PURPOSE

Ergon Energy is committed to promoting and achieving a strong culture of corporate governance, including the prevention and detection of fraud and corrupt conduct, and in cases of suspected or proven conduct, investigating, reporting and taking appropriate action. This policy applies to Ergon Energy, its wholly owned subsidiaries, officers and employees.

POLICY STATEMENT

Ergon Energy recognises that an effective fraud and corrupt conduct prevention and detection framework is necessary in helping achieve its corporate governance objectives.

Since the introduction of the Integrity Act 2009 (Qld) on 1 January 2010, there is a positive obligation on the Chief Executive of Ergon Energy to notify the Crime and Corruption Commission where he/she suspect that a complaint, information or matter relating to Ergon Energy or the Chief Executive involves something that would be ‘corrupt conduct’ under the Crime and Corruption Act 2001 (Qld).

In addition, the Public Interest Disclosure Act 2010 (Qld) provides for an employee of a Government Owned Corporation to make a Public Interest Disclosure in relation to corrupt conduct by another employee of the corporation or a reprisal relating to previous disclosure by the employee.

Strategies and processes will be implemented to:

- Take appropriate measures to deter and detect fraud or corrupt conduct,
- Encourage employees, subsidiaries, contractors and the public to report suspected fraud or corrupt conduct without fear of victimisation or unfair treatment,
- Investigate all instances or allegations of suspected fraud or corrupt conduct,
- Report all suspected fraud or corrupt conduct to the appropriate authorities e.g. Queensland Police or the Crime and Corruption Commission,
- Assist relevant authorities in the investigation and prosecution of suspected offenders,
- Recover from offenders any assets wrongfully obtained.

IMPLEMENTATION

Management has overall responsibility for ensuring security and integrity within Ergon Energy and implementing appropriate controls and review procedures. However, to effectively counter the threat of fraud and corrupt conduct, everybody within the organisation has a responsibility for its prevention and detection.

Ergon Energy is committed to the following strategies as a means of implementing an effective and integrated fraud and corrupt conduct prevention and detection framework:

The issue and effective deployment of this policy on fraud and corrupt conduct,

Develop and implement a policy on how complaints about the Chief Executive are to be dealt with under the Crime and Corruption Act 2001 (Qld),

- Communication and deployment across the organisation of the Fraud and Corruption Prevention Strategy that addresses the critical areas of identifying fraud risks and responsibilities, education and training, prevention, detection, reporting and investigation,
- Performance of a fraud risk and corrupt conduct analysis across the organisation to assess the level of risk and priority exposure areas,
DEFINITIONS

Fraud

Section 408C of the Criminal Code of Queensland defines the crime of ‘Fraud’ as:

(a) A person who dishonestly - applies to his or her own use or to the use of any person:
   (i) property belonging to another; or
   (ii) property belonging to the person, or which is in the person’s possession, either
        solely or jointly with another person, subject to a trust, direction or condition or on
        account of any other person; or

(b) obtains property from any person; or

(c) induces any person to deliver property to any person; or

(d) gains a benefit or advantage, pecuniary or otherwise, for any person; or

(e) causes a detriment, pecuniary or otherwise, to any person; or

(f) induces any person to do any act which the person is lawfully entitled to abstain from
    doing; or

(g) induces any person to abstain from doing any act which that person is lawfully entitled
    to do; or

(h) makes off, knowing that payment on the spot is required or expected for any property
    lawfully supplied or returned or for any service lawfully provided, without having paid
    and with intent to avoid payment;
In more general terms fraud is defined as “A deliberate and premeditated use of deception to obtain an illegal or improper benefit, or to evade a liability, usually with a direct loss to the organisation.”

Fraud, as defined by this policy, takes the widest definition of the term which incorporates not only criminal activity but any activity (be it criminal or otherwise) which has, at a minimum, the following key elements: A misrepresentation by the perpetrator which has the effect of disguising the true state of affairs and which results in an improper gain or benefit to the perpetrator or any person connected to the perpetrator.

Corrupt conduct

‘Corrupt conduct’ is a category of reportable conduct that requires notification to the Crime and Corruption Commission and includes obligations under the Public Interest Disclosure Act 2010. Section 15 of the Crime and Corruption Act 2001 defines Corrupt conduct as:

(1) **Corrupt conduct** means conduct of a person, regardless of whether the person holds or held an appointment, that:

(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of:
   (i) a unit of public administration; or
   (ii) a person holding an appointment; and

(b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that:

   (i) is not honest or is not impartial; or
   (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
   (iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and

(c) is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and

(d) would, if proved, be:
   (i) a criminal offence; or
   (ii) a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment.

(2) Without limiting subsection (1), conduct that involves any of the following could be corrupt conduct under subsection (1):

(a) abuse of public office;
(b) bribery, including bribery relating to an election;
(c) extortion;
(d) obtaining or offering a secret commission;
(e) fraud;
(f) stealing;
(g) forgery;
(h) perverting the course of justice;
(i) an offence relating to an electoral donation;
(j) loss of revenue of the State;
(k) sedition;
(l) homicide, serious assault or assault occasioning bodily harm or grievous bodily harm;
(m) obtaining a financial benefit from procuring prostitution or from unlawful prostitution engaged in by another person;
(n) illegal drug trafficking;
(o) illegal gambling.

ENFORCEMENT

Ergon Energy will not tolerate fraud or corrupt conduct. All allegations or notifications of fraud or corrupt conduct are treated seriously. Ergon Energy will notify and refer suspected or actual instances of fraud or corrupt conduct to the appropriate authorities as required.

Fraud or corrupt conduct may result in disciplinary action and/or criminal prosecution. It is the responsibility of each manager to take action to prevent fraud and corrupt conduct, and to carry out appropriate investigation and remedial action where appropriate when it does occur.

If there is visible action to promote the correct culture within the organisation, the community and other stakeholders will realise that fraud committed against Ergon Energy or corrupt conduct is not acceptable, and that perpetrators will be prosecuted to the fullest extent of the law.

All persons are encouraged to make a public interest disclosure and notify all instances of suspected frauds or corrupt conduct to Ergon Energy. Reports can be made in many ways - via the dedicated phone number or email (FairCall Service - telephone: 1800 500 965), direct to line management ie. Direct Supervisor, Workgroup Manager or Level 1 Manager, or direct to the Chief Executive, Human Resources or Internal Audit. Callers to the FairCall Service may remain totally anonymous if they wish.

Once notified, all matters must be kept confidential by the persons involved, including any complainant, except as authorised by law or to enforce legal rights.

Ergon Energy does not tolerate victimisation or reprisals against persons who report suspected fraud or corrupt conduct. There are serious penalties under the Crime and Corruption Act 2001 (Qld) for any person who threatens, intimidates or harasses (or attempts to do so) any person who gives evidence to or helps the Crime and Corruption Commission in the performance of its functions.

Further guidance can be obtained from the Reportable Conduct Guidelines.

CATEGORY

Governance