

Newry, Mourne and Down District Council

Fraud Response Plan

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Policy Control

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1. Introduction

Newry Mourne and Down District Council (NMMDC) operates a zero tolerance attitude to fraud and is committed to developing and maintaining a culture where its staff have, and are seen to have, the highest standards of honesty, propriety and integrity in the exercise of their duties.

NMDDC Anti-Fraud Policy sets out senior management's commitment to the highest standards of openness, probity and accountability in all official business. The Council's policy is that all allegations of fraud, anonymous or otherwise, will be investigated. Within the context of the Anti-Fraud Policy, in which fraud is defined, it is necessary to set out in greater detail the procedures to be followed in the event of suspicion of fraud.

The Council has prepared this Fraud Response Plan to act as a procedural guide which must be followed in the event of a fraud, or attempted fraud, being suspected. The plan sets out how Council staff and others should report suspicions of fraud and how the Council will handle them.

Adherence to this plan will ensure that timely and effective action is taken to prevent further losses, maximise recovery and minimise recurrence of losses, identify the perpetrators and maximise the likelihood of success if any disciplinary/ legal action is taken.

Staff have a duty under the Code of Conduct for Local Government Employees to come forward and give information where they honestly believe someone may have committed or be about to commit an act of fraud or theft. This should be done without delay. The Public Interest Disclosure (NI) Order 1998 protects the rights of staff who report wrongdoing. Section 5 of the Criminal Law Act (NI) 1967 (Penalties for concealing information) also places an onus on individuals to report/ pass evidence to the police. A Whistleblowing Policy has been established to provide a framework for providing information and to afford protection to staff who supply information, provided this is done in good faith and without malice.

This Plan should be read in conjunction with the following NMDDC documents:

- Code of Conduct for Local Government Employees;
- The Northern Ireland Local Government Code of Conduct For Councillors;
- Anti- Fraud Policy;
- Whistleblowing Policy.

2. What Should An Employee Do If They Suspect Fraud or Corruption?

Line managers and staff should be alert to the possibility that unusual events or transactions could be symptoms of fraud or attempted fraud and that there may be collusion between staff and third parties in cases of fraud.

Typically there are four main ways in which a suspicion or concern about fraud/corruption may come to light:

- A concern raised by a member of staff or an external party;
- Management carrying out their role via specific management checks;
- The National Fraud Initiative; and
- As a result of a third party compliance check or Audit.

It is NMDDC policy that there will be consistent handling of all attempted, suspected or proven fraud cases without regard to the position held or length of service of the individual(s) involved.

Staff who have concerns should report them as soon as possible to their immediate line manager. If there is a concern that management may be involved, the matter should be reported to the next appropriate level.

If staff feel unable to raise a particular matter with their line manager, for whatever reason, they should raise the matter with the Audit Services Manager or their relevant Director. Alternatively, staff may report their concerns via the NMDDC Whistleblowing Policy.

If these channels have been followed and the member of staff still has concerns, or the member of staff feels that the matter is so serious that they cannot discuss it with any of the above, they should discuss it with the Director of Corporate Services or the Chief Executive.

Additionally, management should immediately report the fraud or suspected fraud raised with them to the Audit Services Manager. The Audit Services Manager logs all frauds within the Council and provides an update to the Local Government Auditor.

An individual raising a concern must not discuss it with colleagues or friends or undertake investigative work. Line management should not undertake any preliminary enquires until any suspicion has been reported to and advice has been taken from the Audit Services Manager. It is imperative that enquires should not prejudice subsequent investigations or corrupt evidence.

3. What Should A Member Of The Public Do If They Suspect Fraud or Corruption?

A member of the public who suspects fraud involving the NMDDC, its staff or contractors is strongly encouraged to report their concerns:

- by contacting the Councils Audit Services Manager on 028 3031 3140 or by e-mailing fraudandwhistleblowing@nmandd.org

4. Initial Investigation

On receiving allegations of suspected fraud or other financial impropriety, the Audit Services Manager will, as appropriate, liaise with The Director of Corporate Services, HR, Legal Services and the relevant Director and/or Assistant Director and carry out some initial enquiries. This is to determine the potential validity of the allegations and to evaluate whether fuller investigation is or may be required. The Audit Services Manager will immediately notify the Local Government Auditor of the concerns raised.

Cases which do not relate to allegations of fraud will be referred directly to management to consider further investigation.

The Audit Services Manager may complete the initial investigation, or will appoint someone to conduct an initial but urgent fact-finding exercise. The appointee should not be conflicted in any way in relation to the matter under investigation. This discreet preliminary enquiry should be carried out as soon as possible.

The investigating officer will conduct an initial discreet enquiry, without alerting the suspect, to ascertain the facts surrounding the suspicion or discovery of fraud. The main purpose of this enquiry is to confirm or repudiate, as far as possible, the suspicions which have arisen. The preliminary enquiry should cover:

- the type of irregularity suspected or realised and the circumstances that led to it e.g. established working procedures not being adhered to, officers completing work that they are not authorised to do, etc.;
- how the fraud was realised;
- the value and type of resource lost – actual or estimated;
- the period over which the fraud may have occurred, if known; i.e. the date it was realised;
- names of staff who may be linked with the fraud;
- whether collusion with others is suspected e.g. other employees, persons contracted by the Council, persons who do not have any legitimate business interest with the Council;
- names of all officers who have been involved in the investigation so far;
- action taken by individual managers and the individual who reported the suspicion e.g. discussions, explanations sought; and
- any other information or observations that might be useful to the investigation.

All documentation relating to the enquiry will be securely held in a safe place. If, as a result of the preliminary enquiry, it is clear that fraud has not taken place the case will be closed, with a clear reason for closure recorded.

If the preliminary enquiry confirms that a fraud has been attempted or perpetrated and staff are implicated at this stage, an investigation under the Disciplinary Procedure should be initiated and if there is a potential charge of gross misconduct, suspension should be considered.

5. Detailed Investigation

Where initial enquiries indicate that fraud or other financial impropriety may have occurred the Audit Services Manager will:

- initiate a detailed confidential investigation and develop terms of reference for the investigation (including allocation of resources);
- take immediate steps to safeguard any evidence and prevent the risk of losses;
- consider recommending to the Council's Fraud Response Group (see below) immediate referral to the PSNI; and
- liaise with the Director of Corporate Services, HR, and Legal Services, as appropriate, regarding the above issues.

The Audit Services Manager will have full and unrestricted access to all necessary records and personnel. All council furniture and contents, including desks and computers are open to inspection when there is reasonable suspicion of a dishonest or fraudulent activity which makes such inspection appropriate. There is no assumption of privacy.

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

- no action, if there is insufficient evidence to support the allegations;
- recommendation to the Fraud Response Group to refer the matter to the PSNI if there is sufficient evidence that a criminal act may have occurred;
- possible action under disciplinary procedures, which may include suspension or relocation of staff pending further investigations;
- referral of the case to management to investigate under the Disciplinary Procedure;
- Formal disciplinary action may be taken in regard to staff who are found, after investigation, to have increased the likelihood of fraud as a result of a serious dereliction of duty;
- recommendations to management to improve internal controls in the area(s) affected.

6. The Fraud Response Group

The council has established a Fraud Response Group. The primary role of the Fraud Response Group will be to consider and approve the referral of cases to the PSNI. The Fraud Response Group will also consider how and when it will communicate suspected fraud to Elected Members. The membership of the Fraud Response Group is as follows:

- Chief Executive
- Director of Corporate Services
- Assistant Director of Human Resources
- Audit Services Manager

In all cases the council will co-operate fully with the PSNI and pursue prosecutions where possible. In exceptional circumstances the Fraud Response Group may meet with the PSNI to decide who is best placed to undertake the further investigation. The Director of Corporate Services is responsible for communicating to Elected Members via the Audit Committee on suspected fraud in line with an agreed protocol.

7. Preservation of Evidence

A key consideration in any investigation must always be how to secure or preserve sufficient evidence to prove fraud.

For the purposes of criminal proceedings, the admissibility of evidence is governed by the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE). Although PACE does not apply in civil or disciplinary proceedings it should nevertheless be regarded as 'best practice'. If an individual is charged with a criminal offence (and this may not have been planned at the outset of the investigation), all investigations and relevant evidence will be open to discovery by that individual's defence. It is therefore vital that detailed and accurate records are kept from the outset, including accurate notes of when, where and from whom the evidence was obtained and by whom.

8. Physical Evidence

It is vitally important to have arrangements in place for the safe and secure storage of evidence and other investigative material. Control should be taken of evidence before the opportunity arises for it to be removed or destroyed by the suspect(s). Physical evidence may therefore have to be seized at an early stage of the investigation, before any witness statements are collected or interviews conducted. Similarly, electronic evidence must be secured.

If an investigation of an internal fraud is being conducted, the Council has a right to access its own records and may bring disciplinary action against any member of staff who tries to prevent this.

When taking control of physical evidence, original material is essential – photocopies are not acceptable. Records should be kept of the time that it was taken and the place that it was taken from. If evidence consists of several items, each one should be tagged with a reference number

which corresponds with the written record. Taking photographs and/or video recordings of the scene may also prove helpful.

When conducting investigations it is essential to be mindful of the provisions of the Human Rights Act, in particular the right to privacy and to a fair trial or hearing

9. Interviews

Any decisions about interviewing suspects, including police involvement, will be taken by the Audit Services Manager and the Fraud Response Group, if appropriate. All interviews will be properly conducted in controlled conditions. Detailed notes should be kept of questions and answers.

10. Dealing with Employees Under Suspicion

If a member of staff is suspected of involvement in a fraudulent activity, the Audit Services Manager or the Fraud Response Group if appropriate, will consider the appropriate course of action. This may range from close-monitoring/ supervision to precautionary suspension, however it should be noted that suspension does not in any way imply guilt. If a decision to suspend is taken, the individual(s) will be removed from the premises and will not be allowed access to office assets or records – manual or electronic. Employees who are allowed to remain at work may be kept under constant surveillance. If necessary, an immediate search of the employee's work area and storage cabinets will be carried out.

11. Communication & Action on Conclusion of an Investigation

The following communication should be observed in all cases:

- The Audit Committee should be kept informed as appropriate; (care will be taken as to the detail that is reported so as not to prejudice any future internal or external investigations).
- A lessons-learned document should be circulated throughout the Council, if appropriate;
- This Fraud Response Plan will be reviewed to determine whether it needs to be updated in light of the findings from the investigation.
- Consideration should be given to informing other public sector organisations, e.g. other Government Departments, NIAO, Other Councils and grant paying organisations.

The Council will seek to recover any funds or assets lost through fraud where possible. Recovery may also include any legal costs incurred during the investigation. If necessary this may be through civil action.

12. Policy Review Date

The policy will be reviewed in line with the Council's agreed policy review cycle i.e. every 4 years (as per Council's Equality Scheme commitment 4.31), or sooner to ensure it remains reflective of legislative developments." This Fraud Response Plan will be reviewed following each incident of fraud to ensure that it reflects changes which may be necessary to strengthen future responses to fraud.

Staff wishing to receive clarification on this policy and/or suggest improvements should contact the Audit Services Manager.

13. Equality Screening

The Fraud Response Plan has been screened along with the Anti-Fraud Policy. The decision is that it should not be subject to an Equality Impact Assessment (EQIA) with no mitigating measures required. A copy of the equality screening is available from the Head of Corporate Policy.

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