



Comhairle Cathrach & Contae Phort Láirge  
Waterford City & County Council

## **WATERFORD CITY & COUNTY COUNCIL**

### **Policy Statement**

### **FRAUD AND CORRUPTION**

**September 2015**

## Table of Contents

INTRODUCTION .....	1
DEFINITIONS .....	1
POLICY STATEMENT .....	2
FRAUD & CORRUPTION PREVENTION PLAN .....	3
ROLES & RESPONSIBILITY .....	4
FRAUD & CORRUPTION CONTINGENCY PLAN .....	6
DISCIPLINARY ACTION .....	9
REPORTING OBLIGATION.....	9
Appendix 1 .....	10
Appendix 2 .....	11

## **1 INTRODUCTION**

Waterford City & County Council is committed to preserving the highest standards of honesty, transparency, probity and accountability, and recognises that employees & elected members play a key role in achieving these aims. Wrongdoing such as fraud and corruption or the covering up of these, can have a devastating effect on our professional reputations, working relationships and morale.

This policy sets out a process by which employees and elected members can report fraud or suspected fraud.

### **Purpose**

The purpose of this policy is to set out the Council's responsibilities (and of those working on behalf of the Council) in observing and upholding the Council's position on fraud and corruption.

### **Scope**

This policy applies to all Waterford City & County Council elected members and employees including consultants, contractors, former employees and other 3rd parties with a relationship with the Council.

## **2 DEFINITIONS**

### **Fraud**

For the purpose of this policy, fraud is any dishonest act or omission that causes loss to the Council, avoidance of an obligation or results in a benefit or advantage (to the person acting or omitting to act or to a third person) and is deliberate or reckless in relation to the harm caused or advantage obtained. Examples of what fraud may involve can be found at Appendix 1.

### **Corruption**

Corruption is a specific type of fraud which involves two or more people where one party offers, gives, solicits or accepts any inducement, reward, advantage or benefit financial or otherwise which may influence the action of another. There are three main areas of concern with regards to corruption namely, tendering and awarding of contracts, appointments of consultants, planning consents and licences. Examples of corruption may be found at Appendix 2.

### **3 POLICY STATEMENT**

It is the policy of the Council to promote a culture of integrity and honesty and to safeguard the Council's resources by ensuring that opportunities for fraud and corruption are reduced to the lowest possible level of risk through the following:

- Operating an effective system of governance and internal control;
- Promoting the necessity and requirement for high standards of personal conduct through the employee and elected member's code of conduct;
- Dissemination of related policies, procedures and guidelines to elected members & employees of the Council;
- Ensuring the appropriate segregation of duties across the Council;
- Ensuring all sections have procedural manuals which are regularly updated to keep abreast of changes and improvements in work practices;
- Delegating approval authority across a range of personnel;
- Promoting a culture of transparency including the application of procedures in accordance with the 'whistleblowing policy' (Protected Disclosures Policy) for those reporting allegations of fraud;
- Ensuring that appropriate management resources and structures are in place across the Council in order to detect any incidence of fraud;
- Timely and appropriate management of any allegation of fraud.;
- Equal and fair treatment of all personnel who become the subject of a fraud allegation;
- Suspicions or allegations of potential fraud will be treated as confidential and will not be discussed with anyone inside or outside the Council unless specifically directed to do so by the investigating committee leading the investigation into the alleged incident.

## **4 FRAUD & CORRUPTION PREVENTION PLAN**

### **Risk Assessment and Management**

Risk is the threat that an event, action or failure to act will adversely affect an organisation's ability to achieve its objectives or successfully execute its strategies. Risk Management is the process by which risks are identified, evaluated and controlled.

The risks to be addressed as part of a risk management programme are wide ranging and include strategic, operational, financial and reputational risk. A risk strategy does not mean that sensible risks should not be taken but that they should be properly assessed and managed. In Waterford City & County Council a risk register is prepared as part of Management Team's annual objectives and prepared also for each of the five Directorates. The register records the following information for each objective

- A description of the risk
- Any mitigating actions being taken or controls in place.
- An assessment of the likelihood of the risk happening.
- An assessment of the impact if the risk were to happen.
- Further actions considered necessary to manage the risk or its impact.
- The person responsible for taking the actions.

The risk register will be a primary tool for risk tracking, and will contain the overall system of risks, and the status of any risk mitigation actions.

The risk register when complete should be brought to the attention of all employees working in the Council in a clear and understandable manner taking into account their level of training, knowledge and experience.

## **5 ROLES & RESPONSIBILITY**

### **The Role of Elected Members**

As elected representatives, all members of the Council have a duty to the general public to protect the Council and public money from fraud and corruption. The Local Authority Code of Conduct for Councillors imposes a statutory duty on members to maintain proper standards of integrity, conduct and concern for the public interest.

### **The Role of Chief Executive**

It is the responsibility of the Chief Executive and the Head of Finance to take reasonable measures to prevent and detect fraud & corruption. The Certificate of the Chief Executive/Head of Finance on page four of the Annual Financial Statements (as signed by both parties) certifying that the financial statements are in agreement with the books of account and accounting requirements also states that 'We have also taken reasonable steps for the provision and detection of fraud and other irregularities'

### **The Role of Directors**

It is the responsibility of the Directors to take such steps as are reasonably available to them to prevent and detect fraud and corruption. This includes;

- ◆ The communication and implementation of this policy in their work area. They are also responsible for ensuring that all employees are aware of the Council's personnel policies and procedures.
- ◆ Management/Directors are expected to create an environment in which they may be easily approached by employees with any concerns relating to suspected irregularities.
- ◆ Taking steps to provide reasonable assurance that the activities of the organisation are conducted honestly and that its assets are safeguarded.
- ◆ Establishing arrangements designed to deter fraudulent or other dishonest conduct and to detect any that occurs.
- ◆ Ensuring that to the best of their knowledge and belief, financial information whether used in the entity or for financial reporting is reliable.
- ◆ They are also responsible for the preparation of financial statements that give a true and fair view of the state of the affairs of the organisation and of its surplus/deficit for the financial year.

## The Role of Employees

Each employee in their work is subject to the Council's Code of Conduct for employees and other relevant policies. These are issued to all employees when they commence employment with the Council.

All relevant employees and elected members are required to complete a "declaration of interest" each year as per **Part 15 Local Government Act 2001**.

**Section 170, Part 15 Local Government Act 2001** prohibits an employee, member of the local authority or of a committee of a local authority from seeking, demanding or accepting from any person other than the local authority concerned, favours, rewards, remuneration or fees for any action or inaction by virtue of employment or office held.

In addition employees are responsible for ensuring that instructions given by management, especially relating to the safeguarding of assets are abided by.

## The Role of Internal Audit

Internal audit plays an important preventative role in providing reasonable assurance that appropriate systems and procedures are in place to prevent and deter fraud and corruption. Internal audit investigates all employee cases of suspected financial irregularity, fraud or corruption in accordance with agreed procedures. Representatives of Internal Audit are empowered to;

- ◆ Enter at all reasonable times any Council premises or land,
- ◆ Have access to all records, documentation and correspondence relating to any financial and/or other transactions as considered necessary.
- ◆ Have access to records belonging to third parties such as contractors if required for providing sufficient audit evidence in the course of an audit assignment.
- ◆ Require and receive such explanations as are regarded necessary relating to any matter under examination.
- ◆ Require any employee of the Council to account for cash, stock or any other Council property under his/her control or possession.

Internal audit liaises with management to provide recommendations for procedures to reduce risks and prevent losses to the organisation.

## 6 FRAUD & CORRUPTION CONTINGENCY PLAN

### Discovering and Reporting Fraud and Corruption

The objectives of this response plan are to provide a documented framework, to which employees and elected members in Waterford City & County Council can refer to, in the event that fraud and corruption is suspected or reported. It aims to ensure that in the event of fraud and corruption, timely and effective action is promptly and competently taken to:

- Prevent further losses.
- Identify fraudsters and those acting corruptly.
- Safeguard evidence for possible prosecution.
- Recover any losses possible.
- Minimise adverse publicity.
- Reduce any negative effect on the organisation.
- Learn lessons.

### Reporting Options

An employee should report any concerns or information regarding suspect fraudulent activity or behaviour by using one of the following reporting options:-

1. Report any case of suspected fraud to the Section Head/ Supervisor (who will subsequently report it to the appropriate Director Of Service);  
or
2. Where (1) is not possible or appropriate, the employee should contact the Director of Service and/or the Senior Executive Officer, Human Resources, and/or the Internal Auditor.  
or
- 3 Report any case of suspected wrongdoing in accordance with the Council's policy on Protected Disclosures.
- 4 Make an anonymous report by telephone or in writing to the staff as referred to in 1-3 above.

## Investigating Fraud and Corruption

### Investigation

All reports or suspicions of fraud, made in good faith, will be investigated thoroughly. It is imperative that as far as possible there is no communication with any person who may be implicated in the events which are under investigation.

It is important to understand that in any investigation undertaken the Council will exercise its duty of care to all employees, and a presumption of innocence will be maintained until the contrary is proven. In this regard, the civil and legal rights of employee and rights to natural justice will be respected by the Council.

The following protocol should be followed when allegations of fraud and corruption are reported.

- Once suspicion of fraud or corruption has been reported, the information obtained must be reported immediately to the Chief Executive.
- No investigation of the suspected fraud should take place until the Chief Executive has been informed.
- The Chief Executive will notify the Internal Auditor who will if appropriate, conduct an initial investigation and reach a preliminary view as to whether further action is required. The Internal Auditor will report the findings, conclusions and any recommendations to the Chief Executive.
- Each case will be considered individually in accordance with the extent of the allegation.
- The Internal Auditor in conducting the investigation will
  - o Obtain an understanding of the nature of the event and the circumstances in which it occurred.
  - o Examine the likelihood of the occurrence of fraud or corruption.
  - o Evaluate the possible effect in terms of money and reputation as well as the possibility of effecting prior years' financial statements.
  - o Identify the type of fraud or corruption in question.
  - o Identify the persons involved.
  - o Maintain utmost confidentiality.
  - o Take steps to minimise any immediate further losses if possible without alerting suspect(s).
  - o Secure any evidence.
- When further investigation is required, an investigating committee and its Chair will be appointed for each case. The Chair will report on progress to the Chief Executive. This committee should consist of at a minimum, a Director of Service and the Senior Executive Officer Human Resources. All meetings of the committee should be treated as confidential and shall be fully documented with investigation work normally led by the Internal Auditor. Where particular

- Expertise may be required to assist in an investigation, management may direct employees with the necessary expertise to assist with any investigation or alternatively source external help.
- The committee will agree a remit; establish scope of investigation, timeframe and reporting deadlines.
- Upon completion of its investigation, the investigation committee will submit a written report of its findings and its recommendations to the Chief Executive who in consultation with the committee will issue a decision on the matter and determine whether internal disciplinary procedures (in line with the council's disciplinary policy) should be invoked or whether the Gardai should be notified. The Chair of the committee will communicate the decision to the person(s) accused of the fraud or related dishonesty activity.
- Employees who are under investigation shall be entitled to have another employee or a Trade Union representative present during the course of any interview that is conducted in connection with the alleged fraud or related dishonest activity with a view to defending their case.
- The Head of Finance will notify the council's insurance brokers at an early stage to ensure that insurance matters are dealt with promptly and properly.
- The designated media contact person, attached to the Corporate Services Directorship will be responsible for dealing with any enquiries from the press and other media.
- If the enquiry is inconclusive, consideration should be given to what internal measures are required – commission further investigation, changes in procedures, disciplinary policy, transfer of employees, external reporting requirements etc.
- On completion of the investigation, a review of the process should be undertaken together with improvements required to the approach adopted.
- Any individual, auditor or otherwise has a statutory duty to take the initiative to report to the appropriate authorities suspected money-laundering related to drug trafficking and/or terrorism. A failure to report in these circumstances is itself a criminal offence.

## **7 DISCIPLINARY ACTION**

Theft, fraud and corruption are very serious offences which may constitute gross misconduct against the organisation and the Council will take action against any individual found to have committed such offence(s). Depending on the circumstances of an individual case, the actions may include –

- Disciplinary action in line with the Council’s disciplinary policy and procedures – staff
- Disqualification from membership of the Local Authority (LG Act 2001 S. 13) – Elected members
- Referral to the Gardai for investigation and prosecution
- Legal action to recover any financial loss or damage suffered by the Council as a result of theft, fraud or corruption

## **8 REPORTING OBLIGATION**

Under Section 19 of the Criminal Justice 2011 Act it is an offence for a person who has information which he knows or believes might be of material assistance in preventing the commission by another person of a relevant offence or securing the apprehension, prosecution or conviction of any person for a relevant offence and the person fails without reasonable excuse to disclose the information to the Gardai.

A relevant offence includes but is not limited to the following;

- The offence of financial assistance;
- Offences relating to failure to keep proper books of account;
- Offences relating to recklessly making a statement to a company auditor that is misleading, false or deceptive;
- Offences relating to authorising the issue of a prospectus which contains untrue statements or omits to include information;
- Offences of ordinary theft, false accounting, destroying, defacing or concealing valuable securities and forgery;

### **Policy Review**

This policy statement will be reviewed every three years. The next review date is September 2018.

## **APPENDIX 1**

### **FRAUD MAY INVOLVE;**

- Taking annual or any other leave type without officially recording same on leave system.
- Falsification of Travel and Subsistence claims.
- Falsification of work attendance times on the CORE system
- Payment of false invoices.
- Failure to record/account for monies received.
- False statement in grant applications.
- Dealing inappropriately with claims.
- Collusion.
- Forgery.
- Override of controls so as to benefit self or another.
- Misrepresentations being made to an auditor.
- Falsification or alteration of accounting records or other documents.
- Misappropriation of assets or theft.
- Suppression or omission of the effects of transactions from records or documents.
- Recording of transactions without substance.
- Intentional misapplication of accounting policies.
- Wilful misrepresentations of transactions or the entity's state of affairs.

**Note: This list is not exhaustive.**

## ***APPENDIX 2***

### **EXAMPLES OF CORRUPTION;**

- Arrange for a colleague or any other person to clock you in as being present at work when in fact you are not.
- Accept or solicit a bribe.
- Collusion to steal or misuse Local Authority resources.
- Improper or unauthorised use of funds and/or assets.
- A miscarriage of justice.

**Note: This list is not exhaustive.**