



Fraud policy

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Introduction

The Pike River Recovery Agency ('The Agency') has been set up to create and, if feasible, execute a plan for the safe manned re-entry of the Pike River coal mine drift. To deliver on this outcome the Agency needs to have systems and processes in place to ensure fraud and theft do not occur.

Definition of Terms

Fraud is defined as an intentional deception designed to obtain a benefit or advantage or to cause some benefit that is due to be denied. Examples of fraud include:

- a) Forgery or alteration of a check, bank draft, or any other financial document.
- b) Theft of a check or other diversion of a payment.
- c) Misappropriation of funds, supplies, or other assets.
- d) Impropriety in the handling or reporting of money or financial transactions.
- e) Profiteering as a result of insider knowledge.

Theft is defined as the act of taking something from someone unlawfully. For the purposes of this policy, the term "fraud" is used to include theft.

Purpose

The purpose of this Fraud policy is to set out the fraud control policies for the Pike River Recovery Agency.

Scope

This policy applies to all staff of the Agency, including employees and contractors, people seconded to the Agency from other organisation(s), people involved in the operation of the Agency (including external advisors and consultants).

If an allegation or concern regarding fraud is regarding the Chief Executive, the matter should be referred to the State Services Commissioner. Any action by the State Services Commissioner lies outside the scope of this policy.

Duties and responsibilities of staff

1. Each member of staff must be alert to any conduct (including a pattern of conduct or behaviour) which might be indicative of fraud by a staff member, and report such conduct or any suspected fraud, theft or abuse or other dishonest conduct to the Chief Executive.
2. In terms of personal conduct, all staff must observe the strictest standards of integrity at all times. This includes complying with all applicable policies, in particular the Conflicts of Interest Policy which requires the



declaration of all interests that might give rise to a conflict with their roles or duties. Everyone should recognise that a failure to declare a relevant interest could give rise to a suspicion of fraud.

Responsibilities of Chief Executive and Chief of Staff

3. The Chief of Staff is responsible, under delegation by the Chief Executive, for ensuring that all office policies, procedures, and internal control that could affect this policy are implemented and administered diligently. This responsibility sits under the Chief Executive's financial management responsibility to the Minister under section 34 of the Public Finance Act 1989.
4. On receiving a report of suspected fraud, the Chief Executive will document the contact and delegate the Chief of Staff to conduct a preliminary investigation to determine the credibility of the report and report back to the Chief Executive. (If the report contains an allegation involving the Chief of Staff, the Chief Executive will conduct the investigation in person or engage an external expert to do so.)
5. If the preliminary report shows that the allegation is credible, the Chief Executive must commence a full investigation in accordance with Guidelines for the Investigation of Suspected Fraud below (paragraphs 13-18), or refer the matter to the Police or the Serious Fraud Office for criminal investigation. The Chief Executive may also take advice from the Police, the Serious Fraud Office, or the State Services Commission, and must notify the Agency's external auditor and/or the Office of the Auditor-General of the matter.
6. If the Chief Executive determines, following receipt of the preliminary report, that the allegation is not credible or is not a report of fraud, the Chief Executive must document this determination with reasons. The Chief Executive may, in his or her discretion, notify the external auditor of the allegation and the outcome.
7. The Chief Executive is responsible for the administration and application of this policy.

Protection of rights and reputations

8. The Chief Executive will make every effort to protect the rights and the reputations of everyone involved in a report of suspected fraud, including any individual who in good faith "speaks up" and alleges misconduct. This includes making every effort to protect the identity of a person who in good faith reported the suspected fraud. The Protected Disclosures Act 2000 may apply to a disclosure of suspected fraud, and it is important to ensure observance (on legal advice or advice from the Office of the Ombudsman) of all staff protections under that Act. However, disciplinary action may be taken as provided by this policy if a report is made in bad faith.
9. This policy also recognises the importance of protecting the rights and reputations of alleged perpetrators of fraud. As a matter of principle, the person concerned should be informed of an allegation at the earliest practicable opportunity, and given an opportunity to respond in accordance with the principles of natural justice. However, this policy also recognises that it may be necessary to:
 - a) delay disclosing the existence or nature of an allegation to the person concerned, in the interests of detection and to prevent destruction of evidence; or
 - b) suspend an employee pending the completion of an investigation (whether preliminary or otherwise).



Confidentiality and Communications

10. All matters related to an allegation of fraud, and any investigation while it is being carried out, must remain strictly confidential, with all written information kept secure. Each staff member informed of, or involved in any way in, an investigation must keep their knowledge of, and any information about or arising from, the investigation strictly confidential. Staff must not disclose any evidence or the results of an investigation to, or discuss the investigation with anyone other than those who have a legitimate need to know.
11. The Chief Executive has sole authority for communicating to staff, at the appropriate time, about any matter concerning an alleged or established fraud.
12. Should any staff member improperly disclose information about an allegation of fraud or an investigation, the Chief Executive will consider whether that individual is in breach of confidence and if so whether action is required. Any action the Chief Executive considers must be in terms of the Protected Disclosures Act 2000 (where it is considered, on legal advice or advice from the Office of the Ombudsmen, to apply); any applicable conditions of the individual's employment agreement or contract of engagement, the State Services Code of Conduct, and any other code of ethics or code of responsibility by which the staff member is bound.

Guidelines for the Investigation of Suspected Fraud

13. The Chief Executive has primary responsibility for any full investigation of suspected fraud that is conducted under the authority of the Agency, but may delegate the investigation to the Chief of Staff and/or engage an external expert to undertake it.
14. Any required investigative activity must be conducted without regard to the suspected wrongdoer's length of service, position/title or any other perceived mitigating circumstance.
15. The Chief Executive or investigator must maintain appropriate documentation regarding the investigation, and comply with the Chief Executive's directions and guidelines for information security.
16. The Chief Executive must, at an appropriate time (having regard to paragraph 9):
 - a) Inform the person concerned in writing of the allegation that has been received about them, and invite them to be interviewed with an opportunity for their representative or representatives to be present.
 - b) At the interview, explain the nature of the allegation, provide any evidence, and give them an opportunity to respond.
 - c) Document any verbal response (preferably in the form of a signed statement), or obtain a written response.
 - d) Advise the person in writing of the processes to be involved from that point on.
17. If an investigation confirms or substantiates fraudulent activities, the Chief Executive or the investigator will prepare an investigation report as soon as possible, documenting the content of the investigation, the findings, any recommendation to refer the matter for criminal investigation, and any disciplinary action recommended or proposed to be taken as a result of the investigation.
18. The Chief Executive may, either on his or her own volition or on advice, at any time pass on an investigation to the Police or the Serious Fraud Office.



Disciplinary Action

19. Failure to comply with any part of this policy is grounds for disciplinary action, including immediate termination of employment or (in the case of a contractor) contract of engagement.
20. In particular, a staff member will be subject to disciplinary action, including possible termination (whether summary or on notice) if they:
 - a) have engaged in any form of fraud;
 - b) suspect or discover fraudulent activity and fail to report it as required by this policy; or
 - c) intentionally report false or misleading information.
21. The taking of disciplinary action against any employee will be subject to the application of employment law.

Related Policies and Procedures

- The Agency's Conflict of Interest Policy and Procedures
- The Agency's Protected Disclosures (Whistle-blower) Policy
- State Sector Standards of Integrity and Conduct