

Fraud Policy

Adopted: 9 June 2016
Commences: 10 June 2016
Review date: 9 June 2019

1.0 PURPOSE

The Local Government Act 2002 S14(9) requires local authorities to ensure prudent stewardship and efficient use of their resources.

The purpose of this policy is to ensure that any cases of suspected unauthorised possession, fraud, or corruption are dealt with appropriately, in order to protect the assets, reputation and staff of the Whakatane District Council.

2.0 POLICY STATEMENT

Unauthorised possession (theft/robbery), unauthorised use, misappropriation, fraud, corruption, impropriety and dishonesty are unacceptable at the Whakatane District Council. The Council treats this behaviour seriously and will investigate all suspected instances whether these involve Council employees, affiliates, or external parties.

3.0 SCOPE

This policy applies to:

Any actual, alleged or suspected fraud or corruption involving employees, affiliates, vendors, outside agencies doing business with employees, and/or any other parties with a business relationship with the Council.

This policy does not apply to:

- minor fraud perpetrated by the public against the Council. For example, deliberately providing wrong information on a licence application.
- performance management issues that should be resolved by a manager and/or Human Resources
- Councillors, who are subject to provisions within the Local Authorities (Members' Interests) Act 1968, the Local Government Act 2002, Secret Commissions Act 1910, and the Council's Code of Conduct for Elected Members.

This policy should be read alongside the Council's Protected Disclosures policy.

4.0 FRAUD MINIMISATION

The primary means to prevent or minimise fraud is by implementing and operating adequate systems of internal control, supported by written policies and procedures. These controls include, but are not limited to:

- Segregation of duties
- Appropriate delegations and authorisation levels
- Active risk management through an effective internal control function
- Financial planning, reporting and monitoring
- Effective procurement practices

All employees have a responsibility to adhere to the Council's systems of internal control, and managers need to ensure employees are aware of the reasons for such controls and the expectation that they will be complied with.

5.0 PRINCIPLES

Employees and affiliates of the Council must have, and be seen to have, the highest standards of honesty, probity and integrity in discharging their obligations to the community.

The Council will treat all suspected instances of fraud or corruption by Council employees, affiliates or external parties very seriously, and:

- will investigate all suspected instances of fraud or corruption by Council employees, affiliates or external parties. Any proven allegations of fraud or corruption will be treated as serious misconduct and/or serious breach (as applicable), and may result in summary dismissal of an employee, or the immediate termination of a affiliates 's contract with the Council;
- will seek to recover funds/assets lost through this behaviour wherever possible and practicable;
- where the behaviour could amount to an illegal activity, will refer that behaviour to the NZ Police at an appropriate time during the investigation process and/or any subsequent disciplinary process;
- is committed to developing and maintaining processes and procedures to prevent and detect fraud and corruption

6.0 DEFINITIONS

Fraud is the deliberate practice of deception in order to receive unfair, unjustified or unlawful gain and, for the purposes of the policy, includes forms of dishonesty. Within this definition, examples of fraud may include, but are not limited to:

- Theft of time or using Council technology for non-work related purposes.
- unauthorised possession or use, or misappropriation of funds or other assets
- impropriety in the handling or reporting of money or financial transactions
- forgery or alteration of any document or computer file/record belonging to the Whakatane District Council
- forgery or alteration of a cheque, bank draft or any other financial instrument
- bribery, corruption or coercion
- destruction, removal or inappropriate use/disclosure of records, data, materials, intellectual property or assets for gain
- any similar or related inappropriate conduct.

Corruption: is the lack of integrity or honesty (especially susceptibility to bribery) or the use of a position of trust for dishonest gain. Examples of when corrupt conduct occurs include:

- a public official improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others
- a public official acts dishonestly or unfairly, or breaches public trust
- a member of the public influences, or tries to influence, a public official to use his or her position in a way that is dishonest, biased or breaches public trust.

All agreements for/with all agency staff, seconded personnel, contractors and consultants should contain an express obligation on them to comply with this policy.

This policy distinguishes between fraud and error. Within this definition, “error” refers to an unintentional misstatement of information, such as financial information, including the omission of an amount or a disclosure.

If there is any question as to whether an action constitutes fraud, unauthorised possession or corruption, the General Manager of Finance or Chief Executive should be the first point of contact.

Affiliates

For the purposes of this policy, an affiliate of the Council includes:

- any contractor or consultant who agrees to be covered by this policy under the terms of their engagement agreement
- temporary staff supplied through an agency
- seconded personnel
- volunteers

All agreements for/relating to all agency staff, seconded personnel, contractors and consultants should contain an express obligation on them to comply with policy.

7.0 PROCESS

Allegations

Allegations of unauthorised possession, fraud, or corruption should be made in the first instance to the General Manager of Finance. Where the allegation involves a departmental manager the allegation is to be communicated directly to the Chief Executive (CE) or in the case of the CE to the Mayor. All allegations will be acknowledged in writing.

The CE (or the Mayor when the CE is the subject of an allegation) is to be advised, in writing, of all allegations made including all relevant details of the allegation. Confidentiality must be maintained at all times. After the initial process described above, allegations will be reported to the CE, who will use his/her judgement in relaying that information to the Mayor and Elected Members.

Investigations

The General Manager of Finance has the primary responsibility for investigation of all suspected unauthorised possession, fraudulent or corrupt acts or behaviour as defined in this policy. The General Manager of Finance or CE (or the Mayor if the CE is the subject of an allegation) may however, choose to appoint another competent investigating officer.

Where the suspected fraud or corruption involves an employee, the CE and the Human Resources Manager will be advised of the suspected act immediately so that they may provide advice and guidance on the action to be taken. Any investigation carried out must comply with Human Resources policies. The CE may also require an employee who is the subject of an investigation to be stood down on full pay during the term of the investigation.

Any investigative activity required will be conducted without regard to the suspected wrongdoer’s length of service, position/title or relationship to Council.

The investigating officer will carry out a preliminary investigation and report their findings and recommendations to the CE (or the Mayor if the CE is the subject of an allegation). All documentary and electronic evidence to the investigation should be obtained and secured as early as possible.

If the preliminary investigation finds no substance to the allegation, then the investigation process is terminated and this outcome is advised in writing to the person who made or discovered the allegation and the person accused.

If the preliminary Investigation by the investigating officer finds there is substance to the allegation, then a full investigation will take place.

Decisions to refer the investigation results to the appropriate law enforcement professional body, and/or regulatory agencies for independent investigation will be made by the Chief Executive (or the Mayor if the CE is the subject of an allegation). The Council's legal and professional advisors should also be consulted before this referral. This is to ensure that the Council's legal position is not compromised or that it becomes liable for damages or other recompense.

This policy has limited application in the case of unauthorised possession of money or goods by any person not employed by the Council, eg robbery of a cash collection point. A robbery or unauthorised possession must be immediately reported to the NZ Police and the Chief Executive must also be notified as soon as possible and be kept informed of any Police investigation.

Right of access for Internal /external Auditors and Investigators

The General Manager of Finance, through the audit function (and anyone acting on their behalf), or the appointed investigator have:

- free and unrestricted access to all the Council records and premises
- the authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities, when it is within the scope of their investigation.

Reporting procedures

Great care will be taken during an investigation of suspected fraud or corruption to avoid mistaken accusations or alerting suspected individuals that an investigation is underway.

The General Manager of Finance and any Audit Investigating Officer will be guided by the following:

- the employee, or other complainant, or person reporting the activity/behaviour may remain anonymous;
- if the allegation amounts to a protected disclosure under the Protected Disclosures Act 2000 the employee or other complainant may follow the process set out in the Council's Protected Disclosure policy;
- all enquiries concerning the activities under investigation from the suspected individual, his or her lawyer or affiliate, or any other enquirer must be directed to the General Manager of Finance or the CE;
- no information concerning the status of an investigation will be disclosed, except through the Chief Executive, or human resources in cases where an employee is suspected of unauthorised possession or fraud. The proper response to any enquiry is "*I am not at liberty to discuss this matter*"; and

- Fraud perpetrated against the Council will be reported to the Council's insurers, Audit New Zealand and the Serious Fraud Office, as required.

The reporting individual will be informed of the following:

- 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 General Manager of Finance, Human Resources, the Chief Executive or the Council's legal services.

Consequences of an investigation

An investigation may result in a recommendation to terminate a supplier's or 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.

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 Audit and Risk Committee, section manager, Human Resources Manager, Departmental Manager, Chief Executive, and others as appropriate.
- where suppliers are involved, any recommendation from the General Manager of Finance and any audit investigator will be put forward and reviewed with the Chief Executive, departmental managers for procurement (contracts), and with the Council's legal advisors as appropriate, before any action is taken.
- where instances of fraud or corruption are substantiated, any decisions to take no action, or to take action that is seen as inappropriate by either the General Manager of Finance or Human Resources, will be referred to the Chief Executive for formal authorisation.

8.0 ROLES AND RESPONSIBILITIES

<p>All employees and affiliates</p>	<ul style="list-style-type: none"> • Adherence and compliance with this policy, procedure and guideline • Advise their line manager, the General Manager of Finance or HR manager as soon as they become aware of, or suspect fraud or corruption.
<p>All process owners and people managers</p>	<ul style="list-style-type: none"> • Ensure appropriate controls are in place at all levels to safeguard against fraud and corruption and take action to implement and maintain these controls • Regularly review transactions, and activities that may be susceptible to fraud and/or corruption • Promote the principles of this policy

	<ul style="list-style-type: none"> • Notify applicable personnel of the requirements of the policy, procedures and guidelines • Take appropriate action in liaison with the General Manager of Finance, Human Resources, Chief Executive, and the departmental manager when breaches of this policy occur. This may include initiating civil proceedings, debt collection, etc.
Human Resources	<ul style="list-style-type: none"> • Be involved in any investigation of alleged fraud or corruption concerning an employee, by providing advice and guidance • Take appropriate action in liaison with the employee's manager and the General Manager of Finance when breaches of this policy occur. This may include (following approval by the Chief Executive) initiating civil proceedings, debt collection, etc.
General Manager of Finance function and Audit and Risk Committee	<ul style="list-style-type: none"> • Develop, consult, seek approval of, and implement policy and aligned processes for the development of fraud and corruption response for the Council • Guide/approve system development to support policy/process • Interpret and administer requirements of policy/process relating to fraud and corruption response. • Have regard to all relevant employment law principles, including the concepts of natural justice, the right of reply, and guidelines for the collection of evidence • Monitoring and updating of this policy and procedure • Manage the reporting of breaches to this policy to the NZ Police where applicable

Employees and affiliates should make themselves familiar with the Council's policies, procedures, guidelines and business rules, particularly those which govern and guide processes and functions in relation to their specific role. Ignorance of the Council's policies and processes is not an acceptable excuse if a breach occurs.

Managers and supervisors have a key role in ensuring that employees and affiliates are familiar with the Council's policies, procedures, guidelines and business rules as they apply to their sections and activities. Reference to this policy should be made to contractors and consultants in their terms of their engagement.

A breach of a Council policy may result in disciplinary action being taken against employees, up to and including dismissal, and the termination of a representative's agreement/arrangement with the Council.

The Council reserves the right to review, amend or add to this policy at any time upon reasonable notice to employees and those with contract agreements.

POLICY REFERENCES

- Sponsor: **General Manager of Finance**
- Effective date: 9 June 2016 – adopted by Council
- Internal review due: June 2019

Local Government Act (2002)
Crimes Act 1961

- Legal compliance: Protected Disclosures Act 2000
Employment Law

This policy should be read in conjunction with the:

Code of Conduct
Conflict of Interest policy
Protected Disclosures policy
Sensitive Expenditure policy
Confidential Property File policy
Contracts for the Supply of Goods or Services policy
Email and Voicemail policy

- Associated Documents/References

- Policy Number TBA
- For Review by Audit and Risk Committee 2 June 2016