

13 April 2023

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Our ref: OIA 102463

Tēnā koe Mr Irish

Official Information Act request: Preventing corruption

Thank you for your email of 13 February 2023, in which you requested, under the Official Information Act 1982 (the Act), information regarding the measures taken to prevent corruption in New Zealand's political system.

Specifically, you have requested:

Details of the measures in place to prevent corruption in the political system, including the influence of foreign countries like the PRC.

Information on steps being taken to ensure the transparency and accountability of political donations and financial disclosures by politicians and public officials.

Information on how the government is addressing the risk of conflicts of interest in its political system, particularly with regards to business dealings with foreign countries.

Details on the enforcement mechanisms in place to hold politicians and public officials accountable for their actions and prevent corruption.

Information on the government's efforts to raise public awareness about the dangers of corruption and the importance of transparency and accountability in politics.

The government's position on international efforts to prevent corruption and promote transparency and accountability in the political system.

The government's plans for responding to any allegations of corruption in the political system, particularly those related to foreign influence.

As your request relates to general questions of the legal and political system, the Ministry of Justice has consulted other public sector agencies to provide a comprehensive response. To allow sufficient time for this broad consultation, on 07 March 2023 the Ministry extended the timeline to respond to your request to 12 April 2023.

One of the agencies consulted, the Office of the Clerk of the House of Representatives, is not subject to the OIA, but has offered information to support us to provide a clearer picture of the existing protections and work underway with respect to addressing bribery and corruption.

To avoid repetition, your request has been answered in titled sections that respond to its various parts. Please note that in regard to your request for the Government's position on international efforts to prevent corruption and promote transparency and accountability in the political system, we have no further information to provide beyond the Ministry's previous response of 20 December 2022, reference number: OIA - 102084.

Electoral financing

The Electoral Act 1993 imposes a \$50 cap on donations from an overseas person to a candidate or party (section 207K). Any excess overseas donation must be returned to the overseas person (or, if this is not possible, the Electoral Commission).

Candidates and party secretaries that fail to comply with these requirements may be guilty of an illegal or corrupt practice and can face a term of imprisonment of up to two years, or a fine of up to \$100,000, upon conviction. You can find out more about these rules on the Electoral Commission's website:

- elections.nz/guidance-and-rules/donations-and-loans/rules-for-party-donations-and-loans/

Rules for elected officials

As well as the rules in the Electoral Act 1993, both the Cabinet Manual and the Standing Orders of the House of Representatives set out rules for Ministers and other Members of Parliament (MPs) respectively. These documents are available at:

- dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf
- parliament.nz/en/pb/parliamentary-rules/standing-orders/

The Cabinet Manual provides guidance on the expectations of the conduct of Ministers, their public duty, and personal interests. This includes identifying conflicts of interests, managing their interactions with representatives from non-government or commercial organisations, as well as the receipt of gifts and political party donations. You may be interested to note that DPMC has advised that the Cabinet Manual is currently being updated, and that you may wish to review the updated version when it is published. DPMC expects it will be made publicly available later this year.

Under the Standing Orders, Ministers and other MPs are also required to maintain a register of their specified interests, by submitting a "return". These returns are compiled by the Registrar of Pecuniary and Other Specified Interests of Members of Parliament (the Registrar) and published in a public register. The register can be viewed at:

- parliament.nz/en/mps-and-electorates/members-financial-interests/

The purpose of the register is to record MPs' interests, providing transparency and strengthening public trust and confidence in parliamentary processes and decision making. By being open about their interests, members can protect themselves from accusations of having a hidden conflict between their private interest and their public role. In turn, the

public can judge MPs' actions against their known interests to reach an opinion about whether a member has behaved appropriately. An MP who fails to comply with their obligations may be held in contempt of the House.

Further, MPs who have a financial interest in business before the House are not disqualified from participating in a debate on the matter, serving on a committee inquiring into it, or voting on it. MPs must judge whether they should participate in any of these ways when they have a financial interest in the outcome of parliamentary proceedings. However, before participating in parliamentary business in which a member has a financial interest, they must declare that interest to the House or committee. Failing to do so may be treated as a contempt of the House. Interests already declared through the Register of Pecuniary and Other Specified Interests do not have to be separately declared again.

Standing Orders also require MPs to disclose to the Registrar any gift received with an estimated market value of more than a prescribed amount, while the rules regarding political party donations are outlined in the Electoral Act 1993.

At the national level, these offences and guidelines are designed, in part, to prevent corruption in the political system by making MPs aware of their responsibilities and by criminalising corrupt behaviour and practices. There is also a regime at the local government level to address similar issues and concerns. Key laws include, the Local Authorities (Members' Interests) Act 1968, the Local Government (Pecuniary Interests Register) Amendment Act 2022, and the Local Electoral Act 2001.

Protective security requirements

The New Zealand Security Intelligence Service Protective Security Requirements Unit has developed guidance to support elected officials to understand and protect themselves from espionage and foreign interference threats. The guidance is available at:

- protectivesecurity.govt.nz/assets/Campaigns/PSR-ElectedOfficials-spreads.pdf

Criminal offences relating to bribery and corruption

A range of activities related to bribery and corruption are addressed under Part 6 of the Crimes Act 1961. In particular, sections 100 to 105 of the Crimes Act 1961 make it an offence (punishable to a term of imprisonment up to 7 years) to bribe, and for judicial officials, Ministers, Members of Parliament, law enforcement officers and officials, to undertake bribery or corruptly accept bribes.

It is also an offence to bribe foreign public officials in New Zealand and overseas, and for foreign public officials in New Zealand (or outside of New Zealand if they ordinarily reside here) to corruptly accept bribes or bribe officials.

Part 6 of the Crimes Act 1961 also includes offences for trading in influence with intent to influence an official, and corrupt use of official information - including use or disclosure of personal information obtained as part of the official information.

It is important to note that New Zealand's anti-bribery and corruption regime also includes several domestic offences housed within the Secret Commissions Act 1910, the Electoral Act 1993, and the Protected Disclosures (Protection of Whistle-blowers) Act 2022. These offences apply to everyone, including those involved in the political system, such as members of parliament and local council employees.

The Serious Fraud Office and anti-corruption work

The Serious Fraud Office (SFO) is mandated to investigate and prosecute serious or complex fraud, including bribery and corruption crimes that could undermine confidence in the public sector or are of significant public interest. Charges that may be filed include charges under the Secret Commissions Act 1910, and the Crimes Act 1961 (Part 6, sections 99 to 106 – crimes affecting the administration of law and justice). The SFO has provided the following as examples of recent prosecutions it has undertaken under its mandate:

- Ongoing trial at High Court Christchurch – SFO charged Gerard Gallagher and Simon Nikoloff with corrupt use of official information and attempting to corruptly use official information under the Crimes Act 1961, in relation to their role as advisors at the Canterbury Earthquake Recovery Authority.
- December 2022 – Vivek Goel was found guilty on 14 counts of corruption and bribery of an official, four counts of corrupt use of official information, and two counts of obtaining by deception under the Crimes Act 1961 in relation to his role as group manager of district assets at Westland District Council. Mr Goel is awaiting sentencing in March 2023. The charges relate to Mr Goel's behaviour in accepting cash bribes from his associates in exchange for awarding council contracts, where he was responsible for 67% of the council's spending between 2015 and 2017.

The SFO also leads a workstream in the Open Government Partnership Action Plan (OGP). The OGP is a collaboration between the Public Service Commission, Transparency International, and other civil society organisations to ensure transparency and accountability in government. Further information on the SFO's anti-corruption activities can be found in its Annual Report here:

- sfo.govt.nz/assets/Uploads/Annual-Report-2022-Web.pdf

Anti-money laundering and countering the financing of terrorism

The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act) improves New Zealand's safety by making it harder for criminals to profit from their offending and disrupting the financing of terrorism. The AML/CFT Act helps ensure markets are not distorted by illicit funds and helps to maintain integrity of financial institutions and professions such as lawyers, accountants, and real estate agents. Also, it generates the largest and most detailed financial intelligence available to the Government and law enforcement agencies. This results in wide-ranging benefits, such as:

- enhancing national security
- combatting terrorism

- disrupting and dismantling serious and organised crime (including transnational organised crime)
- protecting New Zealand from bribery, corruption, foreign interference, and
- restraining criminal assets.

The AML/CFT Act provides obligations and controls for foreign politically exposed persons (PEPs). Due to their position and influence within governmental or international organisations, PEPs can pose significant money laundering and terrorism financing risks. PEPs may have control or influence over government expenditure and can therefore be involved in corrupt activity, either of their own volition or because they have been targeted by criminal networks. PEPs may also be vulnerable to foreign interference.

The Ministry of Justice recently reviewed the AML/CFT Act, resulting in a report to the Minister of Justice in 2022 which is publicly available on the Ministry's website at:

- justice.govt.nz/justice-sector-policy/key-initiatives/aml-cft/aml-cft-review/

The review made several recommendations in relation to PEPs, including that the definition of PEP should be amended to include domestic PEPs. Cabinet agreed to the Ministry's proposals to progress the implementation of the review's immediate recommendations, and officials are conducting further policy work to progress medium-term and long-term changes, including recommendations concerning PEPs. The Ministry is now consulting the public on revised AML/CFT regulations as part of the review's immediate recommendations.

New Zealand's obligation to international corruption prevention

New Zealand is party to two international instruments in relation to corruption: the Organisation for Economic Cooperation and Development (OECD) Convention of Combating Bribery of Foreign Public Officials in International Business Transactions (the Anti-Bribery Convention), and the United Nations Convention Against Corruption (the Convention).

The OECD Anti-Bribery Convention establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective.

The Convention is the only legally binding universal anti-corruption instrument. The Convention's far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem. The Convention covers five main areas:

- preventive measures
- criminalisation and law enforcement
- international cooperation

- asset recovery, and
- technical assistance and information exchange.

The Convention covers many different forms of corruption, such as bribery, trading in influence, abuse of functions, and various acts of corruption in the private sector.

New Zealand is an active participant in the work of these groups and takes part in mutual evaluation mechanisms to ensure continual improvement. New Zealand is currently undergoing its second cycle review under the Convention. The report for this review will be made publicly available once it is finalised. You can find further information here:

- [unodc.org](https://www.unodc.org)

The New Zealand Government has also made guidance on fraud and corruption for businesses publicly available. This includes examples of fraud and corruption policies businesses can implement. An example of such a policy can be viewed here:

- justice.govt.nz/assets/Example-of-Fraud-and-Corruption-Policy.pdf.

Supporting good governance is a priority for New Zealand's International Development Cooperation Programme. An important area of work is promoting transparency and accountability, which includes supporting Pacific country-led anti-corruption efforts to implement the UN Convention Against Corruption and the Teieniwa Vision, which is a Pacific Islands Forum Leaders pledge to unite against corruption. You can find more information about the Teieniwa Vision here:

- forumsec.org/wp-content/uploads/2021/09/Teieniwa_Vision_PUAC_post_LEADERS.FINAL_.pdf

In the Pacific, we are supporting efforts to prevent corruption and promote transparency and accountability in the political system. Our contributions involve strengthening the capacity and capabilities of key institutions such as parliaments, election management bodies (EMB) and judiciaries, and promoting citizen and civil society engagement in electoral processes. We support advocacy for EMB independence, which is critical for ensuring transparency and accountability. When invited, Aotearoa New Zealand has deployed observers for national elections in the Pacific and beyond.

New Zealand participated in the 2021 Summit for Democracy and joined a group that established the Global Network for Securing Electoral Integrity (GNSEI). GNSEI provides a platform for our ongoing engagement to protect the integrity of elections. You can find more information about the Summit for Democracy here: state.gov/summit-for-democracy/

If you require any further information, please contact Media & Social Media Manager Joe Locke at media@justice.govt.nz.

Please note that this response, with your personal details removed, may be published on the Ministry website at: justice.govt.nz/about/official-information-act-requests/oia-responses/.

If you are not satisfied with this response, you have the right to make a complaint to the Office of the Ombudsman under section 28(3) of the Act. The Office of the Ombudsman may be contacted by email to info@ombudsman.parliament.nz or by phone on 0800 802 602.

Nāku noa, nā

A handwritten signature in blue ink, consisting of a stylized initial 'A' followed by a long horizontal line.

Alida Mercuri

Acting General Manager – Criminal Justice Policy