Fraud and Corruption Control

Best Practice Guide

March 2018

Note: This publication is accessible through the CCC website <www.ccc.qld.gov.au>.

Foreword

The risk to agencies and entities across all spheres of government from fraud and corruption is as high as ever. The speed with which transactions occur through electronic media and the complexity associated with locating funds once they have been stolen can result in those funds being unrecoverable.

The traditional understanding of an "asset" needs to be redefined as information becomes increasingly attractive as a valuable asset which might also be leaked, stolen or hacked.

Often, the reputational damage sustained by an organisation as a result of fraud or corrupt acts can far outweigh the financial value of those losses and can last for many years afterwards.

Auditors-General from the Commonwealth and states have reported that fraud and corruption prevention is not well understood by senior management, leaving their organisations at risk.

The most effective lines of defence against fraud and corruption are: clearly communicated and understood policies and procedures that give guidance to staff about their role in "fraud-proofing" their organisation; strong and effective internal controls; and staff who are engaged and interested in their work are encouraged to report suspected wrongdoing and feel supported when they do. These things speak to the integrity culture of your organisation and underpin how well prepared your organisation can be to prevent fraud and corruption.

This *Fraud and Corruption Control: Best Practice Guide* combines 10 areas on which agencies should focus their fraud and corruption prevention efforts.

I commend this publication to you to assist in the management and protection of the valuable assets entrusted to you by our community.

Alan MacSporran QC
Chairperson

Acknowledgments

This Guide describes an integrated framework of 10 components considered significant for effective fraud and corruption control. The framework is the outcome of extensive consultation and practical experience of Crime and Corruption Commission (CCC) Prevention staff over many years.

The CCC extends its thanks to those organisations who generously agreed to review this document and to the individuals who gave their time to consider the material and provided valuable constructive comments:

- Queensland Audit Office
- Queensland Ombudsman
- Queensland Treasury.

Contents

How to use this Guide

This Guide is written to help organisations develop their fraud and corruption control framework, with the intention that they will create a tailored program to manage their organisation's risks of fraud and corruption effectively. The Guide presents an integrated approach that includes proactive measures designed to enhance system integrity (prevention measures) and reactive responses (reporting, detecting and investigating activities).

The principles and practices discussed in this Guide should be considered best practice for all organisations in receipt of public funds, and can be applied broadly to all public sector, and many private sector, organisations committed to reducing the risks and incidence of fraud and corruption.

Where an action is mandatory for a Queensland Government public service agency, public sector entity or responsible authority,[1] a reference to the relevant legislation or regulation is included.

Each chapter covers one component of the framework and includes a checklist that can be used to assess the organisation's progress towards best practice in the planning and implementation of that component.

When developing or reviewing an organisational program, it may be best to begin with the checklist and then work through the supporting text to address any identified deficiencies or shortfalls.

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1   *Public Sector Ethics Act 1994* definitions, pp. 27–28.

Abbreviations

AS 8001:2008	*Australian Standard for Corporate Governance — Fraud and Corruption Control*
AS/NZS ISO 31000:2009	*Australian and New Zealand Standard for Risk management — Principles and guidelines*
CC Act	*Crime and Corruption Act 2001*
CCC	Crime and Corruption Commission
CEO	chief executive officer
CFO	chief finance officer
CMC	Crime and Misconduct Commission
COSO	Committee of Sponsoring Organizations of the Treadway Commission
FA Act	*Financial Accountability Act 2009*
FMPM	*Financial Management Practice Manual*
FPMS	*Financial and Performance Management Standard 2009*
LG Act	*Local Government Act 2009*
LG Reg	Local Government Regulation 2012
PID	public interest disclosure
PID Act	*Public Interest Disclosure Act 2010*
PS Act	*Public Service Act 2008*
PSC	Public Service Commission
PSE Act	*Public Sector Ethics Act 1994*
QAO	Queensland Audit Office
QO	Queensland Ombudsman
QPS	Queensland Police Service
RTI Act	*Right to Information Act 2009*
WHS Act	*Work Health and Safety Act 2011*

Terminology

Agency	as defined in the schedule to the PSE Act – a department, a TAFE institute or statutory TAFE institute, the administrative office of a court or tribunal, or any other entity that is prescribed under a regulation to be a public service agency.
Department	as defined in the FA Act section 8.
Entity	as defined in the schedule to the PSE Act – the parliamentary service, a local government, a university or agricultural college, an entity established under an Act or State or local government authorisation for a public, State or local government purpose.
Organisation	a generic term to describe any government department, agency, entity, statutory authority, local government or university, and any corporation, cooperative, business or business partnership.
Public officer	a generic term to describe any person employed by the state or local government, including permanent, temporary, general and contracted employees, and senior officers and CEOs.
	This does not include elected representatives including local government councillors.

Introduction: Frameworks for integrity and control

The topics covered in the Introduction are:

(1) Definitions of fraud and corruption

(2) Integrity in the public sector

(3) Integrity frameworks

(4) Fraud and corruption control frameworks.

Definitions of fraud and corruption

Fraud and corruption can take many forms. Fraud is normally characterised by deliberate deception to facilitate or conceal the misappropriation of assets, tangible or intangible. Corruption involves a breach of trust in the performance of official duties.

This publication does not treat fraud and corruption separately, nor does it give one priority over the other. Similarly, it does not deal with all the possible dimensions of fraud and corruption.

In Queensland, fraudulent and corrupt conduct by public officers may fall within the category of "corrupt conduct" under the *Crime and Corruption Act 2001* (CC Act). Under the CC Act*,* "corruption" refers to both **police misconduct** and **corrupt conduct** in the Queensland public sector, which includes:

- The Legislative Assembly and the parliamentary service
- The Executive Council
- state government departments
- the Queensland Police Service
- statutory authorities
- government-owned corporations
- universities
- local governments
- courts and prisons.

Corrupt conduct is defined in the CC Act sections 14 to 20 as conduct that:

- involves the exercise of a person's official powers in a way that:
- – is not honest or impartial; or
- – is a breach of the trust placed in the person as a public officer; or
- – involves a misuse of official information or material; and
- if proven, is either a criminal offence or a disciplinary breach providing reasonable grounds for the person's dismissal.

Anyone who tries to corrupt a public sector officer can also be guilty of corrupt conduct if the matter involves a criminal offence.

Examples of corrupt conduct:

- A public officer cheating on travel allowances (because it could be a criminal offence and is dishonest)
- A residential-care officer assaulting a client (because assault is a criminal offence and a breach of trust)

- A purchasing officer of a government department accepting "kickbacks" in the tendering process (because it is a criminal offence and dishonest)
- A public officer looking up the department's records about a client without a valid work need (because it could result in dismissal and it is a misuse of official information)
- A public officer manipulating a selection panel decision to ensure that a relative gets the job (because the conduct in question could result in the dismissal of the officer concerned and lacks impartiality).

Many forms of fraud and corruption are offences under the *Criminal Code 1899*. These include offences such as extortion, false claims, stealing, issuing false certificates, receipt or solicitation of secret commissions, forgery and election fraud.

Integrity in the public sector

The *Constitution of Queensland 2001* provides the Legislative Assembly with law-making powers. The *Parliament of Queensland Act 2001* and the *Public Service Act 2008* establish work performance and personal conduct principles for serving the government and the public, and authority for disciplinary action. The *Public Sector Ethics Act 1994* and the *Public Interest Disclosure Act 2010* set the ethics principles and values for the public sector.

The following diagram (Figure 1: Ethics legislation) illustrates this legislative ethics framework.

Figure 1: Ethics legislation
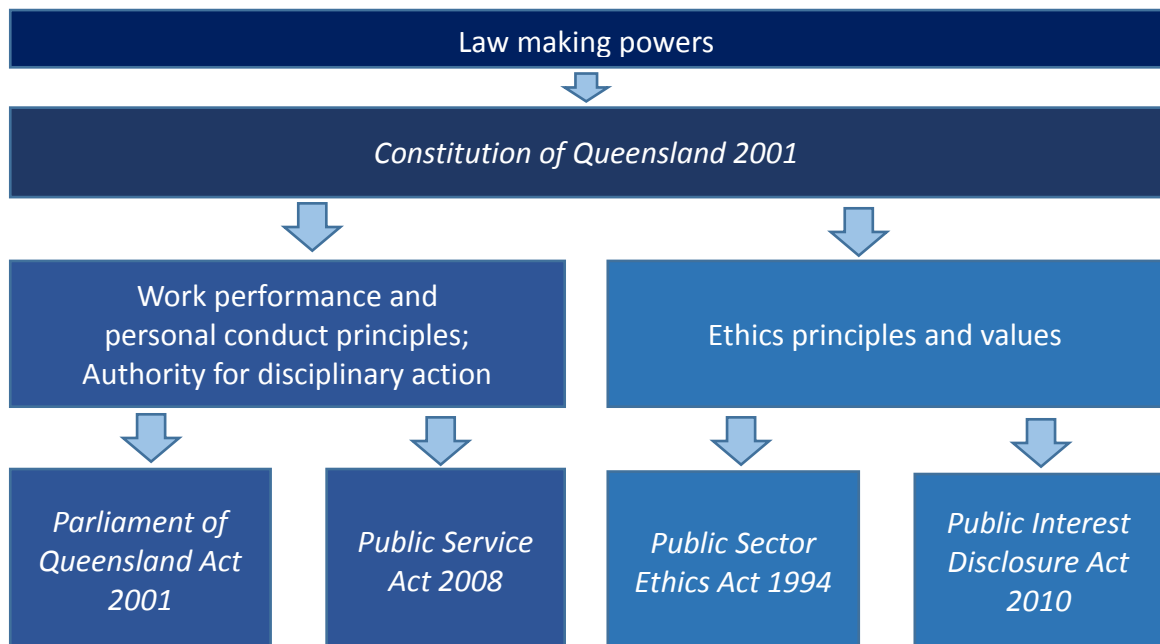
Under this framework, public service agencies, public sector entities and public officers are required to seek to promote public confidence in the integrity of the public sector (PSE Act section 6), and public service employees are required to ensure that their conduct meets the highest ethical standards (PSE Act section 6(a)).

Integrity framework

The maintenance of high standards of integrity, conduct and fiduciary responsibility is one of the important tasks of any public sector organisation.

This is managed through a collection of tools (legislation, policies, procedures, etc.), which together determine how the organisation and its staff are to behave on a daily basis and that help the organisation to build an integrity-based culture that will resist fraud and corruption. This is referred to as an integrity framework.

The integrity framework is a risk management tool to protect the organisation from fraud and corruption. It states clear rules and gives sound guidance. Every organisation has an integrity framework, although they might not think of it that way. A good framework can be described as a work in progress because it should always be under review and being modified in order to respond to new threats as they arise. As a consequence, it develops over time through a series of additions, deletions, changes, and continuous improvements.

The integrity framework consists of:

- Legislation – particularly the PSE Act and the PS Act
- strategic plans, mission statements, values etc.
- codes of conduct, policies and procedures
- performance plans
- workplace practices, culture and behaviour, including unwritten ground rules, traditions, etc. (see Chapter 9 for more information)
- the fraud and corruption control framework.

**Figure 2:** The components of an integrity framework

Fraud and corruption control framework

A key component of the integrity framework is the fraud and corruption control framework.

While there is no legislation mandating the implementation of a fraud and corruption control framework, the *Financial Accountability Act 2009* (section 61) and the *Financial and Performance Management Standard 2009* (sections 7, 8 and 28) both require each department's accountable officer and each statutory body to ensure they have a governance framework which includes a risk management system and an internal control structure to mitigate the risk to the department, statutory body and the State from unacceptable costs or losses associated with their operations. One of the significant risk factors for unacceptable costs or losses for any government organisation will be fraud and corruption, and effective mitigation of the risks can only occur through the implementation of a fraud and corruption control framework.

The fraud and corruption control framework consists of coordinated and integrated instruments, mechanisms, arrangements and tools that assist with fraud and corruption control.

Figure 3: Relationship between fraud and corruption control framework components
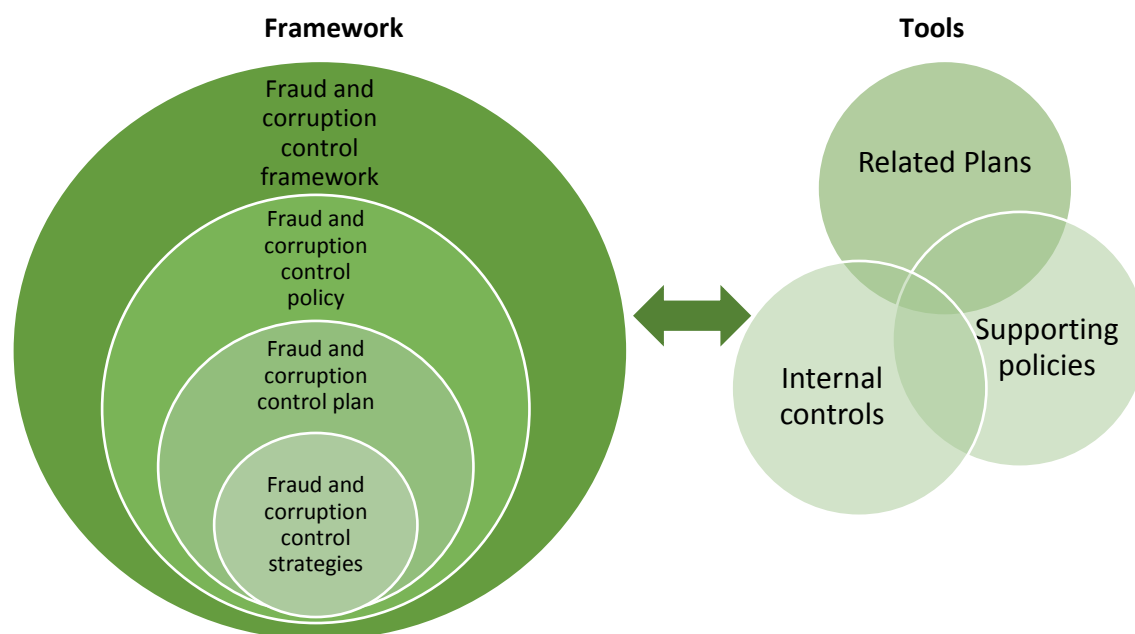
In order to assist organisations to implement the fraud and corruption control framework, the CCC recommends a best-practice approach through the following 10 components:

(1) Coordination mechanisms

(2) Risk management system

(3) Internal controls

(4) Reporting processes

(5) Protections for disclosers

(6) External reporting

(7) Investigation management processes

(8) Code of conduct

(9) Organisational culture change

(10) Client and community awareness program.

This framework is consistent with the Australian Standards AS8001:2008 for Fraud and Corruption Control and AS/NZS ISO 31000:2009 for Risk Management, and builds on earlier models developed by the CCC.

The 10 components are interrelated. Each one plays an important role, and no one component should be considered in isolation.

Additional readings

- Department of the Premier and Cabinet, Queensland, 2009, Integrity and Accountability in Queensland.
- Department of the Premier and Cabinet, Queensland, 2009, Response to Integrity and Accountability in Queensland.