

<b>POLICY</b>	<b>STATUS</b>	<b>AT</b>	<b>DATE</b>	<b>DOC ID</b>
<i>Fraud and Corruption Policy</i>	<i>Adopted</i>	<i>Ordinary Council Meeting - 14 June 2023</i>	<i>3/07/2023</i>	<i>A440955</i>



**ŌPŌTIKI DISTRICT COUNCIL**

# **Fraud and Corruption Policy**

## Background

- It is important that council provides confidence to the community and staff regarding the administration of ratepayer's funds. Council is committed to protecting its revenue, property, information and other assets from any attempt of fraudulent and/or corrupt behaviour.
- In addition to this policy, council staff belong to professional bodies, such as the Institute of Professional Engineers and the Institute of Chartered Accountants of Australia and New Zealand, both of which bind their members to the profession's individual code of ethics concerning professional behaviour.

## Purpose

The purpose of this policy is to:

- Prevent corrupt and/or fraudulent behaviour,
- Instil responsibility and awareness amongst council staff and elected members,
- Establish an environment where fraud and corruption concerns can be identified and addressed,
- Ensure compliance with internal control systems, and
- Provide clear guidance on how to effectively progress an allegation of fraud and corruption.

## Definitions

**Council** means Ōpōtiki District Council.

**Council staff** for the purpose of policy includes:

- All council employees
- Any contractor or consultant who agrees to be covered by this policy under the terms of their engagement agreement,
- Temporary employees supplied through an agency,
- Seconded personnel, and
- Volunteers.

**Elected member** means the mayor and any councillor elected to the Ōpōtiki District Council.

**Fraud** is an intentional act involving the use of deception to obtain an unjust or illegal advantage, and for the purpose of this policy, includes forms of dishonesty.<sup>1</sup> Examples of fraud may include (but are not limited to):

- Forgery of any type;
- Any misappropriation or irregularities of funds, securities, supplies or any other assets;
- Misappropriation of furniture, fixtures and equipment;
- Accepting or seeking anything of material value from council's suppliers, consultants or contractors without prior consent from the chief executive or manager, in accordance with the Sensitive Expenditure Policy;
- Unauthorised use of council property, equipment, materials or records for personal advantage or gain;

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<sup>1</sup> For further guidance on crimes against property involving deception refer to section 240 of the Crimes Act 1961.

- Unauthorised disclosure of confidential information;
- Unauthorised destruction, removal or alteration of records, data, materials or assets for gain;
- Dishonest claims for reimbursement of expenses;
- Obtaining personal advantage by knowledge of insider trading on council policies such as zoning changes.

**Corruption** is the abuse of entrusted power for private gain (such as soliciting or receiving gifts or other gratuities to perform an official duty or omit to perform an official duty). Corruption is a type of fraud, and it includes bribery. Examples of corruption may include (but are not limited to):

- Any person who has a business involvement with council, improperly using, or trying to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others, for example, fabrication of business travel requirements to satisfy personal situations;
- Knowingly providing, assisting or validating in providing false, misleading, incomplete or fictitious information to circumvent council procurement processes and procedures to avoid further scrutiny or reporting;
- Disclosing private, confidential or proprietary information to outside parties without implied or expressed consent;
- Accepting or seeking anything of material value from contractors, vendors, or persons providing services or materials to council.

**Investigation Officer** means the person with delegated authority from the chief executive or mayor to investigate the allegation(s).

## Policy

### 1. Statements

- 1.1. Council adopts a zero tolerance for fraud. This policy sets out specific responsibilities regarding prevention, detection and investigation of fraud and corruption, or other similar irregularities. All practicable steps will be taken to recover losses resulting from fraud and/or corruption.
- 1.2. The Local Government Act 2002 requires council, including its elected members and council staff, to spend public funds subject to the standards of probity and financial prudence such that all expenditure withstands public scrutiny.
- 1.3. Council will undertake a comprehensive investigation of any suspected acts of fraud and corruption, misappropriation, or similar irregularity. Investigations will be fully documented.
- 1.4. The chief executive has primary responsibility for the investigation of all cases of suspected fraud and corruption. Investigation may be delegated at the chief executive's discretion. The mayor is responsible where the chief executive is the subject of an allegation.
- 1.5. This policy applies to all elected members, the chief executive and all council staff.
- 1.6. The chief executive will notify the mayor of a reported allegation of fraudulent or corrupt behaviour and commence an investigation.

- 1.7. Upon conclusion of an investigation, the results will be reported to the mayor.
- 1.8. The chief executive will notify councils audit provider and the Office of the Auditor-General.
- 1.9. Council may seek advice from the Serious Fraud Office on any allegation of fraud and/or corruption.
- 1.10. The chief executive will contact the Police in every instance where there is reasonable grounds to indicate that a crime may have occurred. The commencement of criminal proceedings will be determined by the Police.
- 1.11. Council will pursue every reasonable effort, including a court-ordered restitution and/or civil action, to recover it's loses from the offender(s) or other appropriate sources.

## 2. Fraud and corruption prevention

- 2.1. The primary means to prevent fraud and corruption is by implementing and operating adequate systems of internal controls, supported by written policies and procedures. These controls include, but are not limited to;

Activity	Actions
<b>Promotion</b>	<ul style="list-style-type: none"> <li>• Promoting this policy and council's fraud and corruption response plan</li> <li>• Encouraging people to report suspected fraud, corruption and any internal control weakness.</li> </ul>
<b>Training</b>	<ul style="list-style-type: none"> <li>• Running induction process for new staff that include fraud awareness and code of conduct training</li> <li>• Providing regular fraud awareness training for all staff</li> <li>• Training staff on the purchase order system when necessary</li> </ul>
<b>Monitoring</b>	<ul style="list-style-type: none"> <li>• Actively monitoring conflicts of interest</li> <li>• Monitoring timesheets and leave requests</li> <li>• Having external parties conduct regular fraud risk assessments</li> <li>• Annual assessment of transactions, activities and locations that may be susceptible to fraud. The following criteria will be used: whether cash is involved and ability to access council assets for personal use.</li> </ul>
<b>Vigilant practice</b>	<ul style="list-style-type: none"> <li>• Having standard recruitment processes</li> <li>• Undertaking pre-employment screening that includes checking for criminal convictions for appropriate employee</li> <li>• Ensuring all staff are appropriately trained on their role and obligations with regard to fraud prevention and the protection of council assets</li> <li>• Segregating duties in accordance with best practice</li> </ul>

	<ul style="list-style-type: none"> <li>• Having appropriate protection measures in place for cash handling, procurement, purchase orders, asset management, fuel card usage, expense reimbursement, data security, leave applications, payroll and accounting</li> <li>• Having appropriate processes in place for recording new suppliers, changing supplier details, bank account checking and monthly reporting</li> <li>• Maintaining a centralised contract register</li> <li>• Producing robust monthly financial reporting that provides information about results against budget, benchmarks and expected key performance indicators</li> <li>• Having a fraud risk register</li> <li>• Restricting access to information and systems as in appropriate</li> <li>• Council auditors will evaluate internal controls annually. Any weaknesses identified will be addressed on an ongoing basis.</li> </ul>
<b>Clear expectations</b>	<ul style="list-style-type: none"> <li>• Having a code of conduct that sets out expectation for staff behaviour</li> <li>• Having clear parameters set in the procurement policy/manual and the delegations manual/ register.</li> </ul>
<b>Responding</b>	<ul style="list-style-type: none"> <li>• Having safe, documented and accessible processes for staff to report suspected fraud</li> <li>• Ensuring allegations of suspected fraud and corruption are responded to and actioned in a timely, effective and appropriate way</li> <li>• Ensuring sanctions are in place for parties who commit fraud</li> <li>• Recovering lost money or property wherever practical and appropriate.</li> </ul>

2.2. All staff have a responsibility to adhere to the council’s systems of internal controls, and managers need to ensure staff are aware of the reasons for such controls and the expectation that they will be complied with.

2.3. Once an area of high risk is identified, council will decide on the actions to eliminate or mitigate the risk. This involves strengthening existing procedures by establishing greater internal checks, increasing segregation of duties, establishing robust written procedures and cross checking routines.

2.4. Management will report to the Audit and Risk Committee on the areas of high risk in the council and provide recommendations on actions to reduce or eliminate the risk.

### 3. Recognising fraud and corruption risks

3.1. Council recognises that generally there are three particular conditions often associated with fraud and corruption:

- **Incentives/ pressures:** Senior Leadership, council staff or external parties have an incentive or are under pressure, which motivates them to commit fraud or act in a corrupt manner (for example, personal finance trouble).
- **Opportunities:** Circumstances exist that allow council staff to commit fraud and/or corruption, such as an organisation not having appropriate fraud and corruption controls in place, or staff being able to get around or override ineffective controls (for example, managers being able to approve and authorise their own expenditure).
- **Attitudes:** Staff can rationalise committing fraud (for example, holding attitudes or beliefs such as “everybody else is doing it nowadays” or “they made it easy for me”) or acting corruptly.

#### 4. Reporting suspected fraud, corruption, or other irregularities

- 4.1. All council staff who suspect or have knowledge of fraudulent or corrupt behaviour must report it to the chief executive or their group manager immediately. If anyone other than the chief executive receives a report of suspected fraud or corruption, they must advise the chief executive immediately.
- 4.2. If the suspicion relates to the chief executive then advise your group manager in the presence of the mayor.
- 4.3. The Protected Disclosures (Whistle-blowing) guidelines and policy shall apply.
- 4.4. The person reporting the activity/ behaviour will be informed not to contact the suspected individual in an effort to determine facts or demand restitution; and not to discuss the case, facts, suspicions or allegations with anyone unless specifically asked to do so by the chief executive or investigation officer.
- 4.5. All enquiries concerning the activities under investigation from the suspected individual, their lawyer, or representative, or any other enquires must be directed to the chief executive or investigation officer.

#### 5. Investigation process

- 5.1. The chief executive or the mayor may delegate the investigation at their discretion.
- 5.2. If the allegation relates to the chief executive or the mayor then the investigation will be delegated to the independent chair of the Risk and Assurance Committee, who will follow the investigation process outlined in this policy.
- 5.3. In undertaking an Investigation care must be taken to secure and preserve the integrity of any evidence. Immediate action will be taken to prevent theft, alteration, or destruction of relevant digital and physical records. Such actions include, but not limited to:
  - Removing the digital and physical records and placing them in a secure location, and
  - Limiting access to the location where the digital and physical records are currently held, and
  - Preventing the suspected individual from having access to the digital and physical records. All records must be adequately secured until the audit investigation begins.

- 5.4. The chief executive or investigation officer will make discrete enquires to ascertain the substance of the of the allegation or suspicion. They will have free and unrestricted access to council records and premises.
- 5.5. If the discrete enquires reveal that fraud and corruption is suspected, the investigation officer will inform the chief executive (or the mayor).
- 5.6. The chief executive (or the mayor) will advise the person(s) against whom the allegations have been made about of the complaint and its particulars and determine the next course of action.
- 5.7. The person(s) will be invited to respond orally or in writing within 48 hours and has the right to a support person and/or legal representation.
- 5.8. If the employee or elected member does not cooperate with the course of action then they may be in breach of the relevant code of conduct.
- 5.9. At the conclusion of the investigation, the results must be fully documented in a confidential report by the investigation officer. A copy of the report must be provided to the chief executive, or the mayor in the instance where the fraud relates to the chief executive. If the report concludes that allegations are founded the investigation officer should include recommendations to assist the Senior Leadership prevent similar occurrences.

## **6. Consequences of an investigation**

- 6.1. An investigation may result in a recommendation to terminate a supplier's, consultant's or contractor's contract, or, in the case of an employee, the commencement of a disciplinary process, the outcome of which may be dismissal of the employee, where appropriate.
- 6.2. The following applies as appropriate;
  - Any decision to begin a disciplinary process, or to terminate an employee's employment at the conclusion of that process, will be made in conjunction with the chief executive and human resources.
  - Fraud or corruption perpetrated against the council will be reported to the Risk and Assurance Committee, group manager, human resources, chief executive, and others as appropriate.
  - Where suppliers are involved, any recommendation from the investigation officer will be put forward and reviewed with the chief executive, appropriate general manager, and with the council's legal advisors as appropriate, before any action is taken.
- 6.3. Council staff and elected members who are found guilty by Police to have committed an act of fraud and/or corruption may be held liable to penalty provisions in the Crimes Act 1961 and/or the Secret Commissions Act 1910.

## **7. Confidentiality**

- 7.1. It is acknowledged that alleged or actual instances of fraud can affect the rights and reputation of anyone implicated. Individual identities should be protected wherever possible without detriment to council.
- 7.2. All participants in an investigation under this policy shall keep the allegations, investigation and results confidential, unless disclosure is required under law or at the request of the chief executive.

## **Relevant Legislation**

- Local Government Act 2002, sections 100 and 101 (financial prudence)
- Local Authorities (Members' Interests) Act 1968
- The Protected Disclosures Act 2000
- The Secret Commissions Act 1910
- The Crimes Act 1961, sections 99, 105, 105A and 240.

## **Review**

The chief executive will be responsible for reviewing this policy every three years.