



Privacy Commissioner  
Te Mana Mātāpono Matatapu

# Fraud Policy

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## Purpose

To ensure that the assets and reputation of the Office of the Privacy Commissioner are protected from fraudulent misconduct.

## Definition

Fraud is defined as wilful theft, embezzlement, violation of the Office of the Privacy Commissioner (OPC) policies relating to employment, finance, equipment, property and other assets, or any other action in relation to those matters likely to bring the Office of the Privacy Commissioner into disrepute.

### **Corporate governance and corruption and fraud control:**

Corruption and fraud control and management is an integral component of effective corporate governance which builds upon the requirement for transparent and accountable processes consistent with sound business practices and organisational standards of compliance. Embedding these requirements into the day-to-day operations of the OPC will enhance the OPC's profile as a good citizen, and reduce the likelihood that it will suffer financial loss or damage to its reputation as a result of misconduct by staff and others.

### **Corruption**

Corruption is defined as behaviour that may involve fraud, theft, the misuse of position or authority or other acts that are unacceptable to an organisation and which may cause loss to the organisation, its clients or the general community. It may also include other elements such as breaches of trust and confidentiality. The behaviour need not necessarily be criminal. Further definition is 'dishonest activity in which an OPC employee or contractor of an entity acts contrary to the interests of the OPC and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity.'

### **Fraud**

Fraud can be seen as a major subset of corruption and is a deliberate, intentional and premeditated dishonest act or omission acted out with the purpose of deceiving to gain advantage from a position of trust and authority. It includes amongst others, acts such as theft, making false statements/representation, evasion, manipulation of information, criminal deception and abuse of OPC property or time. Further definition 'fraud as dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or person external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position.'

## Objectives

- To ensure senior management's commitment for its responsibility for identifying risk exposures to corrupt and fraudulent activities and for establishing controls and procedures for prevention and detection of such activities
- To reinforce the requirement for all staff to refrain from corrupt conduct, fraudulent activities, and maladministration and encourage the reporting of any instance of fraud, corrupt conduct or maladministration
- To ensure that all staff are aware of their responsibilities in relation to the ethical conduct of themselves and staff that they may be responsible for
- To ensure that regular assessment of the risks of corruption and fraud is undertaken, and all suspected corrupt and fraudulent activity is dealt with appropriately.

The Privacy Commissioner and the management team are responsible for the implementation of this policy.

## Policy

The Office of the Privacy Commissioner:

- Is committed to development and maintenance of best practices processes and procedures to prevent and detect fraud, and that demonstrate appropriate stewardship of OPC property and assets
- Whilst the Privacy Commissioner has ultimate responsibility for ensuring that adequate controls are in place to prevent and detect fraud, each manager has responsibility for ensuring that appropriate controls are in place at all levels to ensure safeguards against fraudulent activity, and take appropriate action to implement and maintain these controls
- The OPC will not countenance fraudulent activity, and will investigate all reported incidents of alleged fraud involving the office whether committed by staff or other persons not being staff members
- Staff who may consider there are grounds for enquiry into fraudulent activity, must advise their manager, the General Manager or the Privacy Commissioner immediately. Alternatively, disclosure may be made under the Protected Disclosures Act 2000 and associated OPC procedures
- All suspected fraudulent activity will also be communicated to the Minister under the 'no surprises rule' and to the external auditors (Audit New Zealand).
- All disclosures of dishonest or fraudulent practices will be treated seriously and investigated by way of internal investigation or disciplinary as authorised by the Privacy Commissioner. All proven incidents of fraud will be pursued through every means available and appropriate disciplinary action taken
- The recovery of lost money or other property will be pursued wherever possible and practical
- Other action may include where appropriate referral of the evidence to the Police with a view to prosecution

## Legal Compliance

The Protected Disclosures Act 2000 provides for the facilitation of disclosure and investigation of serious wrongdoing in or by an organisation and protects the individual who reports allegations of serious wrongdoing. Persons who make disclosure under the Act are protected from dismissal or punishment, legal action or disclosure of their own private information.

Relevant Legislation: [Protected Disclosures Act 2000](#)

## Executive and management commitment

The Privacy Commissioner and management at all levels of the OPC need to be committed to the pro-active prevention of corrupt or fraudulent activities in a systematic way in order to enhance the operation and reputation of the OPC.

All managers should ensure there are mechanisms in place within their area of control to:

- Assess the risk of corruption and fraud
- Promote employee awareness of ethics, and
- Educate employees about corruption and fraud prevention and detection.

Managers should ensure that they display an appropriate attitude towards compliance with laws, rules and regulations. They should ensure that they are aware of indicators/symptoms of fraudulent and corrupt conduct, or other wrongful acts (e.g. by participating in relevant staff training) and respond appropriately to such indicators. Most importantly they should establish and maintain adequate internal controls that provide for the security and accountability of OPC resources and prevent/reduce the opportunity for such activities.

## Applicable internal controls include:

- Suitable recruitment procedures
- Segregation of duties
- Security (physical and information systems)
- Consideration of risk and mitigation strategies
- Supervision and internal checks
- Approvals within delegated authority
- Reconciliations
- Budget control
- Regular review of management reports, and
- Clear reporting lines.

In addition to the general controls identified above, the OPC will specifically carry out an annual review of its active supplier listing on the accounting system to ensure that it is still current. Old accounts will be archived.

### **Internal control structure**

The Privacy Commissioner is ultimately responsible for the establishment of a cost-effective internal control structure for the OPC. Financial, administrative, information systems and academic internal controls are all essential requirements for corruption and fraud prevention. Individual managers are responsible for daily operations and for maintaining cost-effective internal control structures within their organisational responsibility.

### **Environment and culture**

All staff have the responsibility to report suspected corrupt and/or fraudulent activity. Any staff member who suspects such activity must immediately notify his/her supervisor or the General Manager. In situations where the Manager is suspected of involvement in corrupt and fraudulent activity, the matter should be notified to the Privacy Commissioner.

### **Dealing with complaints**

All complaints of suspected corrupt and/or fraudulent behaviour should be reported for appropriate managing while also providing for the protection of those individuals making the complaint and natural justice to those individuals being subject of such complaint.

### **Recruitment of staff**

Recruitment policy and practices underpin corruption and fraud prevention, which include:

- Verifying transcripts, qualification, publications and other certification or documentation, and
- Avoiding entering into recruitment of individuals that could potentially lead to conflicts of interest
- Criminal background and security checks on employees where the position warrants it contacting referees

### **Staff development and training**

Course / seminars and presentations on the topics of ethics, corruption and fraud prevention and detection and compliance obligations of individual staff members will be embedded into the OPC's ongoing staff development, training and awareness programs.

**Procedure for the disclosure of serious wrongdoing**

- Refer to the Protected Disclosures Act 2000
- Protected Disclosures Act – OPC Internal Procedures

**Further Information**

**Related Policies**

- Conflicts of Interests Policy
- Credit Card Policy
- Gifts and Hospitality Policy
- OPC Code of Conduct
- Procurement Policy
- Protected Disclosures Policy
- Sponsorship / Partnership Policy

| <b>RESPONSIBILITIES</b> |                             |
|-------------------------|-----------------------------|
| Persons/ Areas Affected | ALL OPC Staff & Contractors |
| Contact                 | General Manager             |
| Approval Authority      | Senior Leadership Team      |
| Last Review Date        | July 2021                   |