

# Monaghan County Council

## Anti Fraud and Corruption Contingency Plan



Adopted by Management Team on 8<sup>th</sup> June 2018



**Monaghan County Council  
Governance and Corporate Section**

**Title:** Anti Fraud and Corruption Contingency Plan

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**Reviewed/Approved by Management Team:** 08.06.18

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## 1. INTRODUCTION

This document details Monaghan County Council's policy towards detected or suspected acts of fraud or corruption, relating to members, employees and/or other persons in a position designated by the Chief Executive (e.g. consultants or others providing a service to a local authority).

Monaghan County Council must demonstrate clearly, that it is firmly committed to dealing with fraud and corruption and will deal equally with perpetrators internal and external. It should be noted that there will be no distinction made in investigation and action between cases that generate financial benefits and those that do not.

This policy supersedes previous Anti Fraud and corruption policies in this regard.

## 2. FRAUD

No precise legal definition of fraud exists. It is for the court to determine in a particular instance whether fraud has occurred. For the purposes of this policy 'fraud' comprises the use of deception to obtain an unjust or illegal financial or personal advantage. This may or may not involve intentional misrepresentations affecting the financial statements or other records by one or more individuals among management, employees, members or third parties. Examples of what fraud may involve can be found at [Appendix 1](#).

## 3. 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 decisions and licences. Examples of corruption may be found at [Appendix 2](#).

## 4. CULTURE

The culture of Monaghan County Council is founded on fundamental Public Service Values which include; accountability, integrity, efficiency, impartiality, honesty, loyalty, equity, and delivering value.

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#### 4.1 ACCOUNTABILITY

Actions of Monaghan County Council employees, members and other persons working on behalf of the Council must be capable of withstanding comprehensive scrutiny. In other words, an individual is held responsible for any action or inaction by him/her in his/her line of duty to the Council.

#### 4.2 INTEGRITY

Integrity implies not merely honesty but fair dealing and truthfulness. Each individual must demonstrate honest and ethical conduct in fulfilling his/her duties, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships.

#### 4.3 VALUE

All members, employees and others in positions designated by the Chief Executive should be seen to be serving the common good. Therefore it is the role of all Monaghan County Council staff and members to work solely in the public interest and within the law in order to provide services efficiently, effectively and economically.

In accordance with this culture, Monaghan County Council is committed to eliminating wrongdoing within the organisation and ensuring that all allegations received, including those by anonymous means will be treated in an appropriate manner.

### 5. PROTECTED DISCLOSURES

Monaghan County Council has established the [Monaghan County Council Protected Disclosures Policy and Procedure](#), in accordance with Section 21(1) of the Protected Disclosures Act 2014. The Council has appointed the following person(s) to receive Protected Disclosures in accordance with the Protected Disclosures Act, 2014. The contact details for the Designated Officer (designated to receive disclosures in the Council) is as follows;

Ms. Carmel Thornton, Administrative Officer, Corporate Services, 047 30538 Email: [c Thornton@monaghancoco.ie](mailto:c Thornton@monaghancoco.ie)

If making a Protected Disclosure, please refer to the Protected Disclosure Policy and Procedure guidelines above.

### 6. ETHICAL FRAMEWORK FOR LOCAL GOVERNMENT SERVICE

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.

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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 completed declarations submitted. The Ethics Registrar is responsible for maintaining the Register and will write to members and relevant employees annually to update the Register.

Section 170 of the Local Government Act 2001 states “ 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 for anything done or not done by virtue of his or her employment or office”. See [Appendix 3](#) for relevant legislation.

## 7. PREVENTION

Prevention is the key to ensuring an environment is free from fraud and corruption. As such all stakeholders of Monaghan County Council have a role to play. Stakeholders should raise the issue of suspected fraud or possible corruption with any one or all of the following parties;

- ◆ Chief Executive
- ◆ Director of Services
- ◆ Head of Business unit
- ◆ Line Manager
- ◆ Internal Auditor
- ◆ The Protected Disclosures Officer

Individuals reporting suspected or possible activities 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.

### 7.1 THE ROLE OF ELECTED MEMBERS

The general conduct and behaviour of the elected members in carrying out their role is an important indicator by which the honesty, integrity, impartiality and performance of Local Government is judged and public trust is maintained. The Code of Conduct for Councillors should be adhered to at all times, with these core values underpinning the work and role of the Elected Member.

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;

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- ◆ 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.

## 7.2 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 addition to all other Monaghan County Council policies, rules and regulations 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. Such risk assessment(s) are an integral part of identifying areas vulnerable to fraud and corruption including the likelihood and impact of its occurrence.
- ◆ 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. It is a criminal offence to give an auditor information or explanations which are misleading, false or deceptive.
- ◆ Ensuring that to the best of their knowledge and belief, financial information whether used in the entity or for financial reporting is reliable.

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.

## 7.3 THE ROLE OF EMPLOYEES

Each employee is governed in their work by the Code of Conduct for Employees and other policies on conduct and communications. The core values underlying the code include

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honesty, impartiality, integrity and serving the common good. Included in the Council policies, are guidelines on gifts and hospitality and codes of conduct associated with professional and personal conduct and conflict of interest. These are issued to all employees 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 ensuring that instructions given by management, especially relating to the safeguarding of assets are abided by.

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 work place. In this regard they should alert the appropriate person in line with Section 7 of this document to fraud or suspected fraud
- ◆ Alert management to weaknesses in control systems
- ◆ Comply with the Council's relevant communications and data security policies
- ◆ Assist in any investigation that may arise in respect of fraud or suspected fraud

It is the responsibility of the Head of Information Systems to have a policy in place to ensure, where practicable, that the proper controls, practices, and procedures exist to protect the Council against computer fraud and also to ensure that security measures are in place to protect the availability, confidentiality and integrity of IS systems and data.

#### **7.4 CONFLICTS OF INTEREST**

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 externalisation of services, tendering, planning and land issues etc. Individuals must never seek to use their official position so as to benefit improperly 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.

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## 7.5 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/ official nominated by Chief Executive will investigate all cases of suspected irregularity, fraud or corruption advised to it in accordance with agreed procedures.

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 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 to reduce risks and prevent losses to the organisation. Internal Audit is governed by a Charter which sets out its roles and responsibilities.

## 7.6 THE ROLE OF AUDIT COMMITTEE

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

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

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### **7.7 THE ROLE OF EXTERNAL AUDIT**

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.

The external auditors plan, perform and evaluate their audit work in order to have a reasonable expectation of detecting material misstatements 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.

### **7.8 THE ROLE OF THE PUBLIC**

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

## **8. DETERRENCE**

### **8.1 PROSECUTION**

In terms of proceedings Monaghan County Council will ensure consistency in its action in specific cases in order to deter others from committing offences against the organisation.

### **8.2 DISCIPLINARY ACTION**

Theft, fraud and corruption are serious offences which may constitute serious misconduct against the organisation and any individual found to have committed such offence(s) will face disciplinary action. Disciplinary action and/or criminal proceedings will be taken depending on the severity of the case in question. Where Monaghan County Council has suffered a financial loss due to theft, fraud or corruption the Council will consider the recovery of the loss.

### **8.3 DETECTION AND INVESTIGATION**

Internal audit plays an important role in the detection of fraud and corruption. 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.

In addition to internal audit there are numerous systems and management controls in place to deter fraud and corruption. However, it is often the vigilance of employees and members of the public that aids detection. As a result any allegations of improper behaviour will be

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dealt with in accordance with Monaghan County Council's Anti-Fraud and Corruption Contingency Plan.

## 9. CONFIDENTIALITY

Where an individual becomes aware of, or suspects that there may be, instances of fraudulent conduct, they should report same to the appropriate person in line with Section 7 of this document.

When discussing with management, findings which indicate the possibility of fraud, 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.

## 10. REPORTING

In accordance with Monaghan County Council's Anti-Fraud and Corruption Contingency Plan, it is the responsibility of any one or all of the following individuals to notify An Garda Síochána, if there is sufficient evidence that fraud or corruption have occurred;

- ◆ Chief Executive and/or
- ◆ Chairperson of the Audit Committee and/or
- ◆ Internal Auditor and/or
- ◆ Cathaoirleach and/or
- ◆ Person in section 7

## 11. CONCLUSION

Monaghan County Council has always prided itself on setting and maintaining high standards and fostering a culture of accountability, integrity and value. This policy supports the Council's aim to maintain an honest organisation, free from fraud and corruption in the work place and in carrying out its duties in the delivery of services on behalf of its citizens and customers.

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## ANTI FRAUD AND CORRUPTION CONTINGENCY PLAN

All Elected Members and Employees of Monaghan County Council have a responsibility to report suspected fraud or corruption.

**Note:** Any individual suspecting fraud or corruption should not under any circumstances, attempt to carry out their own investigations.

### Reporting of suspected Fraud or Corruption

1. Suspicions and/or evidence of Fraud or Corruption should be reported in line with Section 7 of this document as appropriate.
2. Recipient must forward information obtained and /or discuss with the Chief Executive at the earliest possible opportunity. A Protected Disclosure should be made in accordance with the Monaghan County Council Protected Disclosure policy. See the link to this policy in point 5 above.
3. The Chief Executive and/or Internal Auditor/ nominated official should document the information reported.
4. Decisions regarding the appropriate form of investigation are a matter for the Chief Executive in consultation with the Chairperson of the Audit Committee and/or the Internal Auditor or other appropriate individual or body.

### Fraud and Corruption Investigation - Checklist

- ◆ 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 terms of money and reputation.
- ◆ 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).

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- ◆ 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 Chief Executive, suspension on full pay pending a full investigation.
- ◆ Secure all evidence.
- ◆ Identify all internal and external sources of information and evidence.
- ◆ Prepare for interviews.
  - (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.
- ◆ It is the responsibility of any one or all of the following persons to inform An Garda Síochána if there is sufficient evidence that fraud or corruption has occurred; Chief Executive, Chairperson of the Audit Committee and/or Internal Auditor and/or Cathaoirleach of Monaghan County Council or any other nominated employee. If the matter is referred, all evidence collected at this point should be made available to An Garda Síochána.
- ◆ Disciplinary action will be taken against all persons whose fraudulent and/or corrupt activity(s) affect Monaghan County Council.
- ◆ Recovery of funds and/or assets will be sought after where relevant.
- ◆ If enquiry is inconclusive, consider internal measures to be taken e.g. further investigation, changes in procedures, disciplinary action, transfer of staff, external reporting requirements.

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- ◆ On completion of investigation, review the process and consider improvements to the process.
- ◆ 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.
- ◆ 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. All relevant offences under this Policy Document should be reported to An Garda Síochána, under Section 19 of the Criminal Justice Act 2011.

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## **APPENDIX 1**

### **FRAUD MAY INVOLVE;**

**Internal Fraud** examples would include;

- ◆ Payment of false invoices.
- ◆ Failure to record/account for monies received.
- ◆ Dealing inappropriately with claims/submissions.
- ◆ 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.
- ◆ Failing to record any leave type on the leave system in operation.
- ◆ Falsification of travel and subsistence and/or any other expense claims
- ◆ 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 on the entity's state of affairs.
- ◆ Misuse of Council's LVP card.

**External Fraud** may be defined as fraud committed against the Council by persons outside the organisation.

Examples would include;

- ◆ False or exaggerated compensation claims
- ◆ False statement(s) in grant applications
- ◆ False invoices for payment

**Note: These lists are not exhaustive.**

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## APPENDIX 2

### EXAMPLES OF CORRUPTION;

- ◆ Accept or solicit a bribe.
- ◆ Leaking of confidential information which may directly or indirectly influence the action of any person.
- ◆ Collusion to steal or misuse Monaghan County Councils resources.
- ◆ Improper or unauthorised use of funds and/or assets.
- ◆ Office holder or government employee acts in an official capacity for his or her own personal gain.
- ◆ Arrange for a colleague or any other person to record your clock in's or out's in order to disguise the fact that you were not present at work.

**Note: This list is not exhaustive**

## APPENDIX 3

### RELEVANT LEGISLATION

#### 1. The Ethics Framework Part 15 of the Local Government Act 2001

Section 170 states that an employee or a member of a local authority or of a committee 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 for anything done or not done by virtue of his/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 interest, 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** – June 2004 was introduced in accordance with the Local Government Act 2001. The purpose of the Code is to set 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.

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**Code of Conduct for Employees** – January 2007 was also introduced in accordance with the Local Government Act 2001. The purpose of the Code is to set out principles and standards of conduct and integrity for local authority employees, to inform the public of the conduct it is entitled to expect and uphold public confidence in local government.

## **2. Criminal Justice Act 2011**

Section 19 states that a person shall be guilty of an offence if he or she has information which he or she knows or believes might be of material assistance in –

- a. *“preventing the commission by any other person of a relevant offence, or*
- b. *securing the apprehension, prosecution or conviction of any other person for a relevant offence, and fails without reasonable excuse to disclose that information as soon as it is practicable to do so to a member of the Garda Síochána”.*

See schedule 1, of the Criminal Justice Act 2011 for a list of Relevant Offences.

## **3. 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.

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