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INDEPENDENT COMMISSION  
AGAINST CORRUPTION  
NEW SOUTH WALES

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NSW INDEPENDENT COMMISSION  
AGAINST CORRUPTION

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# Managing corrupt conduct during the COVID-19 outbreak

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## Introduction

The outbreak of the COVID-19 virus and its likely economic impact will have a dramatic effect on the way public sector functions are performed in NSW. The NSW Independent Commission Against Corruption (“the Commission”) has issued this guidance to draw attention to:

- the fraud and corruption risks that arise during periods of disruption and economic downturn
- measures that may assist in protecting government funds.

While no one wants to be challenged with new fraud and corruption risks, the Commission understands that, since March 2020, agencies may have little choice but to depart from normal levels of control and supervision.

In particular, the routine practice of managing staff in an office environment becomes challenging when many members of staff are working remotely. Further complications may arise if a significant proportion of public officials take leave because they are sick or caring for a friend or family member. This could precipitate a number of workarounds (that is, inventive ways to breach procedure or exploit loopholes) that may be tempting for individuals at risk of engaging in corrupt conduct.

In so saying, the Commission emphasises that, while the majority of employees are honest and trustworthy, there remains the possibility in any organisation for unscrupulous employees to take improper advantage of diminished control or supervision.

The Commission appreciates that it may be difficult for agencies to maintain anti-corruption controls in their current form. Clearly, there are more pressing issues but the necessity to modify some controls should not justify abandoning attempts to prevent, detect and investigate misconduct. Even during a period of enormous disruption, agencies can take reasonable steps to protect public funds from misuse.

In issuing this corruption prevention advice, the Commission, in addition to recommending the adoption of precautions against the abovementioned corruption risks, is also concerned to see that funds provided by the federal and NSW governments as stimulus and support measures are protected from both opportunistic and systemic fraud and corruption perpetrated by the unscrupulous.

## Corruption trends during periods of disruption and economic downturn

While not conclusive as to all or any particular agency of government, the evidence nonetheless tends to show that some forms of corruption and serious misconduct become more prevalent during periods of significant disruption and economic downturn.<sup>1</sup>

The well-known Fraud Triangle tells us that a combination of (1) financial pressure, (2) opportunity and (3) rationalisation, is conducive to fraud. The COVID-19 pandemic and the related economic downturn have intensified all three points of the triangle.

1. Employees, suppliers and customers (and their families) may be experiencing actual or anticipated financial hardship (for example, an official's spouse loses their job, a supplier's work dries up, superannuation or other investments lose a large proportion of their value, or a public official becomes concerned about being made redundant).
2. Agencies' controls and normal levels of supervision may weaken or cease to function (for example, normal segregation of duties may not be in place or IT systems may not be accessible).
3. Perpetrators may find it easier to rationalise dishonest behaviour (for example, individuals may find it morally justifiable to engage in fraud if it is in response to exigent circumstances, or if they perceive others getting away with it).

In addition, fraud and corruption risks may, of course, arise externally to the agency at specific points in the supply chain.

At the time of the 2008–2011 global financial crisis (GFC), the Commission experienced an increase in complaints alleging corrupt conduct. The GFC triggered high levels of white collar crime in countries that experienced financial crises. In some cases, however, it seems that the GFC, and economic downturns more generally, led to a greater focus on the bottom line, which caused a number of historical fraud cases to be unearthed.

For an unknown period of time, agency operations will not be on a business-as-usual (BAU) footing. However, agencies that can move their control environment back to BAU as quickly as possible, will lower the chances of corrupt conduct. Once this happens, it may be useful to direct audit activities towards identifying suspicious anomalies or exceptions that emerged during the pandemic.

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<sup>1</sup> See for example: Deloitte's media release of 23 March 2020, "Deloitte warns of spike in bribery & corruption due to CoVid-19", (available [here](#)); the July 2011 Australian Institute of Criminology paper, *Fraud vulnerabilities and the global financial crisis* (available [here](#)); the 2009 PricewaterhouseCoopers advice, *Fraud in a Downturn* (available [here](#)); and the 18 March 2020 Transparency International feature *Corruption and the Coronavirus* (available [here](#)).

## Risks associated with working from home

It is self-evident that working from home (WFH) entails a loss of manager-employee and peer-to-peer interaction that normally takes place in an office environment. Both literally and figuratively, COVID-19 means that staff are being left to their own devices, which is often associated with an increase in corrupt conduct in the limited number of employees who lack integrity. The Commission recommends that agencies consider the following as a way to address this risk.

- Managers should make occasional telephone or video conference contact with their staff. Complete isolation from management and team norms can breed absenteeism and lapses in judgment.
- Prohibit staff from allowing family members to use agency hardware and systems and ask staff to refrain from using their home printer for confidential agency documents.
- Remind staff not to use social media to post photographs of their home office or work station.
- Make a record of agency IT equipment and other valuables that staff have borrowed to use from home.
- Establish protocols for using electronic signatures, especially if staff are used to paper forms and giving approval by applying a written signature.

## Risks associated with procurement and purchasing

Procurement activity is difficult to coordinate at the best of times. But in the current circumstances, the Commission anticipates that agencies will be under increased pressure to:

- engage in emergency procurement
- agree to contract variations
- use direct negotiations and other exemptions to competitive procurement processes
- pay suppliers quickly, especially if they are small businesses
- rely on staff to purchase items using agency-issued credit cards.

These procurement practices may be entirely appropriate in the circumstances, but historically, they have also been associated with corrupt conduct.

Agencies should also be aware that, in the current circumstances, some existing budgets will inevitably be underspent by the end of the financial year. This creates a risk that available

funds will be diverted to an improper purpose or spent for the sake of consuming the allocated budget.

The Commission recommends that agencies consider the following to address these procurement risks.

- If an agency needs to perform emergency procurement, insist on involving at least two people in the process, which is preferable to giving one official end-to-end control.
- Emergency procurement carries more risk if the supplier is unknown to the agency or is not a member of an established prequalification scheme or contract.
- Where relevant, consult the Commission's [published guidance](#) on managing direct negotiations.
- If aspects of procurement need to take place outside an agency's online finance system (for example, if the normal financial delegate is offline or the system is inaccessible), at least document the decisions in an email or contemporaneous file note.
- Suppliers may have to rely on force majeure clauses in contracts. If contracts do not contain these clauses, agencies should be wary of forcing suppliers to meet impossible deadlines, which could encourage dishonest conduct.
- An agency should use existing management accounting reporting and data analytics to identify split invoices/payments, unusual transactions and unusual suppliers.

Another procurement-related risk is the theft of stock and other agency assets. In particular, individuals could take advantage of workplace disorder and the physical absence of staff to engage in theft. The Commission has already received a report detailing allegations that a public official has stolen toilet paper and hand sanitiser from the workplace and advertised the products for sale online.

Agencies are therefore encouraged to maintain or even enhance their normal physical security measures and take steps to secure valuable assets and information while the workplace is unpopulated.

## Risks associated with cyber fraud and online hoaxes

Reports of COVID-19-related cyber frauds have already begun to emerge. See, for instance, advice published by the Australian Competition and Consumer Commission<sup>2</sup> and the Australian Cyber Security Centre<sup>3</sup>. One source reports a 400% increase in coronavirus-related cyber fraud reports in March alone.<sup>4</sup>

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<sup>2</sup> *COVID-19 (coronavirus) scams*, 18 March 2020 (available [here](#)).

<sup>3</sup> *Threat update: COVID-19 malicious cyber activity*, 27 March 2020 (available [here](#)).

<sup>4</sup> J Kent *Working from home risks online security and privacy – how to stay protected*, The Conversation, 27 March 2020 (available [here](#)).

Many successful cyber frauds utilise a social engineering approach. That is, the frauds involve impersonating a trusted person, such as a senior manager or an officer from the organisation's IT department. In an environment where many staff are WFH and normal face-to-face interactions are limited, socially engineered cyber frauds are more likely to succeed. In addition, the COVID-19 pandemic has prompted a number of criminals to impersonate government agencies as part of an attempt to defraud citizens.

In addition to adhering to the NSW [Cyber Security Policy](#), agencies should:

- in the first instance, assume that any request to change a supplier's or employee's bank account number could be an attempted fraud (verify the request by telephoning the relevant supplier/employee, without relying on the contact information contained in a potentially false email message)
- be wary of adding new suppliers to the vendor master file, especially if they are not already on a NSW Procurement pre-qualified panel or scheme or if they have invoiced the agency without being issued a purchase order
- direct accounts payable staff to challenge any suspicious requests for payment, even if it purports to come from a senior manager or the agency head
- not pay invoices without performing a three-way match
- alert customers and citizens to attempts by third parties to impersonate the agency or its staff (make it easy for individuals to verify information by contacting the main switchboard of the agency)
- remind staff not to open emails or attachments or click on links from untrustworthy sources.

## Risk associated with stimulus funding and new programs

Some agencies are being tasked with rolling out significant new programs aimed at stemming the spread of the COVID-19 virus (for example, establishing emergency hotel accommodation for inbound residents that need to self-isolate). Other agencies have responsibility for programs aimed at stimulating the economy and assisting the economic victims of the pandemic.

While it is difficult to compare the current COVID-19 pandemic with earlier emergencies, publications such as the *2014 Report of the Royal Commission into the Home Insulation Program*, authored by Commissioner Ian Hangar QC (available at [this link](#)), can be instructive. The following are some lessons to bear in mind.

- If contracts have to be awarded in haste, agencies should still take the time to ensure that contractors understand and conform to public sector ethical obligations (for example, an agency statement of business ethics).
- To the degree possible, avoid giving a single official end-to-end control of a process. This limits the risk of corruption or favouritism but it also helps to manage the risk that a

program will stall if a key person becomes unwell or has to take carer's leave.

- Articulate clear responsibilities and lines of communication. Corruption, mismanagement and waste can thrive if staff do not understand the plan and cannot be made accountable for their actions.
- Do not allow exigent circumstances to be used as an excuse for subduing robust debate and frank advice.
- Delivering new programs or services in a compressed timeframe may be an uncomfortable experience for some public officials, who, by training, are more accustomed to carefully planned programs of work in a risk averse environment. It may therefore be necessary to seek advice from subject matter experts (possibly from other agencies).
- Fast delivery of new services can encourage workarounds and major departures from normal risk tolerances. If it is impractical to conduct a comprehensive risk assessment at the start of a program, management should still encourage staff to report any obstacles and workarounds as they arise.
- The focus is typically on rapid delivery, which could mean that issues such as regulatory compliance, due diligence and audit are neglected. While it may be necessary to consider these issues at a later point in time, they should not be forgotten altogether.
- In a fast-paced environment, staff may forget to create basic records about key decisions and why they were taken. Project managers should, therefore, appoint a minute taker or otherwise document key decisions, especially following meetings that are held via telephone or video conference.
- Hasty programs may entail hasty recruitment. This could mean that agencies are not able to complete their normal employment screening procedures before staff commence. However, a suitable alternative might be to complete employment screening as soon as possible after commencement.

## Maintaining public sector values and ethics

Agencies should have a fraud and corruption control program. Given the current circumstances, it is reasonable to expect that elements of those programs will need to be put on hold. Initiatives such as face-to-face training, design, implementation and testing or controls, rolling out new policy and conducting risk assessments may not be possible during the COVID-19 pandemic.

In addition, it will be difficult to express the appropriate care for and trust in staff, if they are simultaneously being messaged with warnings about the threat of fraud and corruption. While it is important to return to BAU as soon as possible, a useful but simple approach involves reminding staff of their ethical obligations as public officials.

Most public officials should be acutely aware that the citizens of NSW are relying on their honesty and diligence in the current environment. So, brief reminders about these obligations can be effective and should complement existing staff communications.



Likewise, senior and middle and line managers can be reminded of the importance of setting the right ethical tone for their staff.

## Further information and assistance

Like many agencies, the Commission has arranged for the majority of its staff to WFH during the COVID-19 pandemic. However, the Commission is still open for business and NSW government agencies are encouraged to keep reporting allegations of corrupt conduct.

Please note the following:

- complaints or reports must be made by email ([icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)) or by using the reporting forms on [our website](#)
- the Commission will continue to assess all complaints and reports that it receives
- agencies and complainants will not be able to make complaints or reports over the telephone or in person (to the degree possible, all correspondence will be electronic)
- corruption prevention advice, including advice about the material in this guidance, can be requested at [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au) or through:

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