



**Comhairle Contae Chill Mhantain  
Wicklow County Council**

**Anti-Fraud and Corruption Policy  
And Contingency Plan**

**Document Control**

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## 1. Introduction

1.1 This document details Wicklow 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 Wicklow 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 up-dates Wicklow County Council's previous Anti-Fraud and Corruption Policy (2011), 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. 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 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. Examples of what fraud may involve can be found in 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 namely, tendering and awarding of contracts, appointment of consultants, planning consents and licences. Examples of corruption may be found in 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, 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 Wicklow 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 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.

#### **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 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 members and relevant employees annually to update the Register. The Council has appointed the following person to act as Ethics Registrar: Ms. Rachel Gillespie, SO, Corporate Services, Tel: 0404 20100, Email: [RGillesp@wicklowcoco.ie](mailto:RGillesp@wicklowcoco.ie)

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

3.5 The implementation of Wicklow 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.

#### **Data Protection and Information Security**

3.6 Wicklow County Council has Data Protection and Information Security policies and procedures 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.

### **4. Roles and Responsibilities**

4.1 All stakeholders of Wicklow County Council have a role 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 Local Authority Code of Conduct for Councillors (see Appendix 2) imposes a statutory duty on members to maintain proper standards of integrity, conduct and concern for the public interest.

4.3 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.

#### **Role of the Chief Executive**

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 organisation 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 Wicklow County Council policies in their work area. Directors 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;
- 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 officers 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 Code of Conduct for 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. 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.

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 in 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 unannounced visits. Investigations may only be carried out by competent persons 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 organisation. 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 organisation has an anti-fraud and corruption policy in place;
- Ensure the organisation has a fraud and corruption contingency plan;
- Ensure the policy and plan are reviewed on a periodic basis;
- Ascertain the appropriateness of the policy to the organisation;
- 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 behaviour.

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

## **5. Protected Disclosures**

A Protected Disclosure (also known as whistleblowing), is defined in the Protected Disclosures Act, 2014 as a disclosure of relevant information which, in the reasonable belief of the worker, tends to show one or more 'relevant wrongdoing' which came to the attention of the worker in connection with the workers employment and is disclosed in the manner prescriber in the Protected Disclosures Act, 2014. The Council has appointed the following person to receive protected disclosures in accordance with the Protected Disclosures Act, 2014: Ms. Helen Purcell, SEO, Enterprise and Corporate Services, Tel: 0404 20100, Email: [hpurcell@wicklowcoco.ie](mailto:hpurcell@wicklowcoco.ie)

Wicklow County Council is committed to ensuring that the culture and work environment are such that any employee/worker is encouraged and supported to report on any issue that may impact adversely on the council's ability to deliver high quality service and to facilitate the disclosure of wrongdoing and the protection of an employee/worker(s) who make such disclosures.

Consistent with the Council's existing policies, it is expected that any appropriate issue raised by an employee/worker with their line manager will be dealt with professionally and appropriately. This is essential to ensuring that all significant risks arising from the Council are identified and effectively managed. In addition, an employee/worker appropriately raising any issue of concern will not be penalized for doing so.

The disclosure under this policy should be made in writing or verbally to Wicklow County Council's Designated Officer. In the event of a verbal disclosure, the disclosure shall be recorded by the Designated Officer and signed by the discloser as an accurate record of their disclosure. A standard form for making a disclosure is available on the Wicklow County Council website.



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

6.1 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.

6.2 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**

6.3 Wicklow County Council is committed to supporting and protecting employees and others who raise legitimate and reasonable concerns, and such Individuals should be 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.

6.4 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.

6.5 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 will be respected by the Council.

6.6 The Contingency Plan, Section 8, sets out the actions to be undertaken when an allegation of fraud or corruption is reported.

### **Disciplinary Action**

6.7 Wicklow 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 appropriately

reporting matters to An Garda Síochána or other authorised body for the purpose of criminal proceedings against an individual depending on the severity of the case in question.

6.8 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.

6.9 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**

6.10 In accordance with the Council's Fraud and Corruption Contingency Plan, it is the responsibility of any one or all of the individuals set out above (in para 6.2) to notify An Garda Síochána, if there is sufficient evidence that fraud or corruption has occurred;

## **7. Communication of the Policy**

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

7.2 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.

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

## **8. Wicklow County Council's Fraud and Corruption Contingency Plan**

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

All Elected Members and Employees of Wicklow 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 6.2 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 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 are at least two interviewers;
- (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 Síochána. In such an instance, all evidence collected at this point should be made available to An Garda Síochána.

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.

### **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(s) affect Wicklow County Council.

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.

### **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 staff, 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 of the entity's state of affairs.
Removal or misuse of funds.

<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.
Deliberately or recklessly misleading a Court of Law/Criminal process.
Leaking of confidential information which may directly or indirectly influence the action of any person.

Please note: These lists 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 or 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; and
- an undertaking by him/her to have regard to and be guided by the relevant code of conduct in the exercise of his/her functions.

### **Code of Conduct for Members**

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

### **Code of Conduct for Employees**

Introduced in accordance with 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;

Act is available here: <http://www.irishstatutebook.ie/eli/2018/act/9/enacted/en/html>.

#### **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.