

SOUTH WAIRARAPA DISTRICT COUNCIL

8 AUGUST 2018

AGENDA ITEM C6

FRAUD POLICY AND ACQUISITION AND DISPOSAL OF LAND AND BUILDINGS POLICY REVIEW

Purpose of Report

To advise Council of the proposed changes to the Fraud Policy (N700) and the Acquisition and Disposal of Land and Buildings Policy (E100).

Recommendations

Officers recommend that the Council:

1. *Receive the Fraud Policy and Acquisition and Disposal of Land and Buildings Policy Review.*
2. *Approve the amendments to the Fraud Policy (N700) and the Acquisition and Disposal of Land and Buildings Policy (E100).*
3. *Agree the next review date for policies N700 and E100 should be July 2021.*

1. Executive Summary

The Fraud Policy (N700) and the Acquisition and Disposal of Land and Buildings Policy (E100) were due for review in February 2018. Due to Long Term Plan commitments, these reviews were delayed until the LTP process had been completed.

The Policies have now been reviewed and changes made. These changes were presented to the Audit & Risk Working Party for their review in July 2018 before coming to Council for approval. These policies do not need to be reviewed by the community boards.

Any changes made are shown as tracked changes on the attached documents in the appendices.

2. Discussion

2.1 Fraud Policy (N700)

The changes to the policy are very minor and are shown as tracked changes in the document in Appendix 1.

2.2 Acquisition and Disposal of Land and Buildings Policy (E100).

The changes to the policy are summarised below:

Amend terminology to reflect the Audit and Risk Working Party rather than the Policy and Finance Committee.

Delete clause 3.2.3 which was a duplicate of the previous clause.

Add a clause to cover approval to sell land without advertising on the open market if no market exists e.g. an unwanted road reserve.

Add a clause to ensure that clear title is obtained before a property is listed for sale, including clarification of the legal status of a paper road.

Amend the final clause to indicate that Council needs to approve any decision to accept or reject a gift or bequest.

3. Appendices

Appendix 1 – Fraud Policy (N700)

Appendix 2 – Acquisition and Disposal of Land and Buildings Policy (E100)

Prepared By: Jennie Mitchell, Group Manager Corporate Support

Reviewed By: Paul Crimp, CEO

Appendix 1 - Fraud Policy (N700)



Fraud Policy

1. RATIONALE:

The Council requires all staff at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible.

2. PURPOSE:

The Council will not accept any level of fraud or corruption. Any case (either an employee or someone external to the Council) will be investigated and, where appropriate, referred to the Police or appropriate law enforcement agency with a view to prosecution. Recovery of the lost public resources will be pursued whenever possible and practicable.

3. PRINCIPLES

- 3.1 That every effort is to be made to gather sufficient reliable evidence to support a prosecution, and that every case of fraud will be referred to the appropriate law enforcement agency with a view to prosecution.
- 3.2 That recovery of the lost money or other property will be pursued wherever possible and practicable.

4. GUIDELINES

4.1 Definition of Fraud/Corruption

- 4.1.1 Misuse/Misappropriation: Unauthorised possession of public resources (money, property including vehicles, or services); either temporarily or permanently depriving the Council of them.
- 4.1.2 False Accounting: Dishonestly destroying, defacing, concealing or falsifying any account, record or document required for any Council accounting purposes with a view for personal gain or gain for another or with the affect of causing loss to the Council or furnishing information which is or may be misleading, false or deceptive.

(Refer to Code of Conduct for Council Employees, ~~Gifts and Favours~~).

- 4.1.3 Deception: Obtaining property or pecuniary advantage, obtaining services, or evading liability by deception.

- 4.1.4 Collusion: Any Council staff member conspires, consents, supports, participates, incites or assists someone, either another Council staff member or an outsider, to commit any of the actions listed above.

4.2 Fraud Response Plan:

4.2.1. Who to report to on discovery of an actual or suspected fraud?

- 4.2.1.1 Any discovery of an actual or suspected fraud ismust be reported to the respective staff member's Manager.
- 4.2.1.2 If it is believed the Manager concerned is involved in an actual or suspected fraud, then the information ismust be reported to the Chief Executive.
- 4.2.1.3 If it is believed the Chief Executive is involved in an actual or suspected fraud, then the information ismust be reported to the Mayor.

4.2.2 What should happen after the information of an actual or a suspected fraud is received?

- 4.2.2.1 The Manager shall, within 24 hours, request a confidential written statement from the informant(s) detailing the nature of the fraud, the person(s) involved and the amount of money if known.
- 4.2.2.2 The Manager shall report the information to the Chief Executive immediately after receiving the information requested in 3.2.1.1.
- 4.2.2.3 The Chief Executive shall then, based on the information given, decide within 48 hours, whether or not to investigate further and/or what course of action to follow. These actions will include full documentation of what happened in athe fraud and how the matter is to be managed.
- 4.2.2.4 The Chief Executive may seek independent expert investigation or legal advice as to what processes should be involved from there_on.
- 4.2.2.5 If the Chief Executive is involved in an actual or suspected fraud, and the information is reported to the Mayor, then the Mayor shall then, based on the information given, decide within 48 hours, whether or not to investigate or what appropriate course of action to follow.
- 4.2.2.6 The Mayor may seek independent or legal advice as to what process should be involved from there_on.
- 4.2.2.7 The following action may be deemed appropriate by the Chief Executive or the Mayor:

- Take disciplinary action through the relevant employment agreement.
- Lay a complaint with the Police (or appropriate law enforcement agency).
- Refer to an appropriate authority ~~such as The Controller and Auditor~~

4.2.2.8 Any actual or suspected fraud shall immediately be reported to the Council's appointed external auditor.

4.2.3 What happens after the conclusion of the process?

The Chief Executive or Mayor, as the case may be, shall release any statement if deemed appropriate.

4.3 Confidentiality:

All matters related to the case shall remain strictly confidential. Should any ~~Department~~ Manager or staff member improperly disclose information relating to the case, the Chief Executive shall consider if that person(s) is in breach of confidence and if further action is required in terms of the applicable conditions contained in their contract of employment.

5. CONTEXT

Every public entity should have a policy like this one to minimise fraud.

Appendix 2 - Acquisition and Disposal of Land and Buildings Policy (E100)



Acquisition and Disposal of Land and Buildings

1. Rationale

The Council occasionally has a need to acquire property for a specific community or works related purpose. It does not acquire property for investment purposes.

Equally, property no longer required for the purpose for which it was originally acquired or is currently needed or for which there is no economic cost/benefit, may be disposed of in accordance with the Local Government Act 2002 or other relevant legislation.

2. Purpose

To set out general procedures to be followed by Council staff pursuant to relevant legislation in the acquisition of property, be it either undeveloped land or land on which there is located an asset, and for the disposal of an asset that is deemed to be surplus to Council requirements.

3. Guidelines

3.1 ACQUISITIONS

3.1.1 Council officers, who in the course of carrying out their responsibilities consider that a property acquisition is required for the efficient cost effective benefit for a particular activity, operation or project shall first provide a report to the Chief Executive Officer.

3.1.2 Such report shall provide details of the intended use of the property, its cost and how the purchase is to be funded.

3.1.3 This report, or a modified version of it, shall be submitted to Council's ~~Policy and Finance~~[Audit and Risk working party Committee](#) by the Chief Executive Officer, if s/he deems it appropriate that the purchase is essential and is required for the benefit of the Council and its ratepayers.

3.1.4 The ~~Policy and Finance~~[Audit and Risk working party](#)~~Committee~~, only if it resolves that a proposed purchase is to proceed and that it is satisfied that there is fully funded budgetary provision in the Long Term Plan/Annual Plan, shall recommend accordingly to the Council for final approval.

3.1.5 No agreements or commitments to a purchase may be entered into before the Council has approved the purchase.

Adopted: 23/07/2007

Reviewed: ~~12/02/2016~~[July 2018](#)

Next review: ~~February 2018~~[July 2021](#)

3.2 DISPOSALS

3.2.1 Council officers will review all land, buildings and other improvements at regular intervals to ensure that all such assets are still required and that their continued retention remains cost effective.

3.2.2 Reports on such reviews will be provided to the Audit and Risk working party ~~Policy and Finance Committee~~ together with any recommendations.

~~3.2.3 Reports on such reviews will be provided to the Audit and Risk working party ~~Policy and Finance Committee~~ together with any recommendations.~~

3.2.3 All property for disposal must be advertised for sale on the open market, except where otherwise approved by the Audit and Risk working party Council because of special circumstances eg where an open market does not exist, such as in the case of selling an area of unwanted road reserve to the adjacent property owner.

3.2.4 Clear title is to be obtained on any property agreed for disposal before the marketing of the property commences. In the case of a paper road, or a property which contains a paper road, confirmation of the legal status and ownership of the land designated as road must be obtained before marketing of the property commences.

3.3 GENERAL

3.3.1 At all times, where either required or deemed appropriate, the Crown through the Department of Conservation is contacted and consulted and, as well, Council's solicitors are kept informed and their advice sought on any aspect of a proposed acquisition or disposal.

3.3.2 All costs relating to either an acquisition or a disposal, including planning, subdivision, legal and commissions are charged against the asset concerned as a cost in determining the eventual profit, or loss on disposal or as an addition to the cost of a purchase.

3.3 PROPERTY GIFTED OR BEQUEATHED TO COUNCIL

3.3.1 When deciding whether to accept a proposed gift or bequest of property, council must take account of the following:

- the intent of the gift or bequest;
- the need for the land/building for council or community purposes;
- the potential cost to develop the property if development is required;
- the on-going operating and maintenance costs of the property and whether revenue can be generated by the property to contribute to these costs
- any costs or burdens of complying with any conditions of the gift or bequest.

3.3.2 A gift or bequest of property may be accepted for the purpose of obtaining revenue from the re-sale of the property, provided that the conditions of the gift or bequest allow for this.

3.3.3 Council officers will prepare a report for the Audit and Risk working party ~~Policy and Finance Committee~~ together with any recommendations, and the decision to accept or reject a gift or bequest will be made by ~~that committee~~ Council.