



Biodiversity
Conservation
Trust

Fraud Control Policy

September 2021

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1. Policy statement

The NSW Biodiversity Conservation Trust (BCT) does not tolerate any form of fraud, and is vigilant in the prevention, deterrence, detection and investigation of fraud. All employees are required at all times to act ethically and with integrity in accordance with the Department of Planning, Industry and Environment's (DPIE) Code of Ethics and Conduct and related procedures.

The BCT Fraud Control Policy sets out the BCT's prompt, consistent and effective approach to fraud control through prevention, detection and response. It supports the BCT to maintain a high level of service for its stakeholders, secures public money and property, and protects the integrity, security and reputation of the BCT.

All employees need to be aware of the risks of fraud in their workplace. Employees must take practical steps to avoid or manage those risks and must report all suspected cases of fraud. Employees reporting suspected fraud and corruption are afforded the protections under the [Public Interests Disclosures Act 1994](#) (PID Act).

2. Purpose

The purpose of this document is to:

- outline the framework for detecting, preventing and controlling fraud risks in the BCT
- outline the behaviour expected of employees in relation to any suspicion or detection of fraud conduct related to BCT
- demonstrate compliance with Treasury Circular TC18-02 NSW Fraud and Corruption Control Policy which sets out the key minimum requirements of fraud and corruption control.

2.1 Scope and application

This policy applies to all employees including any person, whether remunerated or not, employed on a permanent, temporary or casual basis, contractors, consultants, the BCT Board and committee members working with the BCT. Employees must be aware of and comply with the policy. If engaging or managing external consultants, contractors, volunteers or committee members, employees must make them aware of the BCT's expectations around fraud control during the period of their engagement.

2.2 Legal and policy framework

This policy is part of a broader legal and policy framework constituted by:

- **the** Commonwealth [Crimes Act 1900](#), which establishes fraud offences
- **the** NSW [Independent Commission Against Corruption Act 1988](#) (ICAC Act), which defines corrupt conduct
- the NSW [Public Interest Disclosures Act 1994](#) (PID Act), which provides protections for public servants who report fraud and corruption

- the NSW Public Sector Guideline [Public Service Commission's Behaving Ethically Guidelines 2014](#), which provides a guide to assist employees
- the Treasury Circular [TC18-02 NSW Fraud and Corruption Control Policy](#), which sets out the key minimum requirements necessary to establish and maintain an appropriate system of fraud and corruption control
- the [DPIE Code of Ethics and Conduct](#), which clarifies the standards of behaviour expected of employees in the performance of their duties
- the [DPIE Public Interest Disclosure Policy Feb 2021](#).

3. Definitions of Fraud

The BCT adopts the NSW Fraud and Corruption Control Policy definition of **fraud** as dishonestly obtaining a benefit, or causing a loss, by deception or other means. Fraud and related offences are established in Part 4AA of the [Crimes Act 1900](#). The offence of fraud is set out in section 192E:

A person who, by any deception, dishonestly--

- (a) obtains property¹ belonging to another, or
- (b) obtains any financial advantage or causes any financial disadvantage and is guilty of fraud related offences.

The maximum penalty for fraud is imprisonment for 10 years.

Fraud requires dishonesty, which is proven by intent or recklessness, not simply an accident or error. The fraud offence provisions are framed broadly and accordingly fraud against the BCT may involve, but is not limited to:

- theft
- accounting fraud (e.g. submitting false invoices, misappropriation)
- misuse of the BCT's purchase cards
- unlawful use of, or unlawfully obtaining of property, equipment, material or services
- causing a loss, or avoiding and/or creating a liability
- providing false information or failing to provide information when obliged to do so
- misuse of the BCT's assets, equipment or facilities
- making or using false documents
- wrongfully using the BCT's information or intellectual property.

Internal fraud is where the fraud is committed by employees or other persons internal to the BCT and is most likely to arise from serious or continued breaches of the various conduct policies and procedures and/or non-compliance with statutory obligations.

¹ The term property encompasses tangible or corporeal things (i.e. material objects) as well as intellectual property (IP) .

External fraud is where the party or parties complicit in the fraud are external to the BCT including suppliers, the public or organised criminal groups. A particular challenge for the BCT arises where the fraud is complex and involves collusion between employees and external parties and can include:

- external parties targeting particular employees by grooming, favours, promises and extortion
- cybersecurity incidents and data breach, including ransomware
- internal parties initiating or soliciting the fraud.

4. Roles and responsibilities

The structure of accountability and responsibility for the implementation and monitoring of the BCT’s fraud control is clear.

All employees must:

- understand and follow the Fraud Control Policy
- act lawfully, ethically and honestly and in accordance with DPIE’s Code of Ethics and Conduct
- act within their delegated authority
- comply with all BCT policies, procedures and guidelines
- report instances of suspected fraud and corruption promptly.

The responsibilities of staff to prevent, detect and respond to fraud are as follows:

| Role | Responsibilities |
|------------------------------|--|
| Chief Executive Officer, BCT | <ul style="list-style-type: none"> • Lead the implementation of the BCT Fraud Control Policy, including implementation of measures to prevent, detect and respond to fraud. • Set the standard for ethical behaviour. • Discharge external reporting obligations. |
| Audit and Risk Committee | <ul style="list-style-type: none"> • Ensure that fraud controls are in place to prevent and detect fraud at the BCT are appropriate and satisfactory. • Provide independent assistance to the BCT Board by overseeing and monitoring governance, risk and control frameworks, and external accountability requirements. • Determine whether management has taken adequate steps to embed a culture which is committed to ethical and lawful behaviour. |
| BCT Board | <ul style="list-style-type: none"> • Approve the BCT Fraud Control Policy. • Determine the BCT risk appetite and fraud risk appetite. • Ensure appropriate strategies are in place to prevent and detect fraud. • Ensure effective governance and conformance with legal and policy obligations, including conformance with obligations under the <i>Crimes Act 1900</i> and the ICAC Act. • Oversee the conduct of BCT operations relating to fraud control. |
| BCT Executive | <ul style="list-style-type: none"> • Set the standard for ethical behaviour. • Declare all private interests in accordance with the DPIE Code of Ethics and Conduct. |

| Role | Responsibilities |
|---------------------------------|---|
| Manager Strategy and Governance | <ul style="list-style-type: none"> • Support the implementation of the BCT Fraud Control Policy. • Administer and monitor compliance with the Fraud Control Policy. • Lead the fraud risk assessment process, monitor fraud risk assessment outcomes and report outcomes to the Chief Executive Officer and the Audit and Risk Committee. • Lead the implementation of the fraud control plan. • Lead the implementation of audit recommendations related to fraud control. • Lead the integration of best fraud control practice in the design of BCT work processes. • Lead fraud awareness training for all BCT staff and promote awareness beyond the BCT. |
| All BCT staff | <ul style="list-style-type: none"> • Behave ethically. • Complete mandatory code of ethics and conduct and fraud awareness training. • Complete conflict of interests declaration at least annually and declare all offers of any gift or other benefit as appropriate. • Obtain approval prior to undertaking any secondary employment, including volunteering. • Report any suspicion of fraud at the BCT. • Refrain from reprisal action where you or any other member of staff is implicated in any reported suspicion of fraud. • Report any reprisal action against self/others in relation to any reported suspicion of fraud. |

5. Fraud and corruption control framework

The following comprises the the BCT’s fraud and corruption control framework (the framework), and is informed by the [Australian Standard AS 8001-2008](#). The framework incorporates the 10 attributes of fraud control contained in the NSW Auditor-General *Better Practice Guide Fraud Control Improvement Kit*². The 10 attributes are within three general streams of prevention, detection and response, as set out in the table below.

Elements of fraud and corruption control

| Planning & Resourcing | Prevention | Detection | Response |
|--|---|--|----------------------------------|
| Fraud and corruption control framework | Fraud and corruption risk assessment | Internal notification systems | Investigation systems |
| Responsibility structures | Employee awareness Customer, community and third party awareness | External notification systems Detection systems | Conduct and disciplinary systems |

² https://www.audit.nsw.gov.au/sites/default/files/auditoffice/Governance-and-Policies---Current/Fraud_Control_Improvement_Kit_February_2015%20whole%20kit.pdf-updated%20August2015.pdf

The framework assigns responsibility under the 'three lines of defence' model and is founded on:

- strong leadership and management commitment
- establishing an ethical culture within the organisation
- supporting fraud and corruption prevention efforts through a clearly defined policy and governance setting
- developing fraud and corruption control strategies which include prevention, detection, response, monitoring, evaluation and reporting.

The framework ensures that all employees, contractors, consultants, volunteers and committee members are aware of, and adhere to the BCT Fraud Control Policy.

6. Prevention mechanisms

The most effective way of mitigating the risk of fraud and corruption is to prevent it from occurring. The BCT's fraud prevention strategies include implementing effective financial and operational controls that are underpinned by a strong culture of integrity and employee ownership of fraud risk management. Effective fraud prevention enhances an organisation's reputation as a public service agency of integrity, helping it to achieve its objectives. Fraud prevention also protects an organisation from financial losses resulting from fraud, and relieves the costs of investigating and responding to fraud. Finally, measures aimed at preventing fraud are an important aid in identifying actual fraud risks and in detecting fraud where it occurs.

6.1 Fraud risk assessment

BCT managers are required to manage fraud risks associated with their operations and are responsible for the effective operation of controls within their area. Fraud risks are commonly found in the following operational areas or circumstances:

- provision of grants and funding agreements
- changes in function or purpose of a business unit
- exercise of regulatory authority and/or delegated authority
- internal governance arrangements
- payroll activities
- policy or program development
- procurement, including tendering and managing suppliers
- provision of identification documents
- revenue collection and administration of payments.

The primary tool to manage fraud risk is a fraud risk assessment, which is a formal process that takes into account all significant factors likely to affect fraud risk exposure. A fraud risk assessment must be conducted at least every two years or when there is a substantial change in the structure, functions of activities in the workplace. The [ISO 31000:2018 Risk Management – Guidelines](#) can assist managers conducting a fraud risk assessment to identify and manage fraud and corruption risks.

6.2 Internal audit program

The internal audit program focuses on significant enterprise risks and includes audits of areas with high fraud risks. Internal audits assist in identifying fraud risks and deficiencies in fraud controls. The internal audit program also assesses organisational compliance with best fraud prevention practice.

6.3 Employee awareness

All employees should be aware of the types of fraud and corruption risk confronting the BCT in their workplace, and if it is within their area of responsibility, put in place appropriate internal controls. All employees must also adhere to internal controls designed to prevent fraud and corruption risks occurring. DPIE's Code of Ethics and Conduct assists employees to understand expected standards of ethical conduct.

The BCT also provides training and resources to its employees on fraud awareness. [DPIE Learning](#) maintains records of completion of this mandatory training. Employees who have responsibilities for resources, decision making or information need to be aware of the behaviours that could result in actual or perceived fraud or corrupt conduct. All managers need to be aware of the fraud and corruption risks in the activities they supervise.

All employees should further develop their understanding of fraud through:

- mandatory fraud awareness training
- involving their team in risk assessment activities
- referencing the Fraud Control Policy.

6.4 Third party awareness

Employees who engage contractors and consultants must ensure they are informed of their requirements to meet the BCT's standards for behaving ethically. This includes awareness of this policy document and other BCT policies and guidelines, including:

- the DPIE Code of Ethics and Conduct
- the DPIE Conflict of Interests policy and factsheet
- the NSW Government's Procurement Policy Framework³
- the DPIE Gifts, Benefits and Hospitality Procedures
- the DPIE Secondary Employment Policy.

Service providers, contractors, consultants and regular or large suppliers must formally be provided with a copy of the BCT's Statement of Business Ethics, which outlines the standards of behaviour expected by the department in business relationships with external parties. The NSW Government's Procurement Policy Framework guides employees to implement procurement processes consistent with NSW Government policy. These resources ensure employees remain aware of the fraud risks and complexities for procurement services.

The BCT Statement of Business Ethics sets out what commercial partners can expect of the BCT in their engagement. It also sets out BCT's expectations of commercial partners, including that they assist

³ <https://buy.nsw.gov.au/policy-library/policies/procurement-policy-framework>

the BCT to prevent unethical practices in business relationships by reporting any misconduct related to the BCT's work.

7. Detecting fraud

The BCT takes allegations of fraud and corruption seriously and has internal and external notification systems. These systems encourage and support all employees to notify the BCT of suspected fraud or corrupt conduct without fear of reprisal. They also facilitate the BCT to meet its statutory reporting obligations to external agencies including the NSW Police, ICAC and the NSW Ombudsman.

7.1 Internal notification systems

Reporting suspected fraud ensures cases are promptly investigated and drives improvement to fraud risk management practices. Fraud allegations are handled in a confidential, prompt and professional manner. Reports are assessed and investigated as appropriate, which may require reporting to and involvement of external parties such as ICAC or the NSW Police. The BCT will refer **ALL** reports of suspected fraud by any BCT staff member to the DPIE Ethics team in accordance with the PID Policy. All employees are expected to cooperate with any DPIE investigation that should occur.

These procedures and the following policies and procedures are in place to facilitate internal reporting of suspected fraud and corrupt conduct:

- [DPIE Code of Ethics and Conduct](#)
- [DPIE Public Interest Disclosure Policy Feb 2021](#)
- BCT Complaints Handling Policy.

7.2 DPIE Public interest disclosures

The DPIE Public Interest Disclosures (PID) management guidelines emphasise the importance of providing support to internal reporters in accordance with the requirements of the PID Act. Any employee who makes a report of suspected fraud or corrupt conduct is protected from reprisal by the BCT via the Code of Ethics and Conduct and the protections afforded by the PID Act. To receive the protections of the PID Act, concerns must raise a public interest issue, i.e. raise serious and/or systemic concerns and be reported via the DPIE PID Management Guidelines.

7.3 External notification systems

The BCT has statutory obligations to report some instances of fraud to external organisations. All such instances of fraud will first be reported to the DPIE Ethics team.

7.4 Criminal offences

Section 316 of the *Crimes Act 1900* requires employees to report serious crimes (punishable by five or more years in prison) to the NSW Police. Where it is reasonably believed that an employee has committed a criminal offence, the matter must be referred to the Strategy and Governance team who will ensure that it has been properly reported to the DPIE Ethics team to manage. While the BCT may need to undertake some initial inquiries, care must be taken not to interfere with or jeopardise a potential criminal investigation.

7.5 Financial statement discrepancies

The Chief Executive Officer, with the assistance of the Audit and Risk Committee, must report any serious discrepancies that might affect the BCT's annual financial audit and the organisation's annual financial statements to the Audit Office of NSW.

7.6 Detection systems

Systems and data access controls are in place and are regularly monitored to ensure that irregularities and early warning signals are identified at an early stage for investigation and monitoring. These include internal audit, external audit, systems to manage human resources, payroll, access control, procurement and financial transactions.

Managers are responsible for implementing control mechanisms that minimise the risk of fraudulent transactions and corrupt behaviour. The BCT's internal audit program reviews particular aspects of the organisation's financial and control systems and conducts regular monitoring and checks of medium and high risk operations to detect anomalies. Reports and actions are monitored by the Audit and Risk Committee.

8. Responding to fraud

DPIE will manage investigations into allegations of misconduct and corrupt conduct, prepare investigation reports and make recommendations. Investigations will be conducted under the [*Guidelines for the Management of Conduct and Performance or the Government Sector Employment Act 2013*](#), however different rules may apply to persons employed on a probationary, temporary or casual basis.

8.1 DPIE Code of Ethics and Conduct

The DPIE Code of Ethics and Conduct sets the conduct standards for the BCT. All other conduct policies and procedures are complementary and supplementary to this document.

8.2 Disciplinary systems

All sustained allegations of fraud or attempted fraud will be actioned in accordance with legislative and policy requirements. Disciplinary and/or remedial processes will apply in all cases where BCT employees have perpetrated or been involved with the perpetration of fraud or corruption or have tolerated and not reported fraud or corruption. Consequences for committing or attempting fraud and/or corruption may include, but are not limited to:

- dismissal or direction to resign
- warnings
- repayment of misappropriated funds and other costs
- referral to ICAC or prosecution agencies.

Legal action will be taken where necessary to recover BCT funds or resources improperly taken and prosecution of those involved in criminal actions will be pursued. In addition to the DPIE Code of Ethics and Conduct procedures, disciplinary standards for BCT employees are contained in various

pieces of legislation which set out some of the behaviours that constitute a breach of discipline and how that breach will be dealt with. The relevant legislation includes:

- [Government Sector Employment Act 2013](#)
- [Government Sector Employment \(General\) Rules 2014](#)

9. Monitoring and review

All senior managers are responsible for monitoring compliance with this policy.

The policy will be reviewed every three years, taking into account legislative or organisational changes, risk factors and consistency with other supporting documents. High-risk areas such as fraud will be reviewed annually.

Appendix 1 - Definitions

| | |
|--------------------------------------|---|
| Fraud | Dishonestly obtaining a benefit, or causing a loss, by deception or other means. Fraud is established as an offence in section 192E of the <i>Crimes Act 1900</i> . |
| Public Interest Disclosure | An allegation of corruption, serious maladministration, serious and substantial waste, or breach of the <i>Government Information (Public Access) Act 2009</i> (GIPA Act) made by a public official about a public official. |
| Risk management | The coordinated activities to direct and control an organisation with regard to risk. |
| Serious and substantial waste | As defined by the NSW Audit Office, this refers to uneconomical, inefficient or ineffective use of government resources, authorised or unauthorised, which results in significant loss or wastage of public funds or resources. |
| Serious crime | Defined by law as a crime carrying a maximum penalty of five or more years in prison. In general, acts (including attempts whether successful or not) of criminal dishonesty including theft, fraud, and secret commissions. |