

13 August 2021

John Creser

By email only to: [fyi-request-16295-5de2c294@requests.fyi.org.nz](mailto:fyi-request-16295-5de2c294@requests.fyi.org.nz)

Tēnā koe John Creser

### Official Information Act Request (Our Ref: OIA/0133)

I refer to your request under the Official Information Act 1982 (**OIA**) dated 5 August 2021 made via the fyi website:

The Ministry of Justice has prepared guidelines (which I've forwarded to your office) to assist public and private sector organisations to develop and improve their fraud and corruption policy and procedures.

Please advise me of the policy you've adopted to ensure that fraudulent records are not promulgated by government departments in accordance with Justice Department guidelines.

Your request is refused under section 18(e) of the OIA because this information does not exist. OPC has not adopted a policy in relation to limiting fraudulent records in government agencies.

To explain, fraud and corruption within government agencies (the core purpose of the Ministry of Justice guidelines) is a criminal matter that is outside the scope of OPC's regulatory functions. A short summary of our role and functions can be found on our website [here](#). OPC's functions are primarily civil rather than criminal and are concerned with the protection of an individual's privacy. For the criminal matters where OPC may consider taking action, see our [Prosecution Policy](#).

Nevertheless, there is potential for OPC's regulatory functions such as investigating complaints about breaches of privacy to overlap with the detection of fraudulent activity. For example, privacy principle 5 requires all agencies to ensure that personal information is protected against unauthorised access, use, modification or disclosure. Privacy principle 8 requires all agencies to take reasonable steps to check that personal information is accurate, up to date and not misleading before using or disclosing the information. If we detect significant misconduct or wrongdoing on the part of an agency or individual, we must report this to the appropriate authority (section 96 of the Privacy Act).

For information, we have adopted our own comprehensive Fraud Policy based primarily on the requirements of the Office of the Auditor General (**attached**). This Policy covers the measures raised in the Ministry of Justice guidance and ensures that the assets and reputation of the Office of the Privacy Commissioner are protected from fraudulent misconduct.

As part of our annual audit, Audit New Zealand reviews the appropriateness and adequacy of our policy and practices with regard to fraud and potential corruption. We update the Fraud Policy regularly to reflect ongoing advice received from the Office of the Auditor General and Audit New Zealand.

In addition, please find the link to our Code of Conduct which is available on the Office's website: <https://privacy.org.nz/about-us/transparency-and-accountability/opc-policies/code-of-conduct/>

If you are dissatisfied with my response to your request, you have the right to complain to the Ombudsman.

Nāku iti noa, nā

A handwritten signature in blue ink, appearing to be 'John Edwards', written in a cursive style.

John Edwards  
**Privacy Commissioner**

Encl. Fraud policy