

Procurement Policy

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Change History

Amendment (s)	Date	Updated by and authority
Complete review to incorporate broader outcomes and public value to align with Government Rules of Procurement (4 th Ed).	December 2019	Angela Hirst Procurement Partnerships Manager
Complete review to incorporate updated purpose, reference to Buyer's Guide, progressive procurement, compliance legislation and record keeping.	December 2022	Cynthia Lane Procurement Advisor

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1. Purpose

Hastings District Council (Council) spends approximately \$150 million annually on a wide range of works, goods and services that enable the delivery of community infrastructure, facilities and services for the communities of Hastings District.

The scale of Council's procurement programme not only has a budgetary impact but can also have a significant impact on our local communities, our quality of life, and our economy. Council is also accountable to its rate payers for the manner in which it spends its funds.

Council takes a strategic approach to procurement, recognising the importance of this function in achieving its broader outcomes, sourcing suppliers and managing relationships to successfully deliver against Long Term Plan (LTP) and Annual Plan objectives and business needs, whilst delivering overall public value.

Council aims to deliver the best public value for residents, recognising the potential for broader outcomes beyond value for money.

The purpose of this policy is to:

- define 'procurement' in the context of Council
- provide a framework to ensure consistent procurement practices across Council
- align procurement with Council's vision and outcomes as set out in the LTP
- define the concepts of public value and broader outcomes, and how Council aims to maximise these through its procurement
- highlight key legislation and policies that procurement activities must align with.

2. Scope

This Procurement Policy covers all activities associated with purchasing by, or on behalf of, Hastings District Council. It applies to all employees, management, and consultants engaged to assist with procurement, elected Council members and Community Board member, and appointed committee members.

For Council Controlled Organisations (CCOs) this policy shall only apply where Hastings District Council (as the majority shareholder) is the controlling entity.

This policy applies to all procurement activity undertaken by Council, with the exception of:

- acquisition of art and similar unique items of interest
- employment
- grants and sponsorship
- land acquisition
- leasing of Council-owned property and the leasing of property to the Council
- payments to government and regulatory bodies
- procurement undertaken by Council Controlled Organisations that is not on behalf of the Council
- tax
- treasury and financial instruments
- unsolicited proposals.

2.1. Interpretation

To assist with interpretation of this policy the following general guidance relating to these terms is provided.

Public Value	The principle of public value is not solely focused on price but is about getting the best possible result over the whole-of-life of the goods, services or works. This includes using resources effectively, economically, and without waste, and taking into account the total costs and benefits (total cost of ownership), and its contribution to the results Council is trying to achieve (such as social or environmental outcomes).
Sustainable Outcomes	Procurement can and should be used to support wider social, economic, cultural and environmental outcomes that go beyond the immediate purchase of goods, works and services.
Probity	The quality of having strong moral principles; honesty and decency.

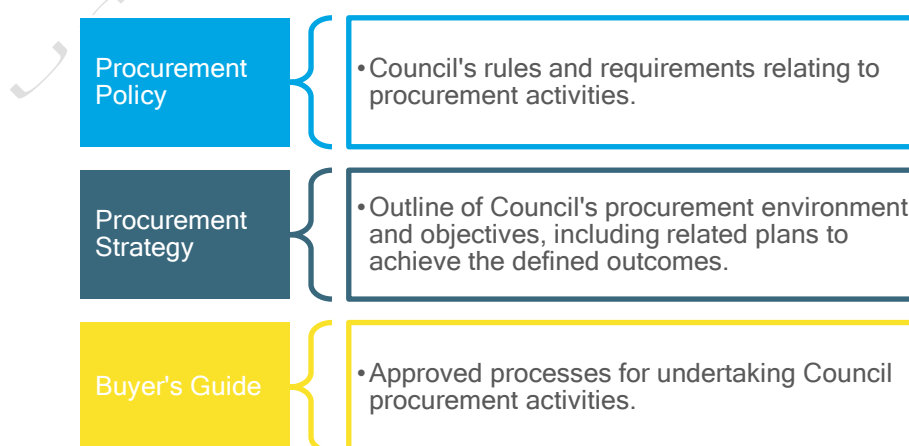
3. Policy Statement

The term 'procurement' covers all aspects of acquiring goods, works and services, including every aspect of the procurement lifecycle (plan, source, manage), and ends with the completion of the service contract or the disposal or repurposing of an asset at the end of its useful life.

All procurement should:

- meet a justifiable and approved business purpose
- be fully accountable and conducted within the requirements of funding agencies
- appropriately manage risk
- provide the best public value over the whole of life of the goods, service or asset
- be conducted with integrity and in a fair and transparent manner
- support effective competition, while minimising relationship costs, ongoing operation costs and consequential costs
- allow for full and fair opportunity for local suppliers
- deliver broader outcomes through the consideration of economic, environmental, social and cultural impacts, and
- be within the law and in accordance with Councils legal responsibilities.

To maintain Council's integrity, accountability and probity, all procurement activity within Council must be undertaken in accordance with this policy, performed as per the relevant processes documented in the Council Buyer's Guide, and adhere to Council's Procurement Strategy.



3.1. Mandate and commitment

The procurement team is responsible for the development and oversight of the procurement strategy, policy and procedures for Council. The team will provide expertise, guidance, advice and support to employees undertaking procurement in the achievement of Council objectives.

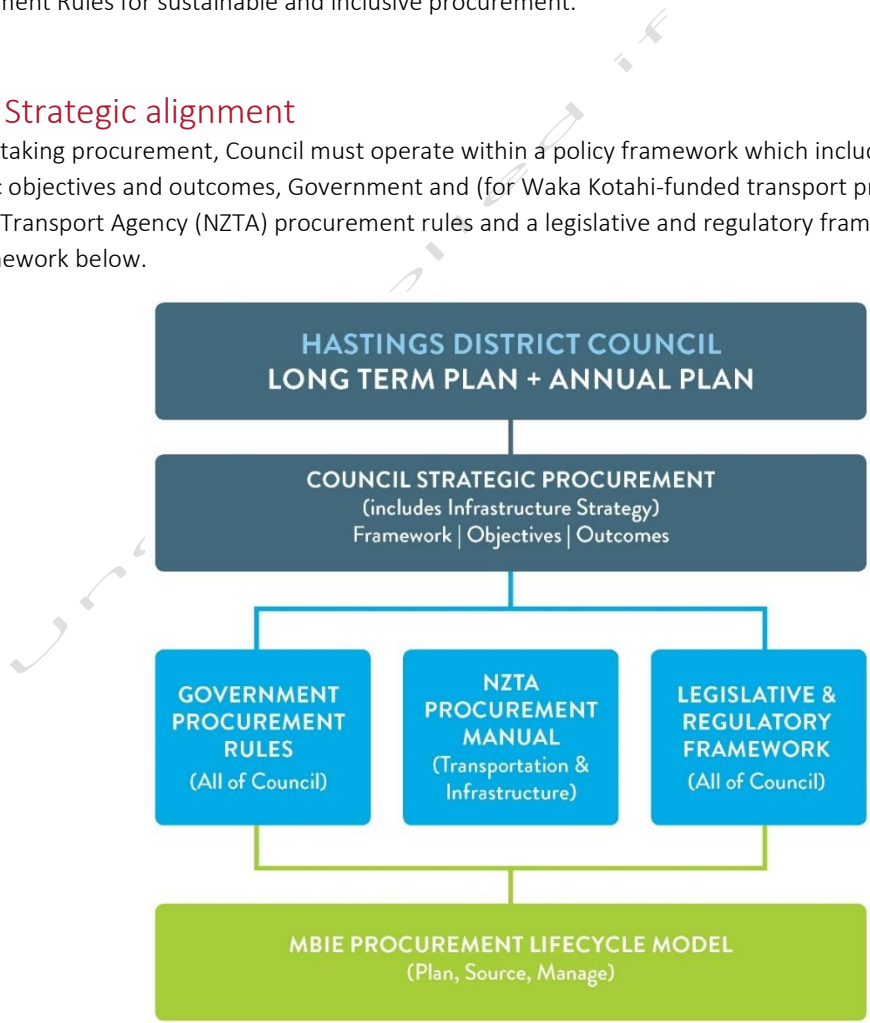
3.2. Principles

Council applies the 'The Five Principles of Government Procurement' and takes into consideration the Government procurement charter and rules, as set out in the Government Procurement Rules (4th Edition) 2019, published by the Ministry of Business, Innovation and Employment (MBIE). Council recognises this publication as providing a best practice framework to guide Council in the delivery of the best 'public value' through its procurement, and to drive innovation and performance. Council is also guided by the Government Procurement Rules for sustainable and inclusive procurement.



3.3. Strategic alignment

In undertaking procurement, Council must operate within a policy framework which includes wider Council strategic objectives and outcomes, Government and (for Waka Kotahi-funded transport projects) the New Zealand Transport Agency (NZTA) procurement rules and a legislative and regulatory framework as outlined in the framework below.



3.4. Procurement objectives

This policy sits alongside the procurement strategy, which sets out the objectives of Council's procurement programme.

1. **Optimise public value** – maximising the benefits and outcomes generated by Council's procurement activities, through ensuring broader outcomes are considered as part of the procurement evaluation.
2. **Support delivery of Council objectives through efficient and effective procurement** – ensuring all procurement activities are conducted in line with Council's procurement principles, including the development and maintenance of competitive supply markets.
3. **Build Procurement Capacity and Capability** – develop Council's procurement knowledge, systems, processes, and resources to support efficient and effective procurement to meet and exceed industry best practice.

3.5. Public value

When assessing procurement options, employees should use '[public value](#)' as a means of determining the best outcome from funds spent.

The principle of public value is not solely focused on price but is about getting the best possible result over the whole-of-life of the goods, services or works. This includes using resources effectively, economically, and without waste, and taking into account the total costs and benefits (total cost of ownership), and its contribution to the results Council is trying to achieve (such as social or environmental outcomes). The concept of public value does not minimise the importance of achieving a good price (costs across the whole of life of the contract) but encourages employees to consider a broader range of benefits that can be achieved through the procurement of goods and services.

Sustainable outcomes can have a profound effect on the local economy and the wellbeing of the community. Council does not place an obligation on employees to use a process that only accepts the lowest quote or tender from a supplier; however, reasons for not doing so should be transparent and justified on a 'whole of life' public value basis.

3.6. Environmental considerations

As the provider of waste management services to the District, Council has both a moral and operational role in considering the impacts of procurement on the environment.

Employees should consider the following environmental considerations when assessing procurement options:

- reducing reliance on non-renewable resources through use of environmentally sustainable materials
- minimising destruction of natural environments
- reducing waste throughout the product lifecycle (from sourcing to disposal) including water and energy saving measures and minimisation of emissions or other manufacturing by-products (product stewardship)
- fair use of resources to ensure no disadvantage is created within the community
- encouraging sustainability innovation.

3.7. Progressive procurement

Council has developed a Progressive Procurement Toolkit to support employees and provide guidance and tools for sustainable outcomes during the procurement process. At the core of our strategy is a collaborative approach, drawing on the experience and passion of our people. We recognise that to achieve sustainable outcomes our framework needs to provide a standardised approach, accessible collateral, and ease of application. In addition to this, Council has developed a Suppliers Guide and further draft policies (Te Kura Nui Māori Relationship Framework and the Heretaunga Ararau te reo Māori policy) to guide how Council works with

mana whenua and other Māori organisations to develop models of partnership that will ensure Māori have meaningful input.

These documents should be read in conjunction with this policy.

3.8. Māori, mana whenua, mātaawaka

Hastings District Council is committed to lifting Māori economic and social well-being and recognising Māori cultural values and perspectives. Procurement can make a material difference to positive Māori outcomes through considering broader outcomes which include:

- provide employment opportunities and career pathways for Māori
- support partnering or sub-contracting with iwi and hapū organisations, Māori businesses and social enterprises; and,
- encourage the engagement of Māori in the design and/or delivery of goods, services and works.

3.9. Locally based suppliers

The overarching requirement for Council procurement activities is optimising public value, which includes promoting the economic growth and wellbeing of the people of Hastings and wider Hawke's Bay. This broader outcome can be achieved through sourcing goods and services through local suppliers where practicable.

A 'local supplier' is defined as a supplier of goods, works or services operating or based in Hawke's Bay, and employing and developing local people.

Council fosters and encourages a viable and competitive supply market that is able to provide goods, works and services now and into the future, ensuring the optimisation of public value for ratepayers and service users.

Employees undertaking procurement should choose to procure goods, works and services from locally based suppliers where the outcome will fulfil one/or more of the following:

- the public value offered by the locally based supplier is as good as suppliers based outside the district
- there is a need to ensure market capacity and capability in the long-term
- the community will benefit from selection of a local provider, through stronger commitment and/or local accountability, employment growth or other social benefit.

When it is practical Council will also bundle its procurement activities to ensure opportunities for locally-based (smaller) suppliers, i.e. where it is cost effective and does not compromise efficient management systems.

3.10. Significant expenditure

Hastings District Council's Significance and Engagement Policy outlines how to determine the significance of issues, proposals, decisions, and other matters, and includes thresholds, criteria and procedures that Council will use in assessing which issues, proposals, decisions and other matters are deemed to be significant as required by section 90 of the Local Government Act 2002. It also provides a list of assets Council considers to be strategic.

3.11. Delegated financial authorities

All employees who make purchases, enter into financial/contractual agreements, give refunds or sign off or approve any form of expenditure are limited in their authority to enter into a Council procurement activity. These limits are recorded in the [Delegated Financial Authority](#) schedule.

Employees must comply with their applicable financial delegations when they procure goods, works or services.

Employees at all levels of Delegated Financial Authority must comply with the procurement and tender award financial procedures set out in the Buyer's Guide.

3.11.1. Emergency expenditure

The delegated financial authorities identify which employees can exceed their level of financial authority for:

- declared emergencies
- Civil Defence and hazardous substances emergencies
- emergency work to prevent immediate risk to public health, or public safety, or to prevent damage to public property or Council assets.

Expenditure in these circumstances must be in accordance with the appropriate emergency expenditure procedures rather than the strict requirements of the policy and the related strategy and procedures.

3.12. Competency and capability

Every employee, or agent, involved in a procurement process must have the required skills for the type and level of procurement they are engaging in.

For Waka Kotahi-funded contracts with an estimated total value exceeding \$200,000 (excluding GST) at least one member of the Tender Evaluation Team (TET) must have a Waka Kotahi approved qualification as described in the NZTA procurement manual.

Councils Delegated Financial Authorities Schedule¹ sets out the level of procurement an employee can operate.

3.12.1. Using consultants to procure on Council's behalf

If a consultant is engaged to assist Council in a procurement process, the consultant must observe the same ethical standards, principles and behaviours set out within this document. An employee with the appropriate delegated financial authority must brief and work with the consultant.

3.13. Risk management

Procurement has been identified as one of Council's key risk areas and is recorded in the strategic risk register. Effective risk management is required to ensure that Council and its ratepayers are not exposed to significant unmitigated risk and future liability. The Procurement Failure risk has been assessed by using a bowtie risk analysis method and then capturing all the relevant threats, consequences and mitigations.

Employees shall proactively identify, evaluate and manage any risks, opportunities and issues at all stages of the procurement process, based on the risks identified in the bow tie analysis and summarised in Section 2.7 of the Procurement Strategy, and in accordance with Councils' [Risk Management Policy and Framework](#) and [Risk Management Handbook](#). The [Risk Management Handbook](#) provides practical guidance to employees on risk management, including a risk matrix for determining the level of risk, and a risk evaluation template to ensure all areas of risk are considered.

Internal risk assurance audits of business practice will be performed to internal audit standard to provide reasonable assurance that risk is adequately managed.

3.14. Legal and ethical considerations

Council must act ethically and with integrity when procuring goods and services. Employees must:

- act, and be seen to be acting, in a fair, open and unbiased manner; and
- observe ethical standards, principles, and behaviour throughout the procurement process.

3.14.1. Compliance with legislation

In addition to policy and rules, anyone involved in procurement must be aware of relevant statutes that relate to Local Government, contracting, and the common law of contracts. Employees must ensure they comply with

¹ Ref: PMD-01-02-19-42

all applicable legislation throughout the procurement process. Legislation that may apply to Council procurement activities includes, but is not limited to:

- [Commerce Act 1986](#)
- [Construction Contracts Act 2002](#)
- [Contracts and Commercial Law Act 2017](#)
- [Health and safety at Work Act 2015](#)
- [Fair Trading Act 1986](#)
- [Land Transport Management Act 2003](#)
- [Local Authorities \(Members' Interests\) Act 1968](#)
- [Local Government Act 2002](#)
- [Local Government Official Information & Meetings Act 1987](#)
- [Official Information Act 1982](#)
- [Public Audit Act 2001](#)
- [Public Bodies Contracts Act 1959](#)
- [Public Finance Act 1989](#)
- [Public Records Act 2005](#)
- [Trade \(Anti-dumping and Countervailing Duties\) Act 1988](#)

3.14.2. Consultation obligations

Council's governing legislation, the Local Government Act 2002, includes obligations to consult with the community and/or key stakeholders, on 'significant issues' (see section 3.10 of this policy). If a tender or other procurement process might result in significant changes to the original contracted outcome(s) being delivered to the community by Council, the obligations defined through community consultation must be considered.

3.14.3. Contractual considerations

Council must comply with all relevant law on the formation and performance of contracts. Legal risks may exist when procuring through a competitive tender or proposal process. Employees must follow the evaluation process set out in the invitation or request for tender.

Council provides a suite of approved procurement contracts, however it is accepted that in some instances a supplier contract may be more suitable.

Where a supplier contract is used, the agreement should be reviewed by Council's General Counsel where any one of the following risk factors are identified in the Procurement Plan:

- high value (total financial commitment over the duration of the contract)
- long term (duration of contract and right of renewals)
- reputational risk (sensitive expenditure, limited references for supplier, new/innovative technology).

3.14.4. Public law considerations

Council is a public body and as such its tendering processes can be scrutinised by judicial review. Employees should always take into account the risk that its procurement actions and decisions could be subject to judicial review, a complaint to the Ombudsman or a complaint to the Office of the Auditor General.

3.14.5. Intellectual property risks

Where procurement involves the purchase of intellectual property rights, such as design or computer software development, employees need to determine whether the intellectual property rights should belong to Council or to the supplier. Relevant factors may include the effect on the price of the contract and the ongoing ability of the parties to develop innovations.

Employees should refer to [Government Rules of Procurement - Rule 63: Intellectual Property](#) for guidance when preparing a Request for Proposal or Request for Tender where intellectual property is likely to be developed or created during the delivery of outcomes.

3.14.6. Liability

When contracting for goods or services suppliers may look to limit their liability under a contract. Employees should take a risk-based approach when considering an exclusion or limitation on a supplier's liability.

All procurement contracts should state:

- the scope and limit of liability

- events that might cause liability to be incurred
- number of events to be covered.

Without a limit defined in the contract, the supplier's liability will be determined by general law. In circumstances where there is a limit on a supplier's liability, associated costs to Council should be taken into account when considering a supplier's tender.

3.14.7. Conflicts of interest

As part of Council's obligation to act fairly and openly, employees must take care that decision-making cannot be challenged on the basis of actual or potential bias and/or conflicts of interests. Conflicts of Interest may relate to Council officers who make decisions relating to procurement, including governance, management and/or operational employees, and the person approving the procurement.

Any conflicts of interest identified through the risk management process shall be handled in accordance with the [Conflict of Interest and Gifts Policy in the Hastings District Council Operations Manual](#).

3.14.8. Confidentiality

Confidentiality is a common characteristic of competitive procurement processes and employees should take particular care when handling commercially sensitive information; confidentiality obligations can apply throughout the entire procurement process including after the contract has terminated or expired.

In addition to the [Hastings District Council Staff Policy & Information Manual](#), employees must:

- respect the confidentiality and sensitivity of information received in the course of their work
- not use this information for personal gain
- not use confidential information to influence, disadvantage, or advantage other participants; and
- always communicate information accurately, impartially, and in a manner not designed to misled, to all interested participants.

3.14.8.1. Disclosure under law

There are times when Council's obligations to ratepayers, under either the [Official Information Act 1982](#) or the [Local Government Official Information and Meetings Act 1987](#), might override the interests of confidentiality. These Acts mean that Council is not able to give suppliers comprehensive assurances about the protection of sensitive information. Note that there are relevant grounds for withholding information under those Acts, such as unreasonable prejudice to the commercial position of a potential supplier, but these can be overridden if there is greater public interest in disclosing the information.

3.14.9. Fraud and corruption

Council and its executive management regard fraud and corruption as totally unacceptable and apply a 'zero tolerance' approach to fraudulent behaviour, misuse of funds, or corruption.

In accordance with Council's [Fraud and Corruption Policy](#), employees should make themselves familiar with Council's procurement policies, procedures and rules, particularly those which govern and guide processes and functions in relation to their specific role. Ignorance of the Council's procurement policies and processes is not an acceptable excuse if a breach occurs.

3.15. Supplier complaints

A supplier may make a complaint regarding Council's procurement activities as per the Council's [Compliments and Complaints Policy](#). All supplier complaints are managed in accordance with the [Government Rules of Procurement – Rule 50: Supplier Complaints](#).

3.16. Government collaborative contracts

There are three types of collaborative contracts commonly used by Government which Council may choose to join.

- **All of Government (AoG) Contracts**, developed, negotiated and managed by MBIE
- **syndicated contracts** agencies working together to collectively go to market with one agency acting as the contract lead
- **common capability contracts**, similar to AoG contracts but not managed by MBIE.

3.17. Local government arrangements

Hastings District Council is one of five Local Territorial Authorities (LTAs) within Hawke's Bay. The councils' recognise the strengths and benefits of collaboration with the goal of improving delivery of service and value in the region.

The objective of working together is to improve service and value to ratepayers, residents and the councils of Hawke's Bay.

In achieving this objective, for some procurement-related activities Council may enter into an arrangement with one or more of the four other LTAs to:

- access particular procurement expertise within another LTA
- realise enhanced public value through a combined approach to market (for example attracting higher quality suppliers or gain cost efficiencies through bundling).

Any such arrangement would be on a preferred supplier basis and must:

- be in accordance with the Local Government Act 2002,
- Comply with obligations imposed by external agencies where relevant, such as Waka Kotahi for funded transport projects
- not be anti-competitive
- provide the best public value.

Express written approval must be sought from the group manager to enter into local government arrangements, in the form of procurement plan approval.

3.18. Documentation and publication requirements

Adequate records of procurement decisions must be kept in accordance with [The Public Records Act 2005](#) and in accordance with normal prudent business practice. Information to be retained includes decisions, actions, minutes, reports and correspondence relating to the procurement lifecycle stages of plan, source and manage.

All documentation relating to procurement must be recorded in Council's procurement and contract management system SHOP.

Council will ensure its Procurement Policy and Procurement Strategy are publicly available and current at all times.

3.18.1.1. Waka Kotahi New Zealand Transport Agency documentation and publication requirements

Council receives funding from Waka Kotahi to undertake some transportation projects. The NZTA Procurement Manual Amendment 6 outlines Council's requirements under *Rule 10.6: Documentation and Publication Requirements*, which may also include compliance with the Government Procurement Rules.

Council employees will comply with the NZTA Procurement Manual and the Government Procurement Rules as required for funding assisted projects.

4. Roles and Responsibilities

Role	Responsibility
All Employees	<ul style="list-style-type: none"> Undertake all procurement activities in line with the Procurement Policy, Procurement Strategy, Procedures.
Procurement Partnerships Manager	<ul style="list-style-type: none"> Work to continuously improve Council's procurement and contract management processes, ensuring compliance with all relevant policy and legislative requirements. Maintain the Procurement Strategy to reflect Council's objectives and budgets, and any changes to relevant policy. Ensure robust policies, procedures, and templates are available to employees to undertake procurement within Council principles. Provide guidance and support to staff to ensure compliance with Council's procurement processes.
Managers	<ul style="list-style-type: none"> Ensure employees are aware of their procurement requirements as relevant to their role. Support employee development to ensure their capability aligns with the requirements of their role.
GM: Corporate	<ul style="list-style-type: none"> Provide oversight of the procurement function. Review and approve the Procurement Policy, Strategy and procedures.

5. References

In addition to the legislation listed in Section 3.14.1, Council's procurement and contract management function is required to meet the obligations stated in the following Council and Government policy and funding frameworks:

- [Government Procurement Rules](#)
- [NZTA Procurement Manual](#)
- [Office of the Auditor General](#)

5.1. Related Council policies and documentation

This policy should be read alongside the following Council policies and documents:

- [Hastings District Council Long Term Plan](#)
- Hastings District Council Annual Plan
- Infrastructure Strategy (Ref: CP-10-1-18-46)
- Significance and Engagement Policy (refer Long Term Plan – Policies)
- Hastings District Council Buyer's Guide
- [Hastings District Council Operations Manual](#)
- Staff Policy and Information Manual
- Sensitive Expenditure Policy
- Protected Disclosures Policy
- [Risk Management Policy and Framework](#)
- Procurement Strategy
- Conflict of Interest and Gifts policy
- [Purchase Card \(pCard\) Policy And Guidelines](#)
- [Fraud and Corruption Prevention Policy](#)
- [Delegated Financial Authorities](#)
- [Consultant and Contractor Engagement and Review Policy \(T06\)](#)
- [Records Management Policy](#)
- [Te Kura Nui Māori Relationships Framework](#)
- [Heretaunga Ararau Te Reo Māori Policy](#)

