

## FIN P 02 Anti-Fraud and Corruption Policy

<b>Policy Title &amp; Ref Number</b>	FIN P 02 Anti-Fraud and Corruption Policy
<b>Policy Prepared By</b>	Finance
<b>Policy Owner</b>	Head of Finance
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## Policy Revision History

<b>Revision No.</b>	<b>Date</b>	<b>Details of Revision</b>
Rev 00	October 2005	Original
Rev 01	January 2020	Revision of Policy
Rev 02	14 <sup>th</sup> April 2022	Review of Policy – Updates to: Section 3.6 - Protected Disclosers Section 3.7 - Data Protection & Information Compliance Section 6 - Communications of the Policy Appendix 2 – Relevant Legislation

## 1. Introduction

1.1 This document details Longford 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.

### Purpose

1.3 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

1.4 This policy applies to all Longford 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).

### Context

1.5 This policy replaces the Fraud Prevention and Contingency Plan and it takes into account relevant legislation (see **Appendix 2**) including the Criminal Justice (Corruption Offences) Act 2018. Through 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. Definitions

### Fraud

2.1 For the purpose of this policy, fraud is:

- any dishonest act or omission that causes loss to the Council
- avoidance of an obligation
- any action or omission that 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.

Examples of what fraud may involve (see **Appendix 1**).

### Corruption

2.2 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:

- tendering and awarding of contracts
- appointment of consultants
- planning consents and licences.

Examples of corruption (see **Appendix 1**).

2.3 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 in relation to his or her office of employment, position or business.
- 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.

### **3. Anti-Fraud and Corruption Policy Statement and Supporting Policies**

3.1 It is the policy of Longford 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.

3.2 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 National Code of Conduct.
- Dissemination and communication 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 appropriate resources and organisational management and supervisory structures are in place across the Council in order to detect any incidence of fraud.
- Timely and appropriate management of any allegation of fraud.
- Due process 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.

#### **Ethical Framework for the Local Government Services**

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

3.4 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 elected members and relevant employees annually to update the Register. The Council has currently appointed the Administrative Officer, Corporate Services to act as Ethics Registrar. The Ethics Registrar can be contacted by email at [ethicsregistrar@longordcoco.ie](mailto:ethicsregistrar@longordcoco.ie) or by phone 043 3343477

#### **Risk Assessment and Management**

3.5 The implementation of Longford County Council's Risk Management Policy 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. The development and review of risk registers, at both corporate and departmental level, supports the objectives of this Anti-Fraud and Corruption Policy.

## **Protected Disclosures**

3.6 Longford County Council has an established Protected Disclosures Policy and Procedure in accordance with the Protected Disclosures Act 2014, which can be used by those wishing to report suspected incidents of fraud or corruption. The Council has appointed the Senior Executive Officer, Corporate Services as the nominated employee to receive protected disclosures in accordance with the Protected Disclosures Act, 2014. The nominated employee can be contacted by email [nofarrell@longfordcoco.ie](mailto:nofarrell@longfordcoco.ie) or by phone 043 3343452.

## **Data Protection and Information Compliance**

3.7 Longford County Council has appointed a Data Protection and Information Compliance Officer to demonstrate its commitment to safeguarding individual's privacy rights. The Data Protection and Information Officer has primary responsibility for overseeing the Council's Data Protection Strategy and implementation. Longford County Council has an established Data Protection Framework in place to ensure the Council can meet its obligations under Data Protection legislation.

Further information is available on the Council's Data Protection page on [www.longfordcoco.ie](http://www.longfordcoco.ie)

## **Information Security**

3.8 Longford County Council has an approved Policy Framework in place for Information Security to ensure the continuity of business management and to reduce interruptions to business by preventing and minimising the consequences of security incidents.

## **4. Roles and Responsibilities**

4.1 All stakeholders of Longford County Council have a role and responsibility to play in ensuring an environment free from fraud and corruption, as set out below:

### **Role of the Elected Member**

4.2 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 National Code of Conduct for Local Authority Members (see **Appendix 2**) imposes a statutory duty on elected members to maintain proper standards of integrity, conduct and concern for the public interest.

4.3 Elected members in carrying out their role should abide by the National Code of Conduct and this policy 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.
- Treat their colleagues and local authority employees with courtesy and respect.

## **Role of the Chief Executive and the Head of Finance**

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

## **Role of Directors of Service**

4.5 It is the responsibility of 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 addition to all other Longford County Council policies in their work area. Directors are also responsible for ensuring that all employees are aware of the HR and Data Protection and Information Security policies and procedures.
- Ensuring employees understand their responsibilities, through adequate training, supervision, written procedures and job descriptions.
- Creating 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 Council 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.
- Frequently reviewing and updating the Risk Register by examining risks within their remit.
- Responding positively to recommendations made and advice given by Internal and External Audit. In addition, Directors and all employees have a responsibility to provide 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.

## **Role of Employees**

4.6 Each employee is governed in their work by the National Code of Conduct for Local Authority Employees (see **Appendix 2**) 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. Employee 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.

4.7 Employees should:

- Inform their line manager of any gifts/hospitality offered (other than what is clearly a modest token).
- 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 and co-operate with any investigation that may arise in respect of fraud or suspected fraud.

### **Role of Internal Audit**

4.8 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.

4.9 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 inspections/examinations. Investigations may be carried out at the Chief Executive's request.

4.10 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.

4.11 Internal Audit liaises with management to provide recommendations for procedures to reduce risks and prevent losses to the Council. Internal Audit is governed by a Charter which sets out its roles and responsibilities.

### **Role of the Audit Committee**

4.12 In relation to the prevention of fraud and corruption, the Audit Committee's role is to:

- Ensure the Council has a current approved anti-fraud and corruption policy in place.
- Ensure the policy is reviewed on a periodic basis.
- Ascertain the appropriateness of the policy to the Council.
- Verify the communication of the policy to all relevant parties.
- Monitor and review the effectiveness of the Internal Audit function as it relates to the prevention or detection of fraud or corruption.
- Ascertain whether or not the policy is being applied in practice.

4.13 The Audit Committee is also governed by a Charter which sets out its roles and responsibilities.

## **Role of External Audit**

4.14 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 behavior

4.15 Where external auditors are required to investigate an alleged fraud or corruption event they will operate within legislation or their Codes of Conduct.

## **Role of the Public**

4.16 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.

## **Conflict of Interest**

4.17 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 employees are required to familiarise themselves with the relevant National 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, elected members and employees 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. Obligations under Section 10.5 of the Code of Conduct for Employees applies to those retiring/resigning from office.

## **5. Discovering and Reporting Fraud and/or Corruption**

5.1 The objective of this document is to provide a framework which employees, elected members and others can refer to in the event that 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.

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

- Chief Executive.
- Director of Service.
- Line Manager.
- Internal Auditor.
- Protected Disclosures Officer.
- Ethics Registrar.

## **Investigation of Fraud and Corruption**

5.3 Longford 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 where the person to whom the Protected Disclosure was made or referred to reasonably believes that disclosing any such information is necessary for:

- The effective investigation of the relevant wrongdoing concerned,
- The prevention of serious risk to the security of the State, public health, public safety or the environment, or
- The prevention of crime or prosecution of a criminal offence; or
- Where the disclosure is otherwise necessary in the public interest or is required by law

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.

5.4 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.

5.5 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 and fair procedures will be respected by the Council.

5.6 The Anti-Fraud and Corruption Policy, Section 7, sets out the actions to be undertaken when an allegation of fraud or corruption is reported.

## **Disciplinary Action**

5.7 Longford County Council views any theft, fraud or act of corruption as a serious offence that may result in criminal proceedings against the organisation and any individual found to have committed such offence(s). The Council will consider disciplinary action and/or criminal proceedings against an individual depending on the severity of the case in question.

5.8 In criminal proceeding, the court may under the Criminal Justice Act 2018 order the forfeiture of any office (including elected office), position or employment of a person convicted of an offence.

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

## **Reporting**

5.10 It is the responsibility of any one or all of the individuals set out above (in para 5.2) to notify An Garda Síochána, if there is sufficient evidence that fraud or corruption has occurred.



## **6. Communication of the Policy**

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

6.2 To communicate the Council's zero-tolerance approach on fraud and corruption to the general 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.

6.3 This policy will be kept under review and up-dated where required.

## **7. Longford County Council's Anti-Fraud and Corruption Policy**

### **Reporting of Suspected Fraud or Corruption**

All Elected members and employees of Longford 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.

Suspicious and/or evidence of fraud or corruption should be reported to relevant parties (set out in Section 5.2 of this policy document), as appropriate.

Recipients of an allegation must forward the information obtained and/or discuss it with the Chief Executive at the earliest possible opportunity.

The Chief Executive and/or Internal Auditor should document the information reported.

Decisions regarding the appropriate form of investigation are a matter for the Chief Executive, who may consult with the Chairperson of the Audit Committee and/or the Internal Auditor or other appropriate individual or body. This may involve the appointment of an independent external investigator.

### **Fraud and Corruption Investigation Checklist**

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.
- Examine the likelihood of the occurrence of fraud or corruption.
- Evaluate the possible effect, in financial and reputational terms.
- Identify the type of fraud or corruption in question.
- Identify the person(s) involved.
- Maintain utmost confidentiality.
- 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 investigator or investigating team have adequate resources.
- Having regard to the seriousness of the suspected offence, consider in consultation with the Chief Executive, suspension on full pay pending a full investigation (suspension will not imply guilt but is a safeguard to protect the Council and the employee and to secure records against removal or alteration).
- Secure all evidence.
- Identify all internal and external sources of information and evidence.

## **Conducting Interviews**

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 is at least one interviewer and one note-taker present.
- (d) Keep detailed minutes of meetings and conversations with all those involved.

## **Criminal Investigation**

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

Any individual or auditor 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.

## **Informing Complainant**

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. Subject to legal constraints, the complainant will also receive information about the outcomes of any investigation.

## **Disciplinary Action and Appeals**

Disciplinary action will be taken against employees whose fraudulent and/or corrupt activity affect Longford County Council.

The Council's Disciplinary Policy and procedures will apply to any investigation of action taken. The appeals process set out in this policy will apply.

## **Recovery of Loss**

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.

## **Internal Measures**

If an enquiry is inconclusive, internal measures may be taken, such as a further investigation, changes in procedures, disciplinary action, transfer of employees external reporting, etc.

On completion of an investigation, a review of the process and possible improvements to the process will be considered. Findings of all investigations conducted regardless of the outcome must be reported to the Chief Executive or relevant Director of Services/Head of Finance within a reasonable timeframe.

## Appendix 1 Some examples of Fraud and Corruption

<b>Fraud may involve:</b>
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.
Forgery, such as of a signature.
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.

<b>Corruption may involve:</b>
Arranging for a colleague or any other person to clock you in as being present at work when in fact you are not.
Accepting or soliciting a bribe.
Collusion to steal or misuse Local Authority resources.
Improper or unauthorised use of funds and/or assets.
A miscarriage of justice.

Please note: These examples are not exhaustive.

## **Appendix 2 Relevant Legislation (non-exhaustive)**

### **Local Government Act 2001 - Ethics Framework Part 15**

Section 170 states that *“an employee or member of a local authority shall not seek, exact or accept from any person, other than from the local authority concerned, any remuneration, fee, reward or other favour or anything done or not done by virtue of his or her employment or office”*.

Section 171 requires all relevant employees and elected members of a local authority to complete an annual written declaration in the form prescribed by regulations made by the Minister, signed and dated by him/her and containing:

- particulars of his/her declarable interests.
- an undertaking by him/her to have regard to and be guided by the relevant Codes of Conduct in the exercise of his/her functions.

### **National Code of Conduct for Local Authority Members (June 2004)**

Introduced in accordance with Section 169 (d) of the Local Government Act 2001, the Code sets out principles and standards of conduct and integrity for elected members, to inform the public of the conduct it is entitled to expect and uphold public confidence in local government.

### **National Code of Conduct for Local Authority Employees (January 2007)**

Introduced in accordance with Section 169 (d) of the Local Government Act 2001, the Code sets out principles and standards of conduct and integrity for local authority employees, to inform the public of the conduct it is entitled to expect.

### **Criminal Justice (Corruption Offences) Act 2018**

The Criminal Justice (Corruption Offences) Act 2018 amends and consolidates the law relating to the prevention of corruption, including in respect of public officials. The Act gives effect to six recommendations of the Mahon Tribunal and also to a number of European and International instruments relating to corruption offences.

One of the key aspects of the 2018 Act is a new corporate liability offence whereby a body corporate may be found guilty if anyone acting on behalf of that body, including employees, commits a corruption offence. A body corporate convicted under the Act could face a potential unlimited fine.

Some key provisions of the Act include:

- Offences under the act involve directly and indirectly, corruptly giving or receiving *“a gift, consideration or advantage”* as an inducement or reward for doing an act in relation to office, employment or business or trading in influence.
- Specific provision is made in relation to Irish officials (including an officer, director, employee or a member of an Irish public body, including a member of a Local Authority) regarding acts in office and use of public information.
- Creating or using a false or misleading document for an improper use is an offence. A ‘Document’ is broadly defined in the Act to include data held electronically on devices.

- Presumptions reversing the onus of proof in cases relating to tenders, contracts, grants, loans and licences, land transactions, planning and prosecution of offences and in respect of real and personal property not recorded in statements under the Ethics in Public Office Act 1995.
- Penalties imposed on Irish officials may include loss of office and may impose a bar on some officials holding a position for up to 10 years.

### **Protected Disclosures Act 2014**

An Act to make provision for and in connection with the protection of persons from the taking of action against them in respect of the making of certain disclosures in the public interest and for connected purposes. Section 21 requires every public body to establish and maintain procedures for the making of protected disclosures by workers who are or were employed by the public body and for dealing with such disclosures.