unprofessional and unethical conduct or the perception that such conduct has occurred.

Token Gifts

Gifts categorised as token gifts are inexpensive gifts of gratitude such as a bunch of flowers, of nominal value up to \$75. Token or inexpensive gifts may only be accepted if offered as a gesture of appreciation, and not to secure favour. Acceptance of the gift must be declared in line with this procedure.

When a staff member suspects (or is aware) that the value of the gift is beyond a nominal amount or may be part of an attempt to secure favour, they should politely decline the offer, explaining that accepting it would breach the NSW Health policy.

Non-token Gifts

Gifts or other benefits not essentially token or inconsequential in kind and exceeding the nominal value of \$75 must not be accepted unless:

- it is not obtained by virtue of a staff member's office or position;
- where a gift is given to a staff member in a public forum in appreciation for the work, assistance or involvement of the staff member or health service, and refusal to accept the gift would cause embarrassment or affront (NOTE: the issue of causing embarrassment or affront does not apply to gifts offered by commercial organisations); or
- in circumstances generally approved and communicated by the CE; or on any other occasion with the formal written approval of the CE, preferably obtained beforehand.

If accepting gifts in these circumstances, staff members must indicate that they are accepting the gift on behalf of the Clinical Excellence Commission. Receipt of the gift must be reported as soon as possible to the CE (or the Board, in cases where the CE is the recipient).

Responsibilities of staff

All staff members are required to report, as soon as possible, the receipt of a gift or benefit to their manager or the CE.

Staff must not:

- expect to receive anything for doing what they are paid to do
- seek any payment, gift or benefit, for themselves or an immediate family member
- accept gifts of cash, or near cash items such as gift cards, under any circumstances
- accept gifts, rewards, travel or meals from suppliers or vendors

Reporting gifts and benefits - Staff members

Staff members are required to declare gifts and benefits using the [Gifts and Benefits Reporting web form](#) on the CEC Intranet. The data from the form is automatically forwarded to the Corporate Governance inbox (CEC-CorpGov@health.nsw.gov.au) for inclusion on the CEC's Gifts and Benefits register and for review by the staff member's manager.

Corporate Governance, Risk & Compliance Manager

The Corporate Governance Risk & Compliance Manager is responsible for receiving and forwarding gift and benefit declarations from CEC staff members, recording the receipt of gifts and benefits in the CEC's Gifts and Benefits register, and notifying staff that the receipt of the gift or benefit has been approved (or noted, when a gift or benefit was offered and declined).

Note - The Corporate Governance, Risk & Compliance Manager can provide advice and recommendations to the Chief Executive, managers and staff around relevant NSW Health policy and procedures but is unable to approve the receipt of any gifts or benefits.

Reporting gifts and benefits - Managers

Managers who receive an email notification that a staff member has received a gift or benefit should assess whether the gift or benefit is a token in nature, and that it has been offered only as a gesture of appreciation, and not to secure favour.

If the manager is satisfied that the gift or benefit is a token and offered only as a gesture of appreciation, the manager should reply to the email, noting they have approved the receipt of the gift or benefit. This is recorded by the Corporate Governance, Risk & Compliance Manager in the CEC's Gifts and Benefits register.

Where the manager has any reservations about whether the gift or benefit may be an attempt to secure favour, or determines that the gift or benefit is non-token in nature, they should notify the Corporate Governance, Risk & Compliance Manager, who will forward the information to the CE for review and appropriate action.

Chief Executive

The Chief Executive will review all gifts and benefits declarations involving non-token gifts. The Chief Executive will also review those declarations that have been forwarded from managers who have reservations about whether the gift may be an attempt to secure favour.

Where receipt of the gift or benefit is approved, the Chief Executive will notify the Corporate Governance, Risk & Compliance Manager for communication to the staff member, and for recording in the CEC's Gifts and Benefits register.

Where receipt of the gift or benefit is not approved, the CE will liaise directly with the staff member and provide instructions on what to do with the gift or benefit (this can include returning a gift to the offerer, or keeping the gift for use by the organisation). This information is also to be forwarded to the CEC's Corporate Governance & Reporting Officer, for recording in the CEC's Gifts and Benefits register.

8. Conflicts of Interest Reporting

Everyone has interests that are personal to them or someone close to them and sometimes these interests may conflict with the decisions they make or the actions they take at work. Having personal interests is not necessarily a problem – it is how they are dealt with that is important.

A conflict of interest exists when it is likely that a staff member could be influenced, or perceived to be influenced, by a personal interest when carrying out their public duty. Conflicts of interest that are wilfully concealed may constitute a breach of the Code of Conduct.

Disclosure of Interests

CEC is committed to ensuring that interests of any kind are dealt with consistently, transparently and with rigour.

An "Interest" is defined in as meaning "any direct or indirect, pecuniary or non-pecuniary, interest."

A material personal interest arises in any situation in which an employee or network member has an interest which may influence, or be perceived to influence, the proper performance of the CEC's responsibilities. The perception of an interest is as important as any actual interest.

What is a Conflict of Interest?

Conflicts of interest can be actual, perceived or potential.

- An actual conflict of interest involves a direct conflict between a staff member's current duties and responsibilities and existing private interests.
- A perceived or apparent conflict of interest can exist where it could be perceived, or appears, that a staff member's private interests could improperly influence the performance of their duties – whether or not this is in fact the case.

- A potential conflict of interest arises where a staff member has private interests that could conflict with other official duties in the future.
- A pecuniary is an interest with a reasonable likelihood or expectation of financial gain or loss to the person or someone closely associated with them.
- A non-pecuniary conflict of interest does not relate to money, but the non-financial gain or loss to themselves or someone closely associated with them

A Conflict of Interest exists where there is a divergence between the individual interests of a person and their professional responsibilities such that an independent observer might reasonably conclude that the professional actions of that person are unduly influenced by their own interests. Conflict of interests have the potential to compromise judgments and decisions that should be made impartially.

The following provide some examples of situations where a conflict of interest may, or may not, arise or exist. It is impossible to define all the potential areas where a conflict of interest may arise and therefore if you are in any doubt as to whether a conflict may exist, you should seek advice from your supervisor in the first instance.

Situations that may generate a conflict of interest can arise out of:

- personal relationships with Health colleagues, either current or previous
- personal or commercial relationships with persons with whom the CEC is dealing, for example contractors or tenderers
- personal financial interests in matters which involve the CEC
- unapproved secondary employment and or external directorships
- use of confidential information obtained in the course of CEC duties
- external activities and public comment
- membership of a tender or recruitment panel
- external directorships and secondary employment.

The perception that a Conflict of Interest exists is also a serious matter and raises concerns about the integrity of individuals or the management practices of the institution.

Your interest/s declaration will enable CEC to determine whether or not, after the interest has been declared, you should be involved in the activity / network, and if you are to be involved, the scope of such involvement.

Disclosure of interest at time of appointment

Upon appointment to an CEC committee, or invitation to participate in an CEC sponsored clinical network, you will be asked to declare actual or perceived interests you have.

Standing item for committee agendas

All CEC committees and agendas must have as the first item of business the opportunity for conflicts of interest to be declared for the minutes and subsequent completion of the declaration form, if not already performed. Suggested text is provided below.

Conflict of Interest Declarations

Members to declare whether they have any conflict of interest in any item of business on the agenda. Interest includes any pecuniary or other interest in relation to the matter being considered and includes shareholders, ownership, employment, being the past or future recipient of benefits in any form from another entity also having an interest in the matter being considered, as well as any known family, social, business, or other relationship, past present or future with owners, principals or agents of such other entity.

Responsibilities of staff

Staff members have a responsibility in respect of their public duty to:

- Be aware of their obligation to identify and assess private and personal interests and whether they conflict or have the potential to conflict with their official duties.
- Avoid, where possible, conflicts of interest and appropriately manage those conflicts of interest that cannot be avoided.
- Declare immediately any conflict of interest or potential conflict of interest to their immediate supervisor, or if serving on an external committee sponsored by the CEC to that committee's Chair.
- Treat all persons equally and fairly and not show preference to any individual or organisation.

Reporting your conflicts of interest

In the first instance, if a staff member has an actual or potential conflict of interest it should be reported to their immediate supervisor, using the Conflicts of Interest Disclosure form at [Appendix 5](#). The completed form must then be forwarded to the CEC's Corporate Governance, Risk & Compliance Manager for recording in the CEC's Conflict of Interests register.

A periodic review (at least annually) should be conducted by the relevant CEC manager to determine if the conflict of interest still exists and that the management strategies are current and appropriate.

Regardless whether the conflict of interest has been resolved, the manager and staff member should sign the declaration section of the form and forward it to the CEC's Corporate Governance, Risk & Compliance Manager for updating in the CEC's Conflict of Interests register.

Reporting suspected conflicts of interest held by another

If staff members or members of a clinical network apprehend that another staff member may have a potential conflict of interest that has not been disclosed, they should report the matter to their immediate supervisor. If that is not practicable then they may utilise the reporting arrangements detailed in the CEC's Internal Fraud & Corruption Policy.

Managing conflicts of interest

The CEC is required to maintain a conflict of interest register that records details of conflicts of interest and how they have been managed. Choosing the right option to deal with the conflict will depend on the circumstances of the matter and an objective assessment of it.

Key considerations include:

- Registering the conflict of interest in a formal register

ALL conflicts of interest must be registered, however for minor or perceived conflicts of interest, no further management action may be needed after the conflict is disclosed and registered. The conflict may be managed by disclosure.

- Restricting the involvement of the individual in the matter that gives rise to the conflict

This may include abstaining from voting, withdrawing from discussion of affected proposals or having restricted access to sensitive information. This strategy can be useful when it is possible to separate the individual with the conflict from parts of the activity or process, or when the conflict is not likely to arise frequently.

- Removing the individual with the conflict from the matter entirely

This may be appropriate where the conflict is serious and or ongoing.

- Divesting the private interest

Where employee with a conflict wishes to continue with their involvement in an CEC activity an option is for them to divest themselves of the conflict of interest. The relevant CEC manager will need to satisfy themselves that this has occurred and document this in the CEC Conflict of Interest Register.

- Recruiting an independent third party to oversee part or all of the process that deals with the matter

Managers may find this useful when it is not practical or desirable to remove the individual with the conflict from the decision-making process, such as in small communities, or when there is specific expertise that needs to be retained (e.g. for tendering or recruitment selection panels).

- NSW Health Code of Conduct

If a staff member is unwilling to meaningfully deal with an identified Conflict of Interest their manager is refer the matter in writing to the CEC People and Culture Manager to assess whether the Code of Conduct has been breached.

9. Public Interest Disclosures

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 3](#).

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 CEC management.

Who can receive a public interest disclosure?

Within NSW Health

- The Secretary, NSW Health
- The Chief Executive of an NSW Health organisation
- The Disclosures Coordinator or a Disclosure Officer of an NSW Health organisation.

Role of 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 officer's 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 4](#).

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:

- Director Systems Improvement
- Director Corporate Services
- People & Culture Manager
- Corporate Governance, Risk & Compliance Manager

Appendix 1 CEC Fraud & Corruption Accountability Matrix

Fraud & Corruption Prevention - Accountability Matrix							
Management Action	At least once	At orientation	Ongoing	Fortnightly	Monthly	6 monthly	Annually
Ethical Framework							
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 self-interest 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 the Corporate Governance, Risk & Compliance Manager.			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 undertaken the HETI online Fraud & Corruption Prevention modules.	X						
Directors/Managers are to ensure matters relating to Fraud Risk and Corruption within the CEC are to be referred to the Chief Executive, Director Corporate Services, and the Corporate Governance, Risk & Compliance Manager.			X				
Directors/Managers are to ensure that all staff are aware of the policy requirements on reporting corrupt conduct.		X					X

Fraud & Corruption Prevention - Accountability Matrix

Management Action	At least once	At orientation	Ongoing	Fortnightly	Monthly	6 monthly	Annually
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				
Staffing							
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
Engagement of Consultants & Contractors							
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				

Fraud & Corruption Prevention - Accountability Matrix

Management Action	At least once	At orientation	Ongoing	Fortnightly	Monthly	6 monthly	Annually
Directors/ Managers are to ensure that the engagement and management of contractors complies with NSW Health Procurement policy.			x				
Directors/ Managers are to ensure Consultants or Contractors do not supervise employees or exercise delegations.			x				
Information Management and Communication							
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 CEC Confidentiality, IP and Acceptable Use form and provide completed forms to the Manager Corporate Governance Risk & Compliance.		x					x
Fraud Control Plan							

Fraud & Corruption Prevention - Accountability Matrix

Management Action	At least once	At orientation	Ongoing	Fortnightly	Monthly	6 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 PID awareness training all staff email from Chief Executive to be arranged by CAE.							
NSW ICAC on-line Corruption prevention in procurement course to arranged for relevant staff by the CAE.							
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 CEC'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:

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

Appendix 3 – 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:		
<i>Select preferred method of contact</i>		
Phone		
Email:		
Postal address:		
Details of the wrongdoing being reported		
Description: <ul style="list-style-type: none"> <i>What happened?</i> <i>Where did this happen?</i> <i>When did this happen?</i> <i>Is it still happening?</i> <i>(Attach an additional page if required)</i>		
How did you become aware of this?		
Name and position of people involved in the wrongdoing:	Name	Position
Attach any additional relevant information or indicate where supporting evidence may be found:	Supporting evidence	A
		□
		□
		□
Name and position of other people who may have additional information:	Name	Position
Statement		
I honestly believe that the above information shows or tends to show wrongdoing.		
_____ Signature of reporter <i>(Do not sign if you want to make an anonymous report)</i>	_____ Date report submitted <i>(Essential information)</i>	

Appendix 4. 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	Is the reporter a public official?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Anonymous	If the reporter is not a <i>public official</i> , as defined in the PID Act the report is not a PID. 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.
2	Is the report about the conduct of a public official or a public authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No	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.
3	Is the report about one of the categories of conduct in the PID Act? <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	<input type="checkbox"/> Yes <input type="checkbox"/> No	If the report is not about one of the categories of conduct in the PID Act it is not a PID. For more information about these categories of conduct see NSW Ombudsman PID Guideline B2. <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>
4	Does the reporter have reasonable grounds to believe that the information they have reported shows or tends to show the alleged wrongdoing ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Assume the reporter has an <i>honest belief</i> unless there is evidence to the contrary. If another person, given the same conditions, would take the same viewpoint, this is <i>reasonable grounds</i> . 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. <i>If you have answered 'no', clearly record your reasons over the page.</i>
5	Was the report made to the principal officer, or a public official nominated to receive disclosures in the public authority's Internal Reporting Policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	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. If the reporter has not made the report to an authorised person they should be redirected to one.
6	Does the report primarily question the merits of government policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If the report <i>primarily questions the merits of government policy</i> the report is not a PID.
7	Is there substantial evidence indicating that the report was made solely or substantially with the motive of avoiding dismissal or other disciplinary action?	<input type="checkbox"/> Yes <input type="checkbox"/> No	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. A high evidential threshold is required to conclude the reporter's motives were improper. <i>If you have answered 'yes', you should have sound</i>

			<i>reasons and clearly record those reasons over the page.</i>
Further comments			
<p>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 02 93919582 or alternatively contact the NSW Ombudsman PID Unit on pid@ombo.nsw.gov.au or 02 9286 1000.</p>			

Assessment	
<p>Based on this assessment, should the report be treated as a Public Interest Disclosure?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, was the PID made:</p> <p><input type="checkbox"/> incidental to the performance of reporter's day-to-day functions, <input type="checkbox"/> under a statutory or other legal obligation on the reporter, <input type="checkbox"/> otherwise.</p> <p>_____</p> <p>Signature of disclosures coordinator</p> <p>Date:</p>	<p>If yes, the following steps will be taken:</p> <p>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</p> <hr/> <p>If no, the following steps will be taken:</p>
Reasons for decision	

Appendix 5 CONFLICT OF INTEREST DECLARATION FORM

Completed Conflict of Interest Declaration forms must be forwarded to the Governance, Risk & Compliance Manager via CEC-CorpGov@health.nsw.gov.au

FOR COMPLETION BY THE EMPLOYEE MAKING THE DECLARATION

Name

Position

Date of Declaration

Matter under consideration: (Include the details of any organisation or individual concerned)

Expected role / duties to be performed by the staff member in relation to this matter:

Private interests identified which have the potential to impact on the staff member's ability to carry out, or be seen to carry out, their official duties impartially and in the public interest:

FOR COMPLETION BY THE EMPLOYEE MAKING THE DECLARATION AND THEIR MANAGER

The conflict of interest has been identified as an *(please check the appropriate boxes)*

- Actual conflict of interest
- Pecuniary interest
- Perceived conflict of interest
- Non-pecuniary interest
- Potential conflict of interest

Statement of conflict of interest resolution or management

Proposed action to be taken to manage, or eliminate the conflicts of interest:



I hereby declare that the above details are correct to the best of my knowledge and I make this conflict of interest declaration in good faith.

I hereby declare that I have received and appropriately noted this conflict of interest declaration.

Signature (*staff member*)

Date: / /

Signature (*manager / supervisor*)

Date: / /

Received and included into the Conflicts of Interest Register

Date: / /

Corporate Governance, Risk & Compliance
Manager

