

Improper Conduct Prevention and Management Policy

Introduction

Just like commercial and government organisations, not-for-profit organisations may be subject to improper conduct including fraudulent or corrupt activity and must therefore implement effective prevention strategies to minimise legal and financial exposure.

Improper conduct, fraud, corruption and deception can lead to significant losses to Healthy Living NT (HLNT). The taint of improper conduct, fraud and corruption may damage the reputation of HLNT, reflect negatively on the integrity of its entire staff and seriously impair the trust that HLNT enjoys with clients and stakeholders.

This policy is a component of HLNT's broader suite of governance policies which include the Ethical Relationship and Practice Guide and the Whistleblower Policy.

Legislative Framework

HLNT operates under a regulatory business environment prescribed by law, as detailed in the Legislative Compliance Register. There is a body of primary critical legislation with which HLNT must comply in order to continually assure its business credentials and stakeholder and community confidence.

Chief among these is the ICAC NT Act. The Independent Commissioner Against Corruption (ICAC) has been appointed by the Northern Territory Government to investigate allegations of improper conduct by public bodies, persons or resources. As ICAC will prioritise and investigate the most serious conduct allegations, it has the flexibility to refer an allegation to HLNT to investigate and will direct how the investigation is to be conducted.

Under the ICAC Act, as a recipient of NT Government funding:

1. HLNT is a **public body** and has mandatory reporting and whistleblower protection requirements;
2. HLNT employees and volunteers such as Board Members are **public officers** and have mandatory reporting requirements.

The ICAC Act defines **improper conduct** as each of the following:

- a. corrupt conduct
- b. misconduct
- c. unsatisfactory conduct
- d. anti-democratic conduct
- e. conduct constituting an offence under the ICAC Act
- f. secondary conduct in relation to conduct mentioned in (a) through (e) above.



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Circulation (on approval)	Staff and Board		Review Cycle	Annual

Purpose

The purpose of this Policy is to:

1. Ensure that all parties are aware of their responsibilities regarding the identification and prevention of improper conduct, fraudulent or corrupt activity.
2. Ensure that all parties understand who to report to in the event that they suspect improper conduct, fraudulent or corrupt activity.
3. Provide a step-by-step guide to respond to an allegation regarding improper conduct, fraudulent or corrupt activity.
4. Express a clear statement to all parties forbidding improper conduct, fraudulent or corrupt activity.

Scope

This policy applies to all HLNT Board Members and employees, contractors, consultants, and any individual or groups undertaking an activity for or on behalf of HLNT.

The policy scope covers matters relating to known or suspected improper conduct, fraud or corruption in accordance with the definitions below.

Policy

HLNT will not tolerate improper conduct, fraud or corruption in any aspect of its operations.

HLNT will investigate any suspected acts of improper conduct, fraud, corruption, misappropriation or other similar irregularity. An objective and impartial investigation, as deemed necessary, will be conducted regardless of the position, title, length of service or relationship with the organisation of any party who might be the subject of such investigation.

Any improper conduct, fraud or corruption shall constitute grounds for dismissal. Any serious case of fraud, whether suspected or proven, shall be reported to the relevant and appropriate authorities such as the police and the NT ICAC.

Any person who suspects improper conduct or the commission of a fraud or a corrupt act, related to the operations of HLNT, is required to immediately report it to a manager / appropriate person in authority within HLNT or an external authority. Any person reporting improper conduct, a fraud or a corrupt act, or a suspected fraud or suspected corrupt act, shall not be penalised for raising a concern of this nature.

Responsibilities

The **Board** of HLNT has ultimate responsibility for the prevention and detection of improper conduct, including fraud and corruption. It is responsible for ensuring that:

- appropriate and effective internal control systems are in place, and
- an appropriate reporting and investigation framework is in place.

The **Executive Board** is responsible for the establishment and implementation of an appropriate management plan for improper conduct investigations.

The **CEO** is responsible to:

- ensure that HLNT maintains appropriate internal controls which prevent and detect irregularities

- promote ethical and efficient use of resources and
- support investigation of instances of alleged improper conduct, fraud or corruption, in accordance with Board policies.

All **managers** must ensure that they:

- Assess the risk of improper conduct, fraud and corruption within their area of control;
- Educate staff/volunteers/contractors about improper conduct, fraud and corruption prevention and detection; and
- Facilitate the reporting of suspected improper conduct or fraudulent or corrupt activities.

Management should be familiar with the types of improprieties that might occur within their area of responsibility and be alert to any indications of such conduct.

All **staff/volunteers/contractors** share in the responsibility for the prevention and detection of improper conduct, fraud and corruption and for reporting instances of suspected fraudulent or corrupt activities.

Every employee within HLNT plays an important role in ensuring that improper conduct, fraud and corruption does not occur. This is achieved by:

- maintaining a team environment with peers where improper conduct, fraud, corruption and deception is unacceptable
- identifying opportunities and appropriate controls for improper conduct, fraud and corruption within the workplace to deter such activity
- adhering to and assisting with the continual improvement of procedures and internal controls which reduce the opportunity for improper conduct, fraud and corruption
- reporting any concerns about inappropriate conduct, deception or suspected fraud or corruption
- keeping informed to remain vigilant with respect to the risks of improper conduct, fraud and corruption, and the impact it would have on HLNT.

Reporting

All parties have the responsibility to report suspected improper conduct, fraud or corruption. Reports can be made orally or in writing, and can be made anonymously.

Internal Reporting

Any staff member, volunteer or contractor who suspects improper conduct or fraudulent or corrupt activity must immediately notify their supervisor or the CEO about the concern.

In situations where the staff member, volunteer or contractor notifies their supervisor, the supervisor must then notify the CEO. Where the allegation involves the supervisor or CEO, the notification should be made to one of HLNT's office bearers comprising the President, the Treasurer or the Vice-President Alice Springs.

Where an allegation involves one of HLNT's office bearers identified in the preceding paragraph, the allegation can be reported to the CEO or to an alternate office bearer who is not the subject of the allegation.

Where an allegation involves the Board, or if it is not possible or appropriate to report internally within HLNT, the allegation can be reported directly to the Independent Commissioner Against Corruption (ICAC).

Issues reported using the internal reporting process will be treated in strict confidence and fully assessed. If anonymity is requested, every effort will be made to ensure confidentiality. However, when a matter is referred to the NT Police or the ICAC, it is highly likely the party raising the issue will be required to assist these authorities with their enquiries.

To preserve the integrity of the reporting process of suspected fraud or corruption and ensure employees are not deterred from raising genuine concerns (even if subsequently unfounded but made with good intentions), managers must support the employee making the report and ensure they are protected from any adverse treatment on the basis that they have raised a concern.

External Reporting

Where a party believes they may have observed improper conduct, including fraud or corruption by HLNT, or by an employee of HLNT, and does not want to make an internal report, the party may seek to make a protected communication as a protected person under the *ICAC Act* to the Office of the ICAC.

A protected communication can be made orally or in writing, and anonymously, and the employee does not need to declare that it is a protected communication.

The *ICAC Act* provides employees with certain legal protections when they report the improper conduct of a public body or public officer. They cannot be sued for defamation, breach of confidence, or otherwise held civilly or criminally liable for reporting improper conduct. They also cannot be sacked or disciplined for their role in reporting the conduct, and can seek compensation if someone takes action against them in retaliation for reporting.

Further information on ICAC is available at <https://icac.nt.gov.au>. Refer also to HLNT's Whistleblower Policy.

What to Report

Section 22 of the *ICAC Act* requires mandatory reporting of *suspected improper conduct*. A reasonable suspicion that should be reported on occurs where there is one fact or more upon which the suspicion is based.

Any report should contain, as appropriate, details of:

- the nature of the alleged breach;
- the person or persons responsible for the breach;
- the facts on which the complainant's belief that a breach has occurred, and has been committed by the person(s) named, are founded;
- the nature and whereabouts of any further evidence that would substantiate the complainant's allegations, if known.

Evidence to support such concerns should be brought forward at this time if available. However, the existence of such a concern is sufficient to trigger reporting responsibilities.

Investigations

Internal Investigations

1. Upon notification an allegation pertaining to improper conduct, fraud or corruption, the CEO / President / Treasurer / Vice-President Alice Springs (as appropriate) will promptly arrange to carry out an initial review into the allegation.
2. After an initial review and a determination that the suspected improper conduct, fraud or corruption:

- a) **Does not warrant** additional investigation, the CEO / President / Treasurer / Vice-President Alice Springs (as appropriate) shall report the incident to the Executive Board to either confirm status or direct additional action.
- b) **Warrants** additional investigation, the CEO / President / Treasurer / Vice-President Alice Springs (as appropriate) shall notify the Executive Board, which will:
 - Initiate a detailed investigation with the appropriate law enforcement officials or an external investigator as appropriate;
 - Retain external legal or other advice as appropriate;
 - Implement whistleblower protection arrangements as appropriate
 - Make mandatory notifications, as appropriate.
3. Once improper conduct, fraud or corruption is suspected, immediate action will be taken to prevent the theft, alteration or destruction of relevant records. Such actions include, but are not necessarily limited to, removing relevant records / information and placing them in a secure location, limiting access to the location where the records / information currently exists, and preventing the individual suspected of committing the fraud or improper conduct from having access to the records / information.
4. The outcome of the investigation must be considered by the HLNT Board.
5. If an allegation of improper conduct, fraud or corruption is substantiated by the investigation, disciplinary action, up to and including dismissal (or termination of an individual's right to work as a contractor or volunteer), shall be taken by the appropriate level of management.
6. HLNT will also pursue every reasonable effort, including referral to an external agency such as the NT Police or initiation of court ordered restitution, to obtain recovery of any losses from the offender.

Where a prima facie case of fraud has been established, the matter shall be referred to the relevant authorities. If an allegation is made in good faith, but it is not substantiated by the investigation, no action will be taken against the complainant. Where the investigation determines the allegation is deliberately false or vexatious, the matter will be referred to the delegated officer for appropriate administrative or disciplinary consideration.

To the extent possible, the person under suspicion will be given a reasonable opportunity to respond to any adverse findings in accordance with natural justice prior to a final decision.

HLNT will make every effort to keep the investigation confidential; however members of the management team or other employees may need to be consulted to assist with a review / investigation.

External Investigations

External investigations are to be managed in accordance with HLNT's Compliance Authority Investigations Policy.

Definitions

Breach of public trust:	conduct by a public body or public officer that is intentionally or recklessly inconsistent with the functions of the body or officer including the duty of the body or officer to act in the public interest. A breach of public trust can only occur if the conduct affects the use of public resources or the carrying out of functions on behalf of the Territory another public body or a public officer (s13 <i>ICAC Act</i>).
Complaint:	an expression of dissatisfaction made to, or about, an organisation, either in writing or orally, related to its products, services, employee/s, processes, contractors or the handling of a complaint.
Conduct:	an act or an omission to perform an act (s4, <i>ICAC Act</i>), including acts or omissions engaged in by a public officer/s or public body/ies at the time and which could have occurred before the commencement of the <i>ICAC Act</i> , and/or outside of the Territory. (s8, <i>ICAC Act</i>).
Conflict of interest:	a conflict between private financial or other interests and official duties or responsibilities of HLNT, whether actual, potential or perceived (HLNT Disclosure of Interests Policy).
Corrupt conduct:	<p>conduct engaged in by a public officer (whether or not their identity is known) that involves or results in (s10, <i>ICAC Act</i>):</p> <ul style="list-style-type: none"> • dishonesty • failure to manage adequately an actual or perceived conflict of interest • a breach of public trust • the illegal, unauthorised or otherwise inappropriate performance of official functions • inappropriate conduct in relation to official information • an adverse effect on the honest, impartial or effective performance of official functions by any public officer, public body or group of public officers or public bodies • collusive tendering • intentionally or recklessly providing false or misleading information in relation to an application for a licence, permit or other authority under legislation • misappropriating or misusing public resources • assisting in, or dishonestly benefiting from, the misappropriation or misuse of public resources • dishonestly obtaining or retaining employment or appointment as a public officer.
Corruption:	<p>conduct by anyone that adversely affects HLNT, employees or members of the public so that the performance of their functions or the exercise of their powers is not honest or impartial, or knowingly or recklessly breaches public trust, or involves the misuse of HLNT information or material, to achieve personal gain or advantage for oneself, another person or third party.</p> <p>Examples of corruption are located in Table 1 below. These examples are not an exhaustive list.</p>

Table 1 – Examples of corruption

Example	Details
<i>Disclosing confidential information to outside parties without authority, for personal gain.</i>	Collusive bidding.
<i>Acceptance of goods and services as an inducement to allocating work to a supplier.</i>	Nepotism, giving jobs or favours to relatives, friends or third party/ies.
<i>Failing to declare and/or appropriately manage a conflict of interest.</i>	Manipulation of the procurement process favouring one tenderer over others or selectively providing information to some tenderers.
False:	an allegation that is deliberately untrue.
Fraud:	deceitful or deceptive conduct by employees or members of the public against HLNT or clients' interests; to obtain (or attempting to obtain) an advantage, financial or otherwise for oneself, another person or entity third party; and/or to cause a loss to HLNT or its clients. Examples of fraud are located in Table 2 below. These examples are not an exhaustive list.

Table 2 – Examples of fraud

Example	Details
<i>Theft or deliberate damage of HLNT property.</i>	Destruction, or removal, or falsification of records.
<i>Forgery or alteration of any document, e.g. a cheque, medical certificate, invoice.</i>	Dishonest use of HLNT assets and facilities for unofficial use.
<i>Diversion of funds including through electronic banking.</i>	Theft of cash, cheques or negotiable instruments.
<i>Credit card misuse.</i>	Overcharging for goods and services.
<i>False accounting or falsifying payroll transactions.</i>	Falsifying expense claims, including travel expenses.
<i>Material and deliberate misstatement of accounting information.</i>	Using a false identity to obtain funds or assets by deception.
<i>Recording credits for goods and services provided and refunding for personal benefit.</i>	Deliberate failure to record usage of employee entitlements.
<i>Misuse of delegation.</i>	False invoicing.
Loss:	<ul style="list-style-type: none"> • a loss of, or deficiencies in, money or property held by or for HLNT • a loss arising out of the destruction, condemnation, obsolescence, abandonment, deterioration of or damage to property • an irrecoverable overpayment and debt • expenditure made without lawful authority • a loss of money due to failure to assess and levy revenue and other amounts receivable. <p>While improper conduct, fraud or corruption may not result in a loss to HLNT, it will generally be the case. Similarly, not every loss is due to improper conduct, fraud or corruption. All losses must be promptly and properly recorded and reported to the Manager Finance and Administration who is responsible for reporting all losses and maintaining a register of losses.</p>

Improper conduct:	corrupt conduct, misconduct, unsatisfactory conduct, anti-democratic conduct and conduct constituting an offence against the <i>ICAC Act</i> (s9, <i>ICAC Act</i>).
Incompetence:	conduct that would not be engaged in by a reasonable public officer or public body having the skills and knowledge reasonably expected of a person or body with the role of the public officer or public body and having taken appropriate steps to obtain adequate resources, information and advice, but does not include conduct that is less than best practice, or that is a matter of policy about which reasonable public officers or public bodies may disagree (s12 (2), <i>ICAC Act</i>).
Investigation:	the act or process of assessing an allegation of improper conduct to establish whether or not there is proof to substantiate any allegations, which could include the securing of evidence and interviews of the complainant, witnesses and the suspect/s.
Misconduct:	conduct engaged in by a public officer or body that constitutes an offence, or that constitutes reasonable grounds for taking disciplinary action against the officer, that is connected to public affairs (s11, <i>ICAC Act</i>).
Misleading information:	a person commits an offence if the person intentionally gives information to another person acting in an official capacity, and the information is misleading and the person has knowledge of that circumstance (s151, <i>ICAC Act</i>).
Nominated recipient:	Under the <i>ICAC Act</i> , the HLNT may nominate an eligible person to be the nominated recipient for HLNT (s96, <i>ICAC Act</i>). HLNT has nominated the Chief Executive Officer, President or Treasurer or Vice-President Alice Springs (as appropriate).
Protected action:	A person takes protected action if they, being an individual, make a protected communication. An action is not a protected action if the person knows or believes it to be misleading information (s91, <i>ICAC Act</i>).
Protected communication:	A protected communication is information reported by an individual to, but not limited to, the Chief Executive Officer, President or Treasurer or Vice-President Alice Springs (as appropriate), ICAC or ICAC's office, that shows improper conduct has occurred, is occurring or is at risk of occurring. A protected communication can be made orally or in writing and can be anonymous. The individual does not need to state that the communication is a protected communication (s93, <i>ICAC Act</i>).
Protected person:	A person who takes or has taken protected action (s4, <i>ICAC Act</i>). A protected person incurs no civil or criminal liability by taking protected action and does not become liable to disciplinary action or other adverse administrative action (s98, <i>ICAC Act</i>). Public bodies have the primary responsibility for providing protected persons with protection and support (s90, <i>ICAC Act</i>).
Public body:	includes Healthy Living NT ; also includes NTG agencies, as well as any other body, whether incorporated or not that receives, directly or indirectly, public resources, or perform a public function on behalf of the NT, a public body or a public officer (whether under contract or otherwise) (s16 (1), <i>ICAC Act</i>). This includes suppliers to NTG agencies and grant recipients.

Public resources:	money, assets, intellectual property, licences, human resources or any other resources of, or available to, the Territory, public body or public officer, including resources held under trust (s14, <i>ICAC Act</i>).
Public officer:	includes employees and officers of Healthy Living NT ; also includes a minister, a Member of the Legislative Assembly; a judicial officer; the holder of an office established under an Act who is appointed by the Administrator or a minister; a member, officer or employee of a public body; any other person engaged in relation to the performance of official functions (s16 (2), <i>ICAC Act</i>). This includes employees of NTG suppliers and grant recipients.
Reasonable:	a factual basis for the suspicion is identified, whether or not a suspicion is reasonable will depend upon the surrounding circumstances (<i>ICAC South Australia 'Directions and Guidelines for Public Officers'</i>).
Unsatisfactory conduct:	conduct engaged in by a public officer or a public body that is connected to public affairs, that involves illegality or impropriety, negligence or incompetence, and results in (s12, <i>ICAC Act</i>): <ul style="list-style-type: none"> • substantial mismanagement of public resources • the inappropriate or significantly inefficient use of public resources • substantial mismanagement in relation to the performance of official functions • substantial detriment to the public interest.
Vexatious:	an allegation that is made to cause or intended to cause annoyance, frustration, or worry.

Responsibility for Policy

The Board of Diabetes Association of the NT Inc. is responsible for ensuring this policy is up to date and complied with.

Approval

Original Submission Date: Board Meeting 4/19 of 24 August 2019

Original Approval Date: Board Meeting 4/19 of 24 August 2019

Circulation: All HLNT Board Members and staff.

Sign off by: Chair of the Board



Signature: Ron O'Brien

Related Documents, References and Resources

- <https://icac.nt.gov.au/>
- [Mandatory Reporting Directions and Guidelines for public officers, public bodies and the community](#)
- HLNT Whistleblower Policy
- HLNT Workplace Investigation Policy
- HLNT Privacy Policy
- HLNT Disclosure of Interests Policy
- HLNT Corporate Governance Statement
- HLNT Ethical Relationships Guide
- Financial Roles and Delegations Policy
- Asset Management Policy
- Investment Policy
- Motor Vehicle Policy
- Delegations of HLNT nominees to external bodies and companies
- Logo Use Policy
- ICT Policy
- HLNT Recruitment Policy
- HLNT Induction Procedures
- HLNT Operational Procedures
- HLNT Service Agreements with external funders

Appendix A – HLNT Improper Conduct Reporting and Investigation Flowchart

