

Create a fraud and corruption policy

The Ministry of Justice has prepared this framework to assist public and private sector organisations to develop and improve their fraud and corruption policy and procedures.

Corruption can take various forms, including secret commissions, kickbacks, bribes and other forms of unlawful payments. Corruption also encompasses a number of offences such as abuse of positions, of power and money laundering.

Corruption is a global problem that is bad for businesses, introducing uncertainty and risk into the market. It is also bad for public sector agencies, non-government organisations and other taxpayer-funded bodies. It damages the social fabric of society, destroying trust in democratic institutions and undermining the rule of law.

While New Zealand has a strong reputation for being corruption free – often topping the table on Transparency International’s Corruption Perceptions Index – this does not mean that we can afford to be complacent.

Organisations need to ensure they have effective internal controls, ethics and compliance programmes for preventing and detecting fraud and corruption. A clearly articulated and visible policy that is well understood by all those to whom it applies is a key element of prevention.

The following fraud and corruption policy framework is flexible and can be adapted by organisations depending on their circumstances, such as their size, type, legal structure and operating principles.

The paragraph headings correspond to sections that should form the basis of a fraud and corruption policy. Under each heading is a brief explanation of the information that the section should contain.

Fraud and Corruption Policy Framework

1) Purpose of the fraud and corruption policy

The purpose of a fraud and corruption policy is twofold. First, it should provide clear guidance to people who encounter or suspect fraud and corruption. Second, it should be used to raise awareness among employees, officers, directors, and where relevant, business partners about how to recognise fraud and corruption, as well as behaviours and circumstances known to be associated with it.

If implemented correctly, the policy will ensure that employees respond promptly and appropriately to suspected instances of fraud and corruption; that evidence is gathered and handled properly; and that the outcomes of investigations are appropriate.

2) Your organisation’s commitment to fraud and corruption

The policy must emphasise your organisation’s commitment to preventing, detecting and responding to fraud and corruption threats.

This sends a message that fraud and corruption will be taken seriously, and that action will be taken against perpetrators. All organisations should adopt a ZERO tolerance approach to suspected, detected or identified instances of fraud or corruption. The same principles should apply in all

situations – that is, low level incidents must be treated the same way as high level incidents. This helps demonstrate your organisation’s integrity standards.

This part of your policy should also reiterate that everyone within your organisation must report such behaviour, and that the organisation is committed to its legal obligations to act fairly, honestly and in good faith when conducting investigations.

This section should also highlight how incidents of fraud and corruption will be treated under your organisation’s disciplinary process (for example, all confirmed fraud and corruption incidents will be considered serious misconduct). You will need to establish the level of proof that will define “confirmed” incidents. It should also warn of the high penalties that people can face if they are convicted of fraud or corruption offences under the Crimes Act 1961 or the Secret Commissions Act 1910. Maximum penalties range from substantial fines and/or 14 years’ imprisonment.

Finally, your policy should highlight that all instances of suspected corruption will be thoroughly investigated and all credible suspicions of fraudulent or corrupt activity referred to an appropriate law enforcement authority. Your organisation should also actively try to recover losses resulting from fraud and corruption directly from those who have gained, or through the courts or via a range of civil remedies.

3) Your organisation’s fraud and corruption objectives

These should include preventing, detecting and responding to fraud and corruption. Your policy’s objectives should also align with your organisation’s Code of Conduct, values or mission statements, including its desired culture and the SSC Integrity and Conduct Code (for public sector organisations).

4) Scope of the fraud and corruption policy

The policy should apply to all fraud and corruption incidents, whether suspected, alleged or proven, that are either:

- committed against the organisation by a person (legal or natural); or
- committed by an organisation’s employees, officers, directors, and as appropriate, business partners (whether in an official or private capacity) against any third party.

Employees should include:

- former employees
- people seconded to an organisation
- volunteers who work without reward

5) Defining and recognising fraud and corruption

Fraud

The term fraud encompasses a wide range of criminal conduct involving deliberate deception in order to receive unfair, unjustified or unlawful gain. For your internal policy, fraud should include all forms of dishonesty. It is useful if the policy provides specific examples of types of fraud relevant to your organisation’s business.

Corruption

“Corruption” is the lack of integrity or honesty (typically involving bribery) or the abuse of a position of trust for dishonest gain. It can include bribery (both domestic and foreign); coercion; destruction, removal or inappropriate use or disclosure of records, data, materials, intellectual property or assets; or similar forms of inappropriate conduct. Again, you should provide examples relevant to your organisation.

Distinguishing fraud and corruption from code of conduct and privacy breaches

Your policy should provide a brief explanation (with examples) of the difference between the organisation’s fraud and corruption policy, and other policies such as your privacy policy.

While such policies may overlap, the key difference is that fraud and corruption have elements of dishonesty or unlawful gain.

Recognising fraud and corruption risks

Generally, there are three particular conditions often associated with fraud and corruption:

- Incentives/pressures: Management, other employees or external parties have an incentive or are under pressure, which motivates them to commit fraud or wrongdoing (for example, personal financial trouble).
 - Opportunities: Circumstances exist that allow employees to commit fraud or corruption, such as an organisation not having appropriate fraud and corruption controls in place, or employees are able to get around or override ineffective controls (for example, managers being able to approve and authorise their own sensitive expenditure).
 - Attitudes: Employees are able to rationalise committing fraud (for example, holding attitudes or beliefs such as “everybody else is doing it nowadays” or “they made it so easy for me”).
- Including this information in your policy may help employees detect possible fraud and corruption.

6) Reporting suspected fraud or corruption

The systems and procedures you put in place for reporting fraud or corruption should be clear and concise.

You should reiterate that anyone who suspects fraudulent or corrupt conduct must report it immediately.

Your policy must note that employees who report serious wrongdoing in the workplace can be protected by the Protected Disclosures Act 2000. You should also have clear procedures for making and handling protected disclosures (although you may choose to outline these procedures in a separate document, rather than in your fraud and corruption policy). Information about the Act, when disclosures are protected and what those protections are is available on the protected disclosures/whistle-blowing page on the Office of the Ombudsman’s website.

The policy should outline the ways employees can report fraud and corruption. These may include:

- internal fraud notification forms
- a contact person or position within the unit in charge of investigations (for example risk and assurance, professional conduct/standards, human resources)

- a dedicated fraud 'hotline' or email address
- an internal protected disclosures reporting form

Reporting methods may include those set out in the Protected Disclosures Act or avenues such as the Crimestoppers website and phone line.

The policy should set out a clear reporting chain. For example, employees should first notify a manager who is responsible for bringing it to the attention of the person in charge of investigations, who will ensure that other relevant people are notified (for example, the chief executive and/or general managers).

The reporting chain should emphasise that all investigations will be conducted by a suitably appointed person (as outlined in the below section on the investigations process). It should also specify who is responsible for notifying law enforcement authorities when an investigation provides credible information that fraud or corruption has occurred. This will help ensure reporting of incidents to law enforcement authorities is consistent and relationships with them are well managed.

You should also outline the procedures for reporting to governance and oversight bodies within and outside your organisation (for example the chief financial officer, audit and risk committees and the Auditor General (for public sector organisations)).

7) The investigation process

Your fraud and corruption policy should advise employees which unit or person within the organisation is responsible for investigations.

However, you may choose to outline the details of how investigations will be conducted in a separate procedures document. This should include:

- noting that those responsible for investigations should have appropriate levels of independence, objectivity and investigative skill. Evidential and criminal file management requirements and responsibilities should also be clearly spelt out.
- outlining key processes for conducting investigations, from initial assessment to full detailed investigations, including reporting to key stakeholders.
- emphasising that while employees must report incidents of fraud or corruption, they must not undertake their own investigations, unless assigned to do so by the unit or person in charge of investigations.
- making clear that all employees must cooperate with any investigation into suspected fraud or corruption.
- reiterating that the appropriate person within an organisation must notify law enforcement authorities wherever there is credible suspicion that fraud or corruption has occurred.
- outlining procedures the organisation will follow to recover losses from fraudulent or corrupt activity.

8) Roles and responsibilities

Your policy must clearly outline the roles and responsibilities of individuals at each level of an organisation, from the CEO to entry level workers.

It is important that there is strong, direct and visible support from senior management for an organisation's controls and measures for preventing and detecting fraud and corruption.

Setting a 'tone at the top' will make it clear that all instances of fraud and corruption will be treated very seriously.

While people's roles related to the policy will vary, the policy needs to make it clear everyone is responsible for complying with it.

Depending on the structure of your organisation, this part of the policy may expand on the roles of the following individuals:

- chief executive
- deputy chief executives, deputy secretaries, general managers, directors
- managers and supervisors
- employees
- external consultants
- agents/officers
- director of unit in charge of investigation (e.g. risk and assurance)
- head of human resources/people and performance

This part should also specify who within an organisation is responsible for publicising the policy, and ensuring that staff are aware of and understand their obligations.

You should raise awareness of your fraud and corruption framework on a regular basis (but at least twice a year). Potential awareness raising measures include staff training, newsletters, intranet publications, and email alerts. Regular communications from senior management highlighting the importance of the policy will help embed a corruption-free culture.

You should also specify how often (for example, every two years) your fraud and corruption policy will be reviewed to make sure it is effective, and who is responsible for reviewing it.

9) Related policies and procedures

You should reference all other related policies your organisation has. These may include:

Suspected fraud and corruption investigation process

Suspected fraud and corruption notification form

- Code of Conduct
- Protected Disclosures Policy
- Probity Policy
- Conflict of Interest Policy
- Delegations Policy
- Disciplinary Process Policy
- Risk Management Policy
- Gifts Policy
- Personal Gain through Employment Policy (such as customer travel, hospitality, entertainment and expenses).

10) Useful Resources

Your policy could also provide links to other useful resources:

- [Online anti-corruption training module developed by SFO & TINZ](#)
- [Serious Fraud Office: information for complainants](#)
- [Further information on protected disclosures/whistle-blowing](#)
- [State Services Commission Standards of Integrity and Conduct](#)
- [Association of Certified Fraud Examiners website](#)
- [OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transaction](#)
- [United Nations Convention Against Corruption](#)