Fraud and Corruption Prevention Policy

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Approved by: The Library Council of NSW

Policy owner/sponsor: Chief Operating Officer

Policy Contact Officer: Governance and Risk Specialist, Operations

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1. Summary

The State Library of NSW (the Library) is committed to ensuring the establishment and maintenance of a healthy ethical culture. This Fraud and Corruption Prevention Policy incorporates the Fraud and Corruption Control System (FCCS) recommended by the Australian Standards (AS) ISO 8001:2021, Fraud and Corruption Control. The aim of such a system is to control the risks of fraud and corruption against the Library. The policy addresses all aspects of preventing, detecting and responding to fraud and corruption, including investigation, in 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.

This Policy should be read in conjunction with the Whistleblower Protection Procedures.

2. Policy statement

The purpose of this policy is to provide a framework for preventing, detecting and responding to fraud and corruption related to the Library. It outlines the standards and behaviour expected of staff in the Library in relation to suspected or detected fraud or corruption.

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

3. Definitions and acronyms

- **Corruption**
  Corruption is dishonest activity in which a person associated with an organisation (e.g., director, executive, manager, employee or contractor) acts contrary to the interests of the organisation and abuses their position of trust in order to achieve personal advantage or advantage for another person or

organisation. This can also involve corrupt conduct by the organisation, or a person purporting to act on behalf of and in the interests of the organisation, in order to secure form of improper advantage for the organisation either directly or indirectly[1].

The Independent Commission Against Corruption (ICAC), 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.

- **Fraud**
  Fraud is dishonest activity causing actual or potential gain or loss to any person or organisation including theft of moneys or other property by persons internal

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[1] Source: AS ISO 8001: 2021 Fraud and Corruption Control, 1.4.8.

and/or external to the organisation and/or where deception is used at the time, immediately before or immediately following the activity[2].

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*
- **Investigating Authority** includes the ICAC, the NSW Ombudsman, the NSW Auditor General, the Police Integrity Commission and the Police Integrity Commission Inspector.
- **Investigation** is the search for evidence connecting or tending to connect a person (either a natural person or a body corporate) with conduct defined by AS ISO 8001:2021 as fraud or corruption[3].
- **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 Library's Public Interest Disclosures Policy; or
    - to the NSW State Librarian, or one of the Library's other nominated PID Receivers; 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.

- **Risk** is defined as the effect of uncertainty on organisational objectives[4].
- **Risk Management** is defined as the coordinated activities to direct and control an organisation with regard to risk[5].

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[2] Source: AS ISO 8001: 2021 Fraud and Corruption Control, 1.4.13.
[3] Source: AS ISO 8001: 2021 Fraud and Corruption Control, 1.4.23.
[4] Source: AS ISO 31000: 2018 Risk Management – Guidelines, 3.1.
[5] Source: AS ISO 31000: 2018 Risk Management – Guidelines, 3.2.

- **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 the permanent and temporary employees; labour-hire contractors and volunteers of the State Library of NSW.
- **Whistleblower** is the person who reports wrongdoing[6].

4. **Library's commitment to fraud and corruption prevention**

   a. The Library has zero tolerance to any form of fraud or corruption. In preventing fraud and corruption, the Library will apply and be guided by:
   - the *Government Sector Audit Act 1983 and Government Sector Audit Regulation 2021*
   - the *Independent Commission Against Corruption (ICAC) Act 1988*
   - NSW Treasurer's Directions
   - NSW Treasury Internal Audit Guidelines.

   b. The Executive Committee 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 Ethics and Conduct, on the Library's website.

5. **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 enterprise risk management reviews and internal audits. The Library's Emerging Risk is the standing agenda item in every Audit and Risk Committee meeting and the Enterprise Risk Register is reviewed and discussed in each Committee meeting.

   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, having taken into account the Library's size and complexity.

   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.

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[6] Source: ISO/FDIS 37002.

    f.   Fraud and corruption risk assessment reviews will be treated as confidential documents, in accordance with the sensitivity of the material included.

6. Fraud and Corruption Prevention

    a.   Fraud and corruption prevention is incorporated into the business processes of the Library. These business processes include:

- communicating and promoting a sound integrity framework
- managing conflicts of interest
- managing risks connected to gifts, donations and similar benefits
- managing internal controls and the internal control environment
- workforce screening
- preventing "technology-enabled" fraud
- physical security and asset management

7. Internal controls and Detection Systems

    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, post-transactional reviews and data analytics
- clear reporting lines
- internal audit
- fraud and corruption reporting channels
- whistleblower protection procedures
- complaint management
- exit interviews.

    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. Responding to fraud and corruption

    a.   Staff may raise appropriate matters at any time with their managers, Directors, or a nominated Public Interest Disclosures (PID) Receiver in the Library. For a person to be protected by the *Public Interest Disclosures Act 1994*, they need to make their PID directly to a nominated PID Receiver. Immediate actions will be taken in response to the discovery of fraud or corruption events. All matters reported in good faith will be thoroughly investigated using processes outlined in the Investigation Procedures in section 11. According to the Public Interest Disclosures Policy, the Library's nominated PID Receivers are as follows:

- NSW State Librarian (Principal Officer)
- Chair, Audit and Risk Committee (Disclosure Officer)

- Chief Operating Officer (Disclosure Coordinator)
- Head, People & Culture (Disclosure Coordinator)

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, these* will be handled as outlined in the Public Interest Disclosures Policy.

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 Government Sector 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

Library Council of NSW

The governing body of the Library is the Library Council of NSW. The Library shall implement a strategy aimed at ensuring that its governing body:
- acknowledges and accepts overall accountability for controlling the organisation's fraud and corruption risks,
- acknowledges fraud and corruption as a serious risk,
- has an awareness of the organisation's fraud and corruption exposures,

- demonstrates a high level of commitment to controlling the risks of fraud and corruption both against the organisation and by the organisation[7], and
- approves the Library's Fraud and Corruption Prevention Policy.

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 Executive Committee
The Executive Committee 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:
- have an awareness of the Library's fraud and corruption exposures, and understand their role in the control of the Library's fraud and corruption exposures,
- safeguard all assets,
- assure the efficient use of resources,
- satisfy all legislative requirements and other relevant directives,
- facilitate effective and transparent accountability, including ratifying any material disciplinary actions.

The Governance and Risk Specialist
The Governance and Risk Specialist is responsible to:
- coordinate the Library's overall approach towards fraud control,
- oversight implementation of the Fraud and Corruption Prevention Policy and monitoring progress,
- facilitate a detailed fraud risk assessment within the Library,
- contribute to the development of fraud awareness / education programs,
- liaises with central agencies such as ICAC, NSW Ombudsman and the NSW Audit Office on fraud issues,
- conduct initial investigation on reported / suspected fraud or corruption events when notified by the PID Receivers of the Library.

Line Managers
Line 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 line 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,

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[7] Source: AS ISO 8001: 2021 Fraud and Corruption Control, 2.2.

- 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 a Library PID Receiver, as stated in Section 8 of this Policy.

Library PID Receivers 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
- confirm reporting to the NSW State Librarian, the Audit and Risk Committee and the Library Council of NSW occurs as appropriate 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 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 must report the matter to the Police and likewise advise the ICAC.

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 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 Investigations Standards 2011. 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 Ethics and 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 Ethics and 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 Ethics and Conduct also extends to consultants and contractors associated with the operations and functions of the Library.
- The Code of Ethics and 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 Ethics and Conduct.

b.   Standards of discipline
- The Code of Ethics and 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 *Government Sector Employment Act 2013.*

13. Procedures

Whistleblower Protection Procedures.

14. 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.*

15. Legislative and Policy Framework

Most relevant legislation:
- *Annual Reports (Statutory Bodies) Act 1984*
- *Australian Standard: AS 8001-2021 Fraud and Corruption Control*
- *Australian/New Zealand Standard: ISO 31000:2018 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 Government Policies:
- Fraud Control Improvement Toolkit – Audit Office of NSW 2015

Related State Library of NSW policies:
- Code of Ethics and Conduct
- Email Policy
- Enterprise Risk Management Framework and Policy
- Gifts and Benefits Policy and Procedure
- Information and Communications Technology (ICT) Services Policy
- Privacy Management Plan
- Procurement and Contract Management Policy
- Public Interest Disclosures Policy
- Purchasing Card Policy
- Records Management Policy
- Whistleblower Protection Procedures.

16. Related Policy

This policy is related to State Library Code of Ethics and Conduct and the State Library of NSW Public Interest Disclosures Policy.

17. 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.
3.0	22 September 2022	Chief Operating Officer		Updated to incorporate the AS ISO 8001:2021 *Fraud and Corruption Control.*
	22 October 2022		Audit & Risk Committee	
	14 December 2022	The Library Council of NSW		