

**NATIONAL ANTI-CORRUPTION STRATEGY (NACS)**  
**AND ACTION PLAN 2022-2026**  
**(DRAFT)**

## **I. Introduction**

### **A. The Anti-Corruption Committee (ACC)**

Cabinet established the ACC in 2011 in order for our country to carry out the obligations under the UNCAC. The ACC's assigned role is to promote and strengthen measures to prevent and combat corruption by, *inter alia*, proposing anti-corruption policies to Cabinet, and following up on matters that may be referred to by Cabinet. Since 2011, the ACC has provided a useful way for the Committee members to share information, expertise and resources as appropriate for the purpose of achieving the ACC's goals and objectives, including addressing specific alleged instances of corruption. The ACC is currently chaired by the Financial Secretary of the Ministry of Finance and Economic Management (MFEM). At present, the other members of the ACC include the Solicitor-General, the Commissioner of Police, the Head of the Financial Intelligence Unit, the Director of the Cook Islands Audit Office, the Public Service Commissioner, the Chief of Staff of the Office of the Prime Minister (OPM), the Ombudsman and the Chair of the Public Expenditure and Review Committee (PERC).

In recent years, important national policy documents have been endorsed following public consultations that provide guidance on principles and strategies relevant to our anti-corruption strategy. These include, in particular, the Cook Islands' Economic Development Strategy 2030 (EDS 2030) and the National Sustainable Development Agenda (NSDA 2020+), both adopted in 2021.

With the encouragement of the Government, the ACC has obtained the assistance of the United Nations Office on Drugs and Crime (UNODC) and financial support from the New Zealand Government, to begin work on drafting the National Anti-Corruption Strategy (NACS) as called for in the United Nations Convention Against Corruption to which the Cook Islands is a party.

It is essential that the NACS be designed and implemented in a way appropriate to our local situation, needs and priorities. Therefore, the NACS seeks to build on and contribute to objectives of the EDS 2030 and the NSDA 2020+ through a range of targeted anti-corruption strategies. At the same time, this first NACS seeks to identify the highest priority areas of concern in both the public and private sectors and address areas while at the same time establishing an appropriate mechanism to enable deeper consideration of corruption issues in the months and years ahead. In that sense, it is a living document.

In the time available to undertake the preparation of this first NACS and to broaden ownership of the NACS as a truly national strategy to fight corruption, the views have been sought of various sectors of our community on the issues and the approach taken in drafting the Strategy. Meetings were held with representatives on Rarotonga and with community representatives on Aitutaki including the Pa Enea. An initial draft in both English and Cook Islands Maori languages was also made available for public comment.

Completion of this NACS takes place in the period following the dissolution of our Parliament and before the holding of our national elections for a new government. By convention, no significant policy may be endorsed by the government of the day acting in a caretaker capacity. However, it is hoped that this NACS will be adopted by the government in place following the election and endorsed by the new Parliament.

## II. The Corruption Situation

### A. What is, and is not, corrupt conduct in the Cook Islands

For purposes of this NACS, corruption may be broadly defined as the abuse of entrusted power for personal gain. Corruption may take many forms. However, it necessarily involves the following three elements:

- a) *abuse*, i.e., a violation of norms of behaviour or professional obligations arising from formal or other entrusted duties (e.g. as a senior public servant, a Government Minister or a company director). Those norms may be either explicit or implicit and include actions on the part of persons seeking to encourage a person in an entrusted position to commit a corrupt practice (e.g. a bribe-giver). Abuse implies taking decisions without due impartiality or against public policies or the public interest; and
- b) *entrusted power*, i.e., the authority that comes with all kinds of formal or informal positions (e.g. elected officials, public servants, company directors or accountants, community leaders); and
- c) *personal gain*, i.e., the gain (anything of value, be it financial, a favourable act or decision, sexual favours etc) that does not benefit the people of the Cook Islands generally or the body the individual is entrusted to serve (e.g. as a Government Minister or an official within a company or association). The gain could go either to the individual directly or to others such as a relative, friend or political party.<sup>1</sup>

Certain actions may be commonly viewed as corrupt. However, for purposes of this Strategy, without *all* of the above elements, they would not be corrupt actions. Rather, they may be the result of ignorance, maladministration or simply self-interest (e.g. not caring what the proper policy or law is but a desire on the part of the individual to do things as (s)he wishes).

### B. To Whom does the NACS Apply?

For present purposes, this NACS applies to 'public officials', defined in Article 2 of UNCAC as meaning:

*"(i) any person holding a legislative, executive or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of the person's seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, so defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a 'public official' in the domestic law of a State Party. However, for the purpose of some specific measures contained in Chapter II of this Convention ['Preventive Measures'], 'public official' may mean any person*

<sup>1</sup> See in this regard [Basic Guide](#) in the references at the end of this NACS.

*who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party”.*

### **C. Conditions that give rise to corruption**

In order to combat corruption, an effective strategy must recognise and address as much as possible the underlying conditions that allow corruption to occur in the Cook Islands. Those conditions might include, for example:

- Anti-corruption laws are inadequate or not adequately enforced;
- Policies and procedures are absent, unclear, outdated or not adequately enforced;
- Employee training is inadequate;
- Employee supervision and performance management are inadequate

No matter how appropriate are our laws, policies, and procedures to fight corruption, they are of little use if they are not enforced fully, effectively and impartially. The vast majority of public officials in the Cook Islands carry out their responsibilities with diligence, honesty and integrity. At the same time, it is critically important that those responsible for enforcing those laws, policies and procedures aimed at fighting corruption, especially at the higher levels, are not only truly independent but are seen by the people of the Cook Islands as trustworthy and having been appointed solely based on professional merit and not having got their positions as a result of nepotism, cronyism, kickbacks, political affiliations or other reasons that might suggest to the people of the Cook Islands that they might perform their duties in a partial manner. Generally speaking, the people of the Cook Islands have a fair idea as to know who has been appointed on the basis of merit and who has been appointed for other reasons. As a result, that will influence their views on whether or not to support the NACS and, where necessary, take appropriate action in response to suspected corruption.

## **III. The Strategy**

### **A. Overall Objective**

The overall objective of this NACS is to substantially reduce corruption in the Cook Islands in all its forms.

This objective will be pursued by promoting the participation of our people in anti-corruption efforts and activities contained in the NACS, reflecting the principles of respect for the rule of law, proper management of public affairs and public property, integrity, transparency and accountability as highlighted in the UNCAC, the EDS 2030 and the NSDA 2020+.

Consistent with our obligations under UNCAC, the specific objectives and priority actions set out below will be undertaken in the areas of corruption prevention; criminalisation and law enforcement; international cooperation; and implementation, monitoring and evaluation of the Strategy’s activities.

While many positive, anti-corruption related initiatives have been taken over the years there are a number of further steps that can and will be taken to build on those initiatives and further promote and strengthen anti-corruption efforts. Some of those

new initiatives arise from our obligations under UNCAC. A number of others reflect widespread experience of situations witnessed over the course of years and highlighted during the preparation of this NACS. That being said, given our human and financial resource constraints as well as the need to implement certain initiatives in stages, it will be necessary to prioritise initiatives to be undertaken over the 2022-2026 period.

## **B. Specific Objectives**

### **1) Objective 1 - Prevention**

#### **Promote and strengthen measures to prevent corruption**

A key objective of the strategy is to prevent corruption through addressing the conditions making our country vulnerable to corruption as indicated above. This will involve strengthening, promoting and implementing effective transparency and accountability policy measures; and undertaking necessary information dissemination, training and capacity-building activities both on Rarotonga and in the Outer Islands (Pa Enuā).

#### **a) The Public Sector**

##### **i) The Public Service**

Key NACS activities will be undertaken by the central anti-corruption agencies of Government, other sectors of Government and civil society as appropriate.

Functions of the **Office of the Public Service Commissioner (OPSC)** include recruitment and performance management of heads of department (ministries), establishing personnel policies and standards for the public service and ensuring compliance with the Public Service Code of Conduct.

As amended in 1981, Article 74BB of the Constitution states that appointment to the following 'exempted positions' shall be made by the Public Service Commissioner (PSC) in accordance with a decision of Cabinet:

- The Secretary to Cabinet;
- All heads of department, regardless of their titles; and
- The Government representative on each of the Pa Enuā.

The final decision in the above appointments is, therefore, that of Cabinet. To assist Cabinet in making its decisions, heads of department positions are publicly advertised and an independent selection panel prepares a recommended shortlist of nominees for the position based on interviews and other assessments. The shortlist is then submitted to Cabinet by the PSC Minister who recommends approval by Cabinet of the most favourable candidate.

Within each Government department the recruitment of staff is left to the discretion of the Head of the Department. In most if not all cases, especially to Director-level positions, recruitment is undertaken through public advertisements and an independent interview process. Subject to available resources, the OPSC will continue to monitor recruitment in line with Government's human resources policies.

The OPSC is responsible for administering a wide range of policies available on-line including the Public Service Code of Code of Conduct, adopted in 2018. It has recently taken strong public action in enforce the Code. The Code of Conduct is included in

the Public Service Induction training conducted at least monthly for all new employees and those not having undertaken such training. Public sector employees may lodge a complaint against their employer which the OPSC is obliged to investigate with the approval of the PSC.

To strengthen current protections in the 2018 Code of Conduct and the Public Service Manual, we will take early steps to prepare effective whistle-blower protection legislation, with detailed consideration given to the role of the OPSC and other agencies in contributing to or leading in the implementation of the legislation. Currently there is only a whistle-blower policy.

In respect for the rule of law and the integrity of the public service, a public servant formally charged with a serious offence (imprisonment for a period of one year or more or a fine of \$5000) either in the Cook Islands or elsewhere shall have his or her employment immediately terminated by their employer. In the case of alleged serious misconduct under the Public Service Code of Conduct, the person being the subject of the allegations shall either resign from their position or be immediately suspended from their position by the employer until the matter has been investigated in accordance with the Code and the alleged breaches are either confirmed or the person cleared. In the case of suspension, the alleged breach(es) shall be investigated expeditiously following procedures set out in the Code, and the person suspended shall continue to receive his or her remuneration for a period not exceeding three months.

All benefits, whether in the form of gifts, money or otherwise, greater in value than [\$50] received by a public official from whatever source shall be reported to [authority to be designated]. Where the benefit is in the form of a gift, that item may only be retained by the official if they pay the value of the gift as determined by [the authority to be designated] into the general account of the Cook Islands Government.

To strengthen transparency and accountability in the Public Service, all departments will in future be required to present annual reports for Parliament following guidelines prepared by the OPSC and including matters dealt with in this NACS.

For the purpose of promoting integrity, transparency and accountability in the Public Sector, therefore:

- Consideration will be given by the independent anti-corruption body established by this NACS to possible ways of strengthening the process of recruitment of individuals to key Public Sector positions where there is currently no independent recruitment process while maintaining the ultimate decision-making authority of the Cabinet;
- The salaries and allowances of all Board Members and senior staff of SOEs will be made publicly available; and
- SOEs will publish timely annual reports on their operations, including matters covered by this NACS, and those reports will be tabled in Parliament for substantive consideration.

### **Ministry of Finance and Economic Management (MFEM)**

MFEM produces numerous reports and budget papers for Government and Parliament which are available on the Ministry's website.

On a separate web Portal, established with the assistance of the Asian Development Bank (ADB), MFEM operates the procurement functions of the Government, including dissemination of information on public procurement opportunities and assisting the public in procurement matters.

MFEM also has its own Antifraud and Anti-Corruption Policy, whistle-blowing procedures within the Ministry and information about the ACC and anti-corruption activities. To promote transparency and accountability, the following actions will be undertaken:

- The MFEM website will be redeveloped and updated to be more informative and user-friendly for the public;
- Consideration will be given to revising Government's procurement arrangements and procedures as recommended in peer reviews undertaken by UNCAC;
- The Ministry's Antifraud and Anti-Corruption Policy, Whistle-blower Protections and the Cook Islands Government Financial Policy & Procedures Manual will be reviewed and refreshed, as appropriate, in line with national anti-corruption policies and legislation to be adopted.

### **Crown Law Office (CLO)**

The main functions of the CLO are to advise the Government on legal matters of relevance to the Government and to represent the Crown in court proceedings. It also has lead responsibility in drafting legislation for presentation to Parliament. As such, the CLO has a central role to play in the implementation of UNCAC and this NACS, including providing advice on issues raised in the UNCAC peer reviews and drafting legislation as appropriate. Given the limited resources available to the CLO and its other onerous responsibilities, the Office will likely require assistance (including legal drafting assistance) in implementing certain NACS initiatives.

Consideration will be given to establishing a Director of Public Prosecutions Office and removing the functions of the Office from the Crown Law Office so that prosecution services do not 'report' to a Minister of the Crown but are a creature of the statute, thus enhancing its independence.

### **Cook Islands Police Service (CIPS)**

Under the Police Act 2012, the responsibilities of the CIPS include law enforcement, crime prevention, community support and reassurance, national security and participation in authorised regional and international policing operations outside the Cook Islands. Whilst there is no military force in the Cook Islands, the CIPS is responsible for defence and managing national assets (the PPB, Te Kukupa II), national armoury and participation with the defence forces of New Zealand, Australia, France and the United States.

In implementing this NACS, the CIPS will work closely with other agencies of the Government as well as other regional and international organisations. The CIPS has recently taken several important steps to re-establish its public credibility, promote its

integrity and undertake capacity-building. It has also commenced anti-corruption prosecutions.

To effectively implement this NACS, it will be important to:

- Continue capacity-building to enable CIPS to enforce effectively anti-corruption legislation;
- Review and revise the Police Act 2012 as may be necessary to enable the CIPS to combat corruption; and
- Strengthen its capacity by training of officers in the Pa Enea to deal with corruption-related matters.

### **Ombudsman's Office**

The Ombudsman is an independent and impartial officer of and responsible to the Parliament. The Office's responsibilities include investigating maladministration and complaints about Police misconduct. Maladministration encompasses, biased, neglectful, incompetent and unfair administration by Government Ministries and Crown Agencies. Investigations may be either on receipt of a complaint or on the Ombudsman's own initiative.

To ensure our Ombudsman's Office provides the necessary support for the implementation of this NACS, the following actions will be undertaken:

- The Ombudsman Act 1984 will be amended to bring it up-to-date and enable the Office to carry out its duties effectively, including the National Human Rights Institution (NHRI) as an additional responsibility; and
- Training will be provided to Office staff in the implementation of the NACS, including dealing with alleged instances of corruption in the Pa Enea.

### **Office of the Public Expenditure Review Committee and Audit (PERCA)**

The functions of PERCA include undertaking all audits in order to provide comfort on the reliability of systems and procedures and the integrity of the information provided; pursuing issues of public concern that affect the management of public funds; and conducting audits, investigations and enquiries into matters referred to it by the Public Expenditure Review Committee. As such, PERCA has an important role to play investigation suspected cases of corruption, especially those involving the use of public funds and resources.

To enable PERCA to provide necessary support for the implementation of this NACS, the following actions will be undertaken:

### **Cook Islands Financial Intelligence Unit (CIFIU)**

The CIFIU's functions focus on the collection, analysis and dissemination of financial information and intelligence on suspected money laundering, the financing of terrorist activities and other serious offences to Government and agreed organisations or countries. To enable the CIFIU to provide necessary support for the implementation of this NACS, the CIFIU will:

- Take appropriate actions responding to comments and recommendations in the 2018 APG Mutual Evaluation Report of the Cook Islands, those comments and

recommendations are being relevant to the work (prevention and enforcement) of other ACC members, especially the CLO and CIPS; and

- Take appropriate actions responding to comments and recommendations in the 2022 Transparency International New Zealand report Corruption and Money Laundering in the Pacific.

### **Office of the Prime Minister (OPM)**

OPM functions related to the NACS include: (1) the Island Government Act 2012-2013, which establishes the island governments comprising a Council of elected mayors and councillors and administrations headed by an Island Secretary; (2) support to Cabinet chaired by the Prime Minister and Executive Council chaired by the Queen's Representative; (3) the Disaster Management Office which administers the Disaster Risk Management Act 2007; (4) the National Security Office; (5) the ITC Office including cybersecurity; and (6) the Central Policy and Planning Office which monitors the progress of the NSDA. The OPM has a role in assisting in the coordination of the NACS, in supporting the implementation of the NACS in the Pa Enea, where the OPM is responsible for administrative functions; and ensuring that the NACS is reflected in national planning activities.

The OPM will assist in the implementation of this NACS through:

- supporting other ACC members and others as appropriate in training and information dissemination sessions on the NACS in the Pa Enea;
- monitoring anti-corruption-related indicators under the NCDA; and
- ensuring that the NACS is incorporated into national priorities and development.

### **Electoral Office**

A general election shortly to be held in the Cook Islands provides an ideal opportunity for the following actions to be taken after the election:

- a review of the Electoral Act 2004 and decisions of the Electoral Court to identify where amendments to the Act should be made to clarify existing provisions, repeal certain provisions or insert new provisions to strengthen the integrity of the Electoral process (e.g. including a requirement for campaign contributions over a certain sum to be made public); and
- an examination of whether a full-time, independent Electoral Office, Chief Electoral Officer (and staff) might be preferable to the current arrangement for the integrity of the overall electoral process.

### **Ministry of Marine Resources (MMR)**

Our country's greatest resources besides our people are the living and non-living resources of our ocean waters. Agreements are entered between our Government and foreign entities to access those resources. In the case of our fishery resources, for example, fishing agreements are negotiated by our officials and agreed to and often signed by our Ministers and foreign representatives. To avoid any suspicion of corrupt behaviour, important safeguards have been put in place to promote transparency and reduce the chances of corrupt behaviour.

### **Cook Islands Seabed Minerals Authority**

Similarly, detailed protections have been put into place by Government to ensure that all benefits from deep seabed mining (DSM) go to the people of the Cook Islands.

## ii) **Our Elected Representatives**

### **Executive Government**

With a view to reducing the potential for nepotism, cronyism and misuse of public funds, and to promote transparency, accountability, integrity and respect for the rule of law, a number of actions will be taken including the following.

On assumption to office of the Government following the 2022 General Election and thereafter, **Ministerial Support Offices** (MSOs) will be limited to two persons: a private secretary and a constituency liaison officer, both positions remunerated at levels comparable to those in the Public Service. Modest resources will only be allocated to cover administrative expenses (stationery, utilities etc). No special consultants or other advisers will be paid from the public purse. However, in consultation with the Minister's Head(s) of the Department, a public servant may be attached to the Minister's Office to advise and assist the Minister in professional matters relating to the work of the Department. MSOs must publish a business plan and report annually on Office expenditures.

As an exception to the above, the Prime Minister may also have in his or her Ministerial Support Office a driver and a domestic assistant to support activities undertaken at his official residence.

Associate Ministers will not be entitled to Ministerial support.

Under our system of law, every individual is innocent until proven guilty. However, with respect for the rule of law, the integrity of executive decision-making, the gravity of the situation, and the need to protect this country's credibility and reputation on the international stage, any Minister or Assistant Minister formally **charged with a serious offence** (imprisonment for a period of one year or more or a fine of \$5000 or more) in the Cook Islands or elsewhere must either resign or be suspended from their position until a final legal determination has been made as to the charges. They will not be eligible to receive a Ministerial or Associate Minister salary or allowance but will remain a Member of Parliament with the basic remuneration of an MP until that determination is made. In the event the MP is found guilty, the provisions of the Constitution (see Second Schedule) and the Electoral Act 2004 shall apply.

While an increasing amount of a Minister's international undertakings can be undertaken by electronic means such as Zoom, there is still a need for a Minister to **travel overseas** on occasion for meetings and other engagements. In some cases, Ministers have given detailed, substantive reports on their travel, and this is most informative, useful and welcomed as a contribution to promoting transparency and accountability. For the sake of transparency and strengthening the integrity of Government functions in future:

- The system of travelling allowances paid under the Civil List Act 2005 will be made publicly available (the Order in Executive Council);
- The total cost of airfares met and travel allowances paid to those travelling on behalf of the Executive Government (including spouses) will be made publicly available no later than one month following the travel;

- On return from his or her overseas travel, the Minister will make a public statement in both English and Cook Islands Maori to Parliament on the purpose of the travel and benefits to the Cook Islands resulting from the travel. If Parliament is not in session, the statement will be made on Cook Islands Television and in Facebook posts; and
- All Orders in Executive Council will be published electronically for the public to see.

### **Parliament**

Considerable strides have been taken in recent years to increase the transparency of Parliamentary deliberations (e.g. live sessions on Facebook and information available on Parliament's website).

A Code of Conduct for Parliamentarians was adopted by Parliament in 2021, containing provisions setting out principles relating to, inter alia, respect for the law, integrity, accountability, openness and honesty. Also contained in the Code are provisions for sanctions to be imposed for infringements of the Code,

Parliament has recently also adopted revised Standing Orders that include provisions on dealing with petitions.

To strengthening democracy and promoting transparency and a Parliament that serves the people as called for in the NSDA 2030+:

- There will be an increased number of sessions, including giving sufficient time for substantive discussion (not just tabling or passing without discussion) of papers presented to Parliament (e.g. departmental reports such as those of the Ombudsman);
- Bills proposing new legislation or amending existing legislation will be publicised and made available in an electronic form sufficiently in advance of discussion to allow time for the public to learn and consider proposals so they can provide feedback to their MP as appropriate;
- Committee meetings will be aired on Facebook;
- The Privileges Committee of Parliament will report annually on the implementation of the Code of Conduct, and the report will be made public, with the first report to be made as soon as practicable following the 2022 General Election; and
- The Clerk of Parliament will work closely with all interested parties to ensure any petition initiatives follow proper procedures and are given proper consideration by Parliament in line with the Standing Orders.

### **b) The Private Sector**

The private sector of our country has an important role in combating corruption. At the same time, the people of the Cook Islands are interested in ensuring private sector activities are not tainted by corruption. For those reasons, a number of activities will be undertaken through this NACS, including:

- Promoting cooperation between our law enforcement agencies and relevant private entities;
- Promoting the development of standards and procedures designed to safeguard the integrity of the private sector (e.g. codes of conduct);
- Promoting transparency among private entities;

- Preventing the misuse of procedures regulating private entities (e.g., regarding subsidies);
- Preventing conflicts of interest;
- Ensuring that private sector businesses have appropriate auditing controls; and
- Promoting anti-corruption awareness-raising and information dissemination (e.g. through workshops etc).

## **2) Objective 2 – Criminalisation and enforcement**

### **Maintain, promote and strengthen measures for the criminalisation of corruption and related law enforcement activities**

The focus of this objective will be on three areas: (1) those elements of our existing law and those identified in UNCAC where criminalisation of corrupt practices is required; (2) areas where UNCAC recommends that consideration be given to Parties criminalising certain actions as being corrupt practices; and (3) areas not referred to in UNCAC but which in the Cook Islands context are widely perceived as being corrupt. Each area will be considered below.

#### **a) Corrupt Practices in UNCAC and our Law**

A number of UNCAC provisions call on Parties to criminalise certain actions, including the bribery of national public officials, foreign public officials and officials in international public organisations; embezzlement, misappropriation or other diversions of property by a public official; and laundering of the proceeds of crime. The Cook Islands has a number of provisions in its laws criminalising such activities and, over the years, has prosecuted persons under those provisions. At the same time, we will review our legislation to ensure that it fully complies with UNCAC obligations as may be necessary and appropriate under our legal system.

#### **b) Possible Further Codification of Corrupt Practices**

A number of UNCAC provisions also call on Parties to consider adopting such legal and other measures to criminalise trading in influence, abuse of functions, illicit enrichment, bribery in the private sector, embezzlement of property in the private sector, and concealment or continued retention of property that the person knows that the property in question was obtained through a corrupt practice. Again, the Cook Islands has a number of provisions in its laws relevant to such matters. We will review our legislation and consider each of those UNCAC provisions to assess whether it will be necessary for us to take legal or other measures to further the objectives of the Convention.

#### **c) Other Corrupt Practice in the Cook Islands**

In addition to the above, there are other practices not explicitly referred to in UNCAC that other countries have defined as corrupt in their laws; for example, a public official using his or her office for personal benefit, influencing a public official, bribing a public official to procure a contract, receiving a gift for a corrupt purpose, and treating of a public official. As well, over sometimes many years, here in the Cook Islands, there have been instances of other activities that the people of our country consider corrupt, including, for example:

- *Nepotism* - a form of favouritism involving family relationships, in which someone exerts his or her authority to procure jobs or other favours for relatives;
- *Cronyism* - the favourable treatment of friends and associates in the distribution of resources and positions; and
- *conflict of interest* - an individual must choose between a private interest, on the one hand, and obligations arising from an entrusted duty, on the other hand.

While some of the above activities may already be covered under our criminal law, others are not. Under this NACS, detailed consideration will be given to such activities and what should be done about them. This consideration will include public consultations.

### **3) Objective 3 – International Cooperation**

#### **Promote and strengthen bilateral, regional and international cooperation and collaboration to combat corruption**

The focus of this objective will be on three areas: (1) participation in regional and international anti-corruption bodies and initiatives; (2) mutual legal assistance; and (3) asset recovery. Each area will be considered below.

#### **a) Bilateral, Regional and International Anti-Corruption Activities**

The Cook Islands will maintain and strengthen its cooperation and collaboration with bilateral partners to address corruption through various means (e.g. extradition arrangements). We will review our own laws and procedures to ensure that we meet UNCAC requirements.

Our country also participates in a range of regional and international bodies and initiatives dealing in whole or part with anti-corruption initiatives. At the regional level, for example, we will work with other Forum members on anti-corruption initiatives, especially to give effect to the Teieniwa Vision, through the Forum Regional Security Committee.

At the international level, we will continue to participate in anti-corruption activities of multilateral institutions and initiatives, including those of the UNODC.

#### **b) Mutual Legal Assistance (MLA)**

To combat corrupt practices taking place across borders, the Cook Islands and other countries have passed laws and put into place detailed procedures to assist each other in enforcing their own laws against corruption through investigations, prosecutions and judicial proceedings and to assist other countries in enforcing theirs. UNCAC contains detailed provisions relating to MLA (e.g. taking evidence or statements from persons) [Art 46(3)(a)]. We will review our own laws and procedures and seek to ensure that we are able to provide legal assistance to other countries to combat corruption wherever possible.

#### **c) Asset Recovery**

A major development in the international fight against corruption has been the arrangements prescribed in UNCAC for asset recovery; that is, the return of the

proceeds of corruption to their country of origin. We will review our own laws and procedures and seek to ensure that we are able to participate effectively in asset recovery efforts wherever possible.

#### **4) Objective 4 – NACS Implementation, Monitoring and Evaluation**

##### **Establish and operationalise an effective, independent mechanism for the implementation, monitoring and evaluation of this Strategy**

To carry out the NACS effectively over a sustained period, it is necessary to assign clearly-delineated responsibilities not only for implementing the many initiatives but also for monitoring and evaluating the implementation so that necessary changes can be made in light of changing circumstances in order to achieve the NACS objectives.

UNCAC requires Parties to ensure the existence of a body or bodies to (a) implement or oversee and coordinate the policies and processes contained in the Convention; and (b) increasing and disseminate knowledge about the prevention of corruption. Each country is to provide the body or bodies with the necessary independence under the principles of its legal system to enable them to carry out their functions effectively and free from any undue influence.

UNCAC also requires Parties to take appropriate measures to promote the active participation of individuals and groups outside the public sector in the prevention of and fight against corruption and to raise awareness regarding the existence, causes and seriousness of and the threat posed by corruption.

As well, the Convention provides that material resources and specialised staff, as well as necessary training, should be provided.

It will be necessary to carry out the above obligations in ways appropriate to our national circumstances, including the government's financial constraints. To promote broad-based participation in the fight against corruption, a National Anti-Corruption Committee (NACC) will be established comprising the following:

- An independent Chairperson;
- PSC;
- Financial Secretary;
- Commissioner of Police;
- Solicitor-General;
- Ombudsman;
- Chair of PERC;
- Auditor;
- Head, CIFIU;
- Secretary, OPM;
- Representatives of the private sector, civil society etc; and
- Clerk of Parliament.

The main functions of the Committee will include:

- Contributing as appropriate to the implementation of the NACS, including anti-corruption activities of other groups;

- Regularly monitoring and reviewing the implementation of the NACS and agreeing on revisions/updates to the NACS;
- Assisting in disseminating information on corruption in the Cook Islands and the work of the NACC and seeking public support for NACS initiatives;
- Advising and assisting any public body (and private sector?) on ways to combat corruption;
- Drafting or assisting in drafting codes of conduct and advising public bodies;
- Cooperating and collaborating with bilateral partners, and regional and international organisations in the fight against corruption;
- Monitoring current and proposed legislative and administrative practices;
- Undertaking corruption assessments and formulating corruption risk management plans; and
- Bringing to the attention of the NACC issues of concern relating to corruption.

Members of the NACC may raise in general terms during meetings of the NACC suspicions of specific instances of corrupt practices and then brief privately the relevant enforcement agencies (especially the PSC, CIPS, PERCA and Ombudsman, as appropriate) of details of their specific concerns. Actual investigation of alleged corrupt practices and follow-up action will be the responsibility of the relevant agency/ies in accordance with their legislated functions and the exercise of proper procedures respecting the rights of all concerned. The resources of each agency will be strengthened to enable them to carry out their duties in that regard.

The NACC may establish one or more sub-committees for particular purposes.

Given the heavy, day-to-day responsibilities of each of the members of the NACC, an independent NACC Support Office will be established comprising the following positions:

- The NACC Chairperson, as head;
- A Senior Anti-Corruption Officer;
- An Anti-Corruption Officer; and
- A secretary/administration officer.

The functions of the Support Office will include:

- Providing secretarial services for the NACC;
- Drafting (or supporting NACC members in drafting) issues papers, reports etc for consideration by the NACC on the various activities forming part of the Action Plan;
- Undertaking monitoring and evaluation of the implementation of Action Plan activities for consideration by the NACC;
- Drafting of anti-corruption information for consideration by the NACC and public dissemination and undertaking public awareness activities or supporting NACC members in undertaking such activities;
- Undertaking surveys and other information-gathering activities as required by the NACC;
- Developing an appropriate methodology for stakeholders to carry out their own monitoring and evaluation activities and corruption risk assessments and management plans;

- Referring specific allegations of corrupt practices that may be referred to the Unit to the relevant enforcement agency/ies as appropriate;
- Supporting other members of the NACC to seek external support, as appropriate, for implementation of NACS activities;
- Supporting other members of the NACC in cooperating with bilateral partners and regional and international agencies; and
- Preparing annual reports on NACC activities for approval by the NACC and submission to Parliament.