

**COUNCIL POLICY****TITLE                      FRAUD AND CORRUPTION POLICY****EFFECTIVE DATE:**              August 2023**FILE REFERENCE:**              201300**NEXT REVIEW:**                  2026**1.     PURPOSE**

- 1.1    The purpose of this policy is to provide guidance for the prevention, detection and response to fraud and corruption within Kawerau District Council
- 1.2    Kawerau District Council ("Council") is committed to protecting its revenue, property, information and other assets from any attempt to gain financial or other benefits from it by deceit and preventing the occurrence of fraud and corruption. This fraud and corruption policy has been established to facilitate the development of controls that will aid in the detection and prevention of fraud and corruption against the Council.
- 1.3    Kawerau District Council employees, appointees and Elected Members are expected to maintain the highest ethical standards of honesty and integrity.
- 1.4    Fraud is defined as the use of deception with the intention of obtaining personal gain, an unlawful advantage, avoiding an obligation, or causing loss to another party.
- 1.5    Corruption is defined as the lack of integrity or honesty or the abuse of a position of trust for dishonest personal gain. It may include but not limited to both foreign and domestic bribery, coercion, destruction, removal or inappropriate use of or disclosure of records, data, material, intellectual property or assets, or any similar or related inappropriate conduct.
- 1.6    It is the intent of Council to promote an anti-fraud and anti-corruption culture by providing these guidelines and by assigning responsibility for the development of controls and conduct of investigations. Council has a zero-tolerance approach to fraud, corruption and bribery.
- 1.7    The Office of the Auditor-General requires every public entity to formally address the matter of fraud and formulate an appropriate policy on how to minimise it and if it occurs, how to deal with it.

## 2. SCOPE

- 2.1 This policy applies to any fraud, corruption, bribery impropriety or dishonesty, suspected or actual and relates to all property, funds and services, as well as statutory responsibilities.
- 2.2 This policy applies to all employees of Council or Council appointees to other organisations as well as Elected Members, consultants, vendors, contractors or any other parties having a business relationship with Council.
- 2.3 This policy also covers allegations made by Council employees, appointees or Elected Members against other employees, appointees or Elected Members.
- 2.4 There may be particular risks that increase the likelihood of fraud or corruption occurring, which include:
  - *Incentives/pressures*: Management, other staff or external parties are under pressure or there are incentives for them to commit fraud or corruption.
  - *Opportunities*: Circumstances or lack of controls allow employees to commit fraud or corruption. Also employees are able to get around or override ineffective controls (for example officers are able to approve their own sensitive expenditure)
  - *Attitudes*: Employees are able to rationalise committing fraud or corruption (for example believing that everyone else is doing it, or that it was so easy for me).

The policy will identify processes for management to put in place to minimise these particular risks as much as practicable.

- 2.5 The Fraud and Corruption Policy is a separate policy to other council policies, but will overlap with some policies. These include:
  - *Sensitive Expenditure Policy*: This policy deals with staff/councillor sensitive expenditure which includes travel, accommodation, hospitality and gifts. The policy specifies the processes and procedures which are required when incurring sensitive expenditure. Fraud occurs when the sensitive expenditure is not followed and Council is deliberately charged an individual's private costs.
  - *Code of Conduct*: This governs the behaviour of elected members and requires them to act with integrity, honesty and in the public interest. The behaviour and actions of elected members (as well as) should always be in the interests of the community and open to public scrutiny. If an elected member uses their position to obtain a financial benefit that may be to the cost/detriment of Council, then this will amount to fraud and corruption.

## 3. POLICY OBJECTIVE

- 3.1 Council personnel (defined as Council employees or appointees and elected members) must have, and be seen to have, the highest standards of honesty, propriety and integrity in the exercise of their duties.

- 3.2 Council will not tolerate any fraud, corruption, bribery, impropriety or dishonesty and will investigate all instances of suspected fraud, corruption impropriety or dishonesty by Council personnel or external parties.
- 3.3 Council personnel must not defraud the Council, or other personnel, clients or contractors of Council. Council personnel must not use their position of trust for dishonest gains through corruption.
- 3.4 Council will take action – including dismissal and/or criminal prosecution against any personnel defrauding or attempting to defraud the Council, other personnel, clients or contractors of Council. In each case, the Council will make every effort to gather sufficient reliable evidence to support a prosecution. Council will ensure appropriate external advice is sought early for significant fraud or corruption issues for timely assistance in obtaining the appropriate evidence required.
- 3.5 Council will always seek to recover funds or goods (or the estimated value of the goods where they have been disposed of) lost through fraud.

#### **4. ACTIONS CONSTITUTING FRAUD AND CORRUPTION**

- 4.1 The terms fraud, corruption, bribery, impropriety and dishonesty refer to, but are not limited to:
  - Any dishonest or fraudulent act.
  - Any biased or corrupt act.
  - Misappropriation of funds, securities, supplies, resource or other assets.
  - Impropriety in the handling or reporting of money or financial transactions.
  - Forgery or alteration of any document, financial instrument or computer file or records belonging to Council.
  - Profiteering as a result of insider knowledge of Council activities or the activities of organisations with a Council appointee.
  - Disclosing confidential and proprietary information to outside parties.
  - Disclosing to other persons, securities, activities engaged in, or contemplated by the Council or any organisation with a Council appointee.
  - Seeking or accepting anything of material value from contractors, vendors, or persons providing services/materials to the Council or any organisation with a Council appointee. Gifts valued at less than \$100 per annum, or otherwise approved by the Chief Executive Officer, are exempt.
  - Unauthorised use of council property including property leased by Council.
  - Destruction, removal, or inappropriate use of records, Council resources, furniture, fixtures, and equipment.
  - Improper use of knowledge, power or resources of position of trust for personal gain or for the advance of others.

- Knowingly providing false, misleading or incomplete information to circumvent Council's procurement processes and procedures.
- Any similar or related irregularity.

If there is any question as to whether an action constitutes fraud or corruption contact the Chief Executive Officer or Group Manager, Finance and Corporate Services for guidance.

## **5. MANAGEMENT RESPONSIBILITIES**

- 5.1 Management is responsible for the detection and prevention of fraud, corruption, bribery, impropriety and dishonesty. Each member of the management team will be familiar with the types of improprieties that might occur within their area of responsibility and be alert for any indication of irregularity.
- 5.2 Management should be alert to the possibility that unusual events may be symptoms of fraud or attempted fraud and that fraud and corruption may be highlighted as a result of management checks, or be brought to management's attention by a third party. Management is responsible for:
- Being aware of fraud or corruption
  - Ensuring that an adequate system of internal controls exists within its area of responsibility and that those controls are operating effectively. These controls should include a system for undertaking regular reviews of transactions and activities that may be susceptible to fraud.
- 5.3 Any irregularity that is detected or suspected must be reported immediately to the Chief Executive Officer, who co-ordinates all investigations.
- 5.4 Management will promote ethical behaviour through Council's induction, training and performance development programmes.
- 5.5 Management will seek to minimise as much as possible the risks associated with:
- Incentives/pressures
  - Opportunities
  - Attitudes

This will be done by: making sure that the fraud and corruption policy is circulated regularly to all staff, undertaking regular reviews of the internal control systems, requiring all sensitive expenditure to be approved on a one-up basis, any reported

incidences of potential fraud or corruption are investigated thoroughly and the policy is applied consistently to all council staff.

- 5.6 Employees may disclose fraud or corruption under the provisions of the Protected Disclosures (Protection of Whistleblower) Act 2002, and the disclosure will then be treated in accordance with the provisions of the Act.
- 5.7 Council is committed to its legal obligations to act fairly, honestly and in good faith when conducting fraud or corruption investigations.

## **6. INVESTIGATION RESPONSIBILITIES**

- 6.1 The Chief Executive Officer has the primary responsibility for the investigation of all suspected fraudulent or corrupt acts as defined in the policy. This may require the formation of an Investigation Team comprised of suitably qualified persons, who may be staff or external parties as deemed appropriate. This responsibility will include full documentation of the facts and circumstances of the matter.
- 6.2 If the suspected fraud or corruption involves the Chief Executive Officer, the External Appointee to the Audit and Risk Committee will have the primary responsibility for conducting the investigation in consultation with the Mayor.
- 6.3 If the suspected fraud or corruption involves the Mayor or other elected member, the External Appointee to the Audit and Risk Committee will have the primary responsibility for conducting the investigation in consultation with the Chief Executive Officer.
- 6.4 Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management.

## **7. CONFIDENTIALITY**

The Chief Executive Officer will treat all information received confidentially. Any employee who suspects dishonest, fraudulent or corruption activity will notify the Chief Executive Officer immediately and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent or corruption act.

## **8. AUTHORISATION FOR INVESTIGATING SUSPECTED FRAUD OR CORRUPTION**

Members of the Investigation Team as appointed by the Chief Executive Officer will have:

- Free and unrestricted access to all Council records and premises, whether owned or rented.
- The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior

knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of the Team's investigation.

Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title or relationship to Council.

## **9. REPORTING PROCEDURES**

- 9.1 Great care must be taken in the investigation of suspected improprieties or irregularities, to avoid mistaken accusations, or alerting suspected individuals and staff not involved in the investigation that an investigation is under way.
- 9.2 An employee who discovers or suspects fraudulent or corrupt activity will notify the appropriate person immediately, as per the procedures laid down in the Council's Protected Disclosures Policy. The employee or other complainant may remain anonymous. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the Chief Executive Officer. No information concerning the status of an investigation will be divulged.
- 9.3 The reporting individual should be informed of the following:
  - Do not contact the suspected individual in an effort to determine facts or demand restitution.
  - Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the Chief Executive Officer or members of the Investigation Team.
- 9.4 If the investigation by the Chief Executive Officer, or members of his appointed Investigation Team, substantiates that fraudulent or corrupt activities have occurred, the Chief Executive Officer will decide the action to be taken, which may include termination of employment.

## **10. TERMINATION**

Investigations could result in the termination of employment. If an investigation results in a recommendation to terminate an individual's employment, the recommendation will be reviewed by the Human Resources Manager, and by legal counsel if necessary, before any such action is taken.

For all fraud or corruption cases, the evidence of the fraud or corruption will be provided to the Police or Serious Fraud Office to determine whether there is a prosecution.

Council will not provide any formal reference to any individual that has been found to have committed fraud or corruption, nor should any council officer be a referee for that individual.

## **11. MANAGING THE PUBLIC RELATIONS REGARDING FRAUD**

The Chief Executive Officer will notify the Mayor and the Independent Chair of the Audit and Risk Committee of any incidents of fraud or corruption that are under investigation.

The Chief Executive Officer will report to Council and the Audit and Risk Committee on any fraud or corruption investigation when it has reached a stage that they consider appropriate.

The Chief Executive Officer will also advise Council's auditors at the same time.

Any questions from the media in relation to fraud or corruption will be dealt with by the Chief Executive Officer or the Mayor.