



Fermanagh & Omagh  
District Council

Comhairle Ceantair  
Fhear Manach agus na hÓmaí

# **Fraud and Corruption Policy**

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## Introduction

Fermanagh and Omagh District Council is committed to carrying out business fairly, honestly and openly and has a zero tolerance towards fraud, bribery and corruption.

Fermanagh and Omagh District Council expects full compliance with the requirements of the Bribery Act 2010 from Councillors, Employees, Agents, Partners, Suppliers and Groups or Individuals applying for, or in receipt, of grant aid.

Fermanagh and Omagh District Council is committed to developing, implementing and maintaining effective procedures and controls to prevent any occurrence of fraud and corruption.

Any suspected cases of fraud or corruption will be fully investigated.

Such investigations may result in disciplinary and/or legal proceedings and changes to policies, systems and procedures. Strict confidentiality will be maintained during any investigation.

All business and commercial organisations are exposed to a certain risk of fraud or corruption. However, with proper systems and controls, the risk of a fraud being perpetrated can be minimised. With proper management and appropriate control procedures in place, any fraud which does occur can be promptly detected and dealt with in an appropriate manner.

It is especially important for an organisation in the Public Sector, such as Fermanagh and Omagh District Council, to have such systems, controls, management and procedures because the Council has to exercise a stewardship role over public funds.

It is not enough to avoid actual impropriety - it is important that Council Officers avoid any occasion for suspicion or the appearance of improper conduct.

This policy has been prepared in accordance with guidelines issued by the Local Government Auditor (LGA).

## 1. Aim

The purpose of this Policy is to document the Council's approach to Fraud and Corruption. This policy will be supported by detailed procedures.

## 2. Scope

The Fraud and Corruption Policy is relevant to all Councillors, Employees, Agents, Partners, Contractors, Suppliers, Groups or Individuals and Service Users.

## 3. Objectives

The objective of this Policy is to ensure that the approach of the Council to Fraud and Corruption is open, clear and transparent to all.

## 4. Policy Responsibility

The Director of Corporate Services and Governance has overall responsibility for the implementation and monitoring of the Fraud and Corruption Policy.

## 5. Review

This policy will be subject to scrutiny and, from time to time, updates and re-issues will be circulated.

## 6. Definitions

The Fraud Act (2006) provides for a general offence of fraud, with three defined ways of committing fraud. These are:

- Fraud by false representation;
- Fraud by failing to disclose information; or
- Fraud by abuse of position.

The Act supplements other legislation, such as the Theft Act (NI) 1969 and the Theft (NI) order 1978, which have been traditionally used to cover criminal acts that have generically been referred to as fraud; acts such as bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation and collusion.

The Fraud Act (2006) created three offences to assist in the fight against fraud. These include: obtaining services dishonestly; of possessing, making and supplying articles for use in frauds; and fraudulent trading.

Fundamentally the Act requires that the person committing the fraud must do so with the **intention** of making a gain or causing loss or risk of loss to another. The key factor to consider is the intention of the individual concerned, not whether a gain or loss has actually taken place.

Appendix 1 details examples of common methods and types of Fraud.

## **Bribery and Corruption**

Corruption may be defined as an abuse of entrusted power for private gain and encompasses all acts demonstrating a lack of integrity, including bribery. It should be noted that proven corruption is a serious criminal offence.

Corruption covers matters such as:

- to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in his/her official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained (from paragraph 4.10 of the Code of Conduct for Local Government Employees April 2015);
- failure to follow Council standing orders without satisfactory explanation and/or approval regarding quotations and tenders to knowingly benefit a particular supplier; and
- money laundering, which is the process by which criminally obtained money or other assets are exchanged for clean money or assets with no obvious link to their criminal origins. The four main offences are concealing, arranging, acquisition/use/possession and tipping off.

It is important to note that the acceptance of hospitality does not necessarily indicate corruption, and that there can be legitimate reasons why procedures regarding quotations and tenders are occasionally not followed. These issues are discussed later in this policy. Guidance in relation to gifts and hospitality is given in paragraph 4.12 of the Code of Conduct for Local Government Employees April 2015.

Under the Bribery Act 2010 it is a serious criminal offence to:

- Offer, promise or give someone a reward to induce them to perform their functions or activities improperly;
- Accept, agree to accept or request a reward in return for performing a relevant function or activity improperly; or
- Bribe a foreign public official in order to win business, keep business or gain business advantage for the organisation.

(from paragraph 4.4 of the Code of Conduct for Local Government Employees April 2015)

A reward may be a financial or other advantage.

The Act creates a new criminal corporate offence of failing to prevent bribery.

## **Theft**

Theft is the physical misappropriation of cash or other tangible assets. A person is guilty of theft if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

## **7. Fraud Risk Assessment**

The Fraud Risk Assessment evaluates and assesses risk areas and is reviewed at regular intervals to ensure that any new fraud risks are identified and addressed. The outcome of the Fraud Risk Assessment will be presented to the Audit Panel annually.

## **8. Reporting Suspicion and Fraud Response Plan**

### **Reporting Suspicion**

It is important that any potential case which could involve fraud or corruption is dealt with in the strictest confidence.

Any alleged incident which could constitute fraud or corruption, or any suspicion held by an Officer or Member should be reported either to: -

- the Line Manager and Head of Department at the earliest opportunity;  
**OR**
- directly to Chief Executive or Director of Corporate Services and Governance or Internal Auditor.

The Head of Department or the Line Manager must notify the Director of Corporate Services and Governance, as he/she is responsible for the Internal Audit function of the Council, and he/she will decide how the matter should be dealt with or investigated.

Investigations into any alleged incident should not take place prior to notifying the Director of Corporate Services and Governance or Chief Executive.

All allegations as to fraud or corruption must ultimately be reported to the Director of Corporate Services and Governance and Chief Executive.

Where there is suspicion of fraud or corruption, the LGA will be informed using the template: 'Initial Notification of Frauds to the Local Government Auditor' – attached at Appendix 2.

The interests of the person who reports the alleged incident will be protected as far as possible and they will be informed that the investigation has been successfully concluded. However employees should be aware that where they report an alleged fraud it will not always be possible to provide anonymity, especially if legal action will result and/or where disciplinary action may be necessary against another employee.

Failure to report an incident which could constitute fraud or corruption could in itself lead to disciplinary action, if proven.

The Council also operates a Raising Concerns Policy so that if a person becomes aware of activities he/she believes to be illegal, improper, unethical or otherwise inconsistent with the Fraud and Corruption Policy or Code of Conduct for Local Government Employees April 2015, the person should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure (Northern Ireland) Order 1998 (amended as a result of The Employment Act (Northern Ireland) 2016 (Commencement No.1) Order (Northern Ireland) 2017) and with the Council's confidential reporting procedure, or any

other procedure designed for this purpose.

## **Response Plan**

### **Initial investigation**

On receiving allegations of suspected fraud or other financial impropriety, the Director of Corporate Services and Governance will, as appropriate liaise with Human Resources, the relevant Director/Head of Department and the Council's solicitor and carry out some initial enquiries. This is to determine the potential validity of the allegations and to evaluate whether fuller investigation is or may be required. Cases which do not relate to allegations of fraud or financial impropriety will be referred directly to management to consider further investigation.

If staff are implicated at this stage, an investigation under the Disciplinary Policy and Procedure should be initiated and if there is a potential charge of gross misconduct suspension should be considered.

### **Detailed investigation**

Where initial enquiries indicate that fraud or other financial impropriety may have occurred the Director of Corporate Services and Governance will:

- initiate a detailed confidential investigation and develop terms of reference for the investigation (including allocation of resources);
- take immediate steps to safeguard any evidence and prevent the risk of losses;
- consider recommending immediate referral to the PSNI; and
- liaise with Human Resources, the Council's solicitor and the relevant Director/Head of Department, as appropriate, regarding the above issues.

Depending on the conclusions reached by the detailed investigation, the following actions are all possible outcomes:

- no action, if there is insufficient evidence to support the allegations;
- recommendation to refer the matter to the PSNI if there is sufficient evidence that a criminal act may have occurred;
- possible action under the Council's disciplinary procedures; and
- recommendations to management to improve internal controls in the area(s) affected.

In all cases the Council will co-operate fully with the PSNI and pursue prosecutions where possible. In exceptional circumstances the Director of Corporate Services and Governance may meet with the PSNI to decide who is best placed to undertake further investigation.

## **Overall Reporting**

The Director of Corporate Services and Governance is responsible for reporting Fraud and Corruption to the Audit Panel or the Chair of the Audit Panel in line with the Audit Panel Terms of Reference.

## **9. Role of Internal Auditor**

The responsibility for the development and maintenance of appropriate systems and controls lies with Management. However, internal audit can play an important role by

examining and evaluating the adequacy and effectiveness of those systems and controls.

The normal audit work will be planned and carried out in such a way that there is a reasonable expectation of detecting fraud or irregularities.

In the case of a suspected fraud and at the request of the Director of Corporate Services and Governance, Internal Audit may be asked to conduct or participate in an investigation in line with the Internal Audit Charter. They may also be asked to make recommendations regarding the nature and extent of investigation considered necessary, if such is to be carried out internally.

## **10. Register of Interest**

In order that no suspicion of fraud or corruption can be identified, The Local Government Act 1972 requires that a register be maintained, as outlined below.

Section 46 of the Act requires that a register be kept to record the pecuniary interests of Council employees in contracts, proposed contracts or other matters.

Employees should review regularly their personal circumstances and take steps to deal with any potential conflict of interest. Employees must declare to the Head of Human Resources and Organisational Development any financial or non-financial interests that they consider could bring about conflict with the Council's interests, for instance:

- membership of an organisation receiving grant aid from the Council;
- membership of an organisation or pressure group which may seek to influence the Council's policies;
- membership of an organisation which may seek to influence the performance of an employee in carrying out their duties; and
- having a beneficial interest in land which is within the Council's district and is subject to any planning application.

Employees who have an interest, financial or non-financial, should not involve themselves in any decision or allocation of Council services or resources from which they, their friends, persons to whom they owe (or are owed) an obligation, or family might benefit and should ensure that the matter is referred immediately to the Line Manager and the Head of Human Resources and Organisational Development.

The register is kept by the Head of Human Resources and Organisational Development; and is available for inspection during normal working hours by the Chief Executive and the auditors.

The Council recognises and respects the right of all employees to become members of organisations. It only requires that employees declare personal interests where there is, or could be perceived to be, a conflict of interest between their duties as an employee and their membership of the organisation. (from paragraph 4.7 of the Code of Conduct for Local Government Employees dated April 2015)

Any queries regarding pecuniary interests should be addressed to the Chief Executive.

## **11. Relationships with Suppliers/contractors, Third parties, Planning Applicants and those applying for Council Grant**

- All relationships with suppliers/contractors or potential suppliers/contractors or applicants for planning consent or grant must be made known to the appropriate manager (Line Manager and the Head of Human Resources and Organisational Development). Similarly any beneficial interest or licence in respect of land which is affected by a planning application must be made known to the appropriate manager (Line Manager and the Head of Human Resources and Organisational Development);
- Orders and contracts, grants and planning decisions must be decided on merit and no special favour should be shown in the procurement process to any businesses or potential suppliers particularly those run by, for example, friends, persons to whom the employee owes (or is owed) an obligation, partners or persons where a family relationship is deemed to exist (see Appendix 1 of the Code of Practice for Local Government Employees April 2015, for a definition of 'family relationship');
- Employees who deal with, engage or supervise contractors or process or determine applications under delegated powers with whom they have previously had, or currently have, a relationship in a private or domestic capacity, should declare that relationship to the appropriate manager (Line Manager and the Head of Human Resources and Organisational Development) as soon as they are aware;
- Employees must not accept money or any other reward from any organisation, body or individual who may benefit from work or funding provided by the Council. To do so would, in law, be corrupt.

(from paragraph 4.4 of the Code of Conduct for Local Government Employees April 2015)

## **12. Hospitality and Gifts**

Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when they are part of the life of the community or where the Council should be seen to be represented. They must be properly authorised by the relevant Director or the Chief Executive and reported to the Head of Human Resources and Organisational Development.

When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating, within the Council.

Employees should not accept significant personal gifts from contractors, members of the public and outside suppliers, but insignificant items of token value such as pens, diaries; etc. can be retained by employees.

When considering whether or not to accept authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality, for instance, during a tendering period of a contract for which the provider may be bidding.

Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where:

- it is clear that the hospitality is corporate rather than personal;
- where the Council or the Chief Executive approves in advance; or
- where the Council is satisfied that any procurement decisions are not compromised.

Where a visit is necessary, to inspect equipment for example, the Council should consider meeting the cost of the visit to avoid jeopardising the integrity of the Council in subsequent procurement decisions. (See also 4.12 of the Code of Conduct for Local Government Employees dated April 2015)

Occasionally, gifts may be offered to Officers by outside parties. These are normally small items such as diaries and pens. The recommendation of the Local Government Auditor is that gifts with a value of less than £20.00 be considered de minimis. Any offers of gifts with a value in excess of this should be refused.

### **13. Fidelity Guarantee Insurance Cover**

The Council will have in place appropriate Fidelity Guarantee insurance cover. This is insurance against the misappropriation of Council funds by an employee.

### **14. Quotations and Tenders**

The Council has a Procurement Policy and associated regulations contained in its Financial Regulations which are included in the Council's Constitution. The Policy and Regulations are supported by an Accounting Manual and Procurement Procedures relating to the processes to be undertaken regarding obtaining quotations or inviting tenders for goods or services, and the financial limits involved are updated regularly.

It is especially important that the Policy, Regulations and procedures are adhered to in order that it can be clearly demonstrated that all appropriate steps have been taken to ensure that value for money is achieved, and to avoid any suspicion of corruption.

### **15. National Fraud Initiative (NFI)**

Fermanagh and Omagh District Council is required to protect the public funds it administers. It may share information provided to it with other bodies responsible for auditing or administering public funds, in order to prevent and detect fraud.

The Comptroller and Auditor General (C&AG) audits the accounts of the Council and they are responsible for carrying out data matching exercises under their powers as described in Articles 4A to 4G of the Audit and Accountability (Northern Ireland) Order 2003. Data matching involves comparing computer records held by one body against other computer records held by the same or another body to see how far they match. This is usually personal information. Computerised data matching allows potentially fraudulent claims and payments to be identified. Where a match is found it indicates that there may be an inconsistency that requires further investigation. No assumption can be made as to whether there is fraud, error or other explanation until an investigation is carried out.

The C&AG currently requires the Council to participate in a data matching exercise to assist in the prevention and detection of fraud. Data protection legislation

requires that data must be processed lawfully, fairly, in a transparent manner and for specified and legitimate purposes. In addition, data controllers must inform individuals that their data will be processed. The Council, as a data controller, must therefore provide a written notice, known as a privacy notice, which contains the information required by data protection legislation. Guidance is available from the Information Commissioner's website at: <https://ico.org.uk/for-organisations/guide-to-data-protection/>. Data matching by the C&AG is subject to a Code of Practice.

The Council's general Privacy Statement is set out on: <https://www.fermanaghomagh.com/your-council/privacy-statement/>

## Appendix 1

### **Fraud covers matters such as:**

- destroying, concealing, alteration or falsification of documents or records;
- omission of transactions or their effects from financial records or other documents;
- creating false transactions; and
- misappropriation of Council property, including cash or misuse of Council facilities; including telephone and stationery.

### **Specific examples of Fraud:**

- *Payment for Work not performed*
- *Forged endorsements*
- *Altering amounts and details on documents*
- *Collusive bidding*
- *Overcharging*
- *Writing off recoverable assets or debts*
- *Unauthorised transaction*
- *Selling information*
- *Altering stock records*
- *Altering sales records*
- *Cheques/payments made out to false persons*
- *False persons on payroll*
- *Unrecorded transactions*
- *Transactions (expenditure/receipts/deposits) recorded for incorrect sums*
- *Cash stolen*
- *Collusion with suppliers*
- *Supplies not recorded at all*
- *False official identification used*
- *Using copies of records and receipts*
- *Using imaging and desktop publishing technology to produce apparent original invoices*
- *Charging incorrect amounts with amounts stolen*
- *Delayed terminations of payroll*
- *Bribes*
- *Over claiming expenses*
- *Skimming odd pence and rounding*
- *Running a private business with official assets*
- *Falsifying signatures*
- *False compensation and insurance claims*
- *Stealing of discounts*
- *Selling waste and scrap*
- *Stealing fuel*
- *Stealing assets – computers, mobiles etc.*
- *Misuse of IT equipment*

## Appendix 2

### Initial Notification of Frauds to the Local Government Auditor

1	Fraud reference Number (unique identifier)	
2	Name of body (e.g. specific district council or other local government body)	
3	Name of department/division in district council/ other local government body	
4	Specific location of fraud (e.g. name of depot)	
5	Date fraud or suspected fraud discovered?	Click here to enter a date.
6	Is the case being reported as actual, suspected or attempted fraud?	Choose an item.
7	Type of fraud?	Choose an item.
8	What was the cause of the fraud?	Choose an item.
9	Brief outline of case	
10	Amount of loss or estimated value	£
11	How was the fraud discovered?	Choose an item.
12	Who perpetrated the fraud?	Choose an item.
13	Has PSNI been notified?	Choose an item.
14	Any other action taken so far?	Choose an item.
15	Please give contact details for this fraud in case follow up is required	Name:  Telephone:  Email:

See Notes:

# Initial Notification of Frauds to the Local Government Auditor

## Notes

### 1. Types of fraud

- Grant related
- Theft of assets (please state type of asset e.g. cash, laptop, oil, tools, camera)
- Payment process related
- Income related
- Pay or pay related allowances
- Travel and subsistence
- Pension fraud
- Contractor fraud
- Procurement fraud
- False representation
- Failure to disclose information
- Abuse of position
- Other (please specify)

### 2. Causes of fraud

- Absence of proper controls
- Failure to observe existing controls
- Opportunistic
- Unknown

### 3. Means of discovery of fraud

- Normal operation of control procedures
- Raising Concerns (internal or external)
- Internal Audit
- External
- Computer analysis/National Fraud Initiative
- Other means (please specify)

### 4. Perpetrators of Fraud

- Internal staff member
- Contractor
- Funded body/grant applicant
- Other third party (please specify)
- Collusion between internal and external parties
- Too early to determine
- Unknown

### 5. Other actions taken

- Controls improved
- Control improvements being considered
- Too early to determine
- No action possible
- Disciplinary action
- Prosecution