



## FRAUD AND CORRUPTION PREVENTION POLICY

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Relevant Document Reference	<ul style="list-style-type: none"> <li>• Code of Conduct for Board Members (D12/1640[v2])</li> <li>• Code of Conduct for Employees (D14/5682[v2])</li> <li>• Risk and Opportunity Management Policy and Framework and Internal Control Manual and Procedures (D15/5720)</li> <li>• Whistleblower Protection Policy (D14/10620[v3])</li> </ul>
Applicable Legislation	<ul style="list-style-type: none"> <li>• Section 132A of the <i>Local Government Act 1999</i></li> <li>• <i>Independent Commissioner Against Corruption Act 2012</i></li> <li>• <i>Whistleblowers Protection Act 1993</i></li> </ul>

### 1. Purpose

Eastern Health Authority (EHA) recognises that Fraud and Corruption has the potential to cause significant financial and non-financial harm, and that the prevention and control of Fraud and Corruption should feature predominantly within the systems and procedures of a responsible organisation.

The purpose of the Fraud and Corruption Prevention Policy (the “Policy”) is to clearly define EHA’s commitment to preventing fraud and corruption, and to outline the methodology in place to minimise fraud and corruption threats.

### 2. Scope

This Policy is intended to complement and be implemented in conjunction with other EHA policies, including:

- Code of Conduct for Board Members

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- Code of Conduct for Employees
- Risk and Opportunity Management Policy and Framework and Internal Control Manual and Procedures
- Whistleblower Protection Policy.

This Policy applies to all disclosures that relate to the actual or suspected occurrence of fraud and corruption within EHA by Public Officers.

### **3. Definitions**

For the purposes of this Policy the following definitions apply:

An **Appropriate Authority** that receives disclosure of public interest information includes:

- A Minister of the Crown;
- A member of the South Australian Police Force - where the information relates to an illegal activity;
- The Auditor-General – where the information relates to the irregular or unauthorised use of public money;
- The Ombudsman – where the information relates to a public officer;
- A Responsible Officer, where the information relates to a matter falling within the sphere of responsibility of a Local Government body;
- An appointed Officer under EHA’s Whistleblowers Policy; or
- Any other person<sup>1</sup> to whom, in the circumstances of the case, it is reasonable and appropriate to make the disclosure<sup>2</sup>.

A person makes an **appropriate disclosure** of public interest information if

- (a) The person-
  - i. Believes on reasonable grounds that the information is true: or
  - ii. Is not in a position to form a belief on reasonable grounds about the truth of the information but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated; and
- (b) The disclosure is made to the Appropriate Authority.

Where a person making a disclosure requests to do so under the Whistleblowers Protection Act, the matter will be managed in accordance with EHA’s Whistleblowers Policy rather than this document.

**Corruption** is dishonest activity in which a Public Officer acts contrary to the interests of the organisation 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<sup>3</sup>

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<sup>1</sup> Such a person may include an independent company that offers an anonymous whistleblower call service.

<sup>2</sup> Where the disclosure relates to fraud and corruption, the Appropriate Authority must pass the information as soon as practicable to the Anti-Corruption Branch of the SA Police.

<sup>3</sup> Adapted from Australian Standard AS8001-2008: Fraud and Corruption Control definitions

**Corruption** in public administration means:

- a) an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
  - (i) bribery or Corruption of public officers;
  - (ii) threats or reprisals against public officers;
  - (iii) abuse of public office;
  - (iv) demanding or requiring benefit on basis of public office;
  - (v) offences relating to appointment to public office.
- b) any other offence (including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence; or
- c) any of the following in relation to an offence referred to in a preceding paragraph:
  - (i) aiding, abetting, counselling or procuring the commission of the offence;
  - (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
  - (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
  - (iv) conspiring with others to effect the commission of the offence.

**Deception** means deceiving another person to obtain a benefit or to cause detriment to a person.

**Directions and Guidelines** refer to the document titled as such and available on the ICAC website [www.icac.sa.gov.au](http://www.icac.sa.gov.au)

**Employee** means any person who is employed by EHA, but also includes any contractors, volunteers and consultants undertaking work for, or on behalf of EHA.

A **False Disclosure** is a disclosure of information involving actual or suspected fraud or corruption that is made by a person who knows the information to be false or, who is reckless as to whether it is false.

**Fraud** means dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by a Public Officer and where deception is used at the time, immediately before or immediately following the activity. It can also include the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose, or the improper use of information or position for personal financial benefit.

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The theft of property belonging to EHA by a person or persons elected, working or volunteering for EHA but where deception is not used is also considered “fraud” for the purposes of this definition.

**Fraud** is an intentional dishonest act or omission done with the purpose of deceiving. Note: unlike ‘Corruption’ there is no statutory definition of ‘Fraud’. Fraud is a style of offending. The offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences.

**Maladministration** generally includes impropriety or negligence, which may extend to conduct of a serious nature that is:

- Contrary to law; or
- Unreasonable, unjust, oppressive or improperly discriminatory; or
- Based upon improper motives; or
- A result of acting outside the parameters of recommended practice.

**OPI (Office for Public Integrity)** is the office established under the *ICAC Act 2012* that has the function to:

- (a) receive and assess complaints about public administration from members of the public;
- (b) receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, EHA and public officers;
- (c) make recommendations as to whether and by whom complaints and reports should be investigated;
- (d) perform other functions assigned to the Office by the Commissioner.

**Team Leader** means any Employee of EHA who is responsible for the direct supervision of other Employees, and/or, for the management of a EHA Department.

**Public administration** defined at section 4 of the *ICAC Act 2012* means without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.

**Public Officer** has the same meaning as in the *ICAC Act 2012* and includes (but is not limited to):

- A Board Member of EHA;
- An Independent Member of an EHA Committee;
- An Employee of EHA.

A **Responsible Officer** is a person appointed and authorised to receive and act upon information provided by a Whistleblower. The Chief Executive Officer and the Manager People and Culture are Responsible Officers under the *Whistleblowers Protection Act*

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**SAPOL** means the Anti-Corruption Branch of the South Australian Police Force.

A **Whistleblower** is any person who makes an appropriate disclosure of public interest information.

**Waste** refers to the waste of public resources (including public money), which occurs as a result of the substantial mismanagement, irregular or, unauthorised use of public resources.

#### 4. Principles

EHA is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency, which are all key components of good governance.

EHA will not tolerate fraudulent or corrupt activity and is committed to control and prevention of such activities by:

- Establishing and maintaining an effective system of internal controls and enforcing compliance with those controls;
- Regularly undertaking and reviewing risk assessments to identify circumstances in which fraud and corruption could potentially occur;
- Implementing fraud and corruption prevention and mitigation strategies in its day to day operations;
- Establishing formal procedures for the investigation of allegations relating to fraudulent and/or corrupt activity;
- Taking appropriate action in response to allegations of fraudulent and/or corrupt activity including, reporting allegations through appropriate channels and where allegations are substantiated, taking disciplinary action in accordance with EHA's Codes of Conduct or other relevant processes;
- Ensuring all Board Members and Employees are aware of their obligations in regards to the prevention of fraud and corruption within EHA; and
- Fostering an ethical environment in which dishonest and fraudulent behaviour is actively discouraged.

#### 5. Policy

##### 5.1 Prevention

EHA recognises that:

- The occurrence of fraud and corruption will prevail in an administrative environment where opportunities exist for abuse and maladministration; and
- The most effective way to prevent the occurrence of fraud and corruption is to promote an ethical workplace in which internal control mechanisms have been implemented.

EHA expects that Public Officers will assist in preventing fraud and corruption

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within EHA by:

- Understanding the responsibilities of their position;
- Familiarising themselves with EHA's procedures and adhering to them;
- Understanding what behaviour constitutes fraudulent and/or corrupt conduct;
- Maintaining an awareness of the strategies that have been implemented by EHA to minimise fraud and corruption;
- Being continuously vigilant to the potential for fraud and/or corruption to occur; and
- Reporting suspected or actual occurrences of fraud or corruption in accordance with part 5.4 of this Policy.

## **5.2 Responsibilities**

5.2.1 Board Members are responsible for ensuring that EHA:

- Supports the Chief Executive Officer in the implementation of adequate security for the prevention of fraud and corruption including the provision of secure facilities for storage of assets, and procedures to deter fraudulent or corrupt activity from occurring; and
- Makes reports in accordance with part 5.4 of this Policy and facilitates cooperation with any investigation undertaken by an external authority (such as SAPOL or the Commissioner Independent Commissioner Against Corruption).

5.2.2 The Chief Executive Officer is responsible for:

- Making reports in accordance with part 5.4 of this Policy and facilitates cooperation with any investigation undertaken by an external authority (such as SAPOL or the Commissioner Independent Commissioner Against Corruption);
- Providing adequate security for the prevention of fraud and corruption, including the provision of secure facilities for storage of assets and procedures to deter fraudulent or corrupt activity from occurring;
- Promoting EHA's commitment to the prevention of fraud and corruption to the Community on relevant occasions;
- Providing mechanisms for receiving allegations of fraud or corruption, including ensuring that Responsible Officers and Employees receive appropriate training;
- Promoting a workplace culture and environment in which fraud and corruption is actively discouraged and is readily reported should it occur; and
- Undertaking and reviewing a fraud and corruption risk assessment on a regular basis.

5.2.3 Team Leaders are responsible for:

- The conduct of any Employees whom they supervise and, will be held accountable for such;
- Any property under their control and, will be held accountable for such;
- Reporting in accordance with part 5.4 of this Policy;
- Creating an environment in which fraud and corruption is discouraged and readily reported by Employees. Such an environment shall be fostered by the Team Leader's own attitude to fraud and corruption and, by the accountability and integrity they both display and encourage from other Employees;
- Ensuring that new Employees for whom they are responsible are aware of their responsibilities in relation to fraud and corruption and, of the standard of conduct expected from all Employees.
- Identifying potential fraud and corruption risks; and
- Leading by example to promote ethical behaviour.

5.2.4 Employees are responsible for:

- Performing their functions and duties with care, diligence, honesty and integrity;
- Conducting themselves in a professional manner at all times;
- Adhering to EHA's Policy and Procedures that have been established to prevent fraud or corruption;
- Taking care of EHA's property which includes avoiding the waste or misuse of EHA's resources;
- Maintaining and enhancing the reputation of EHA;
- Remaining scrupulous in their use of EHA's information, assets, funds, property, goods or services; and
- Reporting in accordance with part 5.4 of this Policy.

**5.3 Fraud and Corruption Risk Assessment**

5.3.1 EHA's main objective is to minimise the occurrence of fraud and corruption within EHA. This objective can generally be achieved by:

- Identifying Fraud and Corruption Risks;
- Determining strategies to control those risks; and
- Defining responsibility for and, the time frame within which the strategies will be implemented.

5.3.2 Team Leaders must be alert to the potential occurrence of fraud and corruption and factors which may leave EHA vulnerable to fraud and

corruption, including:

- Changes to EHA delegations and subdelegations;
- Implementation of cost cutting measures;
- Contracting out, outsourcing or services where EHA is generating an income;
- The impact of new technology; and
- Changes to risk management practices.

## 5.4 Reporting Fraud and Corruption in Public Administration to the OPI

### 5.4.1 Public Officers

**5.4.1.1** A Public Officer must report to the OPI any matter that the Public Officer reasonably suspects involves corruption in public administration unless the public officer knows that the matter has already been reported to the OPI.

**5.4.1.2** A report to the OPI by an Employee or Board Member must be made on the online report form available at [www.icac.sa.gov.au](http://www.icac.sa.gov.au) in accordance with the ICAC Act.

### 5.4.2 EHA

**5.4.2.1** EHA (that is, the Board Members collectively) must report to the OPI any matter that EHA reasonably suspects involves corruption in public administration unless EHA knows that the matter has already been reported to the OPI. The Chief Executive Officer is responsible for preparing a report to the OPI on behalf of EHA for these purposes (where the matter relates to the Chief Executive Officer the Chair is to make the report). The report must be made immediately upon receiving direction from EHA (such as via the Chair).

**5.4.2.2** A report to the OPI by the Chief Executive Officer on behalf of EHA must be made on the online report form available at [www.icac.sa.gov.au](http://www.icac.sa.gov.au) in accordance with the ICAC Act.

### 5.4.3 The Report to the OPI

**5.4.3.1** The report must be made in accordance with the Directions and Guidelines.

## 5.5 Reporting Fraud

**5.5.1** Any Employee or Board Member that has or acquires knowledge of actual or suspected Fraud that:

**5.5.1.1** does not constitute corruption in public administration;<sup>4</sup> and

**5.5.1.2** impacts or causes detriment (or has the potential to impact or cause detriment) to EHA –



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<sup>4</sup> Such conduct may, for example, relate to persons who are not public officers,

must report such information to the Responsible Officer or the Anti-Corruption branch of SAPOL.

- 5.5.2** A report made under part 5.6 may be made under the *Whistleblowers Protection Act 1993* and managed in accordance with EHA's Whistleblower Protection Policy.

**5.6 Action by the Chief Executive Officer Following Report and/or Investigation into Fraud or Corruption**

- 5.6.1** Following any report to the OPI or SAPOL under this Policy (or the Whistleblower Protection Policy as the case may be) of which the Chief Executive Officer has knowledge and, subject to the finalisation of any investigation undertaken by the Commissioner or SAPOL, the Chief Executive Officer will undertake a review into the area in which the Fraud or Corruption occurred to determine the cause for the breakdown in controls and, will report the findings of the review and provide recommendations (if any) to EHA. In undertaking any review, the Chief Executive Officer will have regard to any recommendations received from the Commissioner, SAPOL or the Ombudsman.

- 5.6.2** In the event that allegations of Fraud and/or Corruption are substantiated, EHA may take disciplinary action against any Employee who was involved.

**5.7 False Disclosure**

- 5.7.1** A person who makes a statement knowing that it is false or misleading in a complaint or report under the *ICAC Act 2012* or makes disclosure of public interest information, under the *Whistleblowers Protection Act 1993* knowing it to be false or being reckless about whether it is false or misleading, is guilty of an offence

- 5.7.2** An Employee who makes a false disclosure, in addition to being guilty of an offence, will face disciplinary action that may include instant dismissal.

- 5.7.3** Board Members who make a false disclosure, in addition to being guilty of an offence, may face disciplinary action pursuant to the Code of Conduct for Board Members.

**5.8 Educating for Awareness**

EHA recognises that the success and credibility of this Policy will largely depend upon how effectively it is communicated throughout the organisation and beyond.

- EHA's initiatives and policies regarding the control and prevention of fraud and corruption will be promoted by Employees at EHA office.

**5.9 Supporting documentation**

All allegations of fraud and corruption and results of any investigations conducted will be securely maintained in EHA's Records Management System.

**6. Review & Evaluation**

This policy will be reviewed at least once every two years. However, EHA may revise or review this Policy at any time (but not so as to affect any process that has already commenced).

**7. Statement of Adoption**

This Policy was adopted by the Board of the Eastern Health Authority on 24 February 2016.