



Comhairle Contae Mhaigh Eo  
Mayo County Council

## **FRAUD PREVENTION & CONTINGENCY PLAN**

March 2022

<b>Document information</b>			
Title	Fraud Prevention & Contingency Plan		
Document type	Corporate Policy	Version no.	3
Prepared by	Corporate Development Section, Mayo County Council		
Recommended by	Audit Committee	Date recommended:	30 <sup>th</sup> March 2021
Approved by	Senior Management Team	Date approved: Updated	31 <sup>st</sup> May 2021 15 <sup>th</sup> March 2022
Responsibility for review	Corporate Development	Date of Next Review	31 <sup>st</sup> May 2024
Related policies	Protected Disclosures Policy Ethnics Framework Codes of Conduct Dignity at Work Policy		

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## **1. Introduction**

### **1.1 Purpose**

The purpose of this document is to provide a framework for the development throughout the organisation of procedures and practices to counter fraud. It sets out Management's and Employees' responsibilities in the prevention of fraud and the action to be taken where a fraud is suspected or detected.

The Council requires employees to act honestly and with integrity and to safeguard the public interests for which they are responsible. This is underpinned in the Local Government Act 2001 and is also set out in the "*Code of Conduct for Employees*".

It is the Council's expectation that all employees and elected members will lead by example in ensuring adherence to rules and regulations. It is expected that all approved procedures and practices will be reviewed to ensure that they represent best practice.

The Council also requires that any individuals or organisations with whom the Council deals in any capacity will behave towards the Council with integrity and without intent or actions involving fraud or corruption.

Reference should also be made to the following Mayo County Council policy documents

- Mayo County Council's Protected Disclosure Policy and related procedures
- Mayo County Council's Codes of Conduct for Employees

### **1.2 Scope**

Whilst the principles of this policy and related ethical framework applies to all Mayo County Council employees, elected members, persons appointed by the Chief Executive (e.g. consultants, contractors) and other third parties working on behalf of the Council), the procedures predominately apply to employees.

It is essential that all employees are aware of the possibilities of fraud and are conscious of their individual duties and responsibilities in preventing it. In view of the wide range of activities which Mayo County Council are engaged in; it is possible that opportunities for fraud may occur either from individuals or groups within the organisation.

### **1.3 Context**

This policy up-dates Mayo County Council's previous Fraud Prevention and Contingency Plan (2009), 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.

The Council is committed to taking all practical steps to prevent fraudulent or corrupt activity. Outside bodies that receive funding/grants will be expected to adhere to the principles contained in this document.

Council employees are an important element in the stance against fraud and corruption and are positively encouraged to raise any concerns that they have on issues that impact on Council activities. Confidential reporting mechanisms have been established to allow employees / members to report suspected fraud. Appropriate disciplinary action will be taken against those involved in fraud and the matter may be reported to the Gardaí. Action may also be taken against those whose lack of supervision / control may have facilitated the fraud, or employees who are aware of suspicious activity and make no effort to take appropriate action.

## **2. Fraud policy statement**

### **2.1 Policy statement**

*Mayo County Council endeavour to achieve openness, transparency and accountability by establishing best practice and regular monitoring of activities and functions, thus creating an environment that deters fraud. All cases of fraud or suspected fraud will be investigated immediately. Recovery of losses arising from fraud will be pursued. Disciplinary action will be taken against employees involved in fraud and action may also be taken against employees whose negligence through lack of supervision and control may have facilitated the event. Prosecutions will be pursued, as appropriate. The Council is determined that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud and corruption. An awareness of the risk of fraud or potential for fraud should be incorporated into regular procedures.*

## **3. Definition of fraud & corruption**

### **3.1. Fraud**

For the purpose of this policy, fraud is any dishonest act or omission that causes loss to the Council, 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. Fraud can be committed at all levels within the organisation, from higher level transactions to routine everyday activities.

### **3.2. Corruption**

Corruption is a specific type of fraud which involves two or more people where one party offers, gives, solicits or accepts any inducement, reward, advantage or benefit, financial or otherwise, which may influence the action of another. There are three main areas of concern with regards to corruption namely, tendering and awarding of contracts, appointment of consultants, planning consents and licences. Examples of corruption may be found in Appendix 1.

The Criminal Justice Act 2018 creates the offence of *active* and *passive* corruption, defined as either directly or indirectly corruptly offering/giving or corruptly requesting/accepting a

gift, consideration or advantage as an inducement or reward for any person doing an act in relation to his or her office of employment, position or business.

#### **4. Prevention and awareness guidelines**

##### **4.1 Corporate governance**

Corporate governance is the system by which organisations direct and control their functions and relate to their stakeholders. It is the way in which organisations manage their business, determine strategy and objectives and go about achieving those objectives. The fundamental principles are openness, integrity, accountability and effectiveness. At the heart of the organisation's system of corporate governance is their internal control framework.

The main components of an internal control framework are:

- Robust Accountability Structure
- Risk Assessment and Management Processes
- Internal Audit
- Management Policies and Procedures such as: -
  - Code of Conduct for Employees
  - Procurement Policies and Procedures
  - Communications Policy
  - Grievance and Disciplinary Procedure
  - Financial Regulations and Procedures

##### **4.2 Ethical framework for the local government services**

Part 15 of the Local Government Act 2001 requires all relevant staff to complete a 'Declaration of Interests' by the last day of February each year. A public register is compiled from the completed declarations. Also, if during the normal course of their duties such an employee comes across a matter that they or a "connected person" has a pecuniary or beneficial interest in, they must disclose it in writing. Such disclosures are appended to the Public Register.

Staff are made aware of the Code of Conduct for Employees as issued through Corporate Affairs. Also, Section 170 of the Local Government Act 2001 states that an employee 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. The Ethic Officer is currently Patricia Donnelly [pdonnell@mayococo.ie](mailto:pdonnell@mayococo.ie)

##### **4.3. Protected disclosure**

Mayo 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 following person to receive protected disclosures in accordance with the Protected Disclosures Act, 2014: John Condon, telephone: 094 9064 143, email: [jcondon@mayococo.ie](mailto:jcondon@mayococo.ie)

#### **4.4 Facilitation of reporting**

Mayo County Council are committed to operating in an open and transparent manner and aim to be fully accountable in all their operations. The Council encourages staff, members and the public to bring to its attention any event which may occur within the workings of the Council which might be illegal, improper or unethical or likely to expose the Council to future liability. Reports can be made in the strictest of confidence. Any abuse however, of raising unfounded malicious allegations is considered to be a serious disciplinary matter.

#### **4.5 General Data Protection Regulations (GDPR) & Data Protection Act, 2018.**

GDPR came into effect on the 25th May 2018. The principal aim of the regulations is to enhance the rights of the individual with regard to the processing of personal data. There are two main types of data referred to in GDPR: personal data and special category data

##### **4.5.1 Personal data**

Personal data is data that relates to or can identify a living person, either by itself or together with other available information.

##### **4.5.2 Special category personal data**

Processing of personal data, revealing any of the following, shall be prohibited unless it comes under the exemptions in Article 9.

- Ethnic or racial origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Processing of genetic data
- Biometric data for the purposes of identifying a living person
- Mental or physical data
- Sexual life or orientation

The Council should be cognisant of the following to ensure compliance with GDPR:

<b>Awareness</b>	Ensure decision makers and key people in the organisation are aware of the implications of GDPR.
<b>Information</b>	A Retention Policy is in place for staff to list all personal data held and suitable retention periods for this data. This must be strictly adhered to. This document must remain under constant review.
<b>Communicating privacy information</b>	The Mayo County Council Privacy Statement is available on the website and is under constant review.
<b>Individuals' rights</b>	Procedures are checked to ensure they cover all the rights of individuals, including how you would delete personal data or provide data electronically.
<b>Subject access requests</b>	Procedures are updated and requests are met within the new timeframe (30 days). All SAR's must go through the Data Protection Officer.
<b>Lawful basis for processing data</b>	All data that is processed within Mayo County Council is processed lawfully. The lawful basis for processing must be identified where consent is not given.

<b>Consent</b>	Consent is obtained by Mayo County Council where applicable and must be documented appropriately.
<b>Children</b>	Update systems in place to verify individual ages and obtain parental or guardian consent where necessary (if the individual is under the age of 16 as per Data Protection Law).
<b>Data breaches</b>	Ensure procedures are in place to detect, report and investigate a personal data breach. All breaches must be reported to the Data Protection Officer within 72 hours of the initial breach identification.
<b>Data Protection Impact Statements</b>	Ensure the Council is aware of how and when to implement Data Protection Impact Statements.
<b>Data Protection Officers</b>	Ensure an individual is designated to take responsibility for data.

#### **4.6. Internal Controls**

It is the responsibility of management to ensure that adequate internal controls are in place in order to safeguard council assets. Local Authorities should not rely solely on internal control to prevent and detect fraud as a fraudster will be aware of the internal controls and may attempt to bypass them. It is important that all staff are aware that fraud can occur and that controls are in place to protect the organisation from any potential threat of fraud and to protect the public funds and resources which are entrusted to staff.

Strong internal controls are key elements in preventing fraud and more importantly, compliance with the controls. A good system of internal controls that identifies weaknesses and that is regularly reviewed will provide reasonable assurance that the organisation's objectives will be met. Procedures should be clearly defined, and staff made aware of their responsibilities.

There are 8 key areas of control:

i Segregation of duties:

A key control area is the separation of responsibilities or duties which if combined, would enable any one individual to have full control and authorisation of an operational area. Segregation of duties reduces the risk of intentional manipulation or error and increases the element of checking. Where segregation of duties is not feasible, this should be managed through closer supervision.

ii Organisation:

Clear lines of responsibility must be operated to ensure that employees are aware of their specific responsibilities and to whom they are responsible.

iii Physical controls:



Procedures and security measures should be reviewed on a regular basis at local level to ensure that access to assets etc. are restricted to authorised personnel. The appropriateness of controls in place in the case of valuable, portable or desirable assets will also be reviewed.

iv Management control:

Management has responsibility for the overall control of the organisation's activities including reviewing business plans and budgetary control and ensuring adherence to Corporate Policies.

v Personnel:

As far as possible procedures will be put in place for the selection of staff and subsequent training for carrying out duties and responsibilities. Where necessary, staff mobility will be encouraged.

vi Supervision:

All areas of operations are subject to checking by supervisory personnel. The level of supervision is relevant to the inherent risk of the activity being supervised, and prescribed procedures for local supervisors will be determined by management at local level.

vii Authorisation/Approval:

Transactions require approval by an appropriately responsible person, and this should be communicated and implemented. Individuals should never be permitted to process and approve their own transactions.

viii Arithmetic & Accounting:

All financial transactions must be approved by an authorised person. It is the responsibility of the authorised person to ensure that the transactions are accurately recorded, coded correctly and that proper approvals and processes are in place.

## **5. Risk assessment and management**

### **5.1. Risk overview**

Risk is the threat that an event, action or failure to act will adversely affect an organisation's ability to achieve its objectives or successfully execute its strategies. Risk management is the process by which risks are identified, evaluated and controlled.

The risks to be addressed as part of a risk management programme are wide ranging and include strategic, operational, financial and reputational risk. Risks should be properly assessed and managed. In Mayo County Council a risk register is prepared in respect of each of the Directorates. The register records the following information for each objective:

- A description of the risk
- Any mitigating actions being taken or controls in place.
- An assessment of the likelihood of the risk happening.
- An assessment of the impact if the risk were to happen.
- Further actions considered necessary to manage the risk or its impact.
- The person responsible for taking the actions.

The risk register will be a primary tool for risk tracking, and will contain the overall system of risks, and the status of any risk mitigation actions. The risk register when complete should be brought to the attention of all employees working in the Council in a clear and understandable manner taking into account their level of training, knowledge and experience.

## 5.2 Risks

The following risk factors must be considered by the Council for risk management purposes:

(i) Financial:

The scale of the risk depends on the amount of money involved, and the effectiveness of controls in place.

Some of the more common activities that are more open to fraud are:

<u>Expenditure</u>	<u>Income</u>	<u>Other</u>
Stocks	Cash office	Misuse of assets
Purchase/hire of machinery	Fees / fines	Insurance claims
Contract payments	Loan repayments	Unauthorised use of resources
Short-term employees	Debt collection	
Goods/services procurement	Agency work	
Allowances		
Irregular or unauthorised payments		

(ii) Personnel:

Management and staff should be aware of the common signs indicating possible fraudulent behaviour. While common signs should not, on their own, be considered suspect, matters such as behaviour, performance and attendance should be regularly monitored by supervisors and management, e.g. behaviours such as dramatic changes in lifestyle, extravagant spending, living beyond means, no holidays, unusual stress, sudden backlog of work and a large increase in number of unusual and unexplained hours worked.

(iii) External:

These risks deal with outside influences such as suppliers, competing firms, clients and customers.

(iv) Physical / Operational:

The physical aspect deals with access restrictions to assets such as cash, plant & machinery, stores and computers. This includes property fraud risks whereby fraudsters attempt to register as the owner of a property with the Land Registry in order to avail of a loan secured against that property.

The operational aspect deals with items such as:

- Information used for decision making,
- Quality of decisions made,
- Exploitation of opportunities to make gains,
- Reputation of the organisation.

(v) Cybercrime and cyber security

Computers may be used to carry out frauds, which were formerly carried out manually, e.g. falsely authorising a payment. All supervisors should have an understanding of the systems in their area. There must be controls on access to software and passwords should be protected.

It is essential that the Information Systems (“IS”) Department have policies in place to ensure that the proper controls, practices and procedures exist to protect the Council against cybercrime and ensure that security measures are in place to protect the availability, confidentiality and integrity of IT systems and data. Mayo County Council’s IS Department holds ISO27001 Information Security Management certification and maintains a robust set of security policies that are under continuous review.

Cyber security is an integrated approach to preparing, protecting, detecting and responding to cyber threats. It refers to the technologies, processes and practices, both digital and human, designed to protect IT networks, programs and data from attack, damage, compromise or unauthorised access. Mayo County Council uses a proactive prevention approach. There are a number of spam filters in operation that provide email filtering services for content and attachments. Spam filters keep unwanted email spam from reaching the network. They manage data entering and leaving the network via email. All inbound/outbound email is scanned. To further protect against cyber threats, all links with emails are scanned for threats. If the link is safe, you will be brought to the website. If it is a compromised link, you will not be able to proceed.

Username/Passwords

The use of usernames and passwords are a critically integral part of any operating system. Users should be cognisant of their responsibilities with regard to maintaining the secrecy of both their usernames and passwords. Each member of staff who has been allocated a password into the system represents a potential security risk to the organisation. Staff must accept responsibility for their role in the security network. Passwords must be protected and used only by the person themselves. They should never be shared and should be kept

secure and regularly changed. Employees have been issued with specific guidelines in the Computer Use Policy.

## **6. Roles and Responsibilities**

The potential for fraud and/or corruption can be curtailed where the Chief Executive and management team cultivate within the Council a culture where: -

- Senior officers and leaders provide leadership and good example
- A strong control environment has been developed
- Probity and propriety are manifest in procedures
- A high level of transparency and accountability exists
- The Code of Conduct is communicated and reinforced

### **6.1 The role of the Chief Executive**

It is the responsibility of the Chief Executive and the Head of Finance to take all reasonable measures to prevent and detect fraud and corruption. The Certificate of the Chief Executive/Head of Finance in the Annual Financial Statement (as signed by both parties) certifies that the financial statements are in agreement with the books of account and accounting requirements and also states that *“we have also taken reasonable steps for the prevention and detection of fraud and other irregularities”*.

In addition, the Chief Executive will: -

- Ensure there is pervasive awareness within the Council of the procedures in relation to fraud and/or corruption
- Make it clear that there is a clear commitment to the prevention of fraud and/or corruption and that it will be dealt with seriously, if uncovered
- Guarantee that concerned employees, or members, will be supported and that reprisals will be vigorously defended against.

### **6.2 The role of the elected members**

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 imposes a statutory duty on members to maintain proper standards of integrity, conduct and concern for the public interest.

In carrying out their roles Members should: -

- Act in a way which enhances public trust and confidence
- To comply with Council’s Code of Conduct
- Avoid conflict of interest and never seek to use improper influence
- Make decisions based on consideration of the public interest and the common good
- Promote equality and avoid bias
- Perform their functions in a responsible and diligent manner
- Maintain proper standards of integrity, conduct and concern for the public interest
- Complete a *“declaration of interest”* each year

### **6.3 The role and responsibilities of management**

Management is committed to the highest standards of openness and accountability in all processes. The role of management in developing and monitoring a risk managed

framework in the organisation which would reduce the likelihood of fraud is crucial to the effectiveness of the framework in place.

Management must:

- Ensure line managers are aware of the fraud policies and procedures in place.
- Identify areas where there is a risk of fraud occurring.
- Ensure that effective controls are developed and maintained.
- Ensure regular reviews of controls are carried out to take into account any change in procedures or new schemes/ projects.
- Examine need to rotate staff at all levels as appropriate.
- Delegate responsibilities and ensure compliance from staff.
- Request regular reports on controls from line managers.
- Where reports of fraud or suspected fraud are made, that these are referred to the line manager and the Chief Executive.
- Promoting best practice at all times.
- To comply with Council's Code of Conduct

#### **6.4. The role of the Audit Committee**

The Audit Committee shall ensure that procedures are in place whereby employees may in confidence raise concerns about possible irregularities in financial reporting or financial matters in accordance with the Protected Disclosures Act, 2014.

#### **6.5 Director of Corporate Development, Human Resources and IT responsibilities**

A key preventative measure to deter fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees in terms of their integrity.

Their responsibilities are as follows:

- Security vetting of staff;
- Issuing Rules of Conduct on appointment and following up compliance statements;
- Written Disciplinary Procedures for fraudulent and corrupt acts;
- Ensuring fraud awareness is included in training programmes for staff at all levels;
- Monitoring turnover of staff and areas of high levels of sick leave and monitoring annual leave patterns;
- Induction and regular updating for employees involved in internal control systems to ensure their responsibilities are regularly highlighted and reinforced; and
- Monitoring use of Council e-mail, internet and intranet and other communications facilities.

#### **6.6 Line managers' responsibilities**

Line managers are expected to set example by complying fully with procedures and controls. Line managers should ensure that their areas are risk managed and working within a controlled framework. Control procedures should be regularly reviewed, and staff rotated where necessary. Line managers should brief staff on common types of fraud. Where a member of staff alerts a line manager to possible fraud, the following steps should be taken:

- All reports of fraud or suspected fraud must be taken seriously.

- Appropriate steps should be taken, following an initial assessment of the situation.
- Act quickly to minimise any losses, but in a discrete and confidential manner.
- All parties should be treated with respect, bearing in mind that it is only an allegation until the outcome of investigation is known.
- Preserve any evidence.
- Report immediately to the Chief Executive.
- Remove any evidence, e.g. records, documents, computer equipment etc to a safe location.
- Inform person who made initial report of what is happening.
- To comply with Council's Code of Conduct.

### **6.7 Staff responsibilities**

Every member of staff has a responsibility to:

- Conduct their duties in an honest manner and not to use their position or the resources of the Council for their own personal gain or possible advantage.
- Ensure that public funds / assets that are entrusted to them are safeguarded and used only for the purposes for which they were intended.
- Comply with Code of Conduct for employees.
- Inform their line manager of any gifts / hospitality offered, other than items of little intrinsic value.
- Inform their line manager of any outside interests that may conflict or impinge on their duties.
- Alert the appropriate manager to weaknesses in the control system.
- Alert the appropriate manager and/or the Chief Executive to fraud or suspected fraud.
- Assist in any investigation that may arise in respect of fraud or suspected fraud.

### **6.8 Conflict 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 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.

## **7. Fraud Contingency Plan**

### **7.1 Introduction**

It is critical that the opportunities for fraud are minimised and that satisfactory procedures are in place for the investigation of cases of possible fraud.

### **7.2 Discovering and Reporting Fraud**

The objectives of this response plan are to provide a documented framework, to which employees and elected members in Mayo County Council can refer to in the event that fraud and corruption is suspected or reported. Staff have a responsibility to report suspicions of fraud. The Council is committed to supporting and protecting staff who raise legitimate concerns and all cases will be dealt in the strictest confidence.

#### **7.2.1 What employees should do if they suspect a fraud or corruption**

The following are some guidelines for employees on what they should do if they suspect fraud or corruption is happening in their area of work.

- Report any case of suspected fraud or corruption to their line manager or any other appropriate manager, or
- Report any case of suspected fraud to the Chief Executive directly.
- Do not attempt to confront or interview suspects (*this is a specialised area and may have implications in any subsequent legal proceedings*).
- Employees may also make a protected disclosure pursuant to the terms of Mayo County Council's "Protected Disclosures Policy and Procedures" document.
- Where there are genuine grounds to suspect fraud, the Chief Executive will be notified and the matter may, in certain circumstance, be reported to the Gardaí.
- Any individual suspecting fraud or corruption should not under any circumstances, attempt to carry out their own investigations.
- The line manager may consult with the corporate services section if they have concerns.

The relevant Director of Services should also be informed and kept up to date on the investigation. The appropriate manager and/or Chief Executive should document the information reported. In cases where fraud is proven, appropriate disciplinary action will be taken. It is possible that the potential seriousness of the fraud would warrant immediate referral to the Gardaí.

### **7.3 Investigation instructions**

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 other appropriate individual or body. This may involve the appointment of an independent external investigator. Staff involved in the investigation should ensure that quick and effective action is taken to:

- Prevent further losses (this may involve changing staff / re-allocating jobs).
- Identify alleged perpetrators.
- Safeguard evidence.
- Maintain details of investigation in a confidential manner.

- Rectify weaknesses in the current internal control system.

At the outset of each investigation, an Investigation Lead will be nominated. The Investigation Lead will be prepared to provide a statement(s) to the relevant authorities or give evidence in court concerning all aspects of the investigation, if required. However, it is recognised and accepted that any individual assisting with or supporting an investigation in any manner may be called upon to provide a statement(s) to the relevant authorities and/or give evidence in court, if deemed appropriate.

The scope of the investigation may initially be limited until there is sufficient evidence to support the suspicions. Details of the report of the suspicion of fraud should be recorded immediately along with the reasons that gave rise to the suspicions in order to clarify if a genuine mistake was made or an irregularity occurred. Employees should be aware that any irregularities will be investigated. As part of any fraud investigation, the appropriate manager may need to interview staff. In such cases staff will be informed of their right to trade union or other representative at the interview. A representative from the Audit Committee may also be present.

In the case of a major fraud the suspected perpetrator may be suspended while the investigation is in progress. Suspension will not imply guilt but is a safeguard to protect the Council from the loss or damage of evidence. There will be consistent handling of cases for staff irrespective of grade or length of service and appropriate disciplinary action may be required as a result of an investigation.

## **7.4 Fraud and Corruption - Investigation Procedure**

### **7.4.1 Initial procedure**

The following protocol should be followed when allegations of fraud and corruption are reported:

- Once suspicion of fraud or corruption has been reported to the line manager or appropriate manager, the information obtained must be reported to the Chief Executive.
- The line manager may consult with the corporate services section if they have concerns.
- No investigation of the suspected fraud should take place until the Chief Executive has been informed.
- If appropriate, the Chief Executive will conduct an initial investigation. The Chief Executive may direct other appropriate personnel to conduct this investigation, including a line manager.
- If a person appointed to conduct the investigation has a conflict of interest, they must inform the Chief Executive who will ascertain the appropriate action.
- The Chief Executive may appoint an independent external investigation team.
- The Chief Executive will report on the investigation findings, conclusions and any recommendations to the Audit Committee.
- Each case will be considered individually in accordance with the extent of the allegation. The investigator will proceed with due care and respect.



The Chief Executive or line manager in conducting the initial investigation will:

- Obtain an understanding of the nature of the event and the circumstances in which it occurred.
- Identify any preliminary limitations of the investigation.
- Examine the likelihood of the occurrence of fraud or corruption.
- Evaluate the possible effect in terms of money and reputation as well as the possibility of affecting prior years' financial statements.
- Identify the type of fraud or corruption in question.
- Identify the persons involved.
- Maintain utmost confidentiality at all stages of the process:
- Consider data privacy requirements and data preservation risks:
  - Only share and discuss information with appropriate personnel on a need to know basis.
  - Information in relation to the investigation should be stored in a secure file with restricted access to those involved with the investigation
  - Share information through secure links as opposed to attachments where possible.
  - Avoid conversations in open areas.
  - Don't promise absolute confidentiality to relevant parties as information may need to be shared or disclosed as part of the investigation. Explain clearly to relevant parties the circumstances where they may lose anonymity.
- Take steps to minimise any immediate further losses if possible, without alerting suspect(s).
- Secure any evidence.
- All information gained through interviews and documents received should be analysed objectively to assess if it is relevant and reliable. Any conflicts or inconsistencies should be identified, and highlighted, and further evidence obtained where possible to resolve.
- Consider any legal implications of the alleged fraud or corruption.
- Identify and ensure compliance with legislation and Mayo County Council's policies that are relevant to the investigation e.g. HR policies, procurement policies, GDPR legislation, Protected Disclosures legislation etc.

#### **7.4.2 Securing evidence**

- Identify what IT access is required (e.g. shared drives, IT systems). Access requests should be directed through the requesting manager assigned to the investigation who will arrange and authorise access to be granted.
- Identify the location of the information required and whether it will require specialists to retrieve this information.
- Set up a secure location to store information gathered.
  - A designated shared drive with restricted access should be set up for the duration of the investigation.
  - Upon completion of the investigation, all relevant and required information should be secured in the shared drive and encrypted as necessary.
  - Set up a secure physical location to store hard copy documents.

- This information may need to be stored for a significant period of time for potential litigation proceedings, and easily accessible when required.
- Is it recommended that a data register be implemented which logs all information received, the date it was received, where the information came from and who it came from (e.g, shared drive, HR documents, emails, minutes of meetings, policies etc.). A unique reference number should be assigned to each document for ease of reference.
- Understand the impact of GDPR legislation for gathering, sharing and storing personal information, such as:
  - Personal information obtained should be relevant to the Investigation. Ensure the rights of the individual are observed.
  - Requests for access to personal data should be through the appropriate HR and IT channels.
  - Counterparties involved should be briefed on the purpose for obtaining their personal information and what it will be used for.
  - Determine how long personal information gathered for the purposes of the investigation should be retained for following the outcome of the investigation.
- Ensure there is a robust chain of evidence when obtaining and storing information gathered to ensure the preservation of evidence for any subsequent legal proceedings.

#### **7.4.3 Subsequent procedures**

After the initial investigation is undertaken, a preliminary examination of the investigation will ascertain if a further investigation is required. When further investigation is required, an investigating committee and its Chair will be appointed for each case and the investigation committee will have the resources required to undertake such investigation. The Chair will report on progress to the Chief Executive. The committee should consist of , at a minimum, a Director of Service and the Senior Executive Officer Human Resources. All meetings of the committee should be treated as confidential and shall be fully documented.

Where particular expertise may be required to assist in an investigation, management may direct employees with the necessary expertise to assist with any investigation or alternatively source external assistance. The committee will agree a remit; establish scope of investigation, timeframe and reporting deadlines. The committee will establish work protocols for the investigation team, taking into consideration basic elements such as confidentiality of information, secured storage, project rooms, ethical walls etc.

The committee will ensure that roles and responsibilities are clearly understood, and that people are aware of the need for confidentiality and objectivity throughout the process. Confidentiality agreements should be in place for participants involved in the investigation. Investigation team members must be aware of the importance of chain of custody process for preserving evidence in line with legal requirements.

The committee will regularly hold progress meetings at which progress and agreed action is documented. 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).

#### **7.4.4 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) All interviewees must be given the opportunity to have a witness/representative present during interview;
- (c) Ensure there are at least two interviewers; and
- (d) Keep detailed minutes of meetings and conversations with all those involved.

#### **7.5 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 outcome of any investigation.

#### **7.6 Disciplinary Action and Appeals**

The Council's *Grievance & Disciplinary Procedure* clearly specifies any act of theft, fraud or deliberate falsification of records will be treated as an act which constitutes gross misconduct and will be treated accordingly. In very serious instances, the normal disciplinary procedures may not be followed, and a staff member may be dismissed without recourse to the usual disciplinary process.

Disciplinary action will be taken against employees whose fraudulent and/or corrupt activity(s) affect Mayo 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.

#### **7.7 Reporting Obligation**

Under Section 19 of the Criminal Justice 2011 Act it is an offence for a person who has information which he knows or believes might be of material assistance in preventing the commission by another person of a relevant offence or securing the apprehension, prosecution or conviction of any person for a relevant offence and the person fails without reasonable excuse to disclose the information to the Gardaí.

A relevant offence includes but is not limited to the following;

- The offence of financial assistance;
- Offences relating to failure to keep proper books of account;
- Offences relating to recklessly making a statement to a company auditor that is misleading, false or deceptive;
- Offences relating to authorising the issue of a prospectus which contains untrue statements or omits to include information; and
- Offences of ordinary theft, false accounting, destroying, defacing or concealing valuable securities and forgery.

### **7.8 Outcome**

On completion of the investigation Mayo County Council will undertake a review of the process to consider what lessons need to be learned for the future and any review of internal controls or processes that may be required to prevent future re-occurrences. If the suspicions are of major fraud, the Gardaí will be notified immediately.

At the conclusion of an investigation, the investigation committee will issue a written report of its findings and its recommendations to the Chief Executive. The Chief Executive, in consultation with the committee, will issue a decision on the matter and determine whether internal disciplinary procedures (in line with the Council's disciplinary policy) should be invoked or whether the Gardaí should be notified. The Chair of the committee will communicate the decision to the person(s) accused of the fraud or related dishonesty activity. If deemed appropriate, a report will also be issued to the Gardaí. The report will include:

- Details of fraud carried out.
- Details of how the fraud occurred.
- Losses / effect on the Council quantified.
- Perpetrator identified.
- Action required to prevent a re-occurrence.
- Details of any lack of supervision / controls which may have facilitated the fraud.
- Recommendations for recovery of losses.
- Recommendations for referral to Director of Services / Head of Finance for any disciplinary action required.

### **7.9 Staff Support**

It is not uncommon for staff members who work closely with the suspected perpetrator to feel a sense of shock and disappointment that a person in whom trust was placed has deceived those around him/her. In these circumstances, contact Mayo County Council's HR section for confidential help, advice and support.

## **8. Policy review**

This policy statement will be reviewed every three years. Mayo County Council reserve the right to amend this policy from time to time. The policy will be available to all employees via the Intranet.

### **Appendix 1: Examples of Fraud and Corruption**

#### **Fraud may involve:**

- Dishonestly using the property of the Council.
- Removal or misuse of funds.
- 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 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.
- Dishonestly destroying, defacing, concealing, manipulating or falsifying any account or record required for any accounting purpose with a view to personal gain or concealing irregular activity

#### **Corruption may involve:**

- Accepting or soliciting a bribe.
- Undisclosed conflicts of interest.
- Collusion to steal or misuse Mayo County Council's resources.
- Improper or unauthorised use of funds and/or assets.
- Inappropriate gifts or hospitality.

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;

#### **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.