

## Fraud Policy

### Overview

Nelson Marlborough Health (NMH) regards fraud as totally unacceptable and will apply a principle of “zero tolerance” to fraud.

Following internal investigation, matters of suspected fraud will be referred to the NZ Police.

Employees who commit fraud or are suspected of fraud will also be subject to NMH’s disciplinary procedures.

Third parties and contractors who commit fraud or are suspected of fraud will be subject to remedies available under the contract and common law.

Recovery of money or property fraudulently obtained will be pursued wherever possible and practical. The criteria for this will be assessed using cost / benefit analysis and consider the wider public good. Where the benefit of recovery exceeds the cost, then ordinarily, NMH will seek to recover.

The DHB has crime / fidelity insurance cover. Insurance parties will often also seek recovery and may have differing criteria for recovery.

Internal investigation and disciplinary or contractual action may be carried out by the DHB independently of any external investigations and actions.

### Policy

This Policy is to:

- Provide guidelines regarding appropriate actions to follow for the reporting and investigation of suspected fraud or similar activities
- Define fraud and provide examples of potentially fraudulent activity
- Outline the fraud prevention strategic framework
- Raise fraud awareness and its consequences
- Provide guidance to reflect the public sector perspective towards fraud
- Convey the DHB’s attitude towards fraud.

### Scope

This policy applies to:

- All employees of NMH, including temporary employees and contractors
- Any person who is involved in the operation of the NMH, including Board members, joint appointments with third parties, volunteers and those people with honorary or unpaid staff status
- Any person or provider contracted to NMH including those contracted for services and those contracted for the delivery of healthcare services

### Definitions

This Policy adopts the definition of fraud set down in paragraph 10 of the Auditor General’s statement (AS206) which states:

“The term fraud refers to an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage.”

Examples of actions constituting fraud, misappropriation and other fiscal wrongdoings include, but are not limited to:

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- Forgery or unauthorised alteration of any document belonging to NMH with a view to personal gain or gain for another person
- Accepting or offering bribes or inducements
- Granting a contract, or engineering the granting of a contract to a particular third party with a view to direct or indirect personal gain
- Disclosing confidential information to third parties with a view to personal gain or gain for another person
- Using official position to secure unwarranted benefits, privileges or profit
- Knowingly approving for payment false or deliberately misleading invoices
- Knowingly issuing false or deliberately misleading purchase orders
- Presenting false credentials or qualifications
- Knowingly submitting a false timesheet, leave form or expense claim, including failing to ensure leave taken has been appropriately captured.

The question of whether a fraud has been committed may only be finally determined following a decision by a court of law. For convenience this policy uses the term “fraud” even though NMH will normally be concerned with suspected, rather than proven, fraud. Invariably, some discretion will be needed by the Investigator in determining whether the matter concerned is potentially fraud or serious misconduct as each type of event can have differing consequences.

This policy also covers corruption and uses the term “fraud” to cover both fraud as defined above and corruption which is defined as:

“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.”

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Matters of serious misconduct (e.g. theft or excessive unauthorised personal use of NMH equipment) are dealt with by the NMH Code of Conduct, Employment Agreements and Disciplinary policies and procedures.

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 the policy may help employees detect possible fraud and corruption.

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## Responsibilities

Group	Responsibility Expectations
Staff	<p>Employees must be scrupulously fair and honest in their dealings with their employer, patients, suppliers, contractors, other health service providers and their fellow employees.</p> <p>Employees must take reasonable steps to safeguard NMH’s funds and assets against fraud, waste, loss, unauthorised use and misappropriation.</p>

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Group	Responsibility Expectations
	<p>Employees must report suspected fraud and / or breakdowns in internal control systems to their managers or other parties as detailed in the fraud notification section.</p> <p>Employees should not initiate any wider information gathering and/or investigations directly, this is a process that needs to be formally handled with appropriate sensitivities through the "Internal Procedure for Investigation following Notification".</p> <p>The GM Finance, Performance &amp; Facilities is primarily responsible for NMH's Financial Internal Control Systems and Fraud Control and is available to provide guidance as required.</p>
<b>Contracted Provider</b>	<p>NMH's contract with a provider specifies services to be delivered and the terms and conditions for payment for those services. It is NMH's expectations that:</p> <ul style="list-style-type: none"> <li>• the provider delivers a quantity and quality of services that at least meet the terms and conditions of its contract, and;</li> <li>• claims only that funding that the terms and conditions of the contract entitles it to claim.</li> </ul> <p>Deliberate claiming of payment for amounts outside the terms and conditions set out in the contract, or for services claimed to be delivered when they have not been, will be regarded as fraud by NMH.</p>
<b>Management</b>	<p>Managers and Governors of public entities – whether elected or appointed to office - have a duty to conduct their affairs in a fair, business-like manner, with reasonable care, skill, and caution and with due regard to the interests of taxpayers, ratepayers and others whom they serve.</p> <p>Management is responsible for maintaining internal controls, including setting appropriate policies and monitoring compliance with these, and maintaining proper accounting records and other appropriate management information that ensures effective stewardship of public health funds as required by the New Zealand Public Health and Disability Act 2000, and with reference to the 'Ethics Framework for the State Sector'. This is a management responsibility for each manager's respective areas.</p> <p>Management should be familiar with the types of improprieties that might occur within their respective areas and be alert for any indication of irregularity.</p>

## Policy Expectations

### **Fraud Assessment & Detection**

The Fraud Strategy Framework component of this policy identifies high risk areas for potential fraud.

Fraud risks are to be assessed regularly to ensure internal control procedures are reviewed as any business practice changes.

To assist with fraud prevention and detection, NMH:

- Has an electronic hierarchy approvals system
- Undertakes employee and vendor bank account checks
- Uses data mining for irregular and suspicious transactions via annual internal audit
- Maintains a centralised contracts database

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- Reports and checks high level vendor expenditure
- Has segregation of duties
- Has vendor creation approval processes
- Undertakes fraud risk assessment
- Maintains fraud awareness training
- Has fraud “hotline” 0800 424 888 (the MOH Health Integrity Line - a free, anonymous 24/7 phone line for you to report fraud or any other activities you’re concerned about in the health system).

### **Fraud Notification**

The channel through which to raise a fraud notification by a staff member, Board Member, or Contractor is set out in the Fraud Notification Process Table. It is important that the appropriate parties are notified as soon as possible and involved in any interim/full investigations that occur. Allegations should be documented and include, as appropriate:

- A summary of the matter
- The source of the information and explanation of how the individual became aware of the matter
- Names and positions of any employees or third parties involved
- Any details of significant times, dates and locations relating to the matter
- Detail of any information and evidence to support the allegation (documents, records, etc)
- List of any other persons who may be able to assist in any investigation

Verbal reports however can be made; the Manager to whom the matter is being reported must make notes as above and confirm its accuracy with the person making the disclosure.

### **Investigation Principles**

All allegations of fraud will be thoroughly and fairly investigated with reference to the relevant legislation and other organisational policies as appropriate, e.g. the disciplinary policy.

External agencies may be used for investigation if deemed appropriate.

Any investigation must be fully documented.

Following internal investigation, where matters of fraud are suspected, the matter will be reported to the NZ Police and a complaint laid. This may result in criminal prosecution.

Following internal investigation, where matters of fraud or serious wrongdoing are suspected and where no criminal prosecution is likely or delayed, NMH may exercise its rights of civil or contractual litigation if deemed appropriate.

### **Fraud Hotline**

Anonymous reports or calls will be treated seriously and should contain sufficient information to allow further investigation.

Calls can be made in strictest confidence to either the:

- Inform – Health Integrity Line on 0800 424 888, or
- GM Finance, Performance & Facilities on 027 222-5848

### **Confidentiality**

It should be noted that maintaining confidentiality is particularly important as the individual(s) allegedly involved will not normally be alerted to the process of gathering and assessing evidential information. This is also to protect the rights of individual(s) involved.

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The staff member discovering suspected fraud should not discuss the suspicion with anyone other than the person they report it to, or as otherwise directed by the investigator.

Employees must not attempt to investigate their concerns themselves or to contact the suspected individual(s) in an effort to determine the facts.

NMH will make best endeavours not to disclose any identifying information. However, confidentiality cannot be guaranteed. For example, confidentiality may not be able to be maintained where the disclosure of identifying information is in the public interest or is essential to having regard for the principles of natural justice, the effective investigation of an allegation, legal proceedings or criminal complaint.

### Protected Disclosures

The Protected Disclosures – Whistleblowing Policy and the legislation, the Protected Disclosure Act 2000, details the obligations and rights of employees and employers relating to notification of “serious wrongdoing”.

The Protected Disclosures Act (2000) defines a serious wrongdoing to include:

- an unlawful, corrupt, or irregular use of public funds or public resources
- an act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment
- an act, omission, or course of conduct that constitutes a serious risk to the maintenance of the law, including the prevention, investigation, and detection of offences and the right to a fair trial
- an act, omission, or course of conduct that constitutes an offence
- an act, omission, or course of conduct by an employee that is oppressive, improperly
- discriminatory, or grossly negligent, or that constitutes gross mismanagement.

Employees who make false or vexatious allegations or otherwise act in bad faith may not be afforded protection under the Protected Disclosures Act 2000 and may be dealt with under NMH’s disciplinary procedures and policies.

### Fraud Notification Process

If a staff member suspects fraud by:	They should report it to:	The means by which the allegation is investigated:
Another Employee.	Their Line Manager. (These Managers must then notify the GM Finance, Performance & Facilities – GMFP)	People & Capability in conjunction with GMFP.
Their Line Manager	The GMFP	People & Capability in conjunction with GMFP.
The GMFP	Chief Executive (CE)	The CE
If a staff member suspects fraud by:	They should report it to:	The means by which the allegation is investigated:
Contractor, Supplier of the Provider / Governance-arm	Their Line Manager (These Managers must then notify the GMFP)	Group Manager of the Service in conjunction with the GMFP
Contractor, Provider of the DHB Funder	GM Strategy, Primary & Community (GMSPC)	GMSPC in conjunction with the GMFP and the DHB’s NGO Provider Audit Contractor

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	(The GMSPC must then notify the GMFP)	
The CE	GMFP or the Board Chair (The GMFP must then notify the Board Chair)	Board Chair in conjunction with the GMFP and / or external parties as required
Board / Committee members	CE (The CE must then notify the Board Chair and GMFP)	CE in conjunction with Board Chair and GMFP as required
<b>If a Board member suspects fraud by:</b>	<b>They should report it to:</b>	<b>The means by which the allegation is investigated:</b>
Another Board Member	Board Chair (The Board Chair must then notify the CE & GMFP)	CE in conjunction with Board Chair and GMFP as required
Board Chair	Chair of the Audit & Risk Committee (A&RC). (The Chair of A&RC must then notify the <u>Director-General of Health, CE &amp; GMFP as appropriate</u> )	CE in conjunction with Chair of the A&RC and <u>the Director-General of Health and/or GMFP</u> as required
All other parties	Board Chair (The Board Chair must then notify the CE & GMFP)	The investigation will be the same as specified in the employee section above and vary according to whom the suspected party is
<b>If a Contractor suspects fraud by:</b>	<b>They should report it to:</b>	<b>The means by which the allegation is investigated:</b>
Staff, Board, Other contractors	GMFP (The GMFP must then notify the CE)	Depending on the party, the investigation will be managed as above, for example, if staff, then by People & Capability & the GMFP, if by other contractors, then by the appropriate manager & the GMFP

## Internal Procedure for Investigation following Notification

### *The Investigator*

Shall undertake a preliminary assessment for the purposes of seeking clarification and gathering further information. The purpose of the preliminary assessment is to:

- Seek clarification and determine if there is any substance to the allegation
- To protect employees or contractors from false or vexatious allegations
- To gather and protect further evidence
- To provide a set of recommended actions for the CE.

Liaise with appropriate parties and seek such advice as deemed necessary to protect all parties.

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Where the preliminary assessment shows a prima facie case of fraud, and has been approved by the CE, the allegation should be investigated fully including any assistance deemed necessary by external party and / or NZ Police.

Where employees are involved, it may be necessary to suspend; a decision to suspend will be taken in context of the disciplinary policy and in line with the delegation of authority policy.

Shall ensure full documentation is kept of any preliminary and subsequent full investigation and filed / stored appropriately.

### ***The GM Finance, Performance & Facilities***

Shall maintain and update a central, detailed register of all fraud incidents and reports.

Upon advice of a suspected fraud shall, as appropriate:

- Notify the CE
- Notify the Chair of the Audit & Risk Committee
- Notify NMH's insurers of any potential fidelity claim or incidence as required under the insurance policy
- Notify the Internal and / or External Auditor

The notifications will give due regard to Privacy issues given the suspected status of the matter at this stage.

Upon completion of the preliminary and / or full investigation:

- Update the above parties as required
- Lodge any insurance claim
- Provide feedback to the reporting individual where appropriate regarding whether or not evidence was found to support the allegations, that the investigation (if any) is complete and confirmation that appropriate actions was taken but not the detail of such action
- Review and make corrective actions to the internal control systems if the investigation reveals any deficiencies.

### ***The Chief Executive (CE)***

Shall:

- Notify the Board Chair, Ministry of Health and Minister of Health under the "no surprises" policy if the matter is deemed significant enough
- Deal with all media enquiry
- Following receipt of the preliminary assessment report, determine the next actions including any referral to enforcement agencies

## **Fraud Strategy Framework**

### ***Background***

Whilst it is not possible to eliminate fraud, it is possible to significantly reduce opportunities for fraud through adoption of multiple aligned strategies and policies that address different aspects of the control environment where potential risk exposure exists. This part of the Fraud Policy explores these aspects of the control environment and proposes a strategy.

### ***Key Risk Areas***

Analysis of NMH's spend identifies 3 primary areas of exposure for exploitation by potential fraudsters. These areas are:

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- Provider Arm: ~50% of DHB costs
- Personnel: ~65% of Provider Arm costs
- Contracts with suppliers of goods and services: ~35% of Provider Arm costs
- Funder contracts with health service providers: ~50% of DHB costs

NMH will inform its understanding of key risks by reviewing the internal and external auditors organisational risk assessments annually.

### **Fraud Control Framework**

The control framework sets out the strategies that form the basis for the multi stranded approach to fraud prevention and detection. The control framework will be supported by appropriate policies.

### **People & Capability**

Human resource policies and processes will outline the behaviour expected of staff and management. They will project a clear expectation of honesty and full disclosure and support the creation and maintenance of an ethical work environment. Specific policies and processes are:

- (i) Recruitment Screening & Declarations (e.g. CV checks, criminal record checks, registration checks, reference checks, etc.)
- (ii) Development of appropriate culture (e.g. inclusion of fraud alert in orientation programme)
- (iii) Ongoing "Fraud Awareness" training
- (iv) Robust payroll processes (segregation of duties, review and appropriate authorities)
- (v) Annual payroll audit (e.g. IRD number checks, duplicate bank account checks, etc.)
- (vi) Expenses claiming policy and audit
- (vii) Code of Conduct and NMH Values
- (viii) Policy on receiving gifts and entertainment
- (ix) Declarations of conflicts of interest by Senior/Executive Management
- (x) Policies relating to the observance of professional standards

### **Internal Audit**

The Internal Audit programme will set out the investment required and focus of Internal Audit at NMH. It will ensure that the mix of Internal Audit services employed each year is informed appropriately by an annual risk assessment. It is envisaged that the expenditure profile of NMH would mean there is a heavy weighting towards payroll and purchasing processes and validation. The policy will be reviewed annually and the annual internal audit work plan set by the Audit & Risk Committee in consultation with the Internal Auditors.

The policy will require an annual internal audit work plan and will also include guidance on matters such as, weightings for forensic audit spend, risk identification processes, the importance of committee only time with the internal auditors, the overall internal audit budget, required skill sets for internal audit personnel and the monitoring of compliance with all policies linked to the fraud control framework. It is envisaged the annual work plan will consider, balanced with wider risks, as a minimum:

- (i) Fraud risk identification and assessment
- (ii) Targeted forensic audit (including data mining), drawing on specialist skills based on target area (e.g. IT specialist for IT, procurement specialist for procurement, etc.)
- (iii) Scheduled Audit & Risk Committee interview with auditors.
- (iv) "Closing the Loop" systems audit (i.e. tests for vendor approval, procurement process, contract and/or purchase order approval, invoice, payment, delegations of authority, etc.).
- (v) Audit of compliance with Personnel Anti-Fraud Controls
- (vi) Control environment review, e.g. contract approval process, vendor creation control, rules based invoice approval process, etc.

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- (vii) Interface and interaction with the external audit programme and auditors.

In addition to the regular internal audit programme, a plan will be set annually for audits of Funder contracts. External providers may be used from time to time for issues such as the forensic audit arising out of the fraud investigation.

### **External Audit**

While external audit is primarily influenced by the Office of the Auditor General and largely focuses on providing an opinion on the financial statements, opportunities to maximise the value of the audit in a fraud control context will be utilised. This will include:

- (i) Annual Audit & Risk Committee interview with auditors
- (ii) Sample transaction test validation / ratification / 'appropriateness test'
- (iii) Maximising the interaction between the external and internal audit processes

### **Delegations of Authority**

The delegation of authority policy is important in a fraud control context as it sets out the authority levels for expenditure and procurement. Key to its utilisation for fraud control is the setting of appropriate levels for authorisation of expenditure and the ability to contract NMH, and then monitoring compliance with these.

The policy needs to be clear, concise and have good visibility in the organisation. The fraud control aspects will therefore include:

- (i) Annual review of the Policy by the Audit & Risk Committee
- (ii) Appropriate linkages with internal audit
- (iii) Annual review of high level cumulative spend on single providers by authorised officer

### **Procurement Processes**

Procurement of goods and services is governed by the procurement policy. This covers many aspects of the process including ensuring that there is compliance with government good practice requirements. In the fraud control setting the policy needs to ensure there are robust processes in place for the selection of suppliers and approval of contracts. It will include:

- (i) Vendor approval processes (sign off)
- (ii) Contract review at the point of origination
- (iii) Personal pecuniary gain and/or association
- (iv) Central Contracts Register
- (v) A no greater than triennial review of the policy by the Executive Leadership team

### **Fraud Policies**

Fraud policies will be in place to set out the organisational attitude to fraud and the appropriate response to fraud occurrence. The policies will include:

- (i) Annual review by Audit & Risk Committee
- (ii) Principle of zero tolerance to fraud
- (iii) Fraud Hot Line
- (iv) Protected Disclosures

### ***Role of the Audit & Risk Committee (A&RC)***

The A&RC is appointed by the Board. Its composition will support the fraud control framework by ensuring members include persons with previous experience in one or more of governance, audit committees, audit generally and financial matters.

The A&RC will have an annual work plan and meeting schedule that reflects the need to effectively monitor retrospective compliance with the policies associated with the Fraud Control Framework and the need to

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review the policies annually for prospective robustness. In particular the committee will set the Internal Audit work plan and review the outcomes of all internal and external audits and any fraud investigations.

## Associated Documents

- *NMH Delegations Policy*
- *NMH Code of Conduct*
- *NMH Disciplinary Policy*
- *[NMH Sensitive Expenditure Policy](#)*
- *NMH Protected Disclosures – Whistleblowing Policy*
- *New Zealand Public Health and Disability Act 2000*
- *Crown Entities Act 2004*
- *Protected Disclosure Act 2000*
- *Operating Policy Framework (Ministry of Health)*
- *Auditor General’s Statement on Fraud (AG ISA (NZ) 240 Fraud)*

## References

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