

Fingal County Council

Fraud and Corruption Policy

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POLICY STATEMENT

It is the policy of Fingal County Council to manage, monitor and control all areas of its operations in such a way as to eliminate, as far as possible, the possibility of fraud and corruption.

An important part of this approach is through the review of the Fraud and Corruption Policy which is used to advise and guide employees and Elected Members on the Council's approach to the serious issues of fraud and corruption. All Elected Members, employees, consultants, contractors and citizens are expected to be fair and honest, and to inform and assist the Council when fraud and corruption are identified.

Fingal County Council is committed to maintaining high standards in the delivery of its services and the management of the public funds entrusted to it.

FRAUD & CORRUPTION POLICY

1. Introduction

- 1.1 This document details Fingal County Council's policy on detected or suspected acts of fraud or corruption.
- 1.2 The Council is committed to preserving the highest standards of honesty, transparency, probity and accountability, and recognises that elected members and employees play a key role in achieving these aims. This policy sets out a process by which employees, elected members and the general public can report fraud or suspected fraud and corruption.
- 1.3 This policy updates Fingal County Council's previous Fraud and Corruption Policy (2013), taking into account relevant legislative changes, most notably the Criminal Justice (Corruption Offences) Act 2018. With this policy, the Council undertakes all reasonable steps and exercises all due diligence in seeking to avoid the commission of a fraudulent or corrupt offence.

2. Purpose & Scope

- 2.1 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.
- 2.2 This policy applies to all Fingal County Council elected members and employees, persons appointed by the Chief Executive (e.g. consultants, contractors) and other third parties working on behalf of the Council.
- 2.3 All stakeholders should ensure that they are familiar with other relevant Council policies, procedures and regulations, including:
 - Code of Conduct for Local Government Employees
 - Code of Conduct for Councillors
 - Information Systems / Electronic Communications Security Policy
 - Attendance Management Policy and Procedures
 - Dignity at Work Policy
 - Financial Policies and Procedures
 - Protected Disclosures Policy and Procedures

3. Definitions

- 3.1 **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 party) and is deliberate or reckless in relation to the harm caused or advantage obtained.
- 3.2 **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, appointment of consultants, planning consents and licences. The Criminal Justice Act 2018 creates the offence of active and passive corruption, defined as either directly or indirectly corruptly offering/giving or corruptly requesting/accepting a gift, consideration or advantage as an inducement or reward for any person doing an act in relation to his or her office of employment, position or business.

4. Anti-Fraud and Corruption Policy Statement and Supporting Policies

4.1 It is the policy of Fingal County 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.

4.2 This is achieved by:

- 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 and employees of the Council;
- Robust recruitment and induction policies, in terms of checking references, monitoring probationary performance and incorporating fraud awareness as part of the induction process;
- Ensuring the appropriate segregation of duties across the Council – the key controls of custody, authorisation, recording and execution are separated;
- 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 a Protected Disclosures Policy for those reporting allegations of fraud;
- Ensuring that appropriate management resources and supervision 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 this is specifically required as part of an investigation into an alleged incident.

5. Ethical Framework for the Local Government Service

5.1 Part 15 of the Local Government Act 2001 sets out an Ethical Framework for the Local Government Service, specific to local authority members and employees.

5.2 This framework requires all elected members and relevant employees to prepare and furnish to the Ethics Registrar a declaration of interests by the last day of February each year. A public register is compiled from the complete declarations submitted. The Council's Ethics Registrar is responsible for maintaining the Register and will write to members and

relevant employees annually to update the Register. The Ethics Registrar is appointed by the Chief Executive.

6. Risk Assessment and Management

- 6.1 The implementation of Fingal County Council's Risk Management Framework will assist the Council in identifying risk, including the risk of fraud and corruption, assessing the likelihood and impact of the risk, deciding on mitigating actions or controls to be put in place, assigning responsibility for a risk and providing assurance that the chosen responses are effective.

7. Protected Disclosures

- 7.1 Fingal County Council has an established Protected Disclosures Policy and Procedure in accordance with the Protected Disclosures Act 2014 (as amended), which can be used by those wishing to report suspected incidents of fraud or corruption.

8. Data Protection and Information Security

- 8.1 Fingal County Council has comprehensive Data Protection and Information Security policies in place which ensure, where practicable, that proper controls, practices, and procedures exist to protect the availability, confidentiality and integrity of IT systems. These policies ensure data security and protect the Council against computer and cyber fraud.

9. Roles and Responsibilities

9.1 Role of the Elected Members

As elected representatives, all members of the Council have a duty to the 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. Members in carrying out their role should abide by this code and:

- Act in a way which enhances public trust and confidence;
- Avoid conflicts of interest and never seek to use improper influence;
- Make decisions based solely on consideration of the public interest and the common good;
- Serve their local authority and its people conscientiously, honestly and with impartiality;
- Promote equality and avoid bias;
- Perform their functions in a responsible and diligent manner; and
- Treat their colleagues and local authority employees with courtesy and respect.

9.2 Role of The Chief Executive

It is the responsibility of the Chief Executive to take reasonable measures to prevent and detect fraud and corruption. The Chief Executive is responsible for certifying financial statements which give a true and fair view of the financial affairs of the organisation and of its surplus or deficit for the financial year.

9.3 Role of Directors of Service / Head of Finance

It is the responsibility of Directors of Service / Heads of Finance 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 addition to all other Fingal County Council policies in their work area. Directors of Service / Heads of Finance are also responsible for ensuring that all employees are aware of the Council's personnel policies and procedures;
- Ensuring staff understand their responsibilities, through adequate training, supervision, written procedures and job descriptions;
- Creating an environment in which they may be easily approached by staff 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 occur;
- Implementing the Risk Management Framework within their remit.
- Responding positively to recommendations made and advice given by Internal and External Audit. In addition Directors of Service / Heads of Finance have a responsibility to provide, and ensure the provision of, information required by the auditors.
- Ensuring that to the best of their knowledge and belief, financial information whether used in the entity or for financial reporting is reliable.

9.4 Role of the People Services Department

It is the responsibility of the People Services Department to seek to employ competent employees with the qualifications and experience necessary to provide an efficient and effective service to the community.

Selection is on merit and is based on a rigorous selection procedure including (but not limited to) initial screening of application forms and interview.

Employment is strictly subject to satisfactory references and a medical examination.

9.5 Employees

Each employee is governed in their work by the Code of Conduct for Employees and other relevant policies. The core values underlying the Code include honesty, impartiality, integrity and serving the common good. All employees are informed of these policies when they commence employment with the Council. Staff awareness of policy and procedures is fundamental to the effective operation of the organisation. In addition, employees are responsible for complying with instructions given by management, especially those relating to the safeguarding of assets.

Employees should:

- Inform their line manager of any gifts/ hospitality offered (Ref Code of Conduct);
- Inform their line manager of any outside interests that may conflict or impinge on their duties;
- Make management aware of any concerns they have about the conduct of Council affairs or the use of Council assets and resources;
- Employees are expected to report any knowledge or valid suspicions of the existence of fraud or corruption in the workplace. In this regard, they should alert the appropriate person to fraud or suspected fraud;
- Alert management to weaknesses in control systems;
- Comply with the Council's relevant communications and data protection and information security policies
- Assist in any investigation that may arise in respect of fraud or suspected fraud
- Carry out their roles in such a manner as to avoid the perception of fraud.

9.6 Role of the Audit Committee

The Committee will ensure that policies and procedures are in place to prevent and detect fraud. The Committee will be informed of any occurrences of fraud.

9.7 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 is governed by a Charter which sets out its roles and responsibilities.

Internal Audit will investigate all cases of suspected irregularity, fraud or corruption advised to it in accordance with agreed procedures. Internal audit has the authority to carry out specific fraud and corruption tests, spot checks and unannounced visits. Investigations may only be carried out by competent persons at the Chief Executive's or Delegated Officer's request.

In relation to any investigation Internal Audit may:

- 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 considered 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.

9.8 Role of External Audit

While it is not the External Auditors' function to prevent fraud and corruption, the fact that an audit is carried out may, however, act as a deterrent. External auditors plan, perform and evaluate their audit work in order to have a reasonable expectation of detecting irregularities in the financial statements arising from fraud. However, an audit cannot be expected to detect all instances of fraudulent or dishonest behaviour.

Where external auditors are required to investigate an alleged fraud or corruption event they will operate within legislation and their codes of conduct.

9.9 Role of the Public

This policy, although related to parties within or associated with the Council, enables concerns to be raised by the public and for these to be investigated appropriately.

10. Conflict of Interest

- 10.1 Elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with the external provision of services, tendering, planning and land issues, etc. Elected members and staff are advised to familiarise themselves with the relevant Codes of Conduct and the provisions of the Criminal Justice (Corruption Offices) Act 2018 and must never seek to use their official position to improperly benefit themselves or others with whom they have personal, family or other ties. Similarly, members and staff must not use or disclose confidential information acquired during their term of office or employment to their advantage or for the advantage of third parties.

11. Discovering and Reporting Fraud and/or Corruption

- 11.1 The objective of this document is to provide a framework which employees, elected members and others can refer to if they suspect fraud and corruption. The aim is to facilitate timely and effective action to:

- Prevent further losses;
- Identify fraudsters and those acting corruptly;
- Safeguard evidence for possible prosecution;
- Recover any losses possible;
- Minimise reputational damage;
- Learn lessons.

11.2 Stakeholders should raise an issue of suspected fraud or possible corruption with any one of the following parties:

- Chief Executive
- Director of Service
- Head of Finance
- Line Manager
- Internal Auditor
- Protected Disclosures Designated Recipient
- Ethics Registrar

12. Investigation of Fraud and Corruption

12.1 Fingal County Council is committed to supporting and protecting employees and others who raise legitimate and reasonable concerns and such Individuals should rest assured that concerns raised will be dealt with and that their anonymity will be protected. However, it should be noted that abusing this process by making unfounded allegations or by deterring others from reporting genuine concerns will be treated seriously.

12.2 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.

12.3 Any investigation undertaken by 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 employees and rights to natural justice will be respected by the Council.

12.4 The Contingency Plan contained in this document sets out the actions to be undertaken when an allegation of fraud or corruption is reported.

12.5 Decisions regarding the appropriate form of investigation are a matter for the Chief Executive, who may consult with the Chairperson of the Audit Committee, the Director of People, Corporate and Digital Services and/or the Internal Auditor or other appropriate individual or body including An Garda Síochána. This may involve the appointment of an independent external investigator.

13. Disciplinary Action

13.1 Fingal County Council views “theft, fraud and falsification of records including work or organisation records and personal records including academic, professional or technical

qualifications" as serious misconduct in the Disciplinary Policy and Procedure.

13.2 In cases of serious misconduct, the stages outlined in the disciplinary procedure do not normally apply and an employee may be dismissed without recourse to the previous stages.

13.3 The Council will consider disciplinary action and/or criminal proceedings against an individual depending on the severity of the case in question in accordance with the Disciplinary Policy and Procedure.

13.4 Where the Council has suffered a financial loss due to theft, fraud or corruption the Council will recover the loss, including the cost of legal proceedings.

14. Reporting

14.1 It is the responsibility of any one or all of the individuals set out above (in section 11) to notify An Garda Síochána, if there is sufficient evidence that fraud or corruption has occurred.

15. Communication of the Policy

15.1 This policy will be circulated to all staff and elected members with awareness raised of the key aspects to support implementation.

15.2 To communicate the Council's zero-tolerance approach on fraud and corruption to the public but also to third party service providers, suppliers and other organisations with which the Council does business, the policy will be made available on the Council's website.

16. Monitoring & Review

16.1 This policy will be kept under review and updated where required.

FRAUD AND CORRUPTION CONTINGENCY PLAN

1. Reporting of Suspected Fraud or Corruption

- 1.1 All Elected Members and Employees of Fingal County Council have a responsibility to report suspected fraud or corruption. Any individual suspecting fraud or corruption should not under any circumstances, attempt to carry out their own investigations.
- 1.2 Suspicions and/or evidence of fraud or corruption should be reported to relevant parties (set out in Section 11 of the foregoing policy document), as appropriate.
- 1.3 Recipients of an allegation must forward the information obtained and/or discuss it with the Chief Executive at the earliest possible opportunity.
- 1.4 The Chief Executive and/or Internal Auditor should document the information reported.
- 1.5 Decisions regarding the appropriate form of investigation are a matter for the Chief Executive, who may consult with the Chairperson of the Audit Committee, the Director People, Corporate & Digital Services and/or the Internal Auditor or other appropriate individual or body. This may involve the appointment of an independent external investigator.

2. Fraud and Corruption Investigation Checklist

- 2.1 Any investigation undertaken should have regard to the following:
 - Obtain an understanding of the nature of the event and the circumstances in which it occurred.
 - Maintain utmost confidentiality.
 - Examine the likelihood of the occurrence of fraud or corruption.
 - Secure all evidence.
 - Identify all internal and external sources of information and evidence.
 - Evaluate the possible effect, in financial and reputational terms.
 - Identify the type of fraud or corruption in question.
 - Identify the person(s) involved.
 - Take steps to minimise any immediate further losses if possible without alerting suspect(s).
 - Consider legal implications.
 - Initiate investigation to establish substance of allegation.
 - Determine the extent to which it is realistic to expect that further investigation is likely to clarify the position.
 - Ensure that investigating team have adequate resources.
 - Investigations will be carried out in accordance with the Councils Disciplinary Policy

3. Conducting Interviews

- 3.1 As part of an investigation interviews will be conducted and will be guided by the following:

- (a) Allow the interviewee adequate notice for each interview as deemed fair and reasonable but generally not less than one working day;
- (b) Do not interview one to one - all interviewees must be given the opportunity to have a witness/representative;
- (c) Ensure there are at least two interviewers;
- (d) Keep detailed minutes of meetings and conversations with all those involved.

4. Criminal Investigation

- 4.1 If there is sufficient evidence that fraud or corruption has occurred, the Chief Executive, or other designated officer, will inform An Garda Síochána. In such an instance, all evidence collected at this point should be made available to An Garda Síochána.
- 4.2 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.

5. Informing Complainant

- 5.1 Within a reasonable period of an allegation being raised, the Chief Executive or other designated official will write to the complainant to acknowledge their complaint, outlining how the matter is being addressed and giving an estimated time for a final response.
- 5.2 Subject to legal constraints, the complainant will also receive information about the outcomes of any investigation.

6. Disciplinary Action and Appeals

- 6.1 Disciplinary action will be taken against employees whose fraudulent and/or corrupt activity(s) affect Fingal County Council.
- 6.2 The Council's Grievance and Disciplinary Policy will apply to any investigation of action taken. The appeals process set out in that policy will apply.

7. Recovery of Loss

- 7.1 In cases where the fraud or corruption has resulted in monetary loss, recovery action up to and including legal proceedings will be taken to ensure that money is returned to the Council.

8. Internal Measures

- 8.1 If an enquiry is inconclusive, internal measures may be taken, such as a further investigation, changes in procedures, disciplinary action, transfer of staff, external reporting, etc.
- 8.2 On completion of an investigation, a review of the process and possible improvements to the process will be considered.
- 8.3 Findings of all investigations conducted regardless of the outcome must be reported to the Chief Executive and relevant Director of Services/Head of Finance within a reasonable timeframe.