

## Fraud and Corruption Prevention and Public Interest Disclosures Guidelines

### Abstract

These Guidelines supplement the Fraud and Corruption Prevention and Public Interest Disclosures Policy.

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Implementation Officer	Executive Officer to Deputy Vice-Chancellor (Corporate Services)	
Relevant to	All staff	
Related documents	<a href="#">Code of Conduct</a> Disciplinary provisions of the relevant <a href="#">Enterprise Agreement</a> <a href="#">Fraud and corruption action plan template</a> (Word 29kb) <a href="#">Fraud and corruption risk assessment template</a> (Word 29kb) <a href="#">Fraud and Corruption Prevention and Public Interest Disclosures Policy</a> <a href="#">Handling Staff Grievances — Guidelines for Supervisors</a> <a href="#">Handling Staff Grievances Vice-Chancellor's Directive</a> <a href="#">Handling Student Complaints — Procedures for Managers</a> <a href="#">Independent Commission Against Corruption</a> <a href="#">Outside Work Vice-Chancellor's Directive</a> <a href="#">Policy on Handling Student Complaints</a> <a href="#">Public Interest Disclosures</a> , NSW Ombudsman <a href="#">Responsible Conduct of Research Policy</a> <a href="#">Risk Management Policy</a> <a href="#">UTS Corporate Credit Card and Staff Reimbursements Vice-</a>	

	<a href="#">Chancellor's Directive</a> <a href="#">UTS Gifts and Benefits Vice-Chancellor's Directive</a> <a href="#">UTS Procurement Policy</a>
Legislation	<a href="#">Government Information (Public Access) Act 2009 (NSW)</a> <a href="#">Independent Commission Against Corruption Act 1988 (NSW)</a> <a href="#">Ombudsman Act 1974 (NSW)</a> <a href="#">Public Interest Disclosures Act 1994 (NSW)</a> <a href="#">Public Interest Disclosures Regulation 2011 (NSW)</a> <a href="#">University of Technology Sydney Act 1989 (NSW)</a>

## Contents

1. Purpose
2. Scope
3. Definitions
4. Preventing fraud and corruption
5. Reporting concerns of fraud and corruption
6. Investigating concerns of fraud and corruption
7. Roles and responsibilities
8. Version control and change history

## 1. Purpose

These Guidelines supplement the [Fraud and Corruption Prevention and Public Interest Disclosures Policy](#). The Policy and Guidelines address the University's legal and ethical obligations to prevent, monitor and report fraud and corrupt conduct. The Guidelines provide further detail on the framework to deal with the fraud and corruption risks faced by UTS. They also incorporate a system for reporting disclosures of corrupt conduct, maladministration, serious and substantial waste and government information contravention within UTS.

These Guidelines have been divided into three sections:

- preventing fraud and corruption
- reporting concerns of fraud and corruption, and
- investigating concerns of fraud and corruption.

## 2. Scope

These Guidelines apply to all staff at UTS and to emeritus professors, honorary appointees and contractors.

These Guidelines do not apply to students at UTS. However, students are encouraged to report fraud and corrupt conduct to the University Secretary and Director, Governance Support Unit.

### **3. Definitions**

The [Fraud and Corruption Prevention and Public Interest Disclosures Policy](#) provides the definitions of terms used within the Policy and these Guidelines. This section provides further information relevant to the definition of those terms.

#### **3.1 What is corrupt conduct?**

UTS applies the definition of corrupt conduct under the [Independent Commission Against Corruption Act 1988 \(NSW\)](#) as varied from time to time. The definition as at the date of approval of these Guidelines is provided in [Part 3](#) of this Act.

Examples of corrupt conduct (including fraud) in universities include (but are not limited to):

- the misuse of grants
- falsification of exam and assessment results
- falsification of degree certificates or qualifications
- cheating
- theft of intellectual property
- falsification of research results
- manipulation, misappropriation and/or misuse of leave entitlements
- accepting money or benefits for favours
- plagiarism
- theft or leakage of exam papers
- misuse of travel allowances
- theft of equipment
- misuse of UTS assets and resources
- misuse of credit cards
- favouritism in procurement and contracting, and
- misleading or inappropriate behaviour associated with outside employment.

#### **3.2 What is serious and substantial waste?**

Serious and substantial waste is defined in the [Fraud and Corruption Prevention and Public Interest Disclosures Policy](#) (section 3). Serious and substantial waste may take many forms including:

- the purchase of unnecessary or inadequate goods and services
- misappropriation or misuse of UTS property, and
- serious inefficiency or ineffectiveness leading to non-achievement of program objectives or budget overruns.

### **3.3 What is maladministration?**

Maladministration is defined in the [Fraud and Corruption Prevention and Public Interest Disclosures Policy](#) (section 3). It includes conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partially on improper motives.

An example would include making a decision and/or taking action that is unlawful.

### **3.4 What is Government Information Contravention?**

Government Information Contravention is defined in the [Fraud and Corruption Prevention and Public Interest Disclosures Policy](#) (section 3). A government information contravention is a failure to properly fulfil functions under the [Government Information \(Public Access\) Act 2009 \(NSW\)](#) (GIPA Act).

An example of this could include destroying, concealing or altering official UTS records to prevent them from being released.

## **4. Preventing fraud and corruption**

### **4.1 What must faculties and units do to prevent fraud and corrupt conduct?**

Faculties and units need to:

- maintain current Fraud and Corruption Prevention Plans for their activities, and
- report by 31 October each year to the relevant Provost or Deputy Vice-Chancellor on the implementation of their Plan.

Fraud and Corruption Prevention Plans must include:

- a Fraud and Corruption Risk Assessment. [Schedule 3](#) provides a template for a Fraud and Corruption Risk Assessment. An example of a Fraud and Corruption Risk Assessment is included at [Schedule 6](#), and
- an Action Plan for management of risks. [Schedule 4](#) provides a template for an Action Plan. An example of an Action Plan is included at [Schedule 7](#).

Fraud and Corruption Risk Assessments should be conducted by using the UTS Methodology for the Analysis of Risks (see [Schedule 8](#)). Examples of risk that should be considered in conducting Fraud and Corruption Risk Assessments are included in [Schedule 5](#).

Faculties and units must review their Fraud and Corruption Risk Assessments and Action Plans annually to ensure that they remain current and deal effectively with new, emerging risks.

If needed, faculties and units may seek assistance in drafting Fraud and Corruption Prevention Plans from the Implementation Officer, Fraud and Corruption Prevention and Public Interest Disclosures Policy.

### **4.2 What must Deans, Directors and supervisors do to prevent fraud and corrupt conduct?**

Deans, Directors and supervisors should raise awareness of the risks of fraud and corruption amongst staff and contractors, including through induction programs, staff development activities, team meetings and the performance management program.

## **5. Reporting concerns of fraud and corruption**

### **5.1 How do I make a public interest disclosure?**

The [Fraud and Corruption Prevention and Public Interest Disclosures Policy](#) (section 5.2.2.3) sets out what disclosures may be public interest and to whom a public interest disclosure may be made.

A public interest disclosure may be made verbally or in writing. You can ask to meet a Public Interest Disclosures Officer in a discreet location off-campus if you are concerned about meeting at work.

A person making a public interest disclosure has a responsibility to:

- ensure information reported is not intentionally false or misleading
- maintain the confidentiality of their public interest disclosure.

It is a criminal offence under the [Public Interest Disclosures Act 1994 \(NSW\)](#) to wilfully making false or misleading statements when reporting wrongdoing. The penalties may be financial, imprisonment or both (section 5.2.2.4 Policy).

Disclosures may be made anonymously. However, the likelihood of a successful investigation is increased greatly if you make your identity known.

### **5.2 What happens once I make a public interest disclosure?**

Nominated Public Interest Disclosures Officers will refer disclosures to the Public Interest Disclosures Coordinator or the Vice-Chancellor as appropriate. The Public Interest Disclosures Coordinator or the Vice-Chancellor will then impartially assess each disclosure to determine:

- whether the disclosure appears to be a public interest disclosure within the meaning of the [Public Interest Disclosures Act 1994 \(NSW\)](#), and
- the appropriate action to be taken in relation to the disclosure.

### **5.3 What support can I receive if I make a public interest disclosure?**

The [Fraud and Corruption Prevention and Public Interest Disclosures Policy](#) sets out your rights and responsibilities if you make a public interest disclosure (section 5.2.2.4).

In addition, if you request it, UTS will provide you with a 'mentor'. Your mentor will not be involved in investigating the matter — rather, their role is to:

- provide moral support by accompanying you to interviews and meetings, and
- otherwise respond to any concerns you may have.

Your mentor will be arranged by the Public Interest Disclosures Coordinator in consultation with you and UTS Human Resources. Your mentor may be a senior member of staff or other appropriate person.

If you choose not to have a mentor, you may be accompanied by a representative of your choosing at any meeting convened in accordance with the Policy or these Guidelines, provided that person is not a barrister or solicitor in private practice.

Nominated Public Interest Disclosures Officers and the Public Interest Disclosures Coordinator will be sensitive to situations that may arise where a staff member or contractor, other than the one making the report (including a person who is mentioned in a disclosure) may need to be offered advice or support.

#### **5.4 How are public interest disclosures kept confidential?**

The [Fraud and Corruption Prevention and Public Interest Disclosures Policy](#) describes the confidentiality requirement for public interest disclosures (section 5.2.2.6).

Documents relating to a public interest disclosure are exempt from disclosure under the [Government Information \(Public Access\) Act 2009 \(NSW\)](#).

See also section 5.7 below.

#### **5.5 What should I do if I am treated unfairly for making a public interest disclosure?**

If you believe you have been subject to any kind of unfair treatment because you have made a public interest disclosure in accordance with the Policy and these Guidelines, you should immediately bring the allegations to the attention of the Vice-Chancellor or the Public Interest Disclosures Coordinator. An internal investigation and/or formal disciplinary inquiry may be commenced into the alleged unfair treatment.

If you feel that such reprisals are not being effectively dealt with you should contact the Independent Commission Against Corruption or the NSW Ombudsman.

#### **5.6 What should I do if I receive a public interest disclosure?**

If you receive a disclosure which you believe has the potential to be a public interest disclosure, and you are not a nominated Public Interest Disclosures Officer, you should report the matter directly to a nominated Public Interest Disclosures Officer, the Public Interest Disclosures Coordinator or the Vice-Chancellor.

It is not appropriate for a member of staff or contractor who receives a public interest disclosure to do nothing, even where the person who received the disclosure is asked not to take it further. Further information is contained in the Policy section 5.2.2.1.

#### **5.7 Treatment of public interest disclosures**

Information on the treatment of public interest disclosures is contained in section 5.2.2.6 of the Policy. Information that might identify or tend to identify the person making the public interest disclosure will not be released, except for where:

- the person consents in writing to the disclosure of that information
- the person has voluntarily identified themselves (separately from making the public interest disclosure) as the person who made the public interest disclosure
- it is essential, having regard to the principles of natural justice, that the identifying information be disclosed to a person that the disclosure may concern, or
- UTS is of the opinion that it is necessary to disclose the information to effectively investigate the matter or that disclosure is otherwise in the public interest.

#### **5.8 What is the difference between a public interest disclosure and staff grievance?**

A work-related grievance is any type of problem, concern or complaint where a staff member believes that they have received unreasonable treatment from UTS, other staff member(s) or student(s), and wish to bring the grievance to the University's attention and require an action or response.

Grievances alleging corruption, maladministration, serious waste and government information contravention will be dealt with in accordance with the Policy and these Guidelines, not the provisions of the [Handling Staff Grievances Vice-Chancellor's Directive](#) or relevant industrial agreement.

However, where a grievance, after initial investigation for alleged corruption, maladministration, serious waste or government information contravention, does not fall under the legislation, then the provisions of the [Handling Staff Grievances Vice-Chancellor's Directive](#) or the relevant industrial agreement will apply, depending on nature of the grievance.

### **5.9 How do I make a disclosure that isn't a public interest disclosure?**

The [Fraud and Corruption Prevention and Public Interest Disclosures Policy](#) sets out generally how to make a disclosure (section 5.2.3).

A disclosure may be made verbally or in writing. Disclosures may be made anonymously. However, the likelihood of a successful investigation is increased greatly if you make your identity known.

### **5.10 What are my responsibilities if I receive a disclosure that isn't a public interest disclosure?**

Anyone receiving a disclosure has the responsibility to ensure that information that might identify or tend to identify the person making the report is not released, except for where deemed necessary by UTS. The disclosure should also be referred to the Office of the Deputy Vice-Chancellor (Corporate Services) for further action.

### **5.11 What should I do if I am treated unfairly for making a disclosure that isn't a public interest disclosure?**

If you believe you have been subject to any kind of unfair treatment because you have made a disclosure in accordance with the Policy and these Guidelines, you should immediately bring the allegations to the attention of your supervisor or, if the concerns relate to your supervisor, to the Office of the Deputy Vice-Chancellor (Corporate Services) in the first instance. If necessary, the allegation may be made to a Deputy Vice-Chancellor (including the Provost) or to the Vice-Chancellor.

UTS staff and contractors may also make a public interest disclosure, or concerns that they are being treated unfairly after making the disclosure, to one of the investigating authorities under the [Public Interest Disclosures Act 1994 \(NSW\)](#), including:

- Independent Commission Against Corruption — for reports on corrupt conduct
- NSW Ombudsman — for reports on maladministration
- NSW Auditor-General — for reports on serious and substantial waste, or
- NSW Information Commissioner — for reports on government information contravention.

In limited circumstances, where the above avenues have been exhausted, a public interest disclosure may be made to a Member of Parliament or journalist (refer to [section 19](#) of the Act).

An internal investigation and/or formal disciplinary inquiry may be commenced into the alleged unfair treatment.



## **6. Investigating concerns of fraud and corruption**

### **6.1 How will UTS manage disclosures of fraud or corrupt conduct?**

Except in the case of a public interest disclosure, upon becoming aware of information that tends to reveal fraud or corrupt conduct, UTS will follow the following process:

- The information will be referred to the Office of the Deputy Vice-Chancellor (Corporate Services), which will be responsible for coordinating the University's response to the information.
- The Office of the Deputy Vice-Chancellor (Corporate Services) may refer the information to an investigator to undertake a preliminary assessment. The preliminary assessment will advise on what action, if any, UTS should take in response to the information.
- Depending on the outcome of the preliminary investigation, the Office of the Deputy Vice-Chancellor (Corporate Services) may:
  - advise the Vice-Chancellor that the information should be reported to the Independent Commission Against Corruption (ICAC), having regard to the [Independent Commission Against Corruption Act 1988 \(NSW\)](#) and the *ICAC and Public Sector Organisations Guidelines for Principal Officers (2007)*, and/or
  - advise the Vice-Chancellor that the information should be reported to the police.
- The Office of the Deputy Vice-Chancellor (Corporate Services) will assist the Vice-Chancellor to report the information to ICAC and/or the police as necessary. No further action will be taken on the matter without the further advice of ICAC or the police (as appropriate).

### **6.2 How will UTS investigate concerns of fraud and corruption?**

Except in the case of a public interest disclosure, once a matter has been reported to ICAC and/or the police, the Office of the Deputy Vice-Chancellor (Corporate Services) may refer the information to an internal or external investigator for further inquiry.

The Office of the Deputy Vice-Chancellor (Corporate Services) will provide the investigator with a letter setting out the terms of reference of the investigation. These terms will include:

- the name of the appointed investigator
- the purpose of the investigation
- that the investigation is to be conducted in accordance with:
  - the relevant collective agreement, and
  - the ICAC guidelines *A Guide to Conducting Internal Investigations* (2009)
- that the investigator will not interview the subject officer without first consulting UTS, and
- a due date for the investigation report.

Upon receipt of the investigation report, the Office of the Deputy Vice-Chancellor (Corporate Services) will advise the Vice-Chancellor on what further action, if any, should be taken. This may include:

- disciplinary action under the relevant collective agreement
- advising the NSW Ombudsman of the matter, and/or
- advising the NSW Auditor-General of the matter.



Where requested by ICAC, UTS will inform ICAC of the outcome of the investigation and any further action taken.

### **6.3 What feedback will be given to staff who report concerns of fraud and corruption?**

Staff who report concerns of fraud and corruption will be given feedback in response to their disclosure.

They will be given:

- acknowledgement that the disclosure has been received
- a timeframe for receiving further updates
- the names and contact details of the people who can update them regarding progress of the disclosure
- information regarding the resources and support available to handle the staff member's concerns.

### **6.4 How will UTS record concerns of fraud and corruption?**

UTS will maintain a record of all information received which shows or tends to show fraud or corrupt conduct at UTS. The record will contain:

- the name of the subject officer
- the unit/faculty of the subject officer
- the alleged fraudulent or corrupt conduct
- when the conduct was reported to external bodies
- the outcome of the investigation process, and
- any broader issues identified as part of the investigation process.

The record will be reviewed regularly by the Office of the Deputy Vice-Chancellor (Corporate Services) to identify any areas of concern or trends in the information received.

### **6.5 How will UTS manage recommendations made by investigations?**

The Office of the Deputy Vice-Chancellor (Corporate Services) will maintain a register of recommendations made by investigations, internal and external audits and other reviews.

### **6.6 Reporting requirements under Public Interest Disclosures Act 1994 (NSW)**

UTS will record any public interest disclosures on a central register, together with the action taken in respect to the disclosure.

As a public authority, UTS is required to provide a six-monthly report to the Ombudsman under section 6CA of the [Public Interest Disclosures Act 1994 \(NSW\)](#). UTS must also provide the Ombudsman a copy of its Annual Report to the Minister detailing its obligations under the [Public Interest Disclosures Act 1994 \(NSW\)](#) as detailed in section 31 of the Act. Also refer to section 5.4 of the Policy.

Information to be included in the reports is detailed in the [Public Interest Disclosures Regulation 2011 \(NSW\)](#) and includes:

- (a) the number of public officials who have made a public interest disclosure to UTS
- (b) the number of public interest disclosures received by UTS in total and the number of public interest disclosures received by UTS relating to each of the following:

- (i) corrupt conduct
- (ii) maladministration
- (iii) serious and substantial waste of public money or local government money (as appropriate)
- (iv) government information contraventions
- (c) the number of public interest disclosures finalised by UTS
- (d) whether UTS has a public interest disclosures policy in place
- (e) what actions the Vice-Chancellor, in their capacity as the head of the public authority, has taken to ensure that his or her staff awareness responsibilities under section 6E(1)(b) of the Act have been met.

## 7. Roles and responsibilities — refer to section 6 of the Policy

**Accountable Officer:** the Deputy Vice-Chancellor (Corporate Services) has primary oversight of the operation of these guidelines.

**Implementation Officer:** the Executive Officer to the Deputy Vice-Chancellor (Corporate Services) is the primary point of contact for advice on implementing and administering these guidelines.

**Provost and Deputy Vice-Chancellors:** are responsible for reviewing reports on Fraud and Corruption Prevention Plans within their areas of responsibility.

**Nominated Public Interest Disclosures Officers** (see [Schedule 1](#)): are responsible for receiving, forwarding and/or acting upon disclosures in accordance with the Policy and these Guidelines.

Nominated Public Interest Disclosures Officers will:

- clearly explain to persons making disclosures what will happen in relation to the information received
- when requested, make arrangements to ensure that disclosures can be made privately and discreetly (if necessary, away from the workplace)
- put in writing and date any disclosures received orally
- deal with disclosures impartially
- forward disclosures to the Public Interest Disclosures Coordinator (or, if appropriate, the Vice-Chancellor) for assessment
- take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and persons who are the subject of the disclosures, are kept confidential
- act fairly to persons who are the subject of disclosures
- support persons who make disclosures and protect them from victimisation, harassment or any other form of reprisal, and
- provide acknowledgement to persons making reports when organisational objectives are advanced as a result of the report.

**Public Interest Disclosures Coordinator** (see [Schedule 1](#)): the Public Interest Disclosures Coordinator will:

- provide an alternative internal reporting channel to nominated Public Interest Disclosures Officers and to the Vice-Chancellor
- acknowledge receipt of a public interest disclosure to the person making the disclosure within 45 days of receiving the disclosure

- impartially assess each disclosure to determine:
  - whether the disclosure appears to be a public interest disclosure within the meaning of the Act, and
  - the appropriate action to be taken in relation to the disclosure
- consult the Vice-Chancellor and other relevant senior management as appropriate
- be responsible for coordinating any internal investigation arising out of a public interest disclosure, subject to the direction of the Vice-Chancellor
- report to the Vice-Chancellor on the findings of any investigation and recommended remedial action
- take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and persons who are the subject of the disclosures, are kept confidential
- act fairly and ensure appropriate support is provided to persons who are the subject of disclosures
- ensure persons who make disclosures are supported and public interest from victimisation, harassment or any other form of reprisal
- provide staff and contractors making disclosures with notification of the action taken or proposed to be taken in respect to the disclosures within six months of the disclosure being made
- report suspected or actual corrupt conduct to the Office of the Deputy Vice-Chancellor (Corporate Services) and the Vice-Chancellor, to enable that officer to fulfil their reporting responsibilities to the ICAC
- assist management in ensuring that all staff and contractors are aware of how to make a public interest disclosure using the University's internal reporting system, and
- ensure that the person making a disclosure be informed of action taken or proposed to be taken in respect of the disclosure within six months of the disclosure being made.

**Vice-Chancellor:** Disclosures may be made directly to the Vice-Chancellor, who will handle the matters with the same care and confidentiality as the Public Interest Disclosures Coordinator.

The Vice-Chancellor will also:

- ensure the Policy and Guidelines have been communicated to all staff, contractors, emeritus professors and honorary appointments
- receive reports from the Public Interest Disclosures Coordinator on the findings of any investigation and any recommendations for remedial action, and determine what action should be taken
- have primary responsibility for protecting staff and contractors who make disclosures, or provide information to any internal or external investigation of a disclosure, from victimisation, harassment or any other form of reprisal
- be responsible for implementing organisational reform identified as necessary following investigation of a disclosure, and
- report criminal offences to the police; actual or suspected corrupt conduct to the ICAC; and evidence of detrimental action to the NSW Director of Public Prosecutions.

**Staff and contractors:** all staff and contractors are required to take responsibility for ensuring the integrity of the University's management and administrative practices, including by reporting corrupt conduct, maladministration, serious and substantial

waste and government information contravention. Staff and contractors should support those who make genuine disclosures by:

- abstaining from any activity that is or could be perceived to be victimisation or harassment of persons who make disclosures, and
- protecting and maintaining the confidentiality of persons they know or suspect to have made disclosures.

## 8. Version control and change history

Date	Version	Approved by and resolution no.	Amendment
01/09/2010	1	Deputy Vice-Chancellor (Corporate Services) (14/07/2010)	Guidelines approved
30/9/2010	2	Deputy Vice-Chancellor (Corporate Services)	Amended list of Public Interest Disclosures Officers
30/5/2011	3	Deputy Vice-Chancellor (Corporate Services)	Amendments to accommodate changes to the Public Interest Disclosures Act 1994 (NSW).
30/03/2012	4	Deputy Vice-Chancellor (Corporate Services) (30/03/2012)	Amendments to accommodate changes to the Public Interest Disclosures Act 1994 (NSW).
06/12/2013	4.1	Deputy Vice-Chancellor (Corporate Services) (02/12/2013)	A minor amendment to the review schedule, from annually to every three years.
11/08/2016	4.2	Director, Governance Support Unit (GSU) (27/05/2016)	Changes (approved under Delegation 3.17) to update references to the role of Registrar (part of the 2014 restructure).
		Director, Governance Support Unit (GSU) (29/07/2016)	Editorial amendments (approved under Delegation 3.17) to align with UTS governance instrument template, and to update the definition of 'corrupt conduct' in Schedule 2.

### **Schedule 1: List of nominated Public Interest Disclosures Officers**

- Vice-Chancellor
- Provost
- Deputy Vice-Chancellor (Corporate Services)
- Deputy Vice-Chancellor (Education and Students)
- Dean, Faculty of Law
- Dean, Faculty of Health
- University Secretary and Director, Governance Support Unit
- Director, Human Resources Unit
- Director, UTS Legal Services

### **Public Interest Disclosures Coordinator**

- University Secretary and Director, Governance Support Unit

## **Schedule 2: Definition of 'corrupt conduct' in the Public Interest Disclosures Act 1994 (NSW)**

'Corrupt conduct' in the [Public Interest Disclosures Act 1994 \(NSW\)](#) has the same meaning given to it by the [Independent Commission Against Corruption Act 1988 \(NSW\)](#).

### **Section 7 Corrupt conduct**

- (1) For the purposes of this Act, corrupt conduct is any conduct which falls within the description of corrupt conduct in section 8, but which is not excluded by section 9.
- (2) Conduct comprising a conspiracy or attempt to commit or engage in conduct that would be corrupt conduct under section 8 shall itself be regarded as corrupt conduct under section 8.
- (3) Conduct comprising such a conspiracy or attempt is not excluded by section 9 if, had the conspiracy or attempt been brought to fruition in further conduct, the further conduct could constitute or involve an offence or grounds referred to in that section.

### **Section 8 General nature of corrupt conduct**

- (1) Corrupt conduct is:
  - (a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
  - (b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
  - (c) any conduct of a public official or former public official that constitutes or involves a breach of public trust, or
  - (d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.
- (2) Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:
  - (a) official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition),
  - (b) bribery,
  - (c) blackmail,
  - (d) obtaining or offering secret commissions,
  - (e) fraud,
  - (f) theft,
  - (g) perverting the course of justice,
  - (h) embezzlement,

- (i) election bribery,
  - (j) election funding offences,
  - (k) election fraud,
  - (l) treating,
  - (m) tax evasion,
  - (n) revenue evasion,
  - (o) currency violations,
  - (p) illegal drug dealings,
  - (q) illegal gambling,
  - (r) obtaining financial benefit by vice engaged in by others,
  - (s) bankruptcy and company violations,
  - (t) harbouring criminals,
  - (u) forgery,
  - (v) treason or other offences against the Sovereign,
  - (w) homicide or violence,
  - (x) matters of the same or a similar nature to any listed above,
  - (y) any conspiracy or attempt in relation to any of the above.
- (2A) Corrupt conduct is also any conduct of any person (whether or not a public official) that impairs, or that could impair, public confidence in public administration and which could involve any of the following matters:
- (a) collusive tendering,
  - (b) fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources,
  - (c) dishonestly obtaining or assisting in obtaining, or dishonestly benefiting from, the payment or application of public funds for private advantage or the disposition of public assets for private advantage,
  - (d) defrauding the public revenue,
  - (e) fraudulently obtaining or retaining employment or appointment as a public official.
- (3) Conduct may amount to corrupt conduct under subsection (1), (2) or (2A) even though it occurred before the commencement of that subsection, and it does not matter that some or all of the effects or other ingredients necessary to establish such corrupt conduct occurred before that commencement and that any person or persons involved are no longer public officials.
- (4) Conduct committed by or in relation to a person who was not or is not a public official may amount to corrupt conduct under this section with respect to the exercise of his or her official functions after becoming a public official. This subsection extends to a person seeking to become a public official even if the person fails to become a public official.
- (5) Conduct may amount to corrupt conduct under this section even though it occurred outside the State or outside Australia, and matters listed in subsection (2) or (2A) refer to:



- (a) matters arising in the State or matters arising under the law of the State, or
  - (b) matters arising outside the State or outside Australia or matters arising under the law of the Commonwealth or under any other law.
- (6) The specific mention of a kind of conduct in a provision of this section shall not be regarded as limiting or expanding the scope of any other provision of this section.

## **Section 9 Limitation on nature of corrupt conduct**

- (1) Despite section 8, conduct does not amount to corrupt conduct unless it could constitute or involve:
- (a) a criminal offence, or
  - (b) a disciplinary offence, or
  - (c) reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or
  - (d) in the case of conduct of a Minister of the Crown or a member of a House of Parliament—a substantial breach of an applicable code of conduct.
- (2) It does not matter that proceedings or action for such an offence can no longer be brought or continued, or that action for such dismissal, dispensing or other termination can no longer be taken.
- (3) For the purposes of this section:

**applicable code of conduct** means, in relation to:

- (a) a Minister of the Crown—a ministerial code of conduct prescribed or adopted for the purposes of this section by the regulations, or
- (b) a member of the Legislative Council or of the Legislative Assembly (including a Minister of the Crown)—a code of conduct adopted for the purposes of this section by resolution of the House concerned.

**criminal offence** means a criminal offence under the law of the State or under any other law relevant to the conduct in question.

**disciplinary offence** includes any misconduct, irregularity, neglect of duty, breach of discipline or other matter that constitutes or may constitute grounds for disciplinary action under any law.

- (4) Subject to subsection (5), conduct of a Minister of the Crown or a member of a House of Parliament which falls within the description of corrupt conduct in section 8 is not excluded by this section if it is conduct that would cause a reasonable person to believe that it would bring the integrity of the office concerned or of Parliament into serious disrepute.
- (5) Without otherwise limiting the matters that it can under section 74A (1) include in a report under section 74, the Commission is not authorised to include a finding or opinion that a specified person has, by engaging in conduct of a kind referred to in subsection (4), engaged in corrupt conduct, unless the Commission is satisfied that the conduct constitutes a breach of a law (apart from this Act) and the Commission identifies that law in the report.
- (6) A reference to a disciplinary offence in this section and sections 74A and 74B includes a reference to a substantial breach of an applicable requirement of a code of conduct required to be complied with under section 440 (5) of the [Local](#)

[Government Act 1993](#), but does not include a reference to any other breach of such a requirement.

### Schedule 3: Fraud and corruption risk assessment template

Risk #	Issue / risk	Impact	Likelihood	Inherent risks	Current controls / risk mitigation strategies	OR action needed to minimise risk	Control rating / residual risk
1.1							
1.2							
1.3							
...							

[Fraud and corruption risk assessment template](#) (Word 29kb)

#### Schedule 4: Action plan template

Risk #	Nature of the risk	Residual risk rating	Action needed	Responsible manager(s) / target implementation date(s)
1.1				
1.2				
1.3				
...				

[Fraud and corruption action plan template](#) (Word 29kb)

## Schedule 5: Risks to consider in conducting fraud and corruption risk assessments

Examples of risks that should be considered in conducting fraud and corruption risk assessments include (but are not limited to) the following. University-wide generic risks are identified with (G) in the table below and described in the University-wide risks table that follows.

### Risks within Divisions

Division	Key responsibilities	Risk areas / events
Division of the Provost and Senior Vice-President	Faculties	<ul style="list-style-type: none"> <li>• Falsification of exam and assessment results</li> <li>• Manipulation of student grades through favouritism/bias in the assessment process (ie 'soft marking')</li> <li>• Plagiarism</li> <li>• Theft or leakage of exam papers</li> <li>• Academics could be misdirecting resources, either through running their own businesses or misusing university resources</li> <li>• Academic misconduct or corruption regarding Intellectual Property for Curriculums</li> <li>• Bribery by students</li> <li>• Exposed to University-wide generic risks</li> </ul>
	Jumbunna Indigenous House of Learning	<ul style="list-style-type: none"> <li>• Exposed to University-wide generic risks</li> </ul>
	Planning and Quality Unit	<ul style="list-style-type: none"> <li>• Exposed to University-wide generic risks</li> </ul>
Division of the Deputy Vice-Chancellor and Vice-President (Corporate Services)	Information Technology Division	<ul style="list-style-type: none"> <li>• Misuse of computers and the internet (G)</li> <li>• Unauthorised access to information (G)</li> <li>• Exposed to University-wide generic risks</li> </ul>

	Human Resources Unit	<ul style="list-style-type: none"> <li>• Lack of training and awareness (G)</li> <li>• Probity checks are not being done</li> <li>• Misrepresentation of qualifications, skills, experience and citizenship, leading to appointment to higher paid positions than the person would otherwise be entitled to</li> <li>• Manipulation of leave entitlements (G)</li> <li>• Corruption around academic promotions</li> <li>• Exposed to University-wide generic risks</li> </ul>
	Marketing and Communication Unit	<ul style="list-style-type: none"> <li>• Exposed to University-wide generic risks</li> </ul>
	Governance Support Unit	<ul style="list-style-type: none"> <li>• Misuse of confidential matters and privileged information discussed at meetings, including Council</li> <li>• Exposed to University-wide generic risks</li> </ul>
	Student Administration Unit	<ul style="list-style-type: none"> <li>• Corruption in relation to fees</li> <li>• Risks regarding exams papers and taking exams</li> <li>• Unauthorised access to student records and risk of unauthorised changes in student marks</li> <li>• Possible kickbacks for corruption in the process of admitting students</li> <li>• Exposed to University-wide generic risks</li> </ul>
	UTS Legal Services	<ul style="list-style-type: none"> <li>• Exposed to University-wide generic risks</li> </ul>
	University Gallery and Art Collection	<ul style="list-style-type: none"> <li>• Theft</li> <li>• Exposed to University-wide generic risks</li> </ul>
	Internal Audit Unit	<ul style="list-style-type: none"> <li>• Manipulation of findings</li> <li>• Exposed to University-wide generic risks</li> </ul>
Division of the Deputy Vice-Chancellor and	UTS International	<ul style="list-style-type: none"> <li>• Improper recruitment of Agents</li> <li>• Falsification of qualifications by agents on behalf of students</li> </ul>

Vice-President (International and Advancement)		<ul style="list-style-type: none"> <li>• Exposed to University-wide generic risks</li> </ul>
	UTS: Shopfront	<ul style="list-style-type: none"> <li>• Exposed to University-wide generic risks</li> </ul>
	Alumni and Development Office	<ul style="list-style-type: none"> <li>• Risks around donations</li> <li>• Exposed to University-wide generic risks</li> </ul>
	Research and Innovation Office	<ul style="list-style-type: none"> <li>• Misuse of grants</li> <li>• Theft of intellectual property (G)</li> <li>• Falsification of research results</li> <li>• Abuse of outside employment (G)</li> <li>• Conflict of interest regarding the commercialisation of intellectual property</li> <li>• Fraud regarding funding agreements with Industry</li> <li>• Falsification of research results (i.e. the results or conclusions of research deliberately manipulated or skewed)</li> <li>• Exposed to University-wide generic risks</li> </ul>
Division of the Deputy Vice-Chancellor and Vice-President (Research)	Graduate Research School	<ul style="list-style-type: none"> <li>• Misuse of grants</li> <li>• Theft of intellectual property (G)</li> <li>• Falsification of research results</li> <li>• Abuse of outside employment (G)</li> <li>• Conflict of interest regarding the commercialisation of intellectual property</li> <li>• Fraud regarding funding agreements with Industry</li> <li>• Falsification of research results (ie the results or conclusions of research deliberately manipulated or skewed)</li> <li>• Exposed to University-wide generic risks</li> <li>• Collusion in fraudulent activities</li> <li>• Misuse of travel allowances (G)</li> <li>• Theft of equipment (G)</li> <li>• Misuse of credit cards (G)</li> </ul>
	Institute for Sustainable Futures	
	Institute for Public Policy and Governance	
	Financial Services Unit	
	Facilities Management Unit	
	Commercial Services	
	Other research units	



		<ul style="list-style-type: none"> <li>• Fraudulent payroll transactions (G)</li> <li>• Fraudulent investment transactions</li> <li>• Fees for conferences misappropriated (G)</li> <li>• Exposed to University-wide generic risks</li> </ul>
Division of the Deputy Vice-Chancellor and Vice-President (Resources)	Student Services Unit	<ul style="list-style-type: none"> <li>• Misuse of University assets and resources (G)</li> <li>• Favouritism and fraud in procurement and contracting</li> <li>• Exposed to University-wide generic risks</li> </ul>
	Institute for Interactive Media and Learning	<ul style="list-style-type: none"> <li>• Bribes or favouritism within commercial activities/negotiations</li> <li>• Favouritism and fraud in leasing and contracting</li> <li>• Exposed to University-wide generic risks</li> </ul>
	University Library	<ul style="list-style-type: none"> <li>• Exposed to University-wide generic risks</li> </ul>
Division of the Deputy Vice-Chancellor and Vice-President (Education and Students)	Equity and Diversity Unit	<ul style="list-style-type: none"> <li>• Exposed to University-wide generic risks</li> <li>• UTS Union has all the risks around cash handling</li> <li>• No formal fraud and corruption risk strategies</li> <li>• Exposed to University-wide generic risks</li> </ul>
	Student Ombud	
	accessUTS Pty Ltd	
	INSEARCH Ltd	
	UTS Union Ltd	
Major related entities		<ul style="list-style-type: none"> <li>• UTS Union has all the risks around cash handling</li> <li>• No formal fraud and corruption risk strategies</li> <li>• Exposed to University-wide generic risks</li> </ul>

## University-wide risks

University-wide generic risks that should also be considered include:

Generic risk areas / events	
University-wide	<ul style="list-style-type: none"><li>• Misuse of computers and the internet</li><li>• Unauthorised access to information</li><li>• Lack of training and awareness</li><li>• Manipulation of leave entitlements</li><li>• Theft of intellectual property</li><li>• Abuse of secondary (outside) employment</li><li>• Misuse of travel allowances</li><li>• Theft of equipment</li><li>• Misuse of credit cards</li><li>• Fraudulent payroll transactions</li><li>• Fees for conferences misappropriated</li></ul>

## Schedule 6: Example Fraud and Corruption Risk Assessment — Student Administration Unit

Risk #	Issue / risk	Impact	Likelihood	Inherent risk	Current controls / risk mitigation strategies	OR action needed to minimise risk	Control rating / residual risk
1.1	Kickbacks for admission or obtaining credit (eg secret commissions paid by fee paying students for admission or recognition of prior learning).	4	3	High 7	<ul style="list-style-type: none"> <li>The selection of most fee-paying students is subject to approval by more than one person</li> <li>Clear standard admission criteria monitored by the Admission Standards Committee</li> </ul>		Effective/ Mod 4
1.2	The theft or leakage of exam papers prior to examinations.	4	3	High 7	<ul style="list-style-type: none"> <li>Robust process for securing hardcopy exam papers</li> <li>Developing and drafting of exam by academic staff under clear rules</li> </ul>	<ul style="list-style-type: none"> <li>Process for Faculty exams and In-class tests needs to be assessed and improved.</li> <li>Security of exam papers being prepared by staff needs to be assessed and improved.</li> </ul>	Partly effective/ Mod 5
1.3	The falsification of student identification (ie allowing other people to sit exams for students).	4	3	High 7	<ul style="list-style-type: none"> <li>Requirements for issuing and renewing identification cards are robust</li> <li>Photo ID cards required entering the exam</li> </ul>	<ul style="list-style-type: none"> <li>Process for Faculty exams and In-class tests needs to be assessed and improved.</li> </ul>	Effective for formal exams/ Mod 5

Risk #	Issue / risk	Impact	Likelihood	Inherent risk	Current controls / risk mitigation strategies	OR action needed to minimise risk	Control rating / residual risk
					<ul style="list-style-type: none"> <li>Attendance card to be signed and signature checked to ID</li> </ul>		
1.4	Students obtaining assistance during exams	4	3	High 7	<ul style="list-style-type: none"> <li>Confined locations</li> <li>Invigilators adequately trained</li> <li>1 invigilator for 40 students</li> <li>Electronic detection devices used</li> <li>Robust investigation process</li> </ul>	<ul style="list-style-type: none"> <li>Process for Faculty exams and In-class tests needs to be assessed and improved.</li> </ul>	Effective for formal exams/ Mod 5
1.5	Manipulation of student grades during results processing	5	3	Critical 8	<ul style="list-style-type: none"> <li>Formal documented process for processing results</li> <li>Audit trail reports are being reconciled to Faculty reports</li> <li>Results Ratification Committee</li> <li>Authority to vary results authorisation process</li> </ul>	<ul style="list-style-type: none"> <li>AVR forms are manual and signatures are not being verified. An electronic process where delegations could be controlled and monitored more effectively may be considered.</li> <li>Student results should not be emailed to Sydney from overseas and if this can't be avoided, it should be encrypted.</li> </ul>	Partly effective/ Mod 5

Risk #	Issue / risk	Impact	Likelihood	Inherent risk	Current controls / risk mitigation strategies	OR action needed to minimise risk	Control rating / residual risk
1.6	Unauthorised changing of student grades in the Database.	5	3	Critical 8	<ul style="list-style-type: none"> <li>• CASS system owner determine the level of access for users</li> <li>• Periodic review of access undertaken</li> </ul>	<ul style="list-style-type: none"> <li>• Audit trails within system for grade changes should be developed and/or activated.</li> <li>• Actions by Super users in the CASS system should be monitored.</li> <li>• Database administrator actions should be monitored.</li> </ul>	Effective/ Mod 4
1.7	Corruption in relation to student fees management	2	3	Moderate	<p>Following areas have effective controls as per the Internal Audit report 2006:</p> <ul style="list-style-type: none"> <li>• Processing of Invoices</li> <li>• Subject/Course Fee Maintenance</li> <li>• Applications for financial assistance (HECS-HELP/FEE-HELP)</li> <li>• Processing of receipts from students</li> <li>• Refunds and Remissions</li> </ul>		Effective/ Low

An assessment would also need to be conducted of university-wide generic risks.

## Schedule 7: Example Action Plan — Student Administration Unit

Risk #	Nature of the risk	Residual risk rating	Action needed	Responsible manager(s) / target implementation date(s)
1.2	The theft or leakage of exam papers prior to examinations	Moderate	Process for Faculty exams and In-class tests needs to be assessed and improved.	
1.3	The falsification of student identification (ie allowing other people to sit exams for students)	Moderate	Process for Faculty exams and In-class tests needs to be assessed and improved.	
1.4	Students obtaining assistance during exams	Moderate	Process for Faculty exams and In-class tests needs to be assessed and improved.	
1.5	Manipulation of student grades during results processing	Moderate	AVR forms are manual and signatures are not being verified. An electronic process where delegations could be controlled and monitored more effectively may be considered.  Student results should not be emailed to Sydney from overseas and if this can't be avoided, it should be encrypted.	
1.6	The changing of student grades in the Database.	Moderate	Audit trails within system for grade changes should be developed and/or activated.  Actions by Super users in the CASS system should be monitored.  Database administrator actions should be monitored.	

## Schedule 8: UTS methodology for the analysis of risks (including fraud and corruption risks)

### Consequence of risk occurring

The definitions in the table below classify the consequences of identified risks. For the purposes of fraud risk assessments the focus should be on financial and reputational risks.

Rating description	Financial	Health and safety	Business interruption	Reputation and image	Legal liabilities
<b>Catastrophic 5</b>	Threatens University Viability; Above \$40m or >6% of operational budget	Single or Multiple Deaths	Business interruption greater than 6 weeks	Reputation of the University affected nationally and internationally; front page news. Demand for Government inquiry.	Breaches of legislation; (eg Financial management act, work cover, EPA, trade practices, corporations law) Found Guilty — Multiple Jail sentences; Fines / Claims > \$40m
<b>Major 4</b>	Above \$5m – \$40m or 6% of operational budget	Intensive Care Hospital	Business interruption between 4–6 weeks	Embarrassment for the University; including adverse media coverage.	Breach of legislation; Found Guilty — Single jail sentence; Fines / Claims between \$5m – \$40m
<b>Moderate 3</b>	Above \$250,000 – \$5m or 2% of operational budget	Injury/ hospital	Business interruption between 2–4 weeks	Student, staff and/or community concern; heavy local media coverage.	Breach of legislation; Found Guilty — Fines / Claims between \$250,000 – \$5m
<b>Minor 2</b>	Above \$50,000 – \$250,000 or 1% of operational budget	Injury/ treatment	Business interruption between 1–2 weeks	Issue raised by students; staff and/or local press	Breach of legislation; Found Guilty — Fines / Claims between \$50,000 – \$250,000
<b>Insignificant 1</b>	Up to \$50,000 or 0.05% of operational budget	First Aid	Business interruption up to 1 week	Issue resolved promptly by day-to-day management process	Breach of legislation; Found Guilty — Fines / Claims up to \$50,000



### Likelihood of risk occurring

The definitions in the table below are for estimating the likelihood of the occurrence of an identified risk.

Rating description	Likelihood of occurrence
<b>Almost Certain</b> 5	The risk is expected to occur in most circumstances, say many times a month or already is happening.
<b>Likely</b> 4	The risk will probably occur in most circumstances say once a year.
<b>Possible</b> 3	The risk should occur at some time, say once in 3 years.
<b>Unlikely</b> 2	The risk may occur at some time, say once in 10 years.
<b>Rare</b> 1	The risk may occur only in exceptional circumstances.

### Assessment of the level of risk (ie combination of consequence and likelihood)

The overall ranking of each risk is a combination of the two characteristics of consequence and likelihood. For example a risk with an extreme consequence but a rare likelihood would result in a high risk ranking.

The conversion of the combination of consequence and likelihood into a risk ranking is achieved by using the following matrix.

Likelihood	Almost Certain 5	H 6	H 7	C 8	C 9	C 10
	Likely 4	M 5	H 6	H 7	C 8	C 9
	Possible 3	M 4	M 5	H 6	H 7	C 8
	Unlikely 2	L 3	M 4	M 5	H 6	H 7
	Rare 1	L 2	L 3	M 4	M 5	H 6
		Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
		Consequence				

After the inherent risk has been determined, the controls in place need to be evaluated for adequacy and effectiveness, to determine the residual risk. The effectiveness of controls influence the likelihood of an occurrence and therefore the residual risk will always be lower than the inherent risk, or where no controls are in place, the same.

This matrix provides a guide for UTS to determine which risks are the highest priorities from the perspective of the timeliness of the corrective action required. The following table provides more detail.

LEGEND	
C = Critical	Needs active management, planning and decision making at Senior Executive levels of management within 3 months to reduce risk to acceptable levels.
H = High	Senior management attention and action needed within 3 to 6 months to reduce risk to acceptable levels. Existing good controls should be maintained and any additional risk treatment actions required should be defined and implemented.
M = Moderate	Line management responsibility must be defined to ensure risks are being monitored and managed effectively. Risk should be monitored in conjunction with a review and improvement of existing controls.
L = Low	No major concern and can be managed by routine controls or procedures. Improvements could be implemented depending on resource availability. Significant management effort should not be directed towards these risks.

The matrices and associated legend provide a guide to prioritising any actions that may be required. Note, however, that some High and Moderate risks may already be mitigated to the maximum extent possible or practicable in current circumstances. In such situations, no action would be required apart from ongoing monitoring of the situation to identify opportunities to effectively manage the University's risk exposure.