



Fraud and Corruption Control Policy

21 August 2007

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FOREWORD

Foreword

Fraud and corruption pose serious risks to public sector agencies and these risks cannot be ignored. The potential damage to an agency like the Public Trust office extends well beyond any financial losses, and the threats to the organisational integrity are a constant challenge.

Studies by the Crime and Misconduct Commission [CMC] and the Queensland Audit Office [QAO] have shown that the range of internal and external threats warrant a concerted effort to upgrade agency defences against fraud and corruption.

Implementing effective fraud and corruption measures are a part of good governance and management practice.

The Public Trust Office is committed to ensuring that Office systems and processes are designed and used to proactively manage the risks associated with potential fraud and corruption.

It is essential that all managers, supervisors and staff maintain the desired high ethical standards expected of an agency such as the Public Trustee Office.

As CEO I am strongly committed to

- Supporting those who contribute to those standards by reporting suspected fraud and corruption and who assist the Office to deal with them appropriately;
- the principles of natural justice in relation to dealing with matters by way of preliminary assessment or investigation; and
- maintaining high standards of investigation of suspected fraud and corruption.

This policy document is based on the 10 element control framework detailed in the *Fraud and Corruption Control: Guidelines for Best Practice* issued by the CMC in March 2005.

It is essential that all managers, supervisors and staff familiarise themselves with the details of this policy and the PTO Fraud and Corruption Control Plan that will be issued shortly.

Greg Klein
Public Trustee

21 August 2007

OFFICE MISSION STATEMENT AND GOALS

Office Mission Statement and Goals

The vision of the Public Trust Office is:

***We make a difference.
Queenslanders' preferred trustee.***

The **mission** of the Public Trust Office [PTO] is:

To deliver a full range of professional, accessible and reliable trustee, financial and related services in supportive, compassionate and ethical manner.

Fraud and Corruption Control in the Public Sector.

The Crime and Misconduct Commission [CMC] Better Practice Guidelines states that, fraud and corruption pose serious risks to the public sector and these risks cannot be ignored. The potential damage extends well beyond any financial losses, and the threats to organisational integrity are a constant challenge for public sector management.

Studies by the Queensland Audit Office [QAO] and the CMC's own surveys have shown that the range of internal and external threats warrant a concerted effort to upgrade agency defences against fraud and corruption risks.

In addition, fraud and dishonesty can lead to significant losses to the PTO. The taint of fraud may damage the reputation of the PTO with its clients, the general public and stakeholders. Fraud incidents have the potential to reflect negatively on the integrity of its staff and seriously impair the trust PTO enjoys with its clients and other stakeholders. The Public Trustee has an obligation to ensure that PTO maintains appropriate internal controls which prevent and detect losses and promote ethical and efficient use of public resources.

Attitude to Fraud and Corruption

Fraud and corruption undermine the achievement of the PTO corporate objectives and will not be tolerated. While all the relevant circumstances will be considered when responding to fraud incidents, that response will be in accordance with the requirements under which the PTO operates and in line with our corporate vision and mission.

Privacy

The Public Trust Office Privacy Plan imposes a duty on all staff, agents and contractors to comply with Information Standard 42. Also, section 15 of the Public Trustee Act 1978 states that:

“Every member of the staff of the Public Trust Office, every agent of the public trustee and every member of The Public Trust Office Investment Board ... shall be bound to secrecy by declaration in the form approved by the public trustee.”

The Fraud and Corruption Control Strategy.

Fraud and corruption control are components of good governance and management practice.

In a rapidly changing business environment, it is vital to develop an integrated fraud and corruption control strategy to address these risks which incorporates the following:

- ❖ Fraud and Corruption Control Policy; and
- ❖ Fraud and Corruption Control Plan including:
 - Fraud Risk Assessment Schedules;
 - Fraud Treatment Schedules; and
 - Fraud Treatment Implementation Plan.

The Fraud Control Policy

This policy sets out the manner in which the Public Trustee plans to prevent fraud occurring through managing the risk of fraud, corruption and official misconduct. It incorporates the Public Trustee’s implementation of the ten elements of a sound fraud and corruption risk management policy set out the CMC’s *Fraud and Corruption Control; Guidelines for Best Practice* (CMC, 2005).

The PTO also has policies governing the conduct of its employees. This policy integrates with other policies and procedures of the PTO, in particular, the Code of Conduct, risk management and, employment and disciplinary policies. To understand the whole framework for dealing with fraud risk, this policy should be read in conjunction with other relevant documents listed below.

- ❖ Code of Conduct;
- ❖ Financial Management Practice Manual;
- ❖ Risk Management Charter;
- ❖ Grievance Resolution Policy;
- ❖ Complaints Management Policy; and
- ❖ Use of Internet and Electronic Mail Policy.

The Fraud Risk Assessment

The Fraud Risk Assessment is completed by business units as part of the annual Risk Management Program or in response to major business group changes and significant incidents.

The Fraud Treatment Schedule and Implementation Plans

The Fraud Treatment Schedule and Implementation Plans are to be completed by business units and identify actions to reduce risk frauds and a timetable for implementation.

POLICY STATEMENTS

Policy Statements

- Fraud Control is a responsibility of all staff of the PTO
- It is the responsibility of all managers and senior staff to provide leadership by ensuring that their behaviour at all times reflects the standards that are expected of all staff.
- Management will ensure that there is a documented Code of Conduct that provides guidance as to how staff should conduct themselves in the workplace and while carrying out their duties.
- The *Code of Conduct* will communicate the PTO's view that fraud will not be tolerated and that breaches of the Code will be acted upon.
- Management will undertake a regular review of the PTO's Code of Conduct.
- Management will ensure that appropriate policies and procedures concerning issues such as gifts, benefits and bribes and the nature of dangers of conflicts of interest, are in place and reviewed on a regular basis.
- New staff will receive training in the PTO's Code of Conduct as part of their induction training.
- Existing staff will receive training in all aspects of their jobs including fraud prevention and detection.
- Management will ensure that there are grievance management systems that allow personal problems in the workplace to be quickly identified, addressed and resolved; and that these systems are reviewed on a regular basis.
- Management will undertake the *Fraud Risk Assessments* and prepare *Fraud Treatment Schedules* and *Implementation Plans* as part of the annual risk management process to identify vulnerabilities to fraud.
- Management will undertake systems appraisals to assess the appropriateness and proper functioning of the PTO's systems, procedures and internal controls – as an important part of the fraud prevention process.
- As an output of the *Fraud Risk Assessment* and *Fraud Treatment Schedules and Implementation Plans* the Fraud Control Officer will produce a high level *Fraud and Corruption Control Plan* which identifies fraud risks, vulnerabilities, control measures, responsibilities and timeframes for implementation of fraud control measures;
- All losses will be reported to the Queensland Audit Office by virtue of Section 42(2) of the *Financial Management Standard 1997*.

- Responsibility for fraud control rests with the PTO even where an activity is outsourced to an External Service Provider.
- Appropriate risk management committees such as the Risk Management Committee and the Audit Committee have been established to ensure that other bodies have responsibility for monitoring the Department's risk management procedures.

ROLES AND ACCOUNTABILITIES

Roles and Accountabilities

The Public Trustee is responsible for ensuring that fraud and corruption risk is effectively managed in the PTO.

Fraud Control Officer

The Fraud Control Officer will be responsible for:

- ❖ Preparing the annual PTO Fraud and Corruption Control Plan;
- ❖ Receiving fraud and related loss reports;
- ❖ Reporting significant fraud incidents to the Public Trustee as soon as practicable;
- ❖ Ensuring there is an on going fraud awareness program;
- ❖ Communicating with managers and staff about their responsibilities for preventing, detecting and reporting fraud;
- ❖ Establish a timetable within the PTO's planning process for managers to conduct annual fraud risk assessments in accordance with this policy;
- ❖ Preparing an Annual Report for the Audit Committee on the management of fraud and corruption risk in the PTO;
- ❖ Reporting significant fraud incidents to the monthly Risk Management Committee meeting;
- ❖ Ensuring that suspected frauds are reported and responded to effectively and in accordance with this policy; and
- ❖ Ensuring that this policy is reviewed on an annual basis.

For the purposes of this policy the Deputy Public Trustee is the Fraud Control Officer.

Audit Committee

The purpose of the Audit Committee is to assist the Public Trustee in fulfilling responsibilities relating to PTO internal control arrangements. In particular, as they relate to fraud and corruption control, the Committee will monitor corporate risk assessment and the adequacy of the internal controls established to manage identified risks. At least once a year the Audit Committee will receive a report from the Fraud Control Officer on the management of fraud risk within the PTO.

Risk Management Committee

For the purposes of this policy the Risk Management Committee will be responsible for:

- ❖ Reviewing the annual PTO Fraud and Corruption Control Plan;
- ❖ Recommending adoption of the annual PTO Fraud and Corruption Control Plan to the Public Trustee; and
- ❖ Receiving monthly fraud and related loss reports.

Responsibilities of Managers

It is the responsibility of all managers to ensure that they oversee systems that cultivate high standards of ethical conduct and contain internal controls that minimise the opportunity for fraud and dishonesty in their own area. Managers are responsible for ensuring these standards and controls are brought to the attention of their employees.

Managers will be primarily responsible for implementing action plans contained in the PTO Fraud and Corruption Control Plan, and conducting fraud risk assessments within their areas of responsibility.

DEFINITIONS

Definitions

Fraud

Fraud is an offence under part 6, s87-92 of the Public Service Act 1996 and the Public Sector Ethics Act 1994. It also constitutes misconduct and is actionable under the Public Service Act 1996. In addition, fraud is defined as a criminal offence in the Queensland Criminal Code and carried severe sanctions, including possible imprisonment.

The PTO has adopted a general definition of fraud based on the approach taken in Commonwealth agencies.

“**Dishonestly** obtaining a benefit by **deception** or other means.”

(Commonwealth Fraud Control Guidelines May 2002, Section 2.1)

Fraud means the use of deceitful or dishonest conduct by employees or members of the public against the Public Trustee or client interests:

- ❖ To obtain advantage, financial or otherwise; and/or
- ❖ To cause a loss to the PTO or its clients.

The key element which characterises improper conduct as fraudulent is dishonesty.

Some Examples of fraud are:

- ❖ Theft of any PTO or client property;
- ❖ Forgery or alteration of any document, e.g. a cheque;
- ❖ Destruction or removal of records;
- ❖ Misuse of PTO or client property;
- ❖ Acceptance of goods and services as an inducement to giving work to any supplier;
- ❖ Falsifying expense claims;
- ❖ Disclosing confidential information to outside parties without authority for personal gain;
- ❖ Dishonest use of the government assets and facilities for personal use.
- ❖ Collusive bidding
- ❖ Insider Trading
- ❖ False Invoicing
- ❖ Theft of cash and negotiable instruments
- ❖ Diversion of funds through electronic banking
- ❖ Credit card fraud
- ❖ False accounting
- ❖ Material and deliberate misstatement of accounting information
- ❖ Overcharging for goods and services
- ❖ Recording credits for goods and services provided and refunding for personal benefit

Corruption

The term corruption involves improper personal gain by a person as a result of their dishonesty.

Fraud or corruption by a public official will generally constitute official misconduct as defined in the *Crime and Misconduct Act 2001* and are distinct from misconduct referred to in the *Public Service Act 1996*.

The Australian Standard on Fraud and Corruption Control defines corruption as dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity.

Maladministration

Maladministration is defined in the *Whistleblowers Protection Act 1994* as an administrative action that is unlawful, arbitrary, unjust, oppressive, and improperly discriminatory or taken for an improper purpose and which substantially and adversely affects someone's interests.

Official Misconduct

Official misconduct is defined in the Crime and Misconduct Act 2001. It can generally be described as conduct by a public official that involves:

- ❖ Carrying out the duties or exercising the powers of the public official in a manner that is dishonest or lacks impartiality, or
- ❖ A breach of trust placed in the person by reason of their official position, or
- ❖ A breach of confidentiality.

This could amount to a criminal offence or a disciplinary breach that provides reasonable grounds for terminating the person's employment.

Any suspicion that an employee has been involved in fraud or corruption will need to be reported to the Crime and Misconduct Commission.

Corporate Governance

Corporate Governance is a term which refers to the way in which the PTO is directed and controlled in order to achieve its strategic goals and operational objectives. The control environment makes the organisation reliable in achieving its goals and objectives within an acceptable degree of risk. Appropriate corporate governance ensures a high standard of accountability at all levels of the organisation and as such enables the Public Trustee to exercise accountability in law.

TEN ELEMENTS OF FRAUD AND CORRUPTION CONTROL

Ten Elements of Fraud and Corruption Control

PTO-wide integrated policy

This policy identifies the key factors that influence fraud and corruption risk. It provides an integrated framework to deal with fraud and corruption risks, and references related policies to control the likelihood and impact of those risks.

Risk Assessment

Fraud and corruption risk analysis considers not only the current threats from internal and external sources but also potential and emerging threats. Risk assessments are a management responsibility and are undertaken in accordance with AS4360:2004. The process of identifying and analysing risks can produce a wealth of information about how those risks could be reduced or eliminated.

Internal Controls

Creating a suitable internal control environment involves a number of components including the following:

- ❖ Emphasis on accountability;

- ❖ Organisational structure and design;
- ❖ Internal Audit;
- ❖ Corporate health which includes realistic goals, objectives and expectations; appropriate organisational structure; delegations that clearly assign responsibility and accountability; and participative and transparent management style;
- ❖ Assessment of current and emerging issues;
- ❖ Relationship between internal and external audit;
- ❖ The audit committee;
- ❖ Competancy of agency personnel;
- ❖ Controlled entities or agencies; and
- ❖ External influences.

Managers should be committed to high levels of internal control. Line managers and supervisors are often in the best position to identify system deficiencies that facilitate fraud and corruption. Everyone has a role to play in making sure that internal controls are working properly to reduce the opportunities for fraud, corruption and official misconduct to occur.

Internal Reporting

Staff members play an important role in reporting and controlling fraud and corruption. Our internal reporting systems aim to provide an open and receptive process that encourages staff to take action and report suspected fraud when they become aware of it. Reporting requirements in various forms are covered in state legislation including, the *Financial Administration and Audit Act 1977* (FAA Act), *Financial Management Standard 1997* (FMS) and the *Crime and Misconduct Act 2001* (CM Act).

The internal reporting system will encourage a free flow of information through the normal supervisory and management channels. The system will:

- ❖ Receive information about identified risks and suggestions for systems improvements;
- ❖ Receive information about suspected acts of fraud and corruption;
- ❖ Maintain the confidentiality of the parties involved (as far as possible);
- ❖ Pass information on to the relevant officer (supervisor or manager);
- ❖ Ensure appropriate assessment and investigation;
- ❖ Ensure compliance with additional external reporting requirements; and
- ❖ Provide feedback to the informant, demonstrating that the information was taken seriously and acted upon.

External Reporting

Queensland's public sector integrity framework includes three independent statutory bodies which play complementary roles in promoting good governance, accountability and integrity. These are the Queensland Audit Office (QAO), the CMC and the Queensland Ombudsman. Criminal matters are dealt with by the Queensland Police Service.

Public Interest Disclosures

The *Public Sector Ethics Act 1994* and the *Whistleblower Protection Act 1994* [WP Act] provide the ethical framework and spell out the protection principles for officers making public interest disclosures. The *Crime and Misconduct Act 2001* provides an external reporting mechanism and an independent investigative and enforcement body. The context in which a disclosure is made is crucial in determining how it will be treated under law. Anyone making a disclosure will receive the protection afforded under the WP Act to the full extent possible.

Investigations

Allegations of fraud and corruption will be handled and investigated competently. The *Facing The Facts - A CMC Guide* for dealing with suspected official misconduct in Queensland public sector agencies will be used as the basis for any assessments and investigations undertaken into incidents which are reported.

Code of Conduct

The PTO Code of Conduct is regularly reviewed and updated to ensure it provides a valuable resource for guiding appropriate behaviour in the PTO. It contains guidance on key components of the PTO response to the risk of fraud, corruption and official misconduct.

Staff education and awareness

Awareness of ethical principles and ethical decision-making skills are essential elements of fraud and corruption control. Staff development programs will be built on the code of conduct and include relevant scenarios or case studies that encourage participation. The actions to be undertaken each year will be outlined in the annual Fraud Control and Corruption Plan.

Client and community awareness

Community awareness of the measures adopted to minimise the risk of fraud and corruption occurring within the PTO help promote confidence in the ability of the office to service its clients with high standards of accountability, consultation and ethics. An external communication plan for clients and the community will identify appropriate groups and communication strategies to enhance the reputation of the PTO and contribute to the prevention of fraud and corruption.

REFERENCES OR AUTHORITY

References and Authority

Relationship to Legislation and other Policies

Fraud control within the PTO has been developed in line with requirements and guidance which are set out in the following:

- ❖ *Public Service Act 1996*
- ❖ *Financial Administration and Audit Act 1977 and Financial Management Standard 1997*
- ❖ *Queensland State Purchasing Policy 2000*
- ❖ Auditing requirements arising from standards adopted by the QAO, particularly Australian Auditing Standard - *AUS210 The Auditor's Responsibility to Consider Fraud in an Audit of a Financial Report*
- ❖ *Crime and Misconduct Act 2001*
- ❖ *Ombudsman Act 2001*
- ❖ *Whistleblowers Protection Act 1994*
- ❖ *Industrial Relations Act 1999*
- ❖ The *Criminal Code of Queensland*, particularly Part 1 Chapter 13 – Corruption and Abuse of Office and Part 6 – Offences Relating to Property and Contracts
- ❖ *Criminal Law (Rehabilitation of Offenders) Act 1977*
- ❖ *Classification of Computer Games and Images Act 1995*
- ❖ *Information Standard 42 [Privacy]*

The PTO Fraud and Corruption Control Policy is one of a suite of policies which are focussed on supporting our core values of integrity and fairness. For fraud and corruption control to be effective our professional conduct is also guided by the PTO policies in the following areas:

- ❖ Code of Conduct;
- ❖ Risk Management Charter;
- ❖ Grievance Resolution Policy;
- ❖ Complaints Management Policy; and
- ❖ Use of Internet and Electronic Mail Policy

Where there is any inconsistency between this policy and those requirements the legislative requirements will prevail.

Australian Standards

AS8000 Series on Corporate Governance

- ❖ AS8000:2003 – Good Governance Principles
- ❖ AS8001:2003 – Fraud and Corruption Control
- ❖ AS8002:2003 – Organisational Codes of Conduct
- ❖ AS8003:2003 – Corporate Social Responsibility
- ❖ AS8004:2003 – Whistleblower protection programs for entities

AS4360:2004 – Risk Management

Other Government Resources

NSW ICAC Corruption Prevention Publications:

www.icac.nsw.gov.au

Commonwealth Government Fraud Control Guidelines:

www.ag.gov.au/www/criminaljusticeHome.nsf/HeadingPagesDisplay/Fraud+Control?OpenDocument

FRAUD AND DISHONESTY RISK MANAGEMENT

Fraud and Dishonesty Risk Management

Regular Program of Fraud Risk Management

Fraud risk management in the PTO comprises a regular program of risk assessment and annual fraud and corruption control planning to ensure that controls are in place to prevent and detect any significant instances of fraud, promoting awareness of the risk of fraud and responding to instances of fraud in accordance with the requirements of the *Fraud and Corruption Control; Guidelines for Best Practice* (CMC, 2005) and PTO values and corporate directions.

Fraud Risk Assessment

The Fraud Control Officer will ensure that fraud risks are included within overall risk assessment processes for the PTO.

Fraud risks will be identified through an assessment process consistent with AS4360:2004 addressing inherent risk and the likelihood and consequences of identified risks. Significant identified risks will be included in the PTO Fraud and Corruption Control Plan.

Annual Business Unit Fraud Risk Assessments

The Fraud Control officer will ensure that managers undertake a specific fraud risk assessment exercise at least annually or in response to major business group changes and significant incidents. The Fraud Control Officer will establish a timetable within the planning process for managers to conduct annual fraud risk assessments.

The PTO will conduct fraud risk assessments with the objective of identifying and describing fraud risks which will be included in the fraud risk register. There is no restriction as to how fraud risks are assessed. However a facilitated or consultative workshop approach is preferred.

The workshop can be facilitated by either an internal risk management specialist or an external consultant specialising in fraud control. The workshop should include the following:

- ❖ Review of current fraud risk register items for confirmation of risk assessments contained;

- ❖ Status of action plans in the existing Fraud and Corruption Control Plan and their impact on residual risks assessed;
- ❖ Incidents which have occurred in the period;
- ❖ Changes to business processes and the environment in the period which may increase or mitigate the risk of fraud;
- ❖ Changes to personnel and business culture and climate in the period;
- ❖ Internal reviews and issues identified;
- ❖ A detailed process review of at least one identified risk area on a rolling basis to ensure that high risk processes are reviewed in detail at least once every three years; and
- ❖ Any other reviews highlighting weaknesses in comparable systems or processes in other agencies within the Queensland public sector, other states or the Commonwealth government.

Following the risk assessment activity, the product group manager will advise the fraud control officer of proposed changes to the fraud risk register and fraud and corruption control plans for that area.

PTO FRAUD AND CORRUPTION CONTROL PLAN

PTO Fraud and Corruption Control Plan

The Fraud Control Officer will ensure that a PTO Fraud and Corruption Control Plan is developed, reviewed annually by the Risk Management Committee and presented for the consideration of the Audit Committee.

The PTO Fraud and Corruption Control Plan will outline action items and responsibilities for fraud control initiatives both of a general nature and in response to high level risks identified through fraud risk assessments.

General issues to be addressed in the Fraud and Corruption Control Plan include:

- ❖ Overview of fraud allegations and incidents including the outcomes of any actions and the disposition of matters at the end of the reporting period;
- ❖ Status of action items in the Fraud and Corruption Control Plan;
- ❖ Overview of internal audit reviews which impacted on the Fraud and Corruption Control Plan or which arose as a result of fraud risk assessments or incidents;
- ❖ Proposed internal audit reviews which impact on the Fraud and Corruption Control Plan;
- ❖ Strategies for receiving external complaints;
- ❖ Awareness and training anticipated throughout the period;
- ❖ Mechanisms for monitoring awareness of fraud risk and control issues; and
- ❖ Results of the annual review of the fraud policy.

Managers and Deputy Directors will be responsible for the completion of action items in their area unless an alternative responsibility is included in the plan. Failure to ensure the completion of action items in the Fraud and Corruption Control Plan will be considered a serious issue to be referred to the Risk Management Committee.

FRAUD AWARENESS

Fraud Awareness

Fraud awareness will be promoted throughout the PTO by a range of formal and informal means. The Fraud Control Officer will list proposed fraud awareness activities in the annual Fraud and Corruption Control Plan and will report on progress against those planned activities at each annual review of the plan.

Induction programs and management training will include awareness of the PTO Fraud and Corruption Control Policy. An outline of the PTO Fraud and Corruption Control Policy will be included in guidelines to assist managers.

Where appropriate the PTO will promote fraud prevention initiatives through communications to staff and will report on how it has responded to identified fraud incidents.

Informally managers will promote awareness of fraud risk through group and team meetings. Participation of appropriate personnel in regular fraud risk assessment exercises will increase managers' awareness of their responsibilities to manage fraud risks effectively.

The PTO recognises that fraud awareness is an important component of fraud prevention. The Fraud Control Officer will ensure that surveys conducted by the PTO periodically will include questions addressing awareness of fraud risk and fraud and corruption control planning and that the assessment of these responses are reported to the Risk Management Committee and Audit Committee as part of the review of fraud incidents and risks.

Fraud Detection

In the PTO, effective fraud detection will be achieved through a combination of vigilance on the part of employees and line management and confidence in fraud reporting mechanisms. It will also include:

- ❖ Use of internal audit resources for special reviews;
- ❖ Specific detective controls for significant fraud risks outlined in the PTO Fraud and Corruption Control Plan; and
- ❖ Periodic management reviews.

Systems to detect fraud should be cost effective and proportionate to the risk identified. In developing systems to detect fraud, managers should consider:

- ❖ Post transaction review controls (including exception reports on changes to high risk data, review of access logs and controls);

- ❖ Analysis of transactional data for anomalies (including the use of computer assisted auditing techniques); and
- ❖ Scrutiny of variances in management accounts against budget and in year to year trends.

Managers should also assess other indicators relating to:

- ❖ Personal risks – leave accumulations, uncharacteristic lifestyle changes, sudden changes in behaviour;
- ❖ Cultural risks – performance pressure, attitudes to internal control;
- ❖ Structural risks – changes to corporate structure, supervision of remote locations; and
- ❖ Business risks – changes to business strategy, corporate reputation.

PROCEDURES FOR REPORTING FRAUD AND DISHONESTY

Procedures for Reporting Fraud and Dishonesty

Fraud and Losses

While every fraud may not result in a loss to the PTO or its clients, this generally will be the case. Every loss may not be the result of fraud. The Public Trustee is required to take certain action in relation to material losses which may have been the result of a fraud. Section 42 of the *Financial Management Standard*, requires the Public Trustee to investigate, prepare a report and take action to prevent such losses occurring in the future. Since fraud is a criminal offence, such losses must be reported in writing to the Queensland Police Service, the Crime and Misconduct Commission and the Queensland Auditor-General.

Internal Reporting

The cooperation of employees of the PTO is vital to the successful implementation of measures to guard against fraud and corruption. The PTO encourages employees to report any concerns they have, without fear of being penalised. Employees who have concerns about any improper conduct should, where appropriate, raise those concerns with their Supervisor, Manager, Deputy Director or Director.

The *Public Sector Ethics Act 1994* requires all staff to report instances of maladministration to an appropriate authority.

The Supervisor, Manager, Deputy Director or Director should review the substance of the concerns without contacting the employee or other party about whom the concerns are raised and report the concerns to the Fraud Control Officer.

In circumstances where it is felt to be inappropriate to report concerns about fraud or dishonesty to a member of the senior management group, the concern should be reported to a member of the PTO Audit Committee.

Reports are Confidential

The *Whistleblowers Protection Act 1994* [WP Act] safeguards public officials who disclose unlawful and improper conduct including fraudulent and corrupt behaviour. Disclosures generally might be made about:

- ❖ Official misconduct;
- ❖ Maladministration;
- ❖ Danger to a person with a disability; and
- ❖ Negligent or improper management affecting the Office's or client funds.

Public interest disclosures can be made to the Public Trustee, your manager or an appropriate person. Disclosures can be made to other appropriate entities such as the:

- ❖ Ombudsman;
- ❖ Auditor-General;
- ❖ Queensland Police Service;
- ❖ Crime and Misconduct Commission; or
- ❖ Health Rights Commission.

You should refer to the WP Act for more detail.

All concerns reported will be treated in confidence and fully assessed. If anonymity is requested, every effort will be made to ensure such confidentiality. However, if matters need to be referred to the police, the CMC or other appropriate agency, it may be necessary for the officer raising the concern to assist the agency in their inquiries.

To preserve the integrity of the process for voicing concerns there is a need to ensure that the investigative process is not misused. This should not deter employees from raising genuine concerns (even if subsequently unfounded but made with good intent), as, in so doing, they will be supported in every possible way.

Managers are responsible for ensuring that persons who raise concerns are protected from any adverse treatment on the basis that they have raised a concern.

Managers must discuss their approach to managing an internal informant with the Fraud Control Officer.

RECORDING FRAUD REPORTS

Recording Fraud Reports

Any allegation of fraud received by the Fraud Control Officer should be recorded when received or as soon as practicable thereafter. The Fraud Control Office will ensure that allegations of fraud are recorded in an appropriate management information system which is integrated with other relevant information systems including the PTO Register of Losses. The full particulars of any allegation should be recorded by the Fraud Control Officer in the Fraud Control Register including:

- ❖ date and time of contact;

- ❖ the name of the complainant and contact details;
- ❖ nature of the allegation;
- ❖ alleged time or period of the conduct;
- ❖ circumstances of the conduct;
- ❖ location of the conduct;
- ❖ name/s and address(es) of the subject(s) if known; and
- ❖ reason for providing the information.

The management information system for recording fraud allegations and incidents should also contain particulars about the response to the allegation and the results of any prosecution or recovery action. Among other information items, the fraud management information system should include:

- ❖ the type of incident;
- ❖ the estimate of the expected loss;
- ❖ the product group and location of the alleged incident;
- ❖ the method by which the incident was referred or detected;
- ❖ the status of the investigation;
- ❖ the duration of the investigation, or the date that the investigation started (and finished, when appropriate);
- ❖ any referrals to the Queensland Police or CMC, Auditor-General or other relevant agencies; and
- ❖ any recoveries or restitution which has been made.

REPORTS OF FRAUD CONCERNS TO MANAGEMENT

Reports of Fraud Concerns to Management

The Fraud Control Officer will report all significant reports of concerns about fraud to the Public Trustee, the Chairman of the Audit Committee, the Chairman of the Risk Management Committee and where appropriate to the Manager of the area to which the concern relates, as soon as possible; except where the report of a concern about fraud involves these persons.

RECEIVING EXTERNAL CONFIDENTIAL REPORTING OF SUSPICIONS OF FRAUD

Receiving External Confidential Reporting of Suspicions of Fraud

The PTO recognises that complaints from sources external to the Office are important to identifying incidences of fraud and corruption. The PTO will establish strategies in its

Fraud and Corruption Control plan for effectively receiving external complaints including situations where the complainant wishes to make a complaint confidentially.

ASSESSMENT, INVESTIGATION AND RESPONDING TO SUSPECTED FRAUD

Assessment, Investigation and Responding to Suspected Fraud

Preliminary Assessment

The Fraud Control Officer will oversee a preliminary assessment of an allegation or incidence of suspected fraud to:

- ❖ determine whether there is substance to the matter; and
- ❖ determine the actions that the PTO intends to take based on the evaluation of the available information received as part of the allegation or obtained from preliminary inquiries [subject to confirmation from the Public Trustee].

Where the matter involves reportable losses, or may result in serious reputation damage to the PTO or its clients, the Fraud Control Officer will engage appropriately qualified and experienced investigators to undertake the preliminary assessment.

If possible, the assessment of the allegation of fraud should be conducted after obtaining any readily accessible evidentiary information from within the PTO, where the collection of such evidence would not jeopardise any future investigation.

Any assessment process undertaken by PTO should not alert the subject/s of the allegation.

The assessing officer should protect the confidentiality of the complainant and the subject officer of the allegation of fraud. The assessing officer will report to the Fraud Control Officer.

Investigation of Fraud or Corruption and Other Improper Conduct

All investigations of suspected fraud or corruption or official misconduct will be conducted consistently with the approach outlined in the CMC's publication, *Facing the Facts*. The Fraud Control Officer will consider the following factors when deciding whether to investigate an allegation of fraud or corruption or other improper conduct:

- ❖ public sector requirements for a matter to be investigated;
- ❖ nature of the alleged conduct;
- ❖ seriousness of the alleged conduct;
- ❖ threat to the PTO's systems;
- ❖ effects of the alleged conduct on the operational effectiveness of PTO; and
- ❖ political or public sensitivity.

If a matter is to be investigated the PTO will:

- ❖ refer an investigation matter to the Queensland Police Service, the Crime and Misconduct Commission and the Auditor General;

- ❖ utilise qualified internal investigators: or
- ❖ engage suitably qualified and experienced investigators to conduct an investigation on its behalf.

Any investigator, other than a Queensland Police Officer, engaged by the PTO will undertake to:

- ❖ perform their duties with professionalism and integrity;
- ❖ observe the principles of natural justice, fairness and equity in dealing with the public and officers of the PTO;
- ❖ avoid any real or possible conflict of interest and avoid situations in which their private interests, whether pecuniary or otherwise, conflict or might reasonably be thought to conflict with their public duty; and
- ❖ perform the investigation, uninfluenced by fear or favour.

Documentation of the Results of the Investigation

Adequate records must be made and kept of all investigations. These records should be kept in accordance with legal, best practice and privacy management guidelines. A report on the results of the investigation, the procedures undertaken and the material collected should be prepared. Investigation reports are to be marked as strictly confidential and access to these reports should be restricted to those who have a need to know to perform their official functions.

Internal control review following discovery of fraud

Following an allegation or incidence of suspected fraud or dishonesty, the Fraud Control Officer will ensure that a review is conducted of the adequacy of controls to prevent fraud of the type suspected or occurring. Any actions proposed as a result of the review will be documented and included in the Fraud and Corruption Control Plan.

Mandatory Reporting

Section 38 of the Crime and Misconduct Act 2001 imposes a duty on the Public Trustee to report any suspicion “that a complaint, or information or matter ... involves, or may involve, official misconduct” to the Crime and Misconduct Commission for investigation.

Where it is immediately clear or becomes clear after a preliminary assessment that there are sufficient grounds to support a complaint that a material fraud may have occurred, on the instructions of the Public Trustee the Fraud Control Officer will ensure that the Queensland Police are advised of those grounds. The Fraud Control Officer will ensure that the CMC and the Queensland Police are advised of any actions the PTO wishes to take in respect of the matter and will ensure that officers of the Public Trust Office will co-operate with any investigative action the police propose to proceed with.

Where the Queensland Police advise that a matter cannot be usefully investigated or may be more effectively dealt with by other means, the Fraud Control Officer will consider whether any civil, administrative or recovery action should be taken in accordance with this policy.

In deciding to refer a matter to the Queensland Police, the Fraud Control Officer will act in accordance with all the requirements including reporting arrangements for losses set out in the Financial Management Practice Manual.(Practice Standard 5.3.15 refers).

The Fraud Control Officer will ensure that the Auditor-General is advised of material losses where the loss was attributed to a fraud and/or a breakdown in internal control as set out in the *Financial Management Standard 1997*.

Civil and Administrative Remedies

Where either immediately or after a preliminary assessment, the Fraud Control Officer considers it appropriate to institute civil proceedings, the matter including all relevant facts should be referred to the Official Solicitor for recommendations as to the appropriate action to be taken.

Separately or in addition to other actions taken in response to a fraud allegation, the Fraud Control Officer may recommend that administrative or disciplinary action be considered under the *Public Service Act 1996*, the PTO Code of Conduct or other requirements.

Recovery of the Proceeds of Fraudulent and Dishonest Conduct

The PTO will take appropriate legal proceedings to recover any losses caused by theft fraud or misappropriation. Where a prosecution is instituted by the Queensland Police Service, the Fraud Control Officer will liaise with the relevant officer to ensure that an application for restitution is made as a part of the proceedings.

INTERNAL AUDIT

Internal Audit

Internal Audit Program

Internal Audit does not have as its primary focus the detection of fraud. However, because of its focus on reviewing the internal control environment and compliance with regulations, it will identify weaknesses in internal control, which may leave the PTO exposed to a higher risk of fraud.

The Fraud Control Officer and the relevant Manager will review all internal audit reports and include any identified weaknesses in the fraud risk assessment process.

Where an internal audit identifies weaknesses in controls that are part of the Fraud and Corruption Control Plan, the Fraud Control Officer and the Manager will ensure that an appropriate review is undertaken to ensure that those weaknesses have not been exploited by an actual fraud incident and that appropriate treatment measures are included in the Fraud and Corruption Control Plan.