

24 August 2021

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Dear Amanda,

Request for Information – Our Reference: IR-01-21-24217

Thank you for your request for information dated 5 August 2021 requesting information about internal Police guidelines for decision making processes. Your request has been considered in accordance with the Official Information Act 1982 (OIA) and I provide the following response.

- 1. Please provide a copy of your internal guidelines for decision making regarding regular callers and applying the 1M classifications of callers to 111*

The Police Emergency Communication Centres (ECC's) receive about 1,300,000 111 calls per year. The communicators (call takers) are highly trained and will ask a series of questions to gather the information Police need to respond. Based upon the circumstances the communicator assigns an incident code to the situation, which is provided to the attending staff so that they can prepare for the incident type.

One of the incident codes available to the ECC's is '1M' - which relates to a mental health incident. In the ECC environment this code applies to a specific incident as opposed to a person. Often the caller does not know the person involved in the incident and therefore the 1M code, as used by ECC's, provides a description of the call type not the individual.

Additionally, ECC staff have a series of supplementary 'flags' which they can apply against any incident. These 'flags' are used internally by Police to aid with measuring the demand about specific incident types such as family harm, gangs, hate crime, and mental health. The application of these flags by the ECC's does not affect the National Intelligence Application (the NZ Police database) holdings of any persons and are used for administrative purposes only.

Occasionally frequent and/or complex callers to the 111 service are identified. When this occurs, Police work closely with other key partners to determine the best response for the person which may result in the development of a personalised plan. Where appropriate plans are available to ECC staff, depending on the nature and purpose of the call to Police, the plan may be implemented.

Police National Headquarters

180 Molesworth Street, Thorndon, Wellington SX11149
Telephone: (04) 474 9499. www.police.govt.nz

I have also attached a copy of the Emergency Communication Centre standard operating procedure (SOP) with regards to mental health incidents. This SOP aids communicators and assists them in their decision-making process.

- 2. Please provide a copy of your internal guidelines and decision making for NOT following a fraud investigation involving a New Zealand bank where the offender has already been identified.*

New Zealand Police does not have a formal policy relating to when fraud matters will not be investigated. Any decision of this nature would be made by the District or workgroup responsible for the investigation and would factor in such things as the number of other investigations, the priority and nature of those investigations, and the availability of resources to undertake such investigations.

I have attached a copy of the fraud (Deception) investigation policy which will hopefully assist you in understanding our process.

If you are not satisfied with my response, you have the right under section 28(3) of the OIA to make a complaint to the Ombudsman and seek an investigation and review of the refusal.

Yours sincerely



Inspector Michael Coulter
Acting National Operations Manager
Emergency Communication Centres

Mental Health Episode - 1M

MSOP

[Related Links](#) | [Call Taker - Ascertain](#) | [Mandatory Questions](#) | [Dispatcher - Action](#) | [Team Leader - Policy & Control](#)

Does event relate to threatened or attempted suicide? Refer to MSOP:

[Threatened / Attempted Suicide - 1X](#)

Call Taker - Ascertain

Apply risk assessment methodology (TENR)

Mandatory Questions

- Establish Risk - Is it necessary for Police to respond
- Utilise the Police Negotiation Team (PNT)
- No imminent RISK - Consider the Mental Health Triage Line

Event information, including:

- Where is incident happening (house, vehicle, street)
- What has or is happening
- Time delay
- What is their behaviour (language used, screams, destruction of property, etc)
- Name, age, gender, and address
- Verbal or physical threats (or both)
- Any weapons
- Any persons injured
- Medical assistance required or called
- Who is the person of concern with at the moment
- Contact details for the subject, landline, cell phone, social media.

Scene information, including:

- What is their location, public place / private place
- Are they still at scene, departed, direction of travel, on foot or vehicle
- Description of vehicle, clothing etc
- Who else is present at the address (adults / children)
- Animals present (particularly dogs presenting risk to responders)
- Access to the scene (apartment building, locked doors)
- Previous incidents at same location
- Contact details for the subject, landline, cell phone, social media.

Person of concern information, including:

- Is person considered an imminent risk to themselves or others
- What are the concerns for the person
- What is their behaviour / actions now
- Is the person of concern under mental health service
- If so, are they a committed patient or absent / missing from hospital
- Are they currently under the care of anyone else (i.e. friend / family / doctor)
- Does person have a mental health plan in place
- Is the persons mental state likely to deteriorate
- Does the person have access to their medication
- Has person had recent drugs and / or alcohol consumption

General information, including:

- Has any other action been taken prior to the person calling 111? (e.g. calling CATT or GP)

DAO (Duly Authorised Officer) requests

Reason for request

- DAO's details
- where the police will meet the DAO
- how they will recognise the DAO
- ETA of DAO
- Name of the patient
- exact location of the patient
- where the patient is to be transported
- demeanour of the patient
- likely response to police and a DAO
- weapons and descriptions
- other people at the location and their response to police and DAO

If non-emergency consider referring to:

- If still online with an applicable caller, consideration should be given to the use of the 'Mental Health Triage Line'
- If eligible criteria present AND exclusion criteria NOT present, communicator to transfer the caller to MHTL
- Consider if family / friends be contacted to be with the person?

- Utilise the Police Negotiation Team (PNT).

Ask - "What would help the person at the moment?"

Immediately enter P1 or P2 event, as appropriate

Dispatcher - Action

Inform And Dispatch

- Complete QP and LOI
- Initially focusing on the information that will impact the immediate safety of attending staff and person in crisis
- Ensure TENR principles are followed
- Consider whether it is necessary for Police to respond
- Location / access / subject(s) / dogs / weapons / injuries

Dispatch in accordance with local District Mobilisation Procedures, which may include:

- Considering a co-response with ambulance or CATT team. (***A mental health crisis requires a health service response***) Duty PST unit
- Dog unit
- Utilise the Police Negotiation Team (PNT)
- Check if the person has a mental health plan in place
- Disseminate all information necessary to ensure the safety of staff
- Broadcast description of the person of concern and vehicle (if appropriate)
- Ensure appropriate support has been / is being provided to the person of concern and informant

Team Leader - Policy & Control

Supervision:

Confirm Communicator's initial action

Maintain oversight of the event to ensure the appropriate Police / Other agency response is made.

Ensure early consideration of the Police Negotiation Team (PNT).

Additional information:

- Section 109 Mental Health (Crisis Assessment and Treatment) Act 1992 gives Police powers where a person appearing to be mentally disturbed is in a public place.
- The powers include taking the person to a hospital, surgery, Police station or other place and arranging for a medical practitioner to examine the person (i.e. conduct an initial mental health assessment)
- To assist frontline staff when they are determining the most appropriate course of action when dealing with a person who is experiencing a mental health crisis, refer to the Mental Health flowchart.

Deception

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Policy statement and principles

What

Deception (fraud) offences are largely found in [Part 10](#) of the Crimes Act 1961. Deception offences range from serious commercial misappropriation to the failure to pay for a meal. Deception is expanding into the sphere of 'Cyber-enabled' deception (criminal acts that may be committed without computers or the Internet, but assisted by the use of technology) are increasingly being reported.

Why

In the interest of public satisfaction and safety, victim focus and offender apprehension, Police have a responsibility to investigate, reduce and resolve deception offences.

How

To meet public expectations of being and feeling safe, Police will:

- offer support and prevention advice
- gather intelligence to understand patterns of offending and victimisation in an effort to reduce offending
- investigate deception offences
- pursue enforcement action and case resolution where appropriate
- where technology involved in deception offences is seized, seek forfeiture or lawful disposal where appropriate.

Overview

Introduction

This chapter covers a group of dishonesty offences in which money and property are acquired other than by theft or conversion. They all involve some form of misrepresentation, deceit or trickery.

They differ from theft in that the victim is induced by the deceit to give voluntarily a benefit to the offender and/or disadvantage themselves, in many cases, to pass on title. The chapter details these offences, where they are found, sets out the elements of each offence and applicable penalties and their procedures, and explains the concepts that characterise deception.

Types of deception offences

The types of deception offences covered in this chapter are:

- offences involving dishonesty:
 - dealing with documents
 - goods used for dishonest purposes
 - criminal breach of trust
 - taking, obtaining, copying trade secrets
- offences involving deceit:
 - obtaining or causing loss by deception
 - false statement by promoter
- money laundering
- computer systems aided/facilitated offences
- forgery:
 - documents intended to deceive
- counterfeiting involving:
 - seals
 - bank notes
 - paper or implements
 - customary marks
- coinage.

Related information

- [Appendix 1: Explanatory notes](#) in this chapter for related concepts
- [Cyber-enabled crime – Advice to investigators](#) for advice and guidance with investigation cyber-enabled crime.

Definitions

Deception offence definitions are not commonly known. When making the decision regarding to determine what offence has occurred use the table of definitions and if necessary seek specialist advice.

This table shows definitions of terms relevant to this chapter.

Term	Definition
Access	For the purposes of offences involving computers, 'access', in relation to any computer system, means instruct, communicate with, store data in, receive data from, or otherwise make use of any of the resources of the computer system. (s248)
Act	For the purposes of the money laundering sections 243, 243A, 244 and 245, act includes an omission (s243).
Authorisation	For the purposes of offences involving computers, 'authorisation' includes an authorisation conferred on a person by or under an enactment or a rule of law, or by an order of a court or judicial process. (s248)
Bank note	For the purposes of sections 255, 256 and 263 Crimes Act 1961, 'bank note' means any negotiable instrument used or intended for use as currency and issued by the Reserve Bank of New Zealand, or by any bank in any country other than New Zealand, or by the government of any such country, or by any other authority authorised by law to issue notes. (s255)
Benefit	<p>A non-monetary advantage may be a 'benefit'. For example, a benefit may include (New Zealand Police v Le Roy, 12 October 2006, Gendall J, High Court, Wellington CRI 2006-485-58):</p> <ul style="list-style-type: none"> • invasions of another's privacy • the obtaining of another's password for access onto a particular internet site • accessing email communications • obtaining information or knowledge that may be used to exploit or embarrass another person • a benefit on sentencing (unreported decision of Bisson J in <i>Dauncey v Police</i> HC Hamilton, M1270/85, 25 June 1985).
Computer system	<p>For the purposes of offences involving computers, 'computer system' means:</p> <ul style="list-style-type: none"> • a computer; or • two or more interconnected computers; or • any communication links between computers or to remote terminals or another device; or • two or more interconnected computers combined with any communication links between computers or to remote terminals or any other device; and • includes any part of the items described above and all related input, output, processing, storage, software, or communication facilities, and stored data. <p>(s248)</p>
Conceal	<p>For the purposes of the money laundering sections 243, 243A, 244 and 245, 'conceal', in relation to property, means to conceal or disguise the property; and includes, without limitation:</p> <ul style="list-style-type: none"> • to convert the property from one form to another • to conceal or disguise the nature, source, location, disposition, or ownership of the property or of any interest in the property (s243).
Counterfeit coin	'Counterfeit coin' includes any coin that has been altered in any manner so as to resemble any other coin. (s266)
Current coin	'Current coin' means coin of any substance lawfully current in New Zealand or in any other country (s266)

Deal with	<p>For the purposes of the money laundering sections 243, 243A, 244 and 245, 'deal with', in relation to property, means to deal with the property in any manner and by any means; and includes, without limitation:</p> <ul style="list-style-type: none"> • to dispose of the property, whether by way of sale, purchase, gift, or otherwise • to transfer possession of the property • to bring the property into New Zealand • to remove the property from New Zealand. <p>(s243)</p>
Deception	<p>For the purposes of sections 240, and 249 'deception' means:</p> <ul style="list-style-type: none"> • a false representation, whether oral, documentary, or by conduct, where the person making the representation intends to deceive any other person; and: • knows that it is false in a material particular; or • is reckless as to whether it is false in a material particular; or • an omission to disclose a material particular, with intent to deceive any person, in circumstances where there is a duty to disclose it; or • a fraudulent device, trick, or stratagem used with intent to deceive any person. <p>Note: For the purposes of match-fixing the deception definition has been extended. See section 240A and the 'Match-fixing' chapter for the extended definition.</p> <p>A false representation can be communicated by:</p> <ul style="list-style-type: none"> • Writing, for example, writing a cheque on an account in which there are no funds, knowing that the cheque will not be honoured. • Conduct, for example, representing oneself as a collector for charity by carrying an official collection bag, or tendering the wrong amount for an item after swapping its price tag. • Demeanour, for example, wearing a clerical collar to pass oneself off as a minister of religion. <p>The representation can arise by inference, if the words or conduct used can naturally and reasonably convey the meaning alleged and are intended by the suspect to do so.</p> <p>The deception must, to the knowledge of the defendant, be false at the time it is made, for example, as in the case of a person without qualifications claiming to be a doctor.</p>
Dishonestly	<p>'Dishonestly', in relation to an act or omission, means done or omitted without a belief that there was express or implied consent to, or authority for, the act or omission from a person entitled to give such consent or authority.</p> <p>(s217)</p>

<p>Document</p>	<p>For the purposes of Part 10, ‘document’ means a document, or part of a document, in any form; and includes, without limitation:</p> <ul style="list-style-type: none"> • any paper or other material used for writing or printing that is marked with matter capable of being read, or • any photograph, or any photographic negative, plate, slide, film, or microfilm, or any photostatic negative, or • any disc, tape, wire, sound track, card, or other material or device in or on which information, sounds, or other data are recorded, stored (whether temporarily or permanently), or embodied so as to be capable, with or without the aid of some other equipment, of being reproduced, or • any material by means of which information is supplied, whether directly or by means of any equipment, to any device used for recording or storing or processing information, or • any material derived, whether directly or by means of any equipment, from information recorded or stored or processed by any device used for recording or storing or processing information. <p>(s217)</p> <p>The message contained in a document must mean the same as the spoken word to everyone able to read it. The message can be in any lettering or code.</p>
<p>False document</p>	<p>For the purposes of sections 255, 256 and 263 Crimes Act 1961, ‘false document’ means a document:</p> <ul style="list-style-type: none"> • of which the whole or any material part: <ul style="list-style-type: none"> ◦ purports to be made by any person who did not make it, or by a fictitious person; or ◦ purports to be made by or on behalf of any person who did not authorise its making, or on behalf of a fictitious person; or ◦ has been altered, whether by addition, insertion, deletion, obliteration, erasure, removal, or otherwise, and that purports to have been altered by or on behalf of a person who did not alter it or authorise its alteration, or by or on behalf of a fictitious person; or • that is, in whole or in part, a reproduction of any other document, and that purports to have been made by or on behalf of a person who did not make it or authorise its making, or by or on behalf of a fictitious person; or • that is made in the name of a person, either by that person or by that person’s authority, with the intention that it should pass as being made by some other person who did not make it, or by a fictitious person. <p>(s255)</p> <p>Essentially, a false document must lie about itself (i.e. it must be a false document that is intended to be taken as being genuine). A lie that has been put in writing is not a false document. For example, a person who writes “the Queen is not the head of Government” does not make a false document even though the statement is untrue. But if the statement purported to come from the Ombudsmen’s office, it would be a false document.</p> <p>Either all or a material part of the message must come from, or purport to come from, a human being. For example, readings taken from a mechanical register such as a gas meter are not documents that are capable of being forged.</p>
<p>False statement</p>	<p>In section 242, ‘false statement’ means any statement in respect of which the person making or publishing the statement:</p> <ul style="list-style-type: none"> • knows the statement is false in a material particular; or • is reckless as to the whether the statement is false in a material particular.
<p>Forgery</p>	<p>‘Forgery’ is making a false document with the intention of using it to obtain any property, privilege, service, pecuniary advantage, benefit, or valuable consideration or knowing it to be false, with the intent that it in any way be used or acted upon, whether in New Zealand or elsewhere, as genuine.</p>

Interest	For the purposes of the money laundering sections 243 , 243A, 244 and 245, 'interest', in relation to property, means: <ul style="list-style-type: none"> • a legal or equitable estate or interest in the property; or • a right, power, or privilege in connection with the property (243).
Obtain	For the purposes of Part 10 , 'obtain', in relation to any person, means obtain or retain for himself or herself or for any other person. (s217)
Offence	For the purposes of the money laundering sections 243 , 243A, 244 and 245, 'offence' means an offence (or any offence described as a crime) that is punishable under New Zealand law, including any act, wherever committed, that would be an offence in New Zealand if committed in New Zealand. (s243)
Proceeds	For the purposes of the money laundering sections 243 , 243A, 244 and 245, 'proceeds', in relation to an offence, means any property that is derived or realised, directly or indirectly, by any person from the commission of the offence. (s243)
Property	For the purposes of the money laundering sections 243 , 243A, 244 and 245, 'property' means real or personal property of any description, whether situated in New Zealand or elsewhere and whether tangible or intangible; and includes an interest in any such real or personal property. (s243)
Representation	A thing that represents another. A statement made by way of allegation or to convey opinion. The Concise Oxford Dictionary (8th ed). Representations can be made orally (by spoken words), by documents (for example, a certificate of qualification), or by conduct (for example, dressing up as a priest).
Trade secret	'Trade secret' means any information that: <ul style="list-style-type: none"> • is, or has the potential to be, used industrially or commercially; and • is not generally available in industrial or commercial use; and • has economic value or potential economic value to the possessor of the information; and • is the subject of all reasonable efforts to preserve its secrecy. (s230)

Offences

Where to find deception offences

Deception offences are contained within [Part 10](#) of the Crimes Act 1961 and also outside of that Part of the Act in:

- [Secret Commissions Act 1910](#) - offences, akin to commercial bribery or kickbacks. Leave of the Attorney-General is required to commence a prosecution. Charges are difficult to prove. Few Secret Commissions Act offences have been pursued to trial.
- [Bribery and corruption](#) provisions of the Crimes Act 1961 - these sections are also rarely used; the former Member of Parliament, Taito Philip Field (see *R v Field*). Leave of the Attorney-General is required to commence prosecution.
- [Passports Act 1992](#) – relating to the creation of false passports or the misuse of valid passports.

Table of offences

This table detail the offences under the Crimes Act 1961 relevant to this chapter.

Offence and categorisation	Penalty and category
Offences involving dishonest use of documents	
Dishonestly taking or obtaining documents s228(1)(a)	Imprisonment not exceeding 7 years Category 3 offence.
Dishonestly using or attempting to use documents s228(1)(b)	Imprisonment not exceeding 7 years Category 3 offence
Sells, transfers, makes available document, dishonestly taken, obtained or used s228(2)	Imprisonment not exceeding 3 years Category 3 offence
Offences involving dishonest dealing of goods	
Designing, manufacturing, or adapting goods with intent to facilitate commission of crimes involving dishonesty s228A	Imprisonment not exceeding 3 years Category 3 offence
Possessing, selling, or disposing of goods designed, manufactured, or adapted with intent to facilitate commission of crimes involving dishonesty s228B	Imprisonment not exceeding 3 years Category 3 offence
Possessing goods capable of being used to facilitate crimes involving dishonesty with intent to facilitate commission of those offences s228C	Imprisonment not exceeding 3 years Category 3 offence
Offences involving breach of trust and trade secrets	
Criminal breach of trust s229	Imprisonment not exceeding 7 years Category 3 offence

Taking, obtaining, or copying trade secrets s230	Imprisonment not exceeding 5 years Category 3 offence
Offences involving deceit/intended to benefit deceiver	
Obtaining by deception or causing loss by deception <ul style="list-style-type: none"> • Obtaining property etc. by deception s240(1)(a) • Obtaining credit by deception s240(1)(b) • Inducing or causing to deliver over etc by deceptions240(1)(c) • Causing loss by deception s240(1)(d) • Using a document or thing for deriving pecuniary advantage by deception s240(1A) <p>Note: For the offence of match-fixing see the Match-fixing chapter.</p>	<p>If the loss caused or the value of what is obtained or sought to be obtained:</p> <ul style="list-style-type: none"> • exceeds \$1,000, to imprisonment for a term not exceeding 7 years (category 3 offence) • exceeds \$500 but does not exceed \$1,000, to imprisonment for a term not exceeding 1 year (category 2 offence) • does not exceed \$500, to imprisonment for a term not exceeding 3 months (category 2 offence) <p>If the offence is under s240(1A), then imprisonment not exceeding 3 years (category 3 offence)</p>
False statement by promotor etc. s242	Imprisonment not exceeding 10 years Category 3 offence
Money laundering offences	
Money laundering offences are: <ul style="list-style-type: none"> • engaging in money laundering s243(2) • obtain or possess property with intent to engage in money laundering s243(3) 	Imprisonment not exceeding 7 years (category 3 offence)
Offences involving computer systems	
Accessing computer system for dishonest purpose: <ul style="list-style-type: none"> • obtained property etc. or caused loss s249(1) • with intent to obtain property etc. or to cause loss s249(2). 	<ul style="list-style-type: none"> • Imprisonment not exceeding 7 years, category 3 offence • Imprisonment not exceeding 5 years, category 3 offence
Damaging or interfering with computer system likely to endanger life s250(1)	Imprisonment not exceeding 10 years Category 3 offence
Damaging or interfering with computer system data or software s250(2)	Imprisonment not exceeding 7 years Category 3 offence
Making, selling, or distributing or possessing software for committing crime s251(1) and (2)	Imprisonment not exceeding 2 years Category 3 offence
Accessing computer system without authorisation s252	Imprisonment not exceeding 2 years Category 3 offence
Forgery offences	

<p><u>Forgery:</u></p> <ul style="list-style-type: none"> • making false document with intent to obtain property etc s256(1) • making false document with intent that it be used or acted upon s256(2) • sells, transfers, makes available false documents s256(5). 	<p>Imprisonment not exceeding 10 years, category 3 offence</p> <p>Imprisonment not exceeding 3 years, category 3 offence</p> <p>Imprisonment not exceeding 3 years</p> <p>Category 3 offence</p>
<p>Using forged documents</p> <p>s257</p>	<p>Imprisonment not exceeding 10 years</p> <p>Category 3 offence</p>
<p>Altering, concealing, destroying, or reproducing documents with intent to deceive</p> <p>s258(1)</p>	<p>Imprisonment not exceeding 10 years</p> <p>Category 3 offence</p>
<p>Sells, transfers, otherwise makes available altered, concealed or made documents with intent to deceive</p> <p>s258(3)</p>	<p>Imprisonment not exceeding 3 years</p> <p>Category 3 offence</p>
<p>Using altered or reproduced documents with intent to deceive</p> <p>s259</p>	<p>Imprisonment not exceeding 10 years</p> <p>Category 3 offence</p>
<p>False accounting</p> <p>s260</p>	<p>Imprisonment not exceeding 10 years</p> <p>Category 3 offence</p>
<p>Counterfeiting offences</p>	
<p>Counterfeiting public seals</p> <p>s261</p>	<p>Imprisonment not exceeding 10 years</p> <p>Category 3 offence</p>
<p>Counterfeiting corporate seals</p> <p>s262</p>	<p>Imprisonment not exceeding 5 years</p> <p>Category 3 offence</p>
<p>Purchasing, receiving or possessing forged bank notes</p> <p>s263</p>	<p>Imprisonment not exceeding 7 years</p> <p>Category 3 offence</p>
<p>Paper or implements for forgery</p> <p>s264</p>	<p>Imprisonment not exceeding 10 years</p> <p>Category 3 offence</p>
<p>Imitating authorised or customary marks</p> <p>s265</p>	<p>Imprisonment not exceeding 5 years</p> <p>Category 3 offence</p>
<p>Coinage offences</p>	
<p>Makes or counterfeits coin</p> <p>s266(3)(a)</p>	<p>Imprisonment not exceeding 10 years</p> <p>Category 3 offence</p>

Possession of thing to make or counterfeit coin s266(3)(b)	Imprisonment not exceeding 10 years Category 3 offence
Buy, sell, receive counterfeit coin s266(4)(a)	Imprisonment not exceeding 7 years Category 3 offence
Imports counterfeit coin s 266(4)(b)	Imprisonment not exceeding 7 years Category 3 offence
Exports counterfeit coin s266(4)(c)	Imprisonment not exceeding 7 years Category 3 offence
Passes or attempts to pass counterfeit coin s266(5)(a)	Imprisonment not exceeding 3 years Category 3 offence
Passes or attempts to pass current coin s266(5)(b)	Imprisonment not exceeding 3 years Category 3 offence
Possession of counterfeit coin s266(6)	Imprisonment not exceeding 1 year Category 3 offence

Note: In accordance with [Crown Prosecution Regulations 2013](#), the Crown prosecutes Category 3 cases where the defendant elects trial by jury. The Crown will take over the prosecution once the matter is adjourned to trial callover.

Elements of offences involving dishonest use of documents

Dishonestly taking, obtaining, using or attempting to use documents

Elements of the offence under section [228](#)(1)(a) and (b) are:

- with intent to obtain any property, service, pecuniary advantage, or valuable consideration
- dishonestly and without claim of right
- took or obtained any document, or
- used or attempted to use any document.

See the [commentary](#) in Westlaw for an explanation relating to the elements of these offences and relevant case law.

Sells, transfers, makes available document, dishonestly taken, obtained or used

Elements of the offence under section 228(2) are:

- without reasonable excuse
- sells, transfers, or otherwise makes available any document
- knowing that the document was, dishonestly and without claim of right taken, obtained, or used
- with intent to obtain any property, service, pecuniary advantage, or valuable consideration.

See the [commentary](#) in Westlaw for an explanation relating to the elements of these offences and relevant case law.

Elements of offences involving dishonest dealing of goods

Examples of goods include ATM machines, skimming devices or devices used for removing dye tags at retailers so as to facilitate shoplifting.

Designing, manufacturing, or adapting goods with intent to facilitate crime involving dishonesty

Elements of the offence under section [228A](#) are:

- designed, manufactured, or adapted goods
- with intent to facilitate the commission of a crime involving dishonesty.

See the [commentary](#) in Westlaw for an explanation relating to the elements of the offence and relevant case law.

Possessing, selling, or disposing of goods designed, manufactured, or adapted with intent to facilitate crime involving dishonesty

Elements of the offence under section [228B](#) are:

- without lawful authority or excuse
- possesses, sells, or disposes of any goods designed, manufactured, or adapted to facilitate the commission of a crime involving dishonesty
- with intent to use, or to enable another person to use, the goods to facilitate the commission of a crime involving dishonesty.

See the [commentary](#) in Westlaw for an explanation relating to the elements of the offence and relevant case law.

Possessing goods capable of being used to facilitate crimes of dishonesty with intent to facilitate those offences

Elements of the offence under section [228C](#) are:

- without lawful authority or excuse
- possesses any goods capable of being used to facilitate the commission of a crime involving dishonesty (other than those specified in sections [227](#), [233](#), and [264](#))
- with intent to use the goods to facilitate the commission of that offence.

See the [commentary](#) in Westlaw for an explanation relating to the elements of the offence and relevant case law.

Elements of offences involving breach of trust and trade secrets

Criminal breach of trust

Elements of the offence under section [229](#) are:

- is a trustee of any trust
- dishonestly and contrary to the terms of that trust
- converts anything to any use not authorised by the trust.

See the [commentary](#) in Westlaw for an explanation relating to the elements of the offence and relevant case law.

Taking, obtaining, or copying trade secrets

Offences under section [230](#) are:

- elements of the offence under section 230(1)(a) are:
 - with intent to obtain any pecuniary advantage or to cause loss to any other person
 - dishonestly and without claim of right
 - takes, obtains, or copies any document or any model or other depiction of any thing or process containing or embodying any [trade secret](#)
 - knowing that it contains or embodies a trade secret; or
- elements of the offence under section 230(1)(b) are:
 - dishonestly and without claim of right
 - takes or obtains any copy of any document or any model or other depiction of any thing or process containing or embodying any [trade secret](#)
 - knowing that it contains or embodies a trade secret.

See the [commentary](#) in Westlaw for an explanation relating to the elements of the offences and relevant case law.

Elements of offences involving deceit/intent to benefit deceiver

Obtaining or causing loss by deception

Obtaining property etc. by deception

Elements of the offence under section [240\(1\)\(a\)](#) are:

- by deception and without claim of right
- obtained ownership or possession of, or control over
- any property, or any privilege, service, pecuniary advantage, benefit, or valuable consideration
- directly or indirectly.

Obtaining credit by deception

Elements of the offence under section [240\(1\)\(b\)](#) are:

- by deception and without claim of right
- in incurring any debt or liability
- obtained credit.

Inducing or causing to deliver over etc. by deception

Elements of the offence under section [240\(1\)\(c\)](#) are

- by deception and without claim of right
- induced or caused any other person to deliver over, execute, make, accept, endorse, destroy, or alter
- any document or thing capable of being used to derive a pecuniary advantage.

Causing loss by deception

Elements of the offence under section [240\(1\)\(d\)](#) are:

- by deception and without claim of right
- caused loss to any other person.

Using a document or thing for deriving pecuniary advantage by deception

Elements of the offence under section [240\(1A\)](#) are:

- without reasonable excuse
- sells, transfers, or otherwise makes available any document, or thing capable of being used to derive a pecuniary advantage
- knowing that by deception and without claim of right
- the document or thing was, or was caused to be, delivered, executed, made, accepted, endorsed or altered.

Offence of match-fixing

For the offence of match-fixing see the [Match-fixing](#) chapter.

Related commentary for obtaining by deception or causing loss by deception

See the [commentary](#) in Westlaw for an explanation relating to the elements of obtaining or causing loss by deception and the offences and relevant case law.

False statement by promoter, etc.

Elements of the offence under section [242\(1\)](#) are:

- any body, whether incorporated or unincorporated and whether formed or intended to be formed
- makes or concurs in making or publishes any false statement

- with intent:
 - to induce any person, whether ascertained or not, to acquire any financial product within the meaning of the Financial Markets Conduct Act 2013 [242\(1\)\(a\)](#), **or**
 - to deceive or cause loss to any person, whether ascertained or not [242\(1\)\(b\)](#), **or**
 - to induce any person, whether ascertained or not, to entrust or advance any property to any other person [242\(1\)\(c\)](#).

See the [commentary](#) in Westlaw for an explanation relating to the elements of the offence of false statement by promoter etc. and relevant case law.

Elements of money laundering

What is engaging in money laundering?

For the purposes of section [243\(4\)](#) a person engages in a money laundering transaction if, in concealing any [property](#) or by enabling any person to [conceal](#) any property, that person:

- [deals with](#) that property; **or**
- assists any other person, whether directly or indirectly, to deal with that property.

Engaging in money laundering

Elements of the offence under section [243\(2\)](#) are:

- any [property](#) that is the [proceeds](#) of an [offence](#)
- engages in a money laundering transaction:
 - knowing or believing that all or part of the property is the proceeds of an offence, **or**
 - being reckless as to whether or not the property is the proceeds of an offence.

Obtain or possess property with intent to engage in money laundering

Elements of the offence under section [243\(3\)](#) are:

- obtain or have in their possession
- any [property](#) (being property that is the [proceeds](#) of an [offence](#) committed by another person)
- with intent to engage in money laundering transaction in respect of that property
 - knowing or believing that all or part of the property is the proceeds of an offence **or**
 - being reckless as to whether or not the property is the proceeds of an offence.

Further information

See the [commentary](#) in Westlaw for an explanation relating to the elements of the money laundering offences and relevant case law.

Matters the prosecution is not required to prove

When prosecuting money laundering offences under section [243](#), it is not necessary to prove that the defendant:

- knew or believed that the [property](#) was the [proceeds](#) of a particular [offence](#) or a particular class of offence when in fact the property was the proceeds of another offence, **or**
- had an intent to:
 - [conceal](#) any property; **or**
 - enable any person to conceal any property.

s[243\(4A\)](#) & (5)(a)

Defence not available to defendant

It is no defence in a money laundering prosecution that the defendant believed any [property](#) to be the [proceeds](#) of a particular [offence](#) when in fact the property was the proceeds of another offence.

s[243\(5\)\(b\)](#)

Charges for money laundering

A person may be charged with money laundering in respect of any [property](#) that is the [proceeds](#) of an [offence](#) to which money laundering applies even though the person who committed the offence:

- has not been charged with that offence, **or**
- has not been convicted of that offence.

[s243A](#)

Defence to a charge of money laundering

It is a defence to a money laundering charge if the person charged proves that the [act](#) to which the charge relates was done by that person, in good faith, for the purpose of, or in connection with:

- the enforcement or intended enforcement of money laundering, or
- the enforcement or intended enforcement of the [Criminal Proceeds \(Recovery\) Act 2009](#), or
- the enforcement or intended enforcement of the [Anti-Money Laundering and Countering Financing of Terrorism Act 2009](#), or
- the enforcement or intended enforcement of the [Financial Transactions Reporting Act 1996](#).

[s244](#)

Money laundering offences apply outside New Zealand

Money laundering applies to an [act](#) that has occurred outside New Zealand and that is alleged to constitute an [offence](#) resulting in [proceeds](#) only if:

- the act was an offence under the law of the place where and when it occurred **or**
- it is an act to which section 7 or 7A of the Crimes Act 1961 applies, **or**
- an enactment provides that the act is an offence in New Zealand, and no additional requirement exists for the act to be an offence in the place where and when it occurred.

[s245\(1\)](#)

Presumption

If a person is charged with an [offence](#) under section [243](#) on the basis the [act](#) was an offence in another country, then it is to be presumed, unless that person puts the matter at issue, that the act was an offence under the law of the place where and when it occurred.

[s245\(2\)](#)

Elements of offences involving computer systems

Accessing computer system for dishonest purpose

Accessing computer system for dishonest purpose, obtained property etc. or caused loss

Elements of the offence under section [249\(1\)](#) for accessing computer systems and obtaining or causing loss of material for dishonest purposes are:

- directly or indirectly
- accessed any computer system
- dishonestly or by deception and without claim of right:
 - obtained any property, or any privilege, service, pecuniary advantage, benefit, or valuable consideration, or
 - caused loss to another person.

Accessing computer system for dishonest purpose with intent to obtain property etc. or to cause loss

Elements of the offence under section [249\(2\)](#) for accessing computer system with intent to obtain or cause loss of property for dishonest purposes are:

- directly or indirectly
- accessed any computer system with intent
- dishonestly or by deception and without claim of right
 - to obtain any property, or any privilege, service, pecuniary advantage, benefit, or valuable consideration, or
 - to cause loss to another person.

See the [commentary](#) in Westlaw for an explanation relating to the elements of offences involving computers and relevant case law.

Damaging or interfering with computer system likely to endanger life

Elements of the offence under section [250\(1\)](#) are:

- intentionally or recklessly
- destroys, damages, or alters
- any computer system
- knowing or ought to know that danger to life is likely to result.

See the [commentary](#) in Westlaw for an explanation relating to the elements of these offences involving computers and any relevant case law.

Damaging or interfering with computer system data or software

Elements of the offence under section [250\(2\)](#) are:

- intentionally or recklessly
- without authorisation,
- knowing they are not authorised or being reckless as to whether or not they are authorised:
 - damages, deletes, modifies, or otherwise interferes with or impairs any data or software in any computer system, **or**
 - causes any data or software in any computer system to be damaged, deleted, modified, or otherwise interfered with or impaired, **or**
 - causes any computer system to fail or deny service to any authorised users.

See the [commentary](#) in Westlaw for an explanation relating to the elements of these offences involving computers and relevant case law.

Making, selling, distributing or possessing software for committing crime

Elements of the offence under section [251](#)(1) are:

- invites any other person to acquire from them, or offers or exposes for sale or supply to any other person, or agrees to sell or supply, or sells or supplies to any other person, or has in his or her possession for the purpose of sale or supply to any other person,
- any software or other information that would enable another person to access a computer system without authorisation:
 - the sole or principal use of which he or she knows to be the commission of an offence
 - that they promote as being useful for the commission of a crime (whether or not they also promote it as being useful for any other purpose), knowing or being reckless as to whether it will be used for the commission of an offence.

Elements of the offence under section [251](#)(2) are:

- has in their possession any software or other information that would enable them to access a computer system without authorisation; **and**
- intends to use that software or other information to commit an offence.

See the [commentary](#) in Westlaw for an explanation relating to the elements of offences involving computers and relevant case law.

Accessing computer system without authorisation

Elements of the offence under section [252](#) are:

- intentionally accesses
- directly or indirectly
- any computer system without authorisation
- knowing that they are not authorised to access it, or being reckless as to whether or not they are authorised to access it.

However, where a person has authority to access some or all elements of a computer system for a particular purpose or purposes but uses that authority to access the system for other purposes, there is no offence under this section.

See the [commentary](#) in Westlaw for an explanation relating to the elements of offences involving computers and relevant case law.

Elements of forgery offences

Forgery

Making false document with intent to obtain property etc.

Elements of the offence under section [256\(1\)](#) are:

- made a false document
- with the intention of using it to obtain any property, privilege, service, pecuniary advantage, benefit, or valuable consideration.

Making false document with intent that it be used or acted upon

Elements of the offence under section [256\(2\)](#) are:

- made a false document
- knowing it to be false
- with the intent that it in any way be used or acted on, whether in New Zealand or elsewhere, as genuine.

Sells, transfers, makes available false document

Elements of the offence under section [256\(5\)](#) are:

- without reasonable excuse
- sells, transfers, or otherwise make available any false document
- knowing it to be false and to have been made
- with the intent that it be used or acted on (in New Zealand or elsewhere) as genuine.

When forgery is complete

Forgery is complete as soon as the document is made with the intent described in subsection (1) or with the knowledge and intent described in subsection (2). [s256\(3\)](#)

The suspect need not have intended that any particular person use the document, or act on it as genuine, or be induced to do or refrain from doing anything.

Forgery is complete even if the false document is incomplete, or does not purport to be binding or sufficient in law, as long as it was made with the intention that it be acted on as genuine. [s256\(4\)](#)

Additional information

See the [commentary](#) in Westlaw for an explanation relating to the elements of forgery offences and any relevant case law.

Using forged documents

Elements of the offence under section [257\(1\)](#) are:

- knowing a document to be forged
- used the document to obtain any property, privilege, service, pecuniary advantage, benefit, or valuable consideration, or
- used, dealt with or acted on it as if it were genuine, or
- caused any other person to do so.

Note: For the purposes of this section, a document forged outside New Zealand is deemed to be a forged document.

See the [commentary](#) in Westlaw for an explanation relating to the elements of using forged document offence and relevant case law.

Altering, concealing, destroying, or reproducing documents with intent to deceive

Elements of the offence under section [258\(1\)](#) are:

- with intent to
 - obtain by deception any property, privilege, service, pecuniary advantage, benefit, or valuable consideration,**or**
 - cause loss to any other person
- altered, concealed, or destroyed any document, or caused any document to be altered, concealed, or destroyed,**or**
- made a document or caused a document to be made that is, in whole or in part, a reproduction of any other document.

Note: The offence is complete as soon as the alteration or document is made (section [258\(2\)](#)).

Sells, transfers, otherwise makes available altered, concealed or made documents with intent to deceive

Elements of the offence under section [258\(3\)](#) are:

- without reasonable excuse
- sells, transfers, or otherwise make available any document
- knowing that the document was altered, concealed, or made, in whole or in part, as a reproduction of another document; and the document was dealt with in the manner specified with intent to:
 - obtain any property, privilege, service, pecuniary advantage, benefit, or valuable consideration;**or**
 - cause loss to any other person.

See the [commentary](#) in Westlaw for an explanation relating to the elements of offences involving altering, concealing, destroying, or reproducing documents with intent to deceive and relevant case law.

Using altered or reproduced documents with intent to deceive

Elements of the offence under section [259\(1\)](#) are:

- knowing a document had been made or altered in the manner and with the intent referred to in section [258](#)
- with intent to
 - obtain by deception any property, privilege, service, pecuniary advantage, benefit, or valuable consideration,**or**
 - cause loss to any other person
- used, dealt with or acted on the document,**or**
- caused any person to do so.

Note: The document need not have been altered or made in New Zealand.

See the [commentary](#) in Westlaw for an explanation relating to the elements of offences involving using altered or reproduced documents with intent to deceive and relevant case law.

False accounting

Elements of the offence under section [260](#) are:

- with intent to
 - obtain by deception any property, privilege, service, pecuniary advantage, benefit or valuable consideration,**or**
 - deceive or cause loss to any other person
- made or caused to be made, or concurred in the making of any false entry in any book or account or other document required or used for accounting purposes

or

- omitted or caused to be omitted or concurred in the omission of any material particular from any such book or account or other document

or

- made any transfer of any interest in a stock, debenture, or debt in the name of any person other than the owner of that interest.

See the [commentary](#) in Westlaw for an explanation relating to the elements of false accounting offences and relevant case

law.

Elements of counterfeiting offences

Counterfeiting public seals

Elements of the offence under section [261](#)(a) are:

- unlawfully makes or counterfeits
- any public seal in use at any time in New Zealand or other country,**or**
- any seal or stamp used in New Zealand or any other country by any court, local authority, public body, or public officer,**or**
- the impression of any such seal or stamp.

Elements of the offence under section [261](#)(b) are:

- uses any such seal, stamp, or impression,
- knowing it to be counterfeit.

See the [commentary](#) in Westlaw for an explanation relating to the elements of counterfeiting public seal offences and any relevant case law.

Counterfeiting corporate seals

Elements of the offence under section [262](#) are:

- unlawfully makes or counterfeits
- any seal or stamp used in New Zealand or any other country by any company or other corporate body (not being a body to which section [261](#) applies), or by any other person,**or**
- the impression of any such seal or stamp,**or**
- uses any such seal, stamp, or impression, knowing it to be counterfeit.

See the [commentary](#) in Westlaw for an explanation relating to the elements of counterfeiting corporate seal offences and relevant case law.

Purchasing, receiving or possessing forged bank notes

Elements of the offence under section [263](#) are:

- without lawful authority or excuse (the proof of the lawful authority or excuse lying on them)
- purchases or receives from any person, or has in their possession or under their control
- any forged bank note, whether complete or not
- knowing it to be forged.

See the [commentary](#) in Westlaw for an explanation relating to the elements of forged bank notes offence and relevant case law.

Paper or implements for forgery

Elements of the offence under section [264](#) are:

- without lawful authority or excuse
- has in their possession or under their control
- anything capable of being used to forge any document
- with intent to use it for such a purpose.

See the [commentary](#) in Westlaw for an explanation relating to the elements of paper or implements for forgery offence and relevant case law.

Imitating authorised or customary marks

Elements of the offence under section [265](#) are:

- dishonestly counterfeits or imitates any mark, word, or description
- that is impressed or otherwise made, or written upon, or affixed to, any chattel, or upon or to any thing containing or connected with any chattel
- is a mark, word, or description that is by recognised practice understood to denote that the thing upon or to which it is impressed, made, written, or affixed has been examined and certified to be of a particular quality by any particular officer or other person.

Note: The elements of the offence apply whether the officer or other person referred to is or is not expressly authorised by law to so certify.

See the [commentary](#) in Westlaw for an explanation relating to the elements of imitating authorised or customary marks offence and relevant case law.

Elements of coinage offences

Explanation of 'possession' and 'coin'

For the purposes of section [266](#) (offences involving coinage):

- a thing is treated as being in the possession of any person if that person has it in his or her personal custody or possession, or if that person knowingly has it in the actual custody or possession of any other person, or in some place (whether or not that person occupies the place), for the use or benefit of himself or herself or any other person
- a coin is deemed to be made or counterfeited even though the making or counterfeiting has not been finished or perfected.

(s[266](#)(2))

Makes or counterfeits coin

Elements of the offence under section [266](#)(3)(a) are:

- makes or [counterfeits any coin](#) resembling any current coin
- with the intention that it be acted upon as genuine

Possession of thing to make or counterfeit coin

Elements of the offence under section [266](#)(3)(b) are:

- without lawful authority or excuse
- has in their possession or under their control
- any thing intended to be used to make or [counterfeit any coin](#) resembling any [current coin](#)
- with intent to use it for such a purpose.

Buy, sell, receive counterfeit coin

Elements of the offence under section [266](#)(4)(a) are:

- without lawful authority or excuse
- buys, sells, or receives, or offers to buy, sell, or receive, any [counterfeit coin](#) resembling any [current coin](#)
- at or for a lower rate or value than the counterfeit coin purports to be.

Imports counterfeit coin

Elements of the offence under section [266](#)(4)(b) are:

- without lawful authority or excuse
- imports or receives into New Zealand any [counterfeit coin](#) resembling any [current coin](#)
- knowing it to be counterfeit.

Exports counterfeit coin

Elements of the offence under section [266](#)(4)(c) are:

- without lawful authority or excuse
- exports from New Zealand, or puts on board any ship or aircraft for the purpose of being exported
- any [counterfeit coin](#) resembling any [current coin](#)
- knowing it to be counterfeit.

Passes or attempts to pass counterfeit coin

Elements of the offence under section [266](#)(5)(a) are:

- passes or attempts to pass any [counterfeit coin](#)
- knowing it to be counterfeit.

Passes or attempts to pass current coin

Elements of the offence under section [266](#)(5)(b) are:

- passes or attempts to pass as [current coin](#) any coin that is not current coin, or any piece of metal or other substance
- knowing that it is not current coin.

Possession of counterfeit coin

Elements of the offence under section [266](#)(6) are:

- have in their possession or under their control any [counterfeit coin](#)
- knowing it be counterfeit
- intending to pass it as genuine.

Related commentary

See the [commentary](#) in Westlaw for an explanation relating to the elements of offences involving coinage and relevant case law.

National Recording Standard: Offences reported and recorded

Offences reported to, or discovered by Police must be recorded

The National Recording Standard ([NRS Section 1.3](#)) contains rules and principles governing recording of offences.

[Recording offences](#) intranet page provides an overview of these rules and contains links to training and resources. In particular the '[Financial Crime Coding Guide](#)' in the NRS (section 2.6) will guide you with what offence to record with principles and examples supporting the decision.

Code book – charge wording, penalties and more

The [Legislative Reference Table \(LRT - Code Book\)](#) is a search tool that links to information about all offence, incident and task codes. The code book provides the following information for each offence code:

- legislative reference details, for example:
 - offence code description
 - offence category
 - charge type
 - legislative reference
 - specimen charge narrative
 - minimum charge age
 - statutory limit
 - DNA relevance
- penalties and fines
- information requirements relating to:
 - victim
 - family violence
 - traffic
 - file retention
 - classification.

Investigating deception offences

Credit card and cheque offences

Cheque and credit card offences usually relate to one of these:

Stolen cheques or cards	These are usually taken as part of a theft or burglary and are subsequently used to obtain property and services. The aim of the investigation is to identify the offenders and recover the property, cheques and cards.
Counterfeit cards	Where a person's genuine details are stolen via an ATM skimming operation, EFTPOS terminal compromise or internet data compromise, and those details are then used to obtain goods or cash via a counterfeit (cloned) card.
Using a document	Fraudulent cheque accounts or cards, where the account is opened specifically to commit offences, usually with false identification. The aim of the investigation is to identify the offenders and recover the property, cheques and cards.
Dishonoured cheques	Dishonoured cheques written by 'genuine' account holders who exceed their authority. In these cases, identity is not an issue and the main purpose of the investigation is to establish intent to obtain or cause loss by deception. Cheque offending is now a very small proportion of overall deception and diminishing all the time.

Note: In all these circumstances, the investigation will follow the same general course.

The banks often change their policy and practices relating to deception and procedures may vary from bank to bank. Before beginning the investigation, you must seek guidance from the bank's fraud investigators. If you have problems, contact the relevant bank Fraud and Security Division using the NZ Bankers Association Customer Consent Form, Information Request Form and Production Order Cover Sheet as appropriate. These forms are available on Police Forms > Information Requests > Information Request Form / Production Order Cover Sheet.

Interviewing

Follow these steps.

Step	Action
1	Interview the informant/complainant and: <ul style="list-style-type: none"> • find out the identity used by the offender • obtain descriptions of the offender, the property obtained and the vehicle used.
2	In all cases contact the accounts manager at the bank where the account is domiciled and find out: <ul style="list-style-type: none"> • the account holder's full name, occupation, private and business addresses and telephone numbers • the date the account was opened • the account history and how it has been operated • the date the cheque book or credit card was reported missing • how and by whom a loss was reported • the serial numbers of any missing cheques • details of any cheques dishonoured and returned • whether the account holder is suspected of issuing valueless cheques. <p>Note: Also find out if there are other banks to which cheques have been returned and, if possible, details of the people and firms defrauded.</p>

3	<p>When an account has been opened with fictitious details, find out:</p> <ul style="list-style-type: none"> • the account number and the date it was opened • the nature and amount of the first deposit • details of any other deposits • the details used when the account was opened • descriptions of the suspect and any of their associates at the time • the names and addresses of the employee who opened the account and any other employees who can identify the suspect. Interview these employees and obtain statements • the serial numbers of the cheques supplied • details of the dishonoured cheques and the people or firms defrauded.
4	<p>Obtain a sample of the suspect's handwriting from bank documents.</p>
5	<p>When cheques are dishonoured through lack of funds, interview the account holder and obtain a statement that includes:</p> <ul style="list-style-type: none"> • the suspect's full name, address, occupation and age • the date the account was opened • the nature and amount of the first deposit, e.g. cash, tax refund or stolen cheque • any arrangements for regular deposits such as direct crediting of wages, and the dates and amounts of irregular ones • details of any overdraft arrangement - check the bank's diary notes for any extension to this • the general pattern of the way the account has been operated • the state of the account at the time the cheques were issued • whether the suspect was aware of the state of the account. If so, find out when and by whom the suspect was informed. Obtain any correspondence asking him or her not to issue any more cheques and confirm that this was not returned to the bank undelivered • details of the dishonoured cheques and the people or firms defrauded • the amount of any savings in other accounts. <p>Note: In order to prosecute, you must establish an intent to defraud. The bank can help you gauge the geographical extent of the offending.</p>
6	<p>Contact other Police stations and fraud squads that may hold related complaints and information. Investigations into serious fraud/deception offending must be co-ordinated, and one office or station must take responsibility for this.</p>
7	<p>Find out whether the offender was photographed or their image captured on CCTV at the bank or retail outlet and obtain the images.</p>

Ongoing enquiries

Follow these steps.

Step	Action
1	<p>Liaise with the investigations officer and arrange:</p> <ul style="list-style-type: none"> • to be advised immediately of any further dishonoured cheques • for the bank to recover the original cheques and forward them to you, bearing in mind that the bank's policy may be to return the cheques to the complainants. If the bank insists on doing so, obtain the complainant's details so you can ask the complainant to forward them to you.
2	<p>Because the documents may need to be examined by a fingerprints expert or document examiner, ensure that they are handled as little as possible. Do not:</p> <ul style="list-style-type: none"> • punch, fold or crease them • use staples, pins or Sellotape • make impressions on them when writing minutes on the file. <p>Place them on file in a clear plastic bag.</p> <p>Note: For more information on handling documents, see the Document examination chapter.</p>
3	<p>Inform your colleagues and the Fraud Squad Collator of the offending. Enter as NIA items the details of identifiable property obtained by means of the dishonoured cheques.</p>

Locating the offender

Locate the offender by following these steps.

Step	Action								
1	Check any relevant addresses.								
2	Follow up any obvious information such as car registration, phone numbers and evidence of identity.								
3	<table border="1"> <thead> <tr> <th>If. . .</th> <th>then. . .</th> </tr> </thead> <tbody> <tr> <td>you have a photo (and the offender is unknown)</td> <td>issue a bulletin board message.</td> </tr> <tr> <td>the property is easily identifiable,</td> <td>consider possible avenues of disposal.</td> </tr> <tr> <td>appropriate,</td> <td> implement an early warning system, particularly if a specific type of premises or property is being targeted. Consider liaison with customs for ATM fraud and EFTPOS thefts/compromises. These are often perpetrated by organised trans-national gangs who remain in the country for a relatively short period of time. </td> </tr> </tbody> </table>	If. . .	then. . .	you have a photo (and the offender is unknown)	issue a bulletin board message.	the property is easily identifiable,	consider possible avenues of disposal.	appropriate,	implement an early warning system, particularly if a specific type of premises or property is being targeted. Consider liaison with customs for ATM fraud and EFTPOS thefts/compromises. These are often perpetrated by organised trans-national gangs who remain in the country for a relatively short period of time.
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4	If there are no suspects, consider early fingerprinting of cheques/vouchers.								

Arrest

Follow these steps.

Step	Action
1	When apprehending the suspect, recover evidence such as credit cards, compromised/stolen EFTPOS terminals, equipment used for altering and interfering with electronic devices, anything capable of storing electronic data, cheque books, pens and property obtained. Issue a receipt, using a POL 268.
2	Interview the suspect and obtain an explanation for the offences to establish whether there was intent to obtain or cause loss by deception.
3	Find out about the suspect's: <ul style="list-style-type: none"> • knowledge of the state of the account • expectation of funds • overdraft arrangement, if any.
4	Obtain a Statement and handwriting specimens. It is preferable to obtain the specimens on a form that is the same as, or similar to, the 'offending' document. If necessary blank forms could be made from duplicates of the original document. Note: For information on taking handwriting specimens, and other possible sources of documentary evidence, see the ' Document examination ' chapter.
5	Issue an Offender Report and conduct enquiries to check the suspect's explanation.

Preparing the prosecution

Follow these steps.

Step	Action
1	If there is a case to answer, obtain your supervisor's authority to prosecute.
2	Remember that: <ul style="list-style-type: none"> • where a series of stolen cheques is used to obtain cash and goods, it is usual to file a charge of obtaining or causing loss by deception in respect of each cheque without charging the forgery and using offences disclosed. The number and nature of the charges will, however, depend on the circumstances of each case • a decision to prosecute in the case of 'return to drawer' cheques will depend on the circumstances of each case.
3	Prepare the file. Remember to quote cheque numbers and the correct subsection of section 240 or section 228 if applicable.
4	Prepare a blanket charge if: <ul style="list-style-type: none"> • the suspect intends pleading guilty • it is difficult to specify individual dates for a series of offences. Note: For information on file preparation, see the ' Prosecution file and trial preparation ' chapter.

Company deception

Types of investigation

Company deception investigations seldom involve offences committed by a company as an entity. Rather, the term comprises these four categories of offending.

Category A

Large-scale thefts and other dishonesty offences against employers by employees - usually people such as accountants and managers who use their position to manipulate the company's financial systems.

The Crimes Act offences are usually:

- dishonestly taking or using documents
- theft by person in special relationship
- altering, concealing, destroying, or reproducing documents
- using altered or reproduced documents
- accessing a computer for dishonest purposes
- forgery
- false accounting
- obtaining ownership, possession or control by deception.

Note: In addition there are offences under the [Secret Commissions Act 1910](#).

In these cases, the identity of the suspect is usually known and the purpose of the investigation is to prove the offending by:

- obtaining documentary evidence of offending from complainant
- tracing the suspect's actions
- establishing where the money went
- executing production orders or search warrants on the suspect's bank accounts and home to seize evidence
- interviewing the suspect.

Category B

Dishonesty offences committed against financial institutions by people outside the institution obtaining money from it through deception. Category B also includes GST deception against the Inland Revenue Department by businesses that make false GST returns. In the latter case, the offender may be:

- an employee who covers misappropriation of money from their employer by obtaining fraudulent GST refunds to 'replace' the money the employee has stolen, or
- the operator of the business.

The Crimes Act offences are usually:

- False statement by promoter.
- Dishonestly taking or using documents.
- Accessing a computer for dishonest purposes.
- Forgery.
- False accounting.

Note: The investigation takes the same course as for Category A above.

Category C

Commercial deception committed against the public by people who, either as individuals or through the guise of a company, entice people to invest money.

The Crimes Act offences are usually:

- False statement by promoter.
- Obtaining ownership, possession or control by deception.
- Obtaining credit by deception.

Note: Also consider whether the person has offended under the:

- [Financial Markets Authority Act 2011](#), for example:
 - Failing to comply with order
 - resists, obstructs, or delays a person acting under a warrant issued under section 29
 - deceives or attempts to deceive or knowingly misleads the Financial Markets Authority
- [Fair Trading Act 1986](#), for example:
 - misleading and deceptive conduct generally
 - misleading conduct in relation to goods
 - misleading conduct in relation to services.

The identity of the suspect company and its principals is often known and the purpose of the investigation is to prove the offending by:

- confirming company officer details through a company search
- interviewing victims to determine the false representations and inducements made to them
- identifying, through the victims' transactions, the details of the suspect company's bank
- executing production orders or search warrants on the suspect's bank accounts and premises to have evidential material produced or seized
- interviewing the suspect.

Category D

Dishonesty offences committed by professional people in a position of trust, such as solicitors and accountants, against their clients.

The Crimes Act offences are usually:

- Theft by person in special relationship.
- Dishonestly taking or using documents.
- Using forged documents.

In these cases, the identity of the suspect is known and a professional body may already have carried out an enquiry. There will usually be a paper trail to follow, although it may be complex. The purpose of the investigation is to prove the offending by:

- putting together the paper trail
- gathering documentary exhibits
- interviewing appropriate clients
- preparing and executing production orders or search warrants
- interviewing the suspect
- preparing the case in such a way that it can be understood by counsel and juries.

Resources

The key to a successful company deception investigation is to seek advice early. This table provides sources that may be able to assist.

Source	Type of potential assistance
Police accountants and legal officers	Police forensic accountants at Auckland, Wellington and Christchurch are available to give you advice and, if necessary, to assist personally. Legal Section can be of particular help in preparing production orders, search warrants and charges.
Ministry of Business, Innovation and Employment	Possible sources of information are: <ul style="list-style-type: none"> • Registrar of Companies. • Companies Office. • Official assignee. • Insolvency Services.
Commerce Commission	The Commerce Commission can assist in matters relating to: <ul style="list-style-type: none"> • the Fair Trading Act 1986 • pyramid selling.
Financial Markets Authority	The Financial Markets Authority can assist in matters relating to the Financial Markets Authority Act 2011 and the issuing of prospectuses.
NZ Customs	Customs can assist in matters involving international travel and CAPPs alerts.
Liquidators and receivers	These administer companies that are in liquidation or receivership. They are usually accountants.

Serious Fraud Office investigations

Notification criteria

The Serious Fraud Office (SFO) investigates serious or complex fraud. It must be notified of:

- All fraud complaints with an actual or potential loss in excess of \$2,000,000. The actual or potential loss must result from the fraud under investigation.
- All fraud complaints where the facts, law or evidence is of great complexity. Such complaints could include those involving international financial transactions, computer manipulations or other complex methods of commission. However, complaints involving international financial transactions or computer manipulations that are simple or straightforward do not fall into this category.
- Any fraud complaint of great interest or concern; for example, fraud involving a public figure.
- The office will determine whether the complaint involves serious or complex fraud.

Note: Do not refer a complaint to the office in order to avoid carrying out a difficult investigation.

SFO Notification procedure

Notifications must be made by Police employees who have been authorised to notify the SFO by the District Commander.

Where possible, make the initial notification by telephone to discuss the case and ascertain if it is necessary to forward the file to the office. The office can be contacted by telephoning 09 303-0121 or faxing 09 303-0142. Where appropriate, send the file with the written notification. If the case requires immediate Police action (e.g. protect life and property), this must be taken along with the notification.

The Serious Fraud Office will, within five days, consult with the Police employee who made the notification and advise whether the complaint is one of serious or complex fraud and whether the office should investigate it.

Police and the office must try to reach agreement over which agency should carry out the investigation. If it is to be carried out by Police, the office returns the file. If it is to be carried out by the office, send it the file, if you have not already done so.

If Police want to retain responsibility for the investigation and agreement to this effect cannot be reached, the District Commander must notify the Director of the Serious Fraud Office in writing that Police intend to retain the file. The Director may notify the Commissioner of Police that the office wants to assume responsibility for the investigation under section [11](#) of the Serious Fraud Office Act 1990. The matter must then be resolved as provided for in the Act.

When a complaint is referred to the office, the District Commander must forward a report summarising the complaint to the National Manager: Criminal Investigations at PNHQ.

Related information

See also these schedules in the Memorandum of Understanding with the Serious Fraud Office.

- [‘Schedule 2 – Matters of common interest, referrals, joint investigations and prosecutions’](#)
- [‘Schedule 4 – Financial Crime Group’](#)
- [‘Schedule 5 – Interpol’](#)
- [‘Schedule 6 – Bribery and corruption’](#)

Arrests on behalf of the SFO

Preparation

Serious Fraud Office investigators do not have the power of arrest. Consequently, there are occasions when Police will be asked to arrest a suspect.

If assistance is required, the office contacts the District Crime Manager of the area nearest to the location of the suspect. The District Crime Manager will provide assistance and, wherever possible, make available an experienced CIB officer to make the arrest.

Arrest without warrant

Before making the arrest, the SFO must provide to the CIB officer assigned to facilitate the arrest, a written report that outlines the sufficient level of evidence necessary to make an arrest pursuant to section [315](#) of the Crimes Act 1961. This includes providing any key documentary evidence for inspection.

The report must identify the rationale for arrest as opposed to summons or other means of initiating the prosecution.

The CIB officer must be satisfied that appropriate grounds exist for the arrest to be made, before action is taken.

The SFO prepares and files the hard copy charging document for each offence. The SFO cannot electronically file a charging document. Only one charging document is required for the initial arrest.

Arrest with warrant

On some occasions arrests by Police on behalf of the SFO will be pursuant to a warrant to arrest.

To obtain a warrant to arrest, the SFO is responsible for filing the charging document and seeking a warrant to arrest in lieu of summons.

Once issued, the warrant to arrest must be referred to Police for action. A copy of the warrant and any other correspondence must be retained by Police and placed on the Police file.

After the arrest

After the CIB officer makes the arrest, the suspect is taken to the nearest watchhouse for processing.

Watchhouse staff must follow these steps.

Step	Action
1	Fingerprint and photograph the prisoner.
2	Complete the Custody module/Charge Sheet, and clearly endorse it on the front with the words "Arrest on behalf of Serious Fraud Office".
3	Enter the file on the Doc Loc Case system. Code the file '2Z Other Service' and include the Serious Fraud Office and the suspect's particulars as subjects on the Cover Sheet.
4	Check the identity of the suspect and if no PRN exists, create a new identity (Create Person transaction). Endorse the PRN on the Charge Sheet, fingerprint forms and photograph card.
5	The written report that outlines the sufficient level of evidence necessary to make an arrest must be attached to the Police file and the court date endorsed on the file.
6	No statistics are required and the file must be clearance closed as "Reported". The Police file is then filed.

Unless the SFO asks for the defendant to be bailed, the defendant must remain in Police custody until the next available hearing date.

The arresting CIB officer is responsible for supplying the Serious Fraud Office with the PRN.

The Serious Fraud Office is responsible for filing all charging documents prior to the first appearance of the defendant in court, and for all prosecution action including providing counsel to attend the initial and all subsequent court appearances.

Police must not in any circumstances represent the SFO in Court. (Under the Criminal Procedure Act, proceedings can only be conducted by the prosecuting agency)

First and subsequent appearances in court

The SFO is responsible for having counsel attend all court appearances following the initial arrest.

Related information

See also '[Schedule 3 – Arrest procedures](#)' in the Memorandum of Understanding with the Serious Fraud Office.

Appendix 1: Explanatory notes

Bank records

Business records are confidential to the bank and the account holder. Banks can be sued for disclosing information to third parties without the account holder's authority. Information release is lawful pursuant to statutory authority such as a search warrant under section [6](#) or a production order under section [74](#) of the Search and Surveillance Act 2012. Where appropriate disclosure under Information Privacy Principle [11](#) of the Privacy Act 2020 (see also [R v Thompson](#) (1995) 13 CRNZ 546 (HC)) is lawful.

Note: A production order requires the recipient (the bank) to produce the information required without the presence of Police. The production order should be used in the first instance, unless there is reason to believe that the information to be produced may be tampered with. In this case a search warrant may be desirable so the information sought can be seized by Police immediately upon execution.

Records available on the execution of a search warrant or pursuant to a production order include:

- details of customer cheque and EFTPOS transactions or bank statements
- diary notes
- copies of letters to a customer
- the cheques register which may be computerised
- stop payment notices
- cheques.

Cheque value

A distinction is drawn between the amount of the cheque and the piece of paper it is written on.

A person obtaining a cheque through false pretences does not necessarily obtain a sum of money. If the circumstances are such that the cheque would not have been honoured - for example, if there was no money in the account - its value is that of the paper only. If, on the other hand, the cheque could have been promptly and safely converted into money, its value is the sum for which it is made out - [R v Bennett](#) [1961] NZLR 452.

Valueless cheques

If the drawer honestly believes that there will be sufficient funds in the account when the cheque is presented, or that they have an arrangement with the bank for adequate overdraft facilities, there is no intent to defraud and no offence is committed - [R v Miller](#) [1955] NZLR 1038.

Note: This belief need not be reasonable - [R v Conrad](#) [1974] 1 NZLR 626.

Post-dated cheques

If the drawer honestly believes there will be sufficient funds in the account when the cheque is presented, there is no intent to defraud and no offence is committed.

Credit

Credit refers to the debtor's obligation to pay, and the time allowed by the creditor to do so. This may range from the time it takes for a haircut, to the time taken to repay a long-term loan such as a mortgage on a house.

Credit cards

Paying for something by credit card implies a representation by the purchaser that they have the authority to make, on behalf of the bank or credit card company, a contract with the retailer. This contract is that the bank or company will honour the signed voucher - [R v Lambie](#) [1981] 2 All ER 776.

Note: If the purchaser has exceeded the credit limit at the time of the purchase and is aware of this, they commit an offence by using the card.

Criminal liability of a company

A company can be guilty of a criminal offence. When a senior executive of the company, acting on behalf of the company, commits an offence the company is criminally liable. The actions of the executive are said to be the actions and state of mind of the company. The executive is also personally liable for their actions. The company is the principal offender and the executive is liable as a party. Criminal actions of junior management, or of employees such as accountants, are not imputed to the company.

Example

XYZ Ltd is insolvent. It has no funds in the bank account and a large number of debts are due. The managing director issues valueless cheques to purchase goods. Because the managing director is acting on behalf of the company and has the necessary knowledge to be liable for the offence of obtaining by deception or causing loss by deception, the company is liable as well.

Debt

A debt is money owed by one person to another.

Liability

A liability is a legally enforceable financial obligation to pay. Examples of liabilities include restaurant and hotel bills.

Title

Having title to a thing means being the owner. This usually involves having legal right to possession, although this right can be divested; for example, if the thing is leased or placed under lien.

A person with title is said to 'have property' in the thing. Having property in a thing, means having a property right recognised in law. Other parties may have an interest in the thing, but they may not necessarily have title; for example, a bank holding a mortgage over a house has an interest in the house, but it does not have title.

A seller cannot pass on to a buyer property rights, he does not have. For example, someone steals a car and sells it to an innocent buyer. Because the thief has no title to the car, they cannot pass that title on to the buyer.

Note: A person who had defrauded another of title may be able to pass that title on where title has passed from the defrauded person.

When title passes

See sections [149-155](#) of the Contract and Commercial Law Act 2017 as to when title transfers between the parties.

Voiding title

A thief never gets title to property because the owner never intends to pass it on, but in cases of deception the owner is induced to part with it. Because of this, the defrauder has a voidable title and anyone who buys the property in good faith and without notice of the deception gets a good title even when they purchase this from the offender who has a voidable title. The person defrauded can, however, void the title while it is still in the hands of the defrauder by:

- advising the defrauder, by letter or in person, that person defrauded is aware of the deception. If the defrauder cannot be contacted, a public notice in the newspaper is sufficient; or
- complaining to Police that the property was obtained by deception.