

# Fraud & Corruption Policy

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| <b>Personnel Policy No.</b>   | PP - 15                    |
| <b>Date Approved by Board</b> | 27 November 2008           |
| <b>Date Due for Review</b>    | 27 November 2011           |
| <b>Contact</b>                | Employee Relations Manager |

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## Sources of Authority

As an employee of the Corporation your employment and actions are governed by the following Acts, Regulations and Policies:

- *Staff Code of Conduct*
- *Conditions of Borrowing PKPC Plant & Equipment*
- *Credit Card Policy*
- *PKPC Sponsorship & Donations Policy and Guidelines*
- *Waste Reduction & Purchasing Policy*
- *Fraud Control Improvement – Better Practice Guide (NSW Auditor-General)*
- *Protected Disclosures Act 1994 (NSW)*
- *Independent Commission Against Corruption Act 1988 (NSW)*
- *Anti Discrimination Act 1977*

## BACKGROUND

The Corporate Fraud & Corruption Policy is established to facilitate the development of controls to assist in the detection and prevention of fraud and corrupt behaviour against the Port Kembla Port Corporation (PKPC). It is the intent of PKPC to promote consistent organisational behaviour to minimise the possibility of fraud and corruption and to take appropriate disciplinary and legal actions against employees and or entities. Actions which may be undertaken include the possibility of termination of employment, requirement for restitution and forwarding information to the appropriate authorities for criminal prosecution.

This policy will attempt to clarify acts that are considered to be fraudulent and describes the steps to be taken when fraud or other related dishonest activities are suspected.

## **SCOPE OF POLICY**

This policy applies to any fraud, suspected fraud or corrupt behaviour involving employees as well as consultants, vendors, contractors or outside agencies doing business with PKPC employees and or any other party having a business relationship with PKPC.

Any investigative activity will be undertaken in a manner which is within the law of New South Wales and ensures fairness, equity and natural justice.

## **POLICY**

Fraud is defined as the intentional false representation or concealment of a material fact for the purpose of inducing behaviour in a way which is detrimental to the organisation or where the individual seeks to benefit as a result of the individual's association with PKPC. Corruption is defined where an individual is influenced by bribery, payment or benefit in kind to unreasonably use his/her position within PKPC to give some advantage to another. Fraud is a deliberate intent to deprive PKPC of money or goods through the falsification of any records or documents (e.g., submission of false invoices, inflated time records or travel claims, the use of orders to obtain goods for personal use).

Actions constituting fraud or corruption may include:

- Any dishonest or fraudulent act
- Forgery or alteration of any document or account belonging to PKPC
- Forgery or alteration of a cheque, bank draft or other financial document
- Misappropriation of funds, supplies or other assets
- Impropriety in the handling or reporting of money or financial transactions
- Profiteering as a result of insider knowledge of PKPC activities
- Disclosing confidential and propriety information to outside parties
- Disclosing to other persons proposed confidential investments engaged in or contemplated by PKPC
- Accepting or seeking anything of material value from contractors, vendors or person providing services/materials to PKPC in exchange for an advantage
- Destruction, removal or inappropriate use of records, equipment etc
- Any similar or related inappropriate conduct, authorising or receiving payment for goods not received or services not performed
- Any apparent violation of Federal or State laws relating to dishonest activities or fraud
- Undisclosed conflict of interest.

## **MANAGEMENT RESPONSIBILITY**

Management is responsible for detecting fraudulent or related dishonest activity in his/her areas of responsibility. Each manager should be familiar with the type of impropriety that might occur in his/her area and be alert for any indication that improper activity, misappropriation or dishonest activity is or was in existence in his/her area of responsibility.

It is also the responsibility of all staff to report any reasonable suspicions of fraud or corruption to his/her immediate supervisor.

When an improper activity is detected or suspected, management should determine whether an error or mistake has occurred or if there may be dishonest or fraudulent activity.

If a manager determines a suspect activity may involve fraud or related dishonest and corrupt behaviour he/she should contact his/her respective General Manager.

The General Manager should immediately let the CEO know of the suspect activity. The CEO will as soon as possible inform the Chair of the Audit & Risk Management Committee.

It is the Board's policy that an employee will not suffer as a result of reporting reasonably held suspicions of fraud or corrupt behaviour, that there must be no unlawful discrimination on any grounds and that staff are encouraged to raise concerns under the PKPC Code of Conduct and Government Whistle Blowing Legislation.

### **Investigative Procedure**

The identity of the employee reporting will be kept confidential in so far as possible and unless required to be made public as part of litigation or under Government Information (Public Access) Legislation.

Equally the identity of any person suspected of fraud or corrupt conduct will be kept confidential in so far as possible until final determination of the matter.

All reports of fraud and corrupt behaviour will be investigated and a formal response provided to the individual who first reported the issue.

The General Manager Corporate Services will maintain a data base/register to ensure that all items reported are concluded and reports made to the necessary authorities. Access to the data base/register will be strictly limited to the General Manager Corporate Services, the Chief Executive Officer, the Audit & Risk Management Committee and the Board. The General Manager Corporate Services should also contact the police if he/she feels the situation warrants such action (e.g., obvious thefts have taken place, security is at risk or immediate recovery is possible).

Internal Audit may be engaged to conduct an investigation with appropriate internal and external resources. After turning the matter over to Internal Audit, management should not attempt to conduct individual investigations, interviews or interrogation.

Management is responsible and must take appropriate corrective action to ensure adequate controls exist to prevent reoccurrence of the improper action.

Management and employees will support PKPC's investigation and act in accordance with the Code of Conduct and will co-operate with Internal Audit, law enforcement agencies in the detection, reporting and investigation of criminal acts including prosecution of offenders.

Internal audit or the investigation team shall have full and unrestricted access to all necessary records and personnel including computers where there is reasonable suspicion of a dishonest or fraudulent activity which makes such inspection necessary.

Every effort should be made to effect recovery of PKPC losses.

Great care must be taken in the dealing with suspect dishonest or fraudulent activities to avoid:

- False accusations
- Alerting suspected individuals that an investigation is under way
- Treating employees unfairly
- Making statements that could lead to claims of false accusations or other offences

Individuals who knowingly make false or frivolous accusations may be subject to disciplinary actions.

Instructions to the individual handling corrupt or fraudulent activities include the following:

- Do not contact (unless requested by higher authority) the suspected individual to determine facts or demand restitution
- Do not discuss the case, facts, suspicions or allegations with anyone outside the immediate "need to know" basis unless specifically directed to do so on legal advice
- Do not discuss the case with anyone other than employees who have a need to know
- Direct all enquiries from the suspected individual or his or her representative to the investigating individual. All enquiries by a lawyer of the suspected individual should be directed to the PKPC legal representative.
- Implement corrective and disciplinary action after consulting with all relevant parties and in accordance with the Corporation's Code of Conduct.

All enquiries from the media are to be directed to the Communications Manager.

The ICAC Policy states that *"It is important that reports to the Commission be made without advising the person (persons) to whom the report relates and without publicity"*. Once a report on a corrupt or fraudulent activity has been received by the General Manager Corporate Services the matter will be investigated according to the following procedures:

- Internal Audit will be informed and may be engaged to investigate situations involving possible fraud or related dishonest activity.
- If warranted prompt investigation will be conducted to include detailed analysis of available records. The audit investigation requires the full co-operation of all personnel. The internal audit investigation will proceed as follows if evidence is uncovered showing possible dishonest or fraudulent activity.
- Internal Audit will discuss the findings with the branch General Manager and the CEO.
- Internal Audit will advise the CEO and the Chair of the Audit & Risk Management Committee if the case involves staff members.

- The Chair of the Audit & Risk Management Committee will notify the Board.
- If illegal activity appears to have occurred the findings will be reported to the appropriate law enforcement agencies. This will be co-ordinated through the General Manager Corporate Services.

When proven, corrupt and/or fraudulent activities may result in the immediate dismissal of the individual.

### **EMPLOYEE RESPONSIBILITIES**

When suspected fraudulent incidents or practices are observed by or made known to an employee:

- The incident and practice must be reported to the immediate supervisor for reporting to the General Manager of the branch. When the employee believes that the supervisor may be involved in the inappropriate activity the employee may make the report directly to the General Manager or CEO or the Board or ICAC as appropriate.
- The reporting employee shall refrain from further investigation of the incident, confrontation of the alleged violator or further discussion of the incident with anyone else unless requested to by the PKPC lawyer or law enforcement personnel. **There will be no recrimination against staff who report reasonably held suspicions nor any recrimination, victimising or deterrence of staff from reporting incidents.**

Equally, abuse of the process by raising malicious allegations will also be regarded as a disciplinary matter.

Any contravention of this policy will be reported to the Chief Executive Officer or the Chair of the Corporation's Audit & Risk Management Committee.

**FRAUD & CORRUPTION POLICY**

**Corporate Fraud & Corruption Policy**

**Decision Matrix**

| <b>Action Required</b>                                     | <b>Law Enforcement</b> | <b>Internal Audit</b> | <b>Finance Accounting</b> | <b>Executive Management</b> |
|--|------------------------|-----------------------|---------------------------|-----------------------------|
| Controls to prevent Fraud                                  |                        | S                     | S                         |                             |
| Incident Reporting   |                        | S                     | S                         |                             |
| Investigation of Fraud                                     | SR                     | SR                    |                           |                             |
| Referrals to Law Enforcement                               |                        |                       |                           | P                           |
| Recovery of Monies due to Fraud                            | P                      |                       |                           |                             |
| Recommendations to Prevent Fraud                           |                        | P                     | S                         |                             |
| Internal Control Reviews                                   |                        | P                     |                           |                             |
| Handle Cases in a Sensitive Nature                         | SR                     | SR                    |                           |                             |
| Publicity/Press Releases                                   |                        |                       |                           |                             |
| Civil Litigation   | P                      |                       |                           |                             |
| Corrective Action/Recommendations to prevent reoccurrences | SR                     | SR                    |                           |                             |
| Monitor Recoveries   |                        |                       | P                         |                             |
| Pro-active Fraud Auditing                                  |                        | SR                    |                           |                             |
| Fraud Education/Training                                   |                        |                       |                           |                             |
| Risk Analysis of Areas of Vulnerability                    |                        | SR                    |                           |                             |
| Case Analysis  |                        |                       |                           |                             |

**P** (Primary Responsibility)      **S** (Secondary Responsibility)      **SR** (Shared Responsibility)

*Note: Clause 11 of the ICAC Act requires the Principal Officer to report on matters of fraud and corrupt behaviour.*

*The Principal Officer under the Act is the Chief Executive Officer.*