

Cork City Council



Fraud Prevention and Response Policy

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v2.2	July 2018	Consolidation of Fraud Response Policy into this document

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1 Introduction

This document aims to clearly articulate Cork City Council's policy on preventing fraud and corruption. It provides a framework for the development, throughout the organisation, of procedures and practices to counter fraud and corruption.

It is essential that all senior management team, line managers, supervisors, employees and members be aware of the individual behaviours and responsibilities expected of them in relation to fraud and corruption matters. It is important that all employees and elected members be conscious of their obligations to assist in the prevention of fraud and corruption.

The “*Fraud Response*” element of the document provides guidance to employees, managers and elected members on their respective duties and responsibilities in the event of their becoming aware of, or suspecting a fraud or corrupt act being committed on Cork City Council.

Ann Doherty

Chief Executive, Cork City Council

3rd September 2018

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2 Fraud Prevention and Response Policy

Cork City Council will maintain a corporate governance framework that incorporates a robust control environment. These controls are designed to deter fraud or corruption and also maximise the chances of detecting any such incidents at the earliest possible opportunity.

Cork City Council will not tolerate the perpetration of fraud or corruption by its employees, elected members, agents, contractors, suppliers or service users.

It is Council policy to investigate all cases of suspected fraud, to pursue legal remedies under the law where appropriate and to notify An Garda Síochána in accordance with Section 19 of the Criminal Justice Act 2011 (*Appendix F*).

Cork City Council is committed to operating in an open and transparent manner and aims to be fully accountable in all of its operations. The Council encourages staff, elected 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.

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3 Fraud Prevention and Response Statements

Cork City Council will maintain a corporate governance framework incorporating a robust control environment that deters fraud and corruption.

- 3.1** Cork City Council is committed to taking all practical steps to prevent fraudulent or corrupt activity. It incorporates best practice by providing for risk managed reviews and the regular monitoring of activities and functions.
- 3.2** It is the responsibility of all managers and supervisors to design, manage, monitor and control all Council operations in a manner that minimises the opportunities for fraud and corruption.
- 3.3** The Council also requires that any individuals or organisations with whom it interacts, in any capacity, will behave towards the Council with integrity and without intent or actions involving fraud or corruption.
- 3.4** Outside persons or bodies that receive funding/grants from the Council may be required to furnish evidence that they have counter - fraud procedures in place that comply with the principles contained in this policy.
- 3.5** The Council is determined that its performance culture will be based upon honesty and an opposition to fraud and corruption. It wishes to promote a corporate culture where managers, employees and elected members are fully aware that fraudulent activities will not be tolerated. At the same time stakeholders are encouraged to come forward when they feel something may be wrong with the assurance that they will be responded to with complete confidentiality.

Cork City Council will not tolerate the perpetration of fraud or corruption by its, employees, elected members, agents, contractors suppliers or service users.

- 3.6** It is the Council's policy to ensure that every case of suspected fraud or corruption will be thoroughly investigated.
- 3.7** The Council will pursue sanctions against internal and/or external parties in every case where there is evidence that fraud or corruption has occurred. Prosecutions and the recovery of losses will be pursued as appropriate.
- 3.8** Disciplinary action will be taken against employees involved in fraud or corruption. Action may also be taken against employees whose negligence through lack of supervision and control may have facilitated the event. Such disciplinary action may include suspension or even termination of employment.
- 3.9** Internal disciplinary action is separate from any referral to An Garda Síochána which may be appropriate under criminal law and/or civil legal proceedings which may be instituted.

The Council encourages staff, elected members and the public to bring to its attention any event relevant to the workings of the Council which might be illegal, improper or unethical.

- 3.10** Employees can avail of the Council's procedures under The Protected Disclosures Act 2014 to report suspected wrongdoing. Other reports can be made in the strictest of confidence in accordance with the "Fraud Response" element of this document.

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4 Definition of Fraud and Corruption

In law, fraud and corruption have no simple definitions.

Fraud

- 4.1 Fraud may be any act of intentional deception used to obtain benefit or gain advantage, whether monetary or otherwise. For the purpose of this document fraud covers dishonest and or illegal acts which result in loss or intended loss, whether financial or otherwise, to Cork City Council or agents acting on its behalf.
- 4.2 A fraud may be committed in a variety of ways and at all levels of the Council's operations from routine day to day activities to higher financial transactions. It can involve misappropriation of Council funds or assets or may involve an act resulting in some other form of loss to the Council. The range of fraudulent activities includes:
- i. Misappropriations;
 - ii. Theft or embezzlement;
 - iii. Deception or forgery;
 - iv. Extortion;
 - v. Corruption, bribery, conspiracy or collusion;
 - vi. Falsification, destruction or suppression of records;
 - vii. False accounting, false representation or concealment of material facts;
 - viii. Misuse of or changing computer programs or records.

At European Union level fraud has been defined as “any intentional act or omission” relating to:

- i. the use or presentation of false, incorrect or incomplete statements or documents;
- ii. non-disclosure of information in violation of a specific obligation;
- iii. misapplication of Community funds for purposes other than those for which they were granted which has the effect of misappropriating or wrongfully retaining Community funds or the illegal diminution of Community own resources.

- 4.3 Some examples of fraud are detailed in Appendix A.

Corruption

- 4.4 Corruption happens when a public office or position is used for private gain or favour.

- 4.5 Section 170 of the Local Government Act (as amended) states:

An employee or 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 or anything done or not done by virtue of his or her employment or office.

- 4.6 While corruption is related to fraud, corruption may be defined as a payment, favour or gift given to an employee or elected member of the Council as reward or incentive for actions, or inactions, contrary to the proper conduct of one's duties.

- 4.7 Examples of corrupt practices are detailed in Appendix B.

Meanings in this document

- 4.8 In this document references to “fraud” shall be read to include “fraud and/or corruption”.

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5 Fraud Prevention Guidelines

5.1 Responsibilities of all Staff and Members

- 5.1.1 Cork City Council expects and requires its employees and elected members to act honestly, with integrity and to safeguard the public interests for which they are responsible.
- 5.1.2 Section 170 of the Local Government Act (as amended) states:
"An employee or 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 or anything done or not done by virtue of his or her employment or office".
- 5.1.3 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. Elected members and employees must be alert to potential conflict of interest situations and ensure that decisions are carried out with transparency and in accordance with due process. Such situations can arise through issues such as the externalisation of services, internal tendering, planning and land transactions. Similarly members and staff must not use or disclose confidential information acquired during their term of office or employment to their advantage or for the advantage of third parties.
- 5.1.4 This policy builds on the context set by a range of legislation, regulations, rules, codes and internal corporate policies.
- Local Government Act 2001 (as amended) – Part 15 “*Ethical Framework for the Local Government Service*”
 - Code of Conduct for Councillors;
 - Code of Conduct for Local Government Employees;
 - Governance Principles and Governance Framework for the Local Government Sector 2015 (CCMA, AILG, IPA);
 - Code of Practice for the Governance of State Bodies (2016);
 - Regulation of Lobbying Act 2015;
 - Cork City Council Grievance and Disciplinary Procedures;
 - Cork City Council Corporate Procurement Procedure Rules and Contract Regulations;
 - Cork City Council Corporate Purchase to Pay Guidelines;
 - Cork City Council IS Security Management Policy;
 - Financial Policies and Procedures;
 - Interim Protected Disclosures Policy and Procedures.
- 5.1.5 This Policy document is also underpinned by regulations made by the relevant Minister under the Local Government Act 2001 (as amended) and reflected in the organisation's Rules of Conduct as issued by the Human Resource Management directorate.
- 5.1.6 It should be noted that the absence and/or limitations of any particular procedures or system of internal control does not exonerate managers, employees or elected members who engage in fraudulent activities.

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5.2 Responsibilities of Senior and Middle Management

- 5.2.1 Managers are primarily responsible and accountable for the establishment and maintenance of a proper and efficient control environment, for managing risk and for the prevention, detection and resolution of fraud.
- 5.2.2 The development of individual control systems must pay cognisance to key corporate financial controls. Directors and heads of function are responsible for the proper operation of these financial systems, processes and procedures within their area of control.
- 5.2.3 Management must:
- i. Ensure line managers and supervisors are fully aware of the possibilities of fraud and also the policies and procedures in place;
 - ii. Identify areas where there is a risk of fraud occurring;
 - iii. Ensure that effective controls are developed and maintained;
 - iv. Ensure that regular reviews of controls are carried out to take into account any change in procedures or new schemes/projects;
 - v. Examine need to rotate staff at all levels in areas with a potential for fraud;
 - vi. Delegate responsibilities and ensure compliance from staff;
 - vii. Request regular reports on controls from line managers;
 - viii. Ensure that agreed internal audit recommendations are expeditiously addressed and implemented;
- 5.2.4 Where reports of fraud or suspected fraud are made then Senior and Middle Management must ensure that these are immediately referred to the Head of Finance and the Chief Executive (See Section 8.4 as set out in the Fraud Response element of this document).

5.3 Line Manager and Supervisor Responsibilities

- 5.3.1 Line managers and supervisors are expected to set example by complying fully with procedures and controls.
- 5.3.2 Line managers and supervisors must ensure that:
- i. Their areas are risk managed and working within a controlled framework;
 - ii. Control procedures are regularly reviewed;
 - iii. Staff are briefed on common types of fraud that could occur;
 - iv. Procedure manuals and check lists should be available for staff;
 - v. Staff are periodically rotated in areas with a potential for fraud;
 - vi. Line managers should actively check that their staff are complying with procedures.
- 5.3.3 Line managers and supervisors must be alert to the fact that where an operational area is susceptible to fraud, a lack of knowledge of procedures and associated guidance increases the risk of a fraud being perpetrated.
- 5.3.4 Where reports of fraud or suspected fraud are made then line Managers and Supervisors must ensure that these are immediately referred to their Director / Department Head and the Head of Finance (See Section 8.4 as set out in the Fraud Response element of this document).

5.4 Staff Responsibilities

- 5.4.1 Every member of staff has a responsibility to:
- i. Ensure the safeguarding of public funds or assets that are entrusted to them;
 - ii. Comply with the prevailing rules of conduct;

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- iii. Inform their line manager of any gifts or hospitality offered;
 - iv. Inform their line manager of any outside interests that may conflict or impinge upon their duties;
 - v. Alert their line manager as to potential weaknesses in the control system;
 - vi. Assist in any investigation that may arise in respect of fraud or suspected fraud.
- 5.4.2 Staff must alert their Director / Head of Department and the Head of Finance of fraud or suspected fraud (See Section 8.4 as set out in the Fraud Response element of this document).

5.5 Responsibilities of the Director of Human Resources Management

- 5.5.1 The recruitment process can be a key preventative element in the task of deterring fraud and corruption. The Human Resources directorate must take effective steps at the recruitment stage to establish, as far as possible, the propriety and integrity of potential employees through a review of their previous records in employment.
- 5.5.2 Other responsibilities of the Human Resources Directorate may include:
- i. Security vetting of staff (where appropriate);
 - ii. Issuing of rules of conduct on appointment and following up compliance statements;
 - iii. Ensuring that line managers submit appraisals during probationary periods of new staff;
 - iv. Induction and regular training for employees to ensure that their responsibilities with respect to internal control are regularly highlighted and reinforced;
 - v. Ensuring fraud awareness is included in training programmes for staff at all levels;
 - vi. Monitoring areas of high turnover of staff, areas of high levels of sick leave and examining annual leave patterns;
 - vii. Issuing of written disciplinary procedures to address fraudulent and corrupt acts.

5.6 Head of Finance Responsibilities

- 5.6.1 Individual Directors or Heads of Function have primary responsibilities with regard to the assessment and mitigation of risks within their areas of operation. However, the Head of Finance has certain corporate responsibilities by virtue of various statutory obligations and the fact that Finance is the conduit through which all financial transactions pass.
- 5.6.2 The Head of Finance is responsible for developing, maintaining and monitoring compliance with an effective corporate financial framework.

The Head of Finance is particularly responsible for advising on the corporate financial position and on the key financial controls necessary to secure sound financial and risk management. This will encompass responsibility for:

- i. The Council's accounting control system;
- ii. Proper administration of the Council's financial affairs;
- iii. Professional financial management standards;
- iv. All detailed financial corporate processes or procedures.

- 5.6.3 Responsibility for investigating fraud has been delegated to the Head of Finance.

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5.7 Responsibilities of Elected Members

- 5.7.1 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 are judged and public trust maintained.
- 5.7.2 Members are obliged to adhere to The Code of Conduct for Councillors at all times. In carrying out their roles members must:
- i. Act in a way which enhances public trust and confidence;
 - ii. Avoid conflicts of interest and never seek to use improper influence;
 - iii. Make decisions based solely on consideration of the public interest and the common good;
 - iv. Serve their local authority and its people conscientiously, honestly and with impartiality;
 - v. Promote equality and avoid bias;
 - vi. Perform their functions in a responsible and diligent manner.
- 5.7.3 Where Councillors come into possession of information which may indicate that a fraudulent or corrupt act is being perpetrated against the City Council then they are required expectation to report this to the appropriate Director of Service/Head of Function and the Head of Finance (See Section 8.4 as set out in the Fraud Response element of this document).

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6 Risk and Fraud Prevention

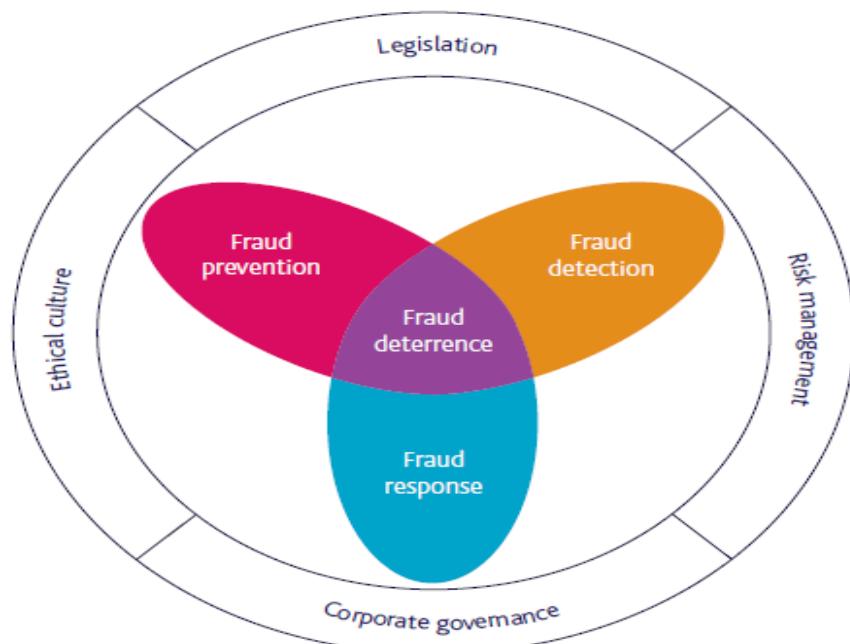
- 6.1 All organisations face risk. Successful organisations manage those risks effectively.

Corporate Governance Framework and Risk Management

- 6.2 Directorate or Departmental risk registers form an essential element of the Council's overall corporate governance framework. Management first identifies potential risks and then prioritises them according to a combination of the possible impacts and the related likelihood of occurrence. This is not just a one-off activity but an on-going feature of good operational management.
- 6.3 The system of controls and internal procedures that management subsequently develop are designed to address those prioritised risks. They are intended to provide reasonable assurance that the organisation is in a position to achieve its operational and strategic objectives and commitments.
- 6.4 The choice of control activities which management adopts is arrived at by balancing the cost of implementing and operating individual controls against the benefits it expects to derive from their design and existence. However, it is critical that management always evaluates the risk and potential consequence of control failure before determining the set of control activities to be implemented and operated. The choice of controls must always be driven by a considered management response to the identified inherent risk and not just exclusively administrative deliberations.

Risk Management and the Fraud Prevention Strategy

- 6.5 An effective anti-fraud strategy comprises the following four main components; prevention, detection, deterrence, response.
- 6.6 The following diagram summarises these components and the context within which this anti-fraud strategy sits. Risk Management contributes towards fraud detection and response and thereby plays an integral role in fraud deterrence.



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Fraud Risks

- 6.7** Fraud and corruption are elements which alone, or in combination, have the potential to give rise to risk.
- 6.8** Fraud is not a consequence of every risk to which the Council is exposed. The following six categories of risk need to be considered and addressed when developing a system of internal controls within any business section:
- i. Financial
 - ii. Operational
 - iii. Physical
 - iv. External
 - v. Personnel
 - vi. Information Technology
- 6.9** These six categories of risk are considered in more detail across Appendix C.

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7 Controls and Fraud Prevention

- 7.1** Internal Control forms the third component of the stool that also comprises corporate governance principles and risk management. The inherent importance of controls is articulated across Appendix D.
- 7.2** All organisations face Risk. Successful organisations manage those risks effectively. In essence fraud prevention controls are designed to counter unacceptable levels of risk that have been identified during the fraud risk assessment process.
- 7.3** A key objective when designing controls is to develop methods that will decrease motive, restrict opportunity and limit the ability for potential fraudsters to rationalise their actions.
- 7.4** A key responsibility of management is to decide the nature and extent of the internal control system that is appropriate for its business.
- The choice of control activities that management adopts is always determined by evaluating the cost of implementing and operating individual controls by reference to the benefits expected to be derived from their existence.
 - The choice of controls must always be driven by a considered management response to the identified fraud risk and not just exclusively administrative deliberations.
- 7.5** Fraud risks can be reduced through the implementation of a robust and comprehensive system of controls on the various underlying accounting, financial and operational transactions of the Council.
- 7.6** There are many ways in which the Council can and does act to prevent fraud. Individual controls are Directive, Preventive, Detective or Corrective in nature. The following twelve key areas of control need to be examined and reviewed for each and every process within the Council.
- i. Organisation
 - ii. Authority Levels
 - iii. Competence of Staff
 - iv. Documentation
 - v. Accounting Records
 - vi. Legal
 - vii. Management Information
 - viii. Internal Audit
 - ix. Basic Accounting Controls (Arithmetic & Accounting)
 - x. Supervision
 - xi. Segregation of Duties
 - xii. Physical
 - xiii. ICT Security
- 7.7** The differing types of possible control mechanisms are outlined in more detail across Appendix C.
- 7.8** The responsibility of supervisors and managers continues after the design of suitable controls. An essential element of their role is to:
- ensure that the selected controls are carefully implemented;
 - check and confirm that controls are being applied correctly;
 - continuously review the appropriateness of ongoing controls and revise as necessary.

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8 Fraud Response Guidelines

- 8.1** Cork City Council will not tolerate the perpetration of fraud or corruption by its employees, elected members, agents, contractors, suppliers or service users.
- 8.2** Fraud or corruption can occur despite the organisation's commitment and best efforts to prevent it. This section provides guidance to employees, management and members in the event of their becoming aware of, or suspecting a fraud or corrupt act being committed on Cork City Council by any party. It provides a framework of procedures that allow evidence to be gathered and collated in a way which facilitates informed initial decisions, while ensuring that evidence gathered will be admissible in any future criminal or civil actions.

8.3 Objectives

The objectives of a fraud response policy are to ensure that timely and effective action can be taken to:

- i. ensure there is a clear understanding that the Head of Finance is mandated to lead any investigation and to ensure local managers, the Law Agent and Human Resources are involved as appropriate;
- ii. secure evidence and ensure containment of all information or knowledge of any internal investigation;
- iii. minimise the risk of inappropriate action or disclosure taking place which would compromise an investigation;
- iv. minimise the effect of a fraud or corrupt act by taking appropriate and timely action at an early stage (this may require changing staff/reallocating responsibilities);
- v. prevent further losses of funds or other assets where fraud has occurred and maximise recovery of losses;
- vi. identify the perpetrators and maximise the success of any disciplinary/legal action key;
- vii. ensure there is substance and evidence to support any allegation against an employee or any third party before that person is subject to disciplinary or other corrective action;
- viii. minimise any adverse publicity for the City Council and protect its reputation;
- ix. rectify weaknesses in the system.

This may include information that comes into your possession through your social life.

8.4 Responsibilities of all Staff and Members

- 8.4.1** Where staff or elected members come into possession of information which may indicate that a fraudulent or corrupt act is being or may be perpetrated against the City Council then they will immediately report this to the appropriate Director of Services/Head of Function and the Head of Finance. Councillors and Senior Management Team members should also alert the Chief Executive.

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- 8.4.2 In certain circumstances an individual may not deem it appropriate to report to the relevant Director / Head of Department or the Head of Finance. This might arise if there is a suspicion that the particular officer is committing the suspected fraud or corrupt act or has detailed knowledge or an involvement. In such a case the option exists to report directly to the Chief Executive or to make a Protected Disclosure as set out in Section 8.5 below.
- 8.4.3 Staff or elected members must only report genuine concerns and believe those concerns to be true. Any reports which are subsequently determined to be malicious could be dealt with as a disciplinary matter.
- 8.4.4 An individual should not discuss the suspicion with other work colleagues or members either before or after reporting it to the appropriate person.
- 8.4.5 Staff or elected members should never confront the suspected individual or act in a manner which might draw attention to their suspicions or put evidence at risk.
- 8.4.6 Only the Head of Finance has the authority to investigate a suspected fraud and to undertake any monitoring or surveillance of an employee, councillor, agent, contractor, supplier or member of the public. The Chief Executive reserves the right to delegate this authority to another official if necessary.
- 8.4.7 At the earliest opportunity the staff member or councillor making the report should clearly record all the activities that they have witnessed and information they have received or are aware of. It is important to record as much information as possible so as to inform any subsequent management assessment or investigation (including dates, times and sequences of events). Contemporaneous notes carry more weight as evidence than those made from later recollection.
- 8.4.8 Any conversations with, or information provided to the investigating officers will remain confidential. An individual should remember, however, that the City Council has a responsibility to investigate all allegations of fraud that are referred with a view to prosecution. You might therefore be required to produce a signed written statement that could be used in a subsequent criminal investigation or civil action.
- 8.4.9 Subject to the constraints of Data Protection legislation and the City Council's duty of confidentiality to employees and councillors, an individual making a report will be given as much information as possible about the outcome of any investigation.
- 8.4.10 Line and Senior Managers must at all time pay cognisance to the nine objectives of the Fraud Response Policy as set out in section 8.3 above.

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8.5 Protected Disclosures

8.5.1 Staff have a responsibility to report suspicions of fraud or corruption. Cork City Council is committed to supporting and protecting staff that raise legitimate concerns and all cases will be dealt with in the strictest confidence.

8.5.2 Confidential protected disclosures may be made through the Designated Officer as follows:

John O'Riordan

Senior Executive Officer, Corporate and External Affairs Directorate

(021) 4924351 / john_oriordan@corkcity.ie

8.5.3 Confidential reporting may also be made to the Chairperson of Cork City Council's Audit Committee as follows:

(021) 492 4755 / auditchairperson@corkcity.ie

The Chairperson should refer the disclosure to the Designated Officer detailed at 8.5.2 above.

8.6 Reporting by Members of the Public and Other Third Parties

8.6.1 Third parties (suppliers or members of the public) should address suspicions or knowledge of fraud or corruption to:

Head of Finance, Cork City Council, Floor 1, City Hall, Anglesea Street, Cork, T12 T997.

8.6.2 Reports can be made anonymously; it is not necessary to give your name or contact details. Please include as much detail as possible so that the City Council will be able to comprehensively investigate your allegation. This is particularly important if you remain anonymous and the Council will therefore not be in a position to contact you in order to seek clarification or additional information.

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- 8.7 Head of Finance Responsibilities (*Appendices G and H*)**
- 8.7.1 Responsibility for investigating allegations of fraud has been delegated to the Head of Finance. The Chief Executive reserves the right to delegate this authority to another official if necessary.
 - 8.7.2 The Head of Finance will maintain a log of all reported suspicions, including those dismissed as minor or otherwise not investigated. The log will contain details of actions taken and conclusions reached and will be presented to the audit committee for inspection annually.
 - 8.7.3 The Head of Finance will inform and consult with the Chief Executive as soon as practical in cases where the loss is potentially significant or where the incident may lead to adverse publicity. The Head of Finance will alternatively consult with the Audit Committee Chair if the Chief Executive is suspected of fraud or corruption.
 - 8.7.4 The Head of Finance will normally inform the chief internal auditor of a suspected fraud at the first opportunity. While the Head of Finance will retain overall responsibility, the task of leading any investigation will often be delegated to the chief internal auditor.
 - 8.7.5 The Head of Finance and chief internal auditor will be alert to the possible immediate need to secure evidence (e.g. original documents, desk search, Council supplied mobile phones; computer based data, video evidence).
 - 8.7.6 The Head of Finance and Internal Auditor will consider the commissioning of specialist services from both within and outside the Council to assist with any investigation (e.g. surveillance experts or IT specialists to preserve and extract information held on personal computers or computer systems).
 - 8.7.7 The Head of Finance and Internal Auditor will be alert throughout the process to the need to engage the Law Agent as necessary.
 - 8.7.8 All interviews of staff will be conducted fairly and in accordance with employment law and The Council's Grievance and Disciplinary Procedures. The Head of Finance and the Internal Auditor will be alert throughout the process to the need to engage the Director of Human Resources as necessary.
 - 8.7.9 If the allegation is serious it may be desirable to remove an employee from the workplace whilst the investigation is still in progress. If suspension is being considered then the relevant Director / Head of Department and the Head of Finance will discuss this with the Director of Human Resources. Any decision to suspend should be taken promptly with a Director's approval of the suspension and in accordance with employment law and the Council's Grievance and Disciplinary Procedure.
 - 8.7.10 Investigations will try to establish at an early stage whether it appears that a criminal act has taken place. This will shape the way that the investigation is handled and determine the likely outcome and course of action.

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8.7.11 The Head of Finance will immediately inform An Garda Síochána where initial investigations suggest that a criminal act has taken place. Where there are sufficient grounds the organisation will work with the authorities to pursue a criminal prosecution.

8.7.12 Where necessary, it is the Head of Finance's responsibility to inform third parties about initiated investigations.

In some cases it may be necessary to immediately alert the Local Government Auditor (External) about the suspected fraud or corruption. The Audit Committee will be advised of significant fraud or corruption investigations no later than at their next scheduled meeting.

8.7.13 Where an investigation involves a member of staff and it is determined that no criminal act has taken place then the Head of Finance will liaise with the Director of Human Resources and the appropriate Senior Management Team line manager to determine which of the following has occurred and therefore whether, under the circumstances, disciplinary action is appropriate:

- gross misconduct (i.e. acting dishonestly but without criminal intent);
- negligence or error of judgement was seen to be exercised;
- nothing untoward occurred and therefore there is no case to answer.

8.7.14 The disciplinary procedures of the organisation will be followed in any disciplinary action taken towards an employee. This will usually involve a formal disciplinary hearing at which the results of the investigation will be considered.

8.7.15 Where, after having sought legal advice, the Head of Finance judges it cost effective to do so, the organisation will normally pursue civil action in order to recover any losses. The Head of Finance will refer the case to the organisation's legal advisers for action.

8.7.16 If the allegations relate to an Employer's or Public Liability fraud then details will be passed to the Claims Unit Leader for investigation. If the allegation in respect of fraud relates to an employee of the Council then the Head of Internal Audit may work with the Claims Investigation team on the case.

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9 SUBSEQUENT ACTIONS

- 9.1 The Chief Executive will determine the appropriate co-ordination and governance mechanisms on a case by case basis where the loss is potentially significant or where the incident may lead to adverse publicity.
- 9.2 Press and Publicity
 - 9.2.1 The Communications Officer will liaise with the press and co-ordinate publicity in all matters regarding fraud and corruption. Staff and Managers must not directly disclose to the press the details of any cases suspected or under investigation. It is important not to prejudice or undermine any legal action that the Council might need to undertake. Disclosure of details to the media without the express authority of the Communications Officer and the Law Agent will be regarded as a disciplinary matter.
 - 9.2.2 Where appropriate the details of all successful prosecutions for fraud should be released to the media through the Communications Officer. The aim is to publicise the Council's intolerance of fraud or corruption both within the Council and by users of its services. It also serves to publicise our successes against those who would perpetrate such fraud or corruption against the Council.
- 9.3 Staff Support

It is not uncommon for members who work closely with the suspected perpetrator to feel a sense of responsibility for what happened and to suffer some trauma and stress as a result. Often there is a feeling of shock and disappointment that a person in whom trust was placed has deceived those around him/her. In these circumstances, the Council's Employee Assistance Programme provides a confidential service offering help, advice and support (1800 946 799).

10 CONCLUSION

Adherence to the Fraud Prevention and Response Policies and the Employee Disciplinary Code will ensure that the Council's objectives in countering and investigating corporate fraud and corruption are achieved. However no guidance such as this can expect to cover all eventualities and therefore if you have any issues or are unsure of the action to take in a given situation you should immediately contact the Head of Finance.

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Appendix A – Examples of Fraud

Internal Fraud incorporates misappropriations and fraudulent statements. Examples would include:

- Forgery;
- Collusion;
- Failing to record any leave type on the leave system in operation;
- Overstating of time worked;
- Falsification of travel and subsistence and/or any other expense claims;
- Theft or misappropriation of cash, assets or intellectual property;
- Misuse of Council's corporate cards (Credit Card, Fuel Card, Low Value Purchase Card);
- Override of controls so as to benefit self or another.
- Failure to record/account for monies received;
- Payment of false invoices through collusion with external suppliers or creation of fictitious suppliers;
- False accounting - Falsification or alteration of accounting records or other documents;
- 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;
- Misreporting of budgets to obtain funding (impacts on resource allocation);
- Misrepresentations being made to an auditor.

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.

Note: These lists are not exhaustive.

Appendix B – Examples of Corruption

A non exhaustive list of **Corruption** examples includes:

- Accept or solicit a bribe to circumvent the policies of the Council for personal/competitive advantage or profit;
- Council employee accepts or solicits a bribe or other such favour;
- Collusion to steal or misuse local authority resources;
- A miscarriage of justice;
- Office holder or government employee acts in an official capacity for his or her own personal gain;
- Leaking of confidential information which may directly or indirectly influence the action of any person;
- Improper or unauthorised use of funds and/or assets;
- Performing duties in a partial manner;
- Arrange for a colleague or any other person to record your attendance within Core in order to disguise the fact that you were not present at work.

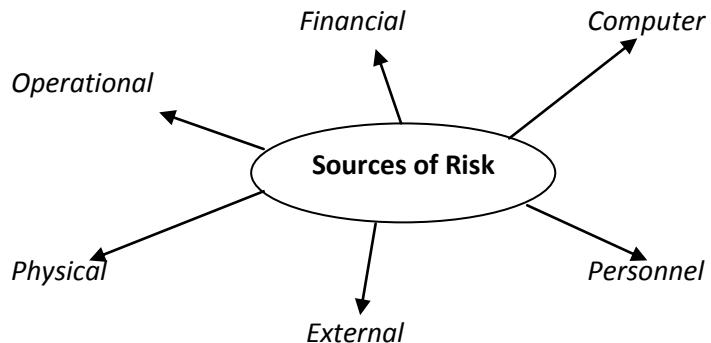
Some of the more common activities prone to corruption include:

- Disposal of assets;
- Grant of planning permission;
- Administration of contracts and consultancies;
- Procurement of goods and services;
- Staff appointments and staff promotions.

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Appendix C – Risk Categories

There are 6 categories of risk which need to be considered and addressed when developing a system of internal controls within any business section:



i. Financial

Council activities in this area relate to assets, goods and service procurement procedures, contracts, making of payments and collection of monies. The scale of the risk depends on the amount of money involved, and the maintenance and effectiveness of the controls which are in place.

Some of the more common financial activities susceptible to fraud include:

Expenditure	Income	Other
➤ stocks	➤ cash office	➤ misuse of assets
➤ purchase/hire of machinery	➤ irregular lettings	➤ insurance claims
➤ contract payments	➤ fees/fines	➤ outsourced operations
➤ short term employees	➤ loan repayments	
➤ goods/services procurement	➤ debt collection	
➤ allowances	➤ agency work	

ii. Operational

The operational activities refer to items such as:

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

iii. Physical

The physical aspect of risk concerns access restrictions to assets such as:

- Premises
- Plant & Machinery
- Cash
- Computers
- Records and Documentation
- Stores

Regular comprehensive stock-takes that are reconciled back to Control Accounts will act as a powerful deterrent in these areas and re-enforce the Council's strong commitment to fraud prevention.

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iv. External

These risks are associated with support systems and may involve the misappropriation of plant and machinery. They also include risks associated with outside influences such as suppliers, competing firms, agents, clients and customers.

v. Personnel

- a) The employees of Cork City Council are required to comply with the Code of Conduct for Employees published in January 2007 by the then Department of the Environment Heritage and Local Government. All existing and new employees are furnished with a copy of this document. The general tenet of the Council's Personnel policy is derived from:
 - Part 15 of the Local Government Act 2001 detailing the ethical framework for the Local Government service;
 - Code of Conduct for Employees as published by the Department of the Environment, Heritage and Local Government in January 2007;
 - Local Government (Officers) Regulations 1984 and the Rules of Conduct for Officers of Local Authorities (as amended by the Local Government Act 2001).
- b) All new recruits to the Council will be made aware of the existence of this "Fraud Prevention and Response Policy" as part of their induction.
- c) Research suggests that the majority of frauds result from the exploitation of an opportunity that presents itself. As a result, it is difficult to generalise about the behaviour of employees and the situations that may lead to the possibility of fraud. Managers, section heads and supervisors should be ever alert to the potential and/or possibility of fraud in the day to day working environment. They should also be aware of the possibility of collusion both from within and outside the Council in the perpetration of fraud.

vi. Information Technology Fraud

- a) Computer fraud is just another form of fraud.
- b) Like all modern organisations the City Council is greatly dependent on information systems (IS) for its everyday operations. This reliance continues to grow as the Council deploys new systems and extends its use of electronic commerce and the Internet in general. It is essential that all employees and particularly managers have an appreciation and clear understanding of the information technology in use in their area of work.
- c) Computers may be used to carry out frauds which were formerly carried out manually, e.g. falsely authorising a payment. However, in some instances the fraud may be more sophisticated and involve IS skills or computer assisted techniques. It should be further recognised that the Council may be exposed to fraud and disruption through attacks on its IT system, be they initiated from within or outside the organisation.
- d) It is therefore important that all employees comply with the Council's policy on Internet and E-mail usage. It is imperative that management implements controls on access to computer hardware and software. The use of usernames and passwords is a critically integral part of any operating system. Users should be cognisant of their responsibilities with regard to maintaining the absolute secrecy of both their

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usernames and passwords. Each member of staff must accept responsibility for their role in the network's security. Logging into a system under a colleague's username is a fundamental breach of the Council's IS security protocols. This is particularly relevant to the Financial Management System.

- e)** Current key policies governing the use of information systems within Cork City Council include :
 - Security Management Policy;
 - Mobile Device Security Guidelines;
 - Password Guidelines.
- f)** It is primarily the responsibility of the Head of ICT to have appropriate policies in place to ensure that the proper controls, practices and procedures exist to protect the Council against computer fraud. These will include security measures to protect the availability, confidentiality and integrity of IT systems and data.
- g)** However, each Manager should ensure that these controls, practices, procedures and security measures are implemented by users on a day-to-day operational basis and that appropriate safeguards are in place to protect the Networks and Systems from unauthorised or fraudulent access.

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Appendix D – The Importance of Controls

All organisations face Risk. Successful organisations manage those risks effectively.

Successful organisations effectively manage the plethora of potential risks that they face each day. There is a fundamental need for the Council to be sure that it can control those risks that could have a significant effect on its ability to plan and deliver its services.

The control environment is that framework within which individual controls operate. It includes the organisation's governance and management functions together with the attitudes, awareness and actions towards internal controls held by those charged with responsibility for that governance and management.

A strong control environment on its own cannot ensure the effectiveness of the overall internal control system but can be a positive factor in mitigating the multitude of risks faced by an organisation. Conversely, a weak control environment can undermine the effectiveness of individual controls.

There are many ways in which the Council can and does act to prevent fraud. An important element of a robust control environment is that all of the Council's staff are aware of the potential for fraud and ensure that controls and procedures are in place to guard against this possibility. This policy document partly addresses that issue. However, employees should also be encouraged to actively contribute to the control environment. Staff meetings should include regular discussions on control and fraud issues. Employees should be given an opportunity to highlight weaknesses or to suggest improvements to the systems of control because they will often be in the best position to do so. Involvement of employees in establishing controls will also ensure their commitment to respecting and implementing these controls.

It is the responsibility of management to decide the nature and extent of the internal control system that is appropriate for its business. The nature and extent of controls may even vary between one part of an organisation and another. The controls used will depend upon the nature, size and volume of the underlying transactions, the degree of control that management is able to exercise itself, the geographical distribution of the business section and many other factors.

The choice of control activities that management adopts is always determined by evaluating the cost of implementing and operating individual controls by reference to the benefits expected to be derived from their existence. However, it is critical that management always evaluates the risk and potential consequence of control failure before determining the set of control activities that they propose to implement and operate. The choice of controls must always be driven by a considered management response to the identified risk and not just exclusively administrative deliberations.

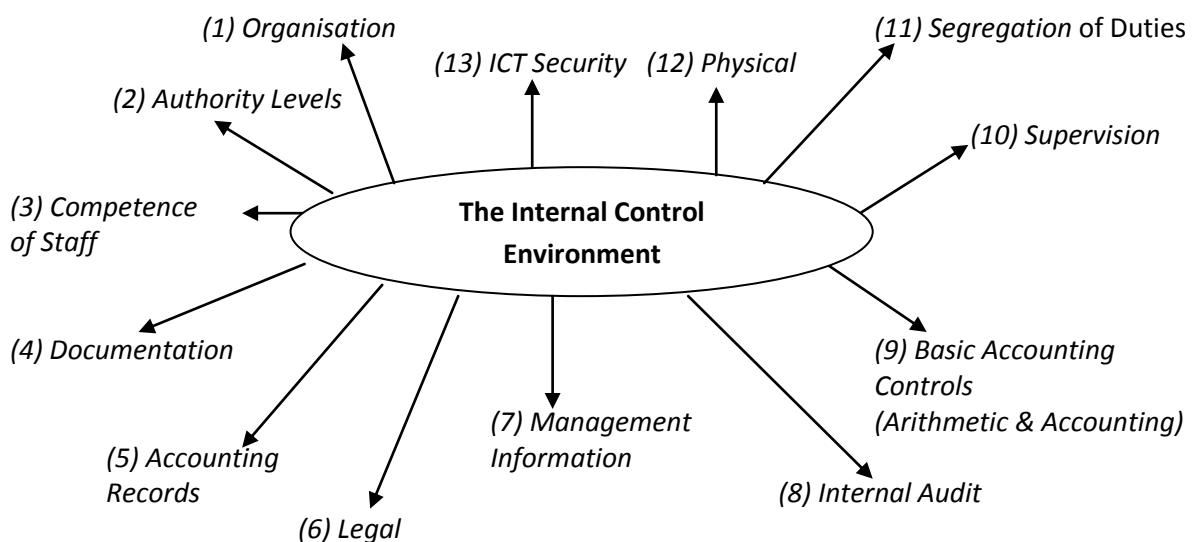
Corporate Policies provide and update details of financial controls expected across the Council. However, it is the primary responsibility of managers to ensure that they are implemented and adhered to by employees on a day-to-day operational basis.

Internal controls are worthless if they are not followed diligently and consistently and are not subject to regular review. A multitude of innocent exceptions to control procedures could obscure fraudulent transactions. Those responsible for implementing controls should always remember that they are the basic tools that are used to guard against fraud.

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Appendix E – Controls to Prevent or Detect Fraud

Fraud risks can be reduced through the implementation of a robust and comprehensive system of controls on the various underlying accounting, financial and operational transactions of the Council. Individual controls are Preventive, Detective or Corrective in nature. The following thirteen key areas of control need to be examined and reviewed for each and every process within the Council.



Operational Controls

(1) Organisation (Preventive)

The organisation defines and allocates responsibilities and identifies lines of reporting for all aspects of its operations, including controls. The delegation of authority must be appropriate and responsibility will be clearly specified within the overall departmental structure.

(2) Authorisation & Approval Levels (Preventive)

Chief Executive Orders set out the authorisations and approvals for the purchase of goods and services. This excludes the purchase of land or appointment of consultants.

Adequate authority levels should be established and set out for the initiation or approval of transactions for each individual business section. Actions must be performed by the appropriate personnel (with the right level of seniority / with a Chief Executive's Order if required) and at the right time (before an order is made or a payment generated).

(3) Competence of Staff (Preventive)

Staff must be appropriately qualified and fully trained so as to be competent to carry out the work entrusted to them.

(4) Documentation (Preventive)

Accounting procedures, policies and guidelines should be adequately documented, preferably in an accounting manual.

All systems or projects should be designed to include checks and controls that prevent fraud. They should also provide clear audit trails. Sections must develop policies procedure manuals and guidelines which unambiguously articulate and set out these controls. They should also provide for checking of work by supervisors and appropriate segregation of duties where necessary. They should

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include procedures for handling breaches of relevant law, statutory regulations, government and corporate policies. Such policies, procedures and standards should be subject to monitoring, review and alteration as necessary.

(5) Accounting Records (Preventive)

These should be as simple as possible and designed to meet the organisation's needs. It is important that accounting information is kept current, so that management information is readily available and any errors or defalcations are more readily discovered.

(6) Legal (Preventive)

The Council is a Statutory Public Authority whose functions are conferred and regulated by Statute and Statutory Regulations which are required to be interpreted and applied having regard to the decisions of the Superior Courts. The Council's policies and procedure manuals need to be reviewed and maintained to reflect the foregoing.

(7) Management Information (Detective)

Management needs adequate information to enable it to make decisions in the most effective manner.

- Monthly financial information / accounts ;
- Performance Indicators such as comparisons with budget or prior periods/years, analysis of variances ;
- Exception Reports prepared from the detailed record sets.

(8) Internal Audit (Detective)

A common feature of managerial control is an internal audit department responsible for reviewing, and reporting on, the design and operation of the controls in force and the accuracy of information provided to management.

Basic Accounting Controls

(9) Arithmetic & Accounting (Detective and Corrective)

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

Basic Accounting Controls are designed to ensure that the organisation's transactions are valid and that they are recorded completely and accurately in the Council's Financial Management System.

- Pre-numbering of originating documentation;
- Establishing batch totals of documents to be processed;
- Detailed checking of one document or accounting record against another;
- Authorisation of documents after examination and checking by a responsible person before any further processing can take place;
- Verifying / reconciling records with evidence from outside sources;
- Checking the records by verifying the physical existence of the assets to which they relate;
- Scrutinies or overall reviews to identify large or unusual items which may not have been picked up by one of the other control techniques;
- Undertaking periodic reviews of the trial balance and verification of balances.

Control accounts and reconciliations to the Financial Management System records are essential elements of good internal control.

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Disciplines over Basic Accounting Controls

(10) Supervision (Detective and Corrective)

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. Prescribed procedures for local supervisors will be determined by management at departmental level.

Supervision represents the final approval of documents after they have been subjected to the relevant basic controls but before further processing takes place. Authorisation should not be perceived as being simply a “rubber stamping” exercise. It should involve a reasonable degree of scrutiny and control otherwise it serves little purpose. Supervisory controls can only be regarded as effective where the signature of the supervising official exists to evidence the control function that was carried out

(11) Segregation of Duties (Preventive)

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 must be managed through closer supervision.

Segregation of Duties can be effected through

➤ ***Separation of Duties***

There should be a well-defined division of responsibilities between departments, sections and individuals, so that no one person handles a transaction from beginning to end. The duties should be clearly defined in writing, together with the extent (usually in monetary terms) of their respective authorities.

There should be a division of responsibilities in respect of each transaction for

- Authorising or initiating the transaction;
- Physical custody and control of the assets related to the transaction;
- Recording of the transaction in the accounting records.

The objective of such a division is principally to detect innocent errors or oversight. Errors are more likely to go undetected if a person checks their own work. The second goal is ensure that no one person is left in a position to misappropriate an asset and to conceal that action through falsification of the relevant records.

➤ ***Rotation of Duties***

Where practical, arrangements should be made for the duties of staff to be rotated so that no one person deals with one aspect of the organisation’s accounting records on a continuous basis.

(12) Physical (Preventive)

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

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Information Technology

(13) ICT Security (Preventive, Detective and Corrective)

IT security controls address the risks from unauthorised access, unauthorised use of data, system crashes and poor information or reports. There is a wide range of specific controls. CobiT provides a useful method of analysing the type of controls that may be applied:

- Internal Control – The policies, procedures and organisational structures that are designed to provide reasonable assurance that business objectives will be achieved and that undesired events will be prevented or detected and corrected.
- General Controls – Controls, other than application controls, which relate to the environment within which computer-based applications are developed, maintained and operated and therefore are applicable to all the applications.
- Pervasive Information Systems Controls – Those controls designed to manage and monitor the IS environment and therefore affect all IS related activity;
- Application Controls – These refer to the transactions and standing data and are specific to each application;
- Detailed IS controls – Controls over the acquisition, implementation, delivery and support of IS systems and services. They comprise application controls plus those not included within pervasive controls.

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Appendix F

Responsibility to report to An Garda Síochána under the Criminal Justice Act, 2011

Under the combined terms of Section 19(1) and the Schedule to the 2011 Act, it has now become a serious offence for any person to fail without reasonable excuse to disclose as soon as practicable to An Garda Síochána any information which that person knows or believes might be of assistance in:

- (a) preventing the commission by another person of any theft whatsoever, or,
- (b) securing the apprehension, prosecution or conviction of any person for any theft whatsoever.

The act requires that information must be provided to Gardaí "as soon as practicable".

This dramatic outcome results from the Act's designation of all thefts, which are criminalised by Section 4 of the Criminal Justice (Theft and Fraud Offences) Act, 2001, as offences to which the offence of withholding information would apply.

Note also that the theft need not amount to "serious white collar crime". The Act makes no attempt whatsoever to confine the withholding offence to major crimes. It covers all theft cases, including shop-lifting, theft in the workplace, theft in the locker room, etc.

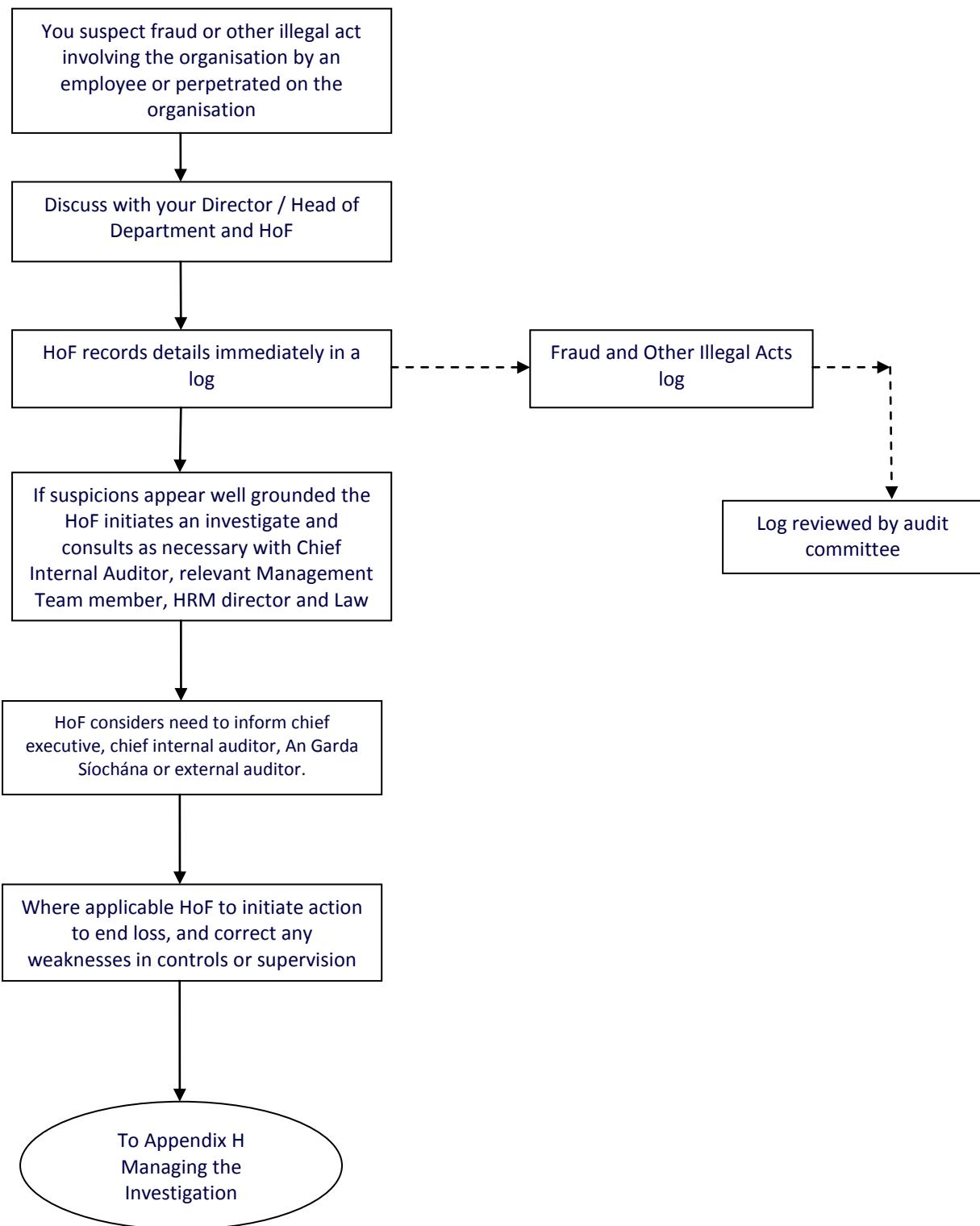
Approximately 130 separate offences are included in a schedule to the 2011 Act. These include offences relating to:

- financial activities;
- company law;
- money laundering and terrorist offences;
- fraud, theft, bribery and corruption;
- consumer protection offence.

All persons need to err on the side of reporting than not reporting if you know or believe that information you have might be of material assistance to An Garda Síochána in preventing the commission of an offence or in apprehending persons responsible for such an offence.

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Appendix G – Reporting Fraud



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Appendix H – Managing the Investigation

