



Title:

Corrupt Conduct and Maladministration Policy

Version	1.0
TRIM file number	
Short description	A policy on corrupt conduct and maladministration.
Relevant to	Employees, students and contractors.
Authority	This Policy has been approved by the University Council under the <i>Governance (Policy and Procedures) Rule 2005</i> of the Council and sections 20 and 32 of the <i>CSU Act</i> .
Responsible officer	University Auditor
Responsible office	Office of Planning and Audit
Date introduced	27 May 2010 (CNL10/47)
Date(s) modified	
Next scheduled review date	
Related University documents	Code of Conduct for Staff Conflict of Interest Procedure Recruitment Policy and Procedures Guidelines on the Receipt of Gifts by CSU Staff Leave and Working Hours Policy and Procedures Enterprise Agreement Understanding and Minimising Corrupt Conduct (on-line training and guidance material for members of the University Community) ICAC Act Protected Disclosures Act Freedom of Information Act (exemption for Protected Disclosures)
Related legislation	Crimes Act, 1901
Key words	Policy, corrupt conduct, maladministration, ICAC

1. PURPOSE

1.1 This documents identifies:

- (a) CSU's intolerance to corruption and maladministration;
- (b) CSU's commitment to legal compliance and due process;
- (c) How members of the University Community may disclose corrupt conduct;
- (d) Investigation and referral requirements; and
- (e) Linkages to relevant legislation and University policies and guidance materials.

2. SCOPE

2.1. This policy applies to all members of the University Community.

3. DEFINITIONS

3.1 Corrupt Conduct

3.1.1 Corrupt Conduct is defined as 'any conduct that adversely affects either directly or indirectly the honest or impartial exercise of public official functions' (ICAC Act 1988).

3.1.2 Corrupt conduct can involve:

- (a) Dishonest exercise of public functions;
- (b) Breach of public trust;
- (c) Misuse of information or material acquired in the course of official functions; and/or
- (d) Conflicts of interest.

3.2 Maladministration

3.2.1 The definition of corrupt conduct is extended within the ICAC Act to include maladministration. Within this context maladministration may include the gross mismanagement of risk leading to death, injury or the culpable wastage of University resources.

3.3 Conflicts of Interest

3.3.1 As defined by the ICAC Act 1988, a conflict of interest is 'a conflict between the public duty and private interests of an individual where the private interests could improperly influence their official duties and responsibilities'.

3.3.2 The CSU Code of Conduct for Staff defines CSU's policy on the administration of conflicts of interest. The presence of an undisclosed conflict of interest may, in some circumstances constitute corrupt conduct as defined by the ICAC Act.

4. NOMINATED DISCLOSURE OFFICERS

4.1 The positions to which internal disclosures can be made in accordance with this policy are:

- (a) University Auditor (Disclosure Coordinator);
- (b) Internal Audit staff members and contractors;
- (c) University Ombudsman;
- (d) Deputy Vice-Chancellor (Academic);
- (e) Deputy Vice-Chancellor (Administration);
- (f) Deputy Vice- Chancellor (Research);
- (g) Vice-Chancellor; or
- (h) Chancellor.

4.2 Disclosures can be made in person, in writing, by email or by telephone. Disclosures lodged through the Internal Audit website are read by the University Auditor. Anonymous disclosures are accepted but such disclosure may provide a less effective basis for investigation. A person making a disclosure may request a meeting with a nominated disclosures officer away from campus.

5. PROTECTED DISCLOSURES

5.1 The *Protected Disclosures Act* (the Act) provides legislative protection to members of staff who make disclosures in accordance with the provisions of the Act and this policy. The purpose of the Act is to ensure that public officials making a disclosure receive protection from reprisals, and that the matters raised in the disclosure are properly investigated. Details of the protection afforded to those who make disclosures are published by the NSW Ombudsman and by ICAC.

5.2 A disclosure is not protected under the Act if it is made by a public official in the exercise of a duty imposed by or under the Act.

5.3 Protection is also not available for disclosures which:

- (a) are made frivolously or vexatiously;
- (b) primarily question the merits of government policy; or
- (c) are made solely or substantially with the motive of avoiding dismissal or other disciplinary action.

5.4 It is an offence to wilfully make a false or misleading statement when making a disclosure.

6. DISCLOSURES BY CONTRACTORS AND MEMBERS OF THE UNIVERSITY OR WIDER COMMUNITY

6.1 The University will handle disclosures by contractors and other members of the University or wider community in the same manner as disclosures made by members of staff. Information received will be handled in strict confidence.

7. UNIVERSITY RESPONSIBILITIES

7.1 Section 11 of the ICAC Act 1988 requires the Vice-Chancellor to report any matter, which might be considered on reasonable grounds, to constitute corruption. Failure to report disclosures to ICAC may, in some circumstances, constitute a breach of the Crimes Act 1901.

7.2 Under the Protected Disclosures Act 1994 a public official who reports corrupt conduct, maladministration or serious and substantial waste is protected from reprisals.

For a person to be protected under the Act, the disclosure must be:

- (a) Made by a public official in relation to their official work;
- (b) About a public official or agency;
- (c) Voluntary;
- (d) Show or tend to show corrupt conduct, maladministration or serious and substantial waste; and
- (e) Made to an investigating authority, the Vice-Chancellor or a person identified as one who can accept disclosures.

7.3 The Protected Disclosures Act covers all university employees including casual, adjunct appointments and voluntary workers (and contractors).

8. REPORTING FRAUD AND CORRUPTION

8.1 Members of the University Community are strongly encouraged to report known and suspected corrupt conduct at CSU to a Nominated Disclosures Officer or directly to the ICAC.

8.2 In the case of an internal disclosure, the University must:

- (a) Maintain confidentiality;
- (b) Assess the disclosure to determine action;
- (c) Apply principles of natural justice to the conduct of preliminary appraisals and investigations;

- (d) Provide feedback to the complainant and to the person who is the subject of the disclosure; and
- (e) Ensure the complainant is protected against reprisals.

9. INVESTIGATIONS

- 9.1 Following the receipt of a disclosure, the responsible nominated disclosures officer may, in consultation with the University Auditor, gather preliminary facts to determine whether or not there may be a case to answer. The University Auditor will refer the findings of the preliminary appraisals to the Vice-Chancellor.
- 9.2 All formal investigations relating to corrupt conduct within the University must be assigned, by the University Auditor, to a certified fraud examiner. This process is subject to the direction of the I.C.A.C. The Vice-Chancellor will refer investigation reports to the I.C.A.C.
- 9.3 The conduct of unauthorised investigations by line managers or by any member of staff is prohibited.

10. DISCIPLINARY PROCESSES

- 10.1 Corrupt conduct, if demonstrated to the satisfaction of the University, may constitute grounds for dismissal or other disciplinary action. The Vice-Chancellor is the only member of staff with a delegation to dismiss or otherwise discipline other members of staff.

11. LIMITATIONS

- 11.1 This policy does not relate to:
 - (a) “grievances”; which should be reported to the University Ombudsman within the Office of Planning and Audit or the Vice-Chancellor;
 - (b) “academic misconduct” by staff or students; which should be reported using procedures identified in the Academic Manual; and
 - (c) performance management matters that do not also constitute corrupt conduct or maladministration as defined.

Table of amendments

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