

## Example of Fraud and Corruption Policy

### Policy Purpose

The purpose of this policy is to provide high level guidance for the prevention, detection and response to fraud and corruption incidents within or involving the Ministry.

The policy describes:

- The Ministry's response to fraud and corruption;
- Reporting of suspected fraud or corruption;
- Objective and scope of the Policy;
- How fraud and corruption are defined for the purposes of this policy and the Ministry;
- Investigation and reporting of suspected fraud or corruption;
- Responsibilities of Ministry employees with regard to fraud or corruption.

### Ministry of Justice's response to fraud and corruption

The Ministry does not tolerate fraudulent or corrupt behaviour and has a ZERO TOLERANCE policy to identified behaviour or incidents involving fraud and corruption.

Zero Tolerance within the Ministry means:

- All instances of suspected fraud or corruption will be investigated thoroughly with appropriate action taken.
- All confirmed fraudulent or corrupt activities will be treated as serious misconduct in accordance with the Ministry's Disciplinary Process Policy and will be referred to the New Zealand Police, Serious Fraud Office or other appropriate enforcement agency where statutes may have been breached, or loss suffered, for prosecution consideration.
- The Ministry will take all appropriate measures to recover any loss or expenditure attributable to fraudulent or corrupt behaviour. This includes, but is not limited to recovery of, intellectual property, physical assets, money, third party expenses incurred and investigation costs.

### Reporting a suspected fraud or corrupt act (Home to make contact)

Any person captured by this policy who suspects that a fraudulent or corrupt act is occurring or has occurred, **must** report this **immediately**. All information about suspected fraud or corruption is to be treated **confidentially**.

Suspected incidents of fraud or corruption are to be reported using **ONE OF**:

- 'Suspected Fraud and Corruption Notification Form' – this is available on the Intranet and can be completed anonymously;
- Email or telephone call to the Director, Risk & Assurance;
- Email or telephone call to a Strategic Leadership Team (SLT) member;
- Via email to [fraud@justice.govt.nz](mailto:fraud@justice.govt.nz);
- 'Protected Disclosures Reporting Form' – this is available on the Intranet; refer to the Ministry's Protected Disclosures Policy;
- By contacting the Ombudsman who can provide advice to managers or employees on completing anonymous disclosures.

Please note that sufficient information should be provided to enable investigation of the suspected fraud or corrupt act. This should include details about the events or acts constituting the suspected fraud or corrupt act, dates, times and persons alleged to be involved together with any documentary evidence or verifiable facts that support the allegation.

In most cases you should complete the Suspected Fraud and Corruption Notification Form and give it to your manager. However, where you have any concerns about telling your manager, or you suspect that your manager is involved in the suspected fraud or corruption you can immediately inform your General Manager, or any of the persons listed above. Unless there is reason not to do so, anyone who completes or receives a Suspected Fraud or Corruption Notification Form **must immediately** send a copy of the form to the Director, Risk & Assurance in National Office.

Unless there is reason not to do so, the Director, Risk & Assurance will ensure that the following have been advised: impacted business unit General Manager(s), General Manager, People and Performance, Deputy Secretary Corporate and the Chief Executive.

## Objective

In order to reduce and deter the risk of fraud or corruption within the Ministry, three key objectives must be met. These are:

- **Prevention:** Reducing the risk of fraud or corruption in the first place;
- **Detection:** Uncovering fraud or corruption at the earliest opportunity if it occurs and providing effective options to report, manage and respond;
- **Response:** Taking immediate corrective action and remedying the harm caused by fraud and corruption, including the preservation of crucial evidence to achieve a successful outcome.

## Scope

Fraud and corruption are ever-present threats to the Ministry and all employees should be mindful of this.

Fraud and corruption may occur due to the actions of employees, suppliers or other persons that the Ministry has dealings with. This could be an individual or a group of individuals acting in collusion, companies, partnerships, trusts or any other entity.

This policy applies to all fraud or corruption incidents, whether suspected or proven, that are either:

- Committed against the Ministry by any person (defined by section 2 of the Crimes Act 1961 and Section 29 of the Interpretation Act 1999); or
- Committed by Ministry employees against any third party (including another Ministry employee in a private capacity).

This policy applies to all Ministry employees and for the purposes of this policy, the following are also included the definition of 'any person':

Former employees;

- Persons seconded to the Ministry;
- Contractors (individuals, contractor staff, sub-contractors or affiliated persons with third parties);

- Volunteers who work for the Ministry without reward.

## **What is fraud and corruption**

### **Fraud**

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

- Knowingly providing false, incomplete or misleading information to the Ministry for unfair, unjustified or unlawful gain;
- Unauthorised possession, use or misappropriation of funds or assets, whether the Ministry's or a third party's;
- Deliberate mishandling of or misreporting money or financial transactions;
- Unauthorised access and misuse of Ministry systems and information for unfair, unjustified or unlawful gain;
- Misuse of or obtaining insider knowledge of organisational or judicial activities without implied or expressed consent (this may also be considered corruption);
- Destruction, removal, or inappropriate use of records, furniture, fixtures, or equipment for unfair, unjustified or unlawful gain;
- Deliberate misuse of Ministry resources (including work time, internet, cell phones, photocopiers, fax machines, computers, vehicles, mail services, Ministry addresses and phone numbers) for unfair, unjustified or unlawful gain; Forgery or alteration of any financial instrument;
- Forgery or alteration of any document or computer file or record belonging to the Ministry; where any person who has a business involvement with the Ministry acts dishonestly or unfairly, or breaches public trust.

### **Corruption**

'Corruption' is the lack of integrity or honesty (especially susceptibility to bribery) or the use of a position of trust for dishonest gain. It includes foreign and domestic bribery, coercion, destruction, removal or inappropriate use or disclosure of records, data, materials, intellectual property or assets, or any similar or related inappropriate conduct.

Examples of corrupt conduct include, but are not limited to:

- Any person who has a business involvement with the Ministry, improperly using, or trying to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others, for example, fabrication of business travel requirement to satisfy personal situations;
- Knowingly providing, assisting or validating in providing false, misleading, incomplete or fictitious information to circumvent Ministry procurement processes and procedures to avoid further scrutiny or reporting;
- Disclosing private, confidential or proprietary information to outside parties without implied or expressed consent;
- Accepting or seeking anything of material value from contractors, vendors, or persons providing services or materials to the Ministry (also refer to the Ministry's Gifts Policy);

- A member of the public influencing or trying to influence, a public official, employee, contractor, person seconded to, or any other party that has a business involvement with the Ministry to use his or her position in a way that is dishonest, biased or breaches public trust.

### **Distinction from the Code and Conduct and Privacy breaches**

It is important to distinguish between the Fraud and Corruption Policy and other Ministry policies (e.g. Privacy) which involve or invoke the Ministry's Disciplinary Process Policy. The difference is the element of dishonesty for an unfair, unjustified or unlawful gain. For example:

- Using Ministry systems to access private information for self-interest is a Code of Conduct breach captured by the Disciplinary Process Policy.
- Using Ministry systems to access private information and providing that information to another person or using that information for illegitimate use, including an unfair, unjustified or unlawful gain is behaviour captured by the Fraud and Corruption Policy.

The two policies are closely aligned and often overlap and may operate concurrently.

Where Privacy breaches are the result of a fraudulent or corrupt act, the Fraud and Corruption Policy applies.

If you are unsure as to which policy applies, contact Risk and Assurance or your HR representative.

### **Errors**

This policy distinguishes between fraud and error. Within this definition, 'error' refers to an unintentional misstatement of information (e.g. financial information), including the unintentional omission of an amount or a disclosure.

In order to assess whether a potential issue should be investigated under this policy, contact Risk and Assurance or your HR representative.

### **Penalties on conviction**

Proven offences of fraud or corruption may be prosecuted under the Crimes Act 1961 or the Secret Commissions Act 1910. Maximum penalties range from fines to 14 years' imprisonment.

### **Reporting and Investigating**

#### **Requirements for Reporting, Investigation and Management Action**

All persons captured by this policy must immediately report all suspected incidents of fraud and corruption that they become aware of.

The Ministry's 'Suspected Fraud and Corruption, Reporting & Investigation Process' explains how these incidents will be investigated.

Employees must cooperate with and not impede any investigation of suspected fraud or corruption.

Free and unrestricted access must be granted to the Investigation team to access and review Ministry records and premises.

Employees will not undertake investigations into suspected fraud or corruption unless they are the Lead Investigator assigned to do this by the Director, Risk & Assurance. Specialist fraud and corruption investigation and/or forensic expertise must only be engaged by the Director, Risk & Assurance on behalf of the impacted business unit(s).

Where an allegation of suspected fraud or corruption involves a person subject to the Ministry's Disciplinary Policy, the General Manager, People and Performance must be notified and the requirements of the Disciplinary Process Policy must be complied with.

The General Manager, People and Performance must notify the Director, Risk and Assurance of all suspected incidents of fraud and corruption which involve a person subject to the Ministry's Disciplinary Policy.

Fraudulent or corrupt activity must only be reported to the Police, Serious Fraud Office or any other enforcement agency by the Deputy Secretary Corporate on advice from the Director, Risk & Assurance, or the Lead Investigator. This action will occur where the Suspected Fraud and Corruption, Reporting and Investigation Process confirms that a fraud or corrupt act has been committed, or in the absence of information there is reasonable belief an incident of fraud and corruption has occurred.

Employees or managers may send emails to [Fraud@justice.govt.nz](mailto:Fraud@justice.govt.nz) communicating their concerns.

## **Protected Disclosures**

As an alternative to using the Suspected Fraud and Corruption Notification Form, employees may instead make a protected disclosure under the Protected Disclosures Act 2000. Please refer to the Ministry's Protected Disclosure Policy.

## **Responsibilities**

### **Code of Conduct**

The Ministry of Justice Code of Conduct requires all employees, at all times, to act honestly and with integrity.

The State Services Commission (SSC) also requires public servants (such as Ministry employees) to comply with the Standards of Integrity and Conduct issued by the Commission in June 2007.

### **Chief Executives**

The Chief Executive has overall responsibility and accountability for preventing fraud and corruption within the Ministry.

### **Deputy Chief Executives, Deputy Secretaries and General Managers / Directors**

Deputy Chief Executives, Deputy Secretaries, General Managers and Directors are responsible for fostering effective management controls, processes, training and awareness of fraud and corruption within their areas of responsibility.

Where required, Deputy Secretaries, General Managers and Directors must seek support from and engage specialist resources such as, but not limited to, Finance, Legal, Procurement or Risk and Assurance to ensure the effective prevention, detection and response for fraud and corruption.

All General Managers and Directors must ensure that this policy and related processes are followed within their business areas, discussed on a regular basis, and that a high level of understanding is maintained relating to prevention and detection techniques.

All General Managers and Directors are required to attest to this as part of their quarterly Legislative Compliance statement that is submitted to Risk & Assurance.

## **Managers**

Managers are responsible for ensuring the consistent and correct application of management control processes in their area of responsibility.

Managers must ensure any persons captured by this policy involved in their business units are made aware of their management control procedures, and that they are aware of their obligations under the Ministry's Code of Conduct. Managers are also responsible for ensuring that a culture of honesty and openness exists in their work place such that employees are not discouraged from questioning events or processes, and reporting suspected fraud or corruption.

Specifically, managers are responsible for:

- Ensuring all employees and contractors are aware of the Fraud and Corruption Policy and that they maintain an understanding of their obligations;
- Ensuring all persons who have dealings with the Ministry, captured by the definitions included in this policy, are aware of the Fraud and Corruption Policy and that they maintain an understand of their obligations;
- Identifying the risks (including but not limited to risk of fraud or corruption) to which the Ministry's systems, operations and procedures are exposed;
- Developing and maintaining effective controls to prevent and detect Ministry related fraud and corruption, within business as usual and/or programmes or projects of work;
- Ensuring that controls and processes in place are actively complied with;
- Facilitating an effective fraud and corruption awareness and detection culture;
- Ensuring employees are supported when making allegations of fraud or corruption to Risk and Assurance.

## **Employees**

All employees, including managers, are responsible for:

- Being aware of, and complying with, this Policy;
- Acting honestly, fairly and with integrity in undertaking Ministry tasks and activities;
- Acting in a manner that is beyond reproach;
- Being aware of, and complying with, their obligations under the Ministry's Code of Conduct and the SSC's Standards of Integrity and Conduct;
- Reporting any suspected fraudulent or corrupt behaviour;
- Reporting fraud or corruption control failures or breaches as soon as they become aware of them;

- Reporting any incident where they suspect any person or employee is aiding and abetting some other person to defraud the Ministry.

### **Director, Risk and Assurance**

The Director, Risk & Assurance, is responsible for ensuring that:

- All reported allegations of fraud or corruption are investigated appropriately on a timely basis. The Director will authorise a Lead Investigator to carry out any required investigation as set out in the Suspected Fraud and Corruption, Reporting & Investigation Process;
- Where an allegation of suspected fraud or corruption involves an employee subject to the Ministry's Disciplinary Process Policy, the Director, Risk & Assurance, must provide the General Manager, People and Performance (or delegate) with the opportunity to participate in the investigation;
- The fraud and corruption framework is reviewed on biennial basis, updated and communicated;
- The fraud and corruption framework (Prevention, Detection and Response) is promoted within the Ministry;
- Periodic fraud and corruption risk assessments are performed to identify potential areas of fraud and corruption weakness.

### **General Manager, People and Performance**

The General Manager, People and Performance (or delegate) is responsible for providing appropriate input and guidance into suspected fraud and corruption investigations to help ensure that employees are fairly treated and that the requirements of the Ministry's Disciplinary Process Policy are followed.

### **Persons other than Ministry of Justice employees**

Responsible business units must ensure all agreements for or with all agency staff, seconded personnel, contractors, consultants or any other person as defined in this policy that has a business involvement with the Ministry, contain an express obligation on them to understand and comply with this policy.

### **Related Policies and Procedures**

- Fraud Management framework documents:
  - Fraud and Corruption Policy (this document)
  - Suspected Fraud and Corruption, Reporting & Investigation Process
  - Suspected Fraud and Corruption Notification Form
- Other relevant Ministry Policy documents:
  - Ministry of Justice Code of Conduct (see also Code of Conduct for the State Services – Standards of Integrity and Conduct 2007)
  - Protected Disclosures Policy
  - Probity Policy
  - Conflict of Interest Policy and Declaration Form
  - Delegations Policy
  - Disciplinary Process Policy
  - Risk Management Policy
  - Gifts Policy

- Personal Gain Through Employment Policy