

## Ubuntu Municipality

### ANTI-FRAUD AND ANTI CORRUPTION POLICY

#### 1. OBJECTIVES OF THE POLICY

1.1 Good Corporate Governance requires Ubuntu Municipality to clearly demonstrate its commitment to dealing with fraud and corruption. The Council aims to achieve this commitment, whilst remaining fully accountable, honest and open in everything it does, by having developed an anti-fraud and anti-corruption strategy

1.2 The Council has defined fraud and corruption as:

**Fraud encompasses an array of irregularities and illegal acts, characterised by intentional deception. Fraud can be perpetrated for the benefit of or to the detriment of the organisation and by persons outside as well as inside the organisation. The types of fraud which may affect the Council include obtaining property or services by deception, forgery and false accounting carried out to mislead or misrepresent. Corruption is the offering, giving, soliciting or accepting of an inducement or reward which may influence a person to act against the interests of the organisation and the failure to disclose an interest in order to gain financial and other pecuniary benefit.**

1.3 In ensuring that the culture of the organisation fosters an anti-fraud and anti-corruption environment, the Council has adopted the following policy statement:

**In administering its responsibilities, the Council is opposed to fraud and corruption whether it is attempted on or from within the Council and it is committed to preventing, deterring, detecting and investigating fraud and corruption. The primary responsibility for establishing and maintaining sound systems of control to prevent and detect fraud and corruption rests with management.**

1.4 The strategy is presented in 5 sections:

- Culture
- Training and awareness
- Prevention / Deterrence
- Detection & Investigation
- Response

1.5 The Anti-Fraud and Anti-Corruption Policy will be subject to regular reviews by the Board, in consultation with the Joint Management / Union Working Group.

1.6 This policy applies to both elected members and employees of the Council.

#### 2. CULTURE

##### 2.1 Principles of Public Life

2.1 .1 There is an expectation that individuals and organisations associated with the Council will act with integrity. Therefore, the culture of the Council is based upon the seven principles of public life as set out in the Nolan Committee to which Members and officers are expected to lead by example. The seven principles are:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

2.1.2 The Council's elected members and employees have an important role in creating and maintaining this culture and are positively encouraged to raise concerns regarding fraud and corruption in the knowledge that such concerns will be treated in confidence. Concerns can be reported to either the Monitoring Officer, the Section 151 Officer, the Assistant Chief Executive (as Head of Internal Audit) a Strategic Director or by using the Council's Whistle blowing Policy. The public also has a role to play in this process and should inform the Council if fraud / corruption may have occurred, any reports received must be referred to one of the above officers.

2.1.3 The Council will ensure any allegations received, including anonymous letters and telephone calls will be taken seriously and investigated in full.

2.1.4 The Council will deal firmly with those who defraud it, or who are corrupt, or where there has been financial malpractice. The Council has a duty to ensure that the investigative process is not misused and any abuse (such as by employees / members) will be dealt with under its existing disciplinary procedures.

2.1.5 When fraud and corruption has occurred due to a failure of the Council's systems or procedures appropriate improvements will be implemented in order to prevent a re-occurrence.

## **2.2 Regulation**

2.2.1 Staff and members are required to abide by specific Acts of Parliament along with various Codes of Conduct and Best Practice. In addition, some officers may also be bound by professional Codes of Conduct and regulations specific to the function they perform within the organisation.

2.2.2 The Council under the Accounts and Audit Regulations 2003 has the responsibility for reviewing, appraising and reporting upon the extent to which the Council's assets and interests are safeguarded from losses due to fraud and other offences; this function is performed by the Audit and Assurance Section. The organisation, therefore, encourages management and staff to consult with and seek advice from Audit and Assurance Services on establishing and maintaining effective and efficient systems of control.

2.2.3 To inform officers and members of the standards expected, the Authority operates under the guidance of the Council's Constitution which includes Standing Orders and Financial Rules. These documents are available to all staff and

members who should ensure they are familiar with their contents and the obligations they place them under.

2.2.4 Under the Constitution, the Council has established a Standards Committee for the main purpose of promoting and maintaining high standards of conduct by Councilors and Co-opted Members of the Council. Full details of this Committee's composition and duties can be found in Article 9 of the Constitution.

### **2.3 Protection**

2.3.1 In addition to demonstrating the action the Council takes, to prevent and detect fraud, it protects itself and the services it provides against the results of fraud, within the organisation, by obtaining Fidelity Guarantee Insurance.

### **2.4 Housing Benefit Fraud**

2.4.1 To deal specifically with Housing Benefits Fraud the Council has established a dedicated Housing Benefits Investigation Team which is responsible for all benefit fraud investigations in accordance with legislation and codes of conduct.

2.4.2 Audit and Assurance Services also consider the possibility of internally and externally perpetrated fraud when undertaking housing benefits audits.

## Ubuntu Municipality

### ANTI-FRAUD AND ANTI CORRUPTION PROCESS

#### 1. PREVENTION / DETERENCE

##### 1.1 Members

1.1.1 All members of the Council have a duty to those they represent to protect the Council and public money from any acts of fraud and corruption. This is achieved through the Anti Fraud and Anti Corruption Policy, compliance with the Code of Conduct for Members, the Council's Constitution which included Standing Orders and Financial Rules.

1.1.2 Members are required by law to disclose both direct, and/or, indirect pecuniary, prejudicial and personal interests. These interests must be formally recorded by the Head of Paid Service. In addition, offers and receipt of gifts and hospitality must also be recorded. Such matters are brought to the attention of Members in their induction training which also covers the National Code of Local Government Conduct (see Council's Constitution – Codes & Protocols 5A).

##### 1.2 Staff

1.2.1 The Council recognizes a key preventative measure in combating fraud is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential staff in terms of their propriety and integrity. In this regard temporary and contract staff should be similarly treated. The Council has therefore published a Recruitment Policy and Practice Guide; relevant sections within this guide cover:

- - Rehabilitation of offenders
- Obtaining references
- Obtaining Criminal Records Bureau checks
- Verifying qualifications
- Canvassing members.

1.2.2 The Council has adopted the employee Code of Conduct published by the Local Government Management Board which sets out minimum standards of conduct. Details of the Code are given to each new member of staff along with an explanation at the time their employment starts. The Code is also available on the Intranet Home Page. If you do not have access to the intranet, your line manager or the Human Resources Division can provide you with a copy.

1.2.3 All staff appointments whether permanent or temporary must adhere to the approved policies and procedures including the verification of all previous employment records wherever possible.

1.2.4 Employees who hold professional, trade or other appropriate qualifications are expected to comply with codes of conduct issued by the organisations of which they are members.

1.2.5 The Council provides staff with the opportunity to record private interests and acceptance of gifts or hospitality in the Corporate Register (kept by each Group Directorate) which ensures staff are protected from allegations of impropriety or abuse of their position of authority. The details of which are included in the Code of Conduct for staff which can be accessed via the Intranet. If you do not have access to the intranet, your line manager or the Human Resources Division can provide you with a copy.

### **1.3 Management**

1.3.1 Management are responsible for establishing, implementing and maintaining adequate systems of internal control which must aim to prevent and detect fraud and corruption. Internal Control is the whole system of controls, financial and otherwise, established to provide reasonable assurance of:

- The reliability and integrity of information.
- Compliance with policies, plans, procedures, laws and regulations.
- Safeguarding of assets.
- Economy, efficiency and effectiveness with which resources are employed.
- Goals and objectives being properly defined and systems providing results consistent with those goals and objectives.

1.3.2 Weaknesses in the design and operation of administrative and financial systems may increase the risk of fraud. Systems should contain efficient, effective and well documented internal controls. In particular, systems should contain:

- Adequate separation of duties.
- Proper authorisation and approval procedures.
- Adequate physical security of assets.
- Reliable monitoring and reporting arrangements.
- Proper training arrangements

1.3.3 Management should be aware of the elements that make up the 'fraud equation' and ensure that internal control prevents system weaknesses that allow a number of the elements to go uncontrolled allowing fraud to be perpetrated, i.e.,

access + skill + time + responsibility + seniority = opportunity

need + justification + challenge = motivation.

Therefore, opportunity + motivation = fraud.

1.3.4 To help management discharge their responsibilities, systems are subject to periodic review by Audit and Assurance Services along with investigating all employee cases of suspected financial irregularity, fraud or corruption.

In addition, Audit and Assurance Services will liaise with management to recommend changes in systems and procedures to minimized risk and prevent loss to the Authority.

1.3.5 The Financial Rules place a duty on each Strategic Director to report any matter which involves or is thought to involve irregularities concerning cash, stores or other property of the Authority. The report will be made to the Assistant Chief Executive and the Section 151 Officer who shall take whatever steps as they consider necessary by way of investigation and report.

## **1.4 External Organisations**

1.4.1 The Standard Conditions of Contract prohibit a contractor from offering or making a gift or other consideration of any kind as an inducement to some action pertaining to a contract under the Prevention of Corruption Acts 1889 to 1916. Any offers received must be refused and the Council's Monitoring Officer advised as soon as possible.

1.4.2 All contracts for goods and services must be let in accordance with the Council's Constitution – Rules and Procedures, which include Contract and Financial Rules (sections 4H & 4G). The details of which are included in the Council's Constitution which can be accessed via the Internet. If you do not have access to the internet, your line manager or the Legal Division can provide you with a copy.

## **1.5 External Audit**

1.5.1 The independence of external audit is another safeguard in the stewardship of public money. Their work is carried out by undertaking specific reviews to test the adequacy of the Council's financial systems and its arrangements for preventing and detecting fraud and corruption. Although it is not the function of external auditors to prevent fraud and corruption they will be alert to those possibilities during the course of their work and where necessary report to one of the Council's Statutory Officers.

## **2. DETECTION & INVESTIGATION**

### **2.1 Management**

2.1.1 Management monitoring arrangements should ensure internal control systems have been designed to provide indicators of any fraudulent activity. These arrangements will include monitoring arrangements budget profiling and control, trend analysis, internal check and review as well as the sound and secure management of computer systems.

### **2.2 Audit & Assurance Services (Internal Audit)**

2.2.1 Internal auditors must be alert to the possibility of fraud and corruption. However, the detection of fraud is not the primary role of the auditor, but is to draw attention to the weaknesses or threats identified in the course of their duties to enable management to take appropriate action.

2.2.2 Audit & Assurance Services has the responsibility for investigating internally perpetrated fraud and corruption. To assist, Standing Orders and Financial Rules state that the Council's auditors shall have authority, at all reasonable times to:

- enter on Council premises or land;
- have access to all records, documents and correspondence relating to any financial or other transactions of the Council;
- require and receive such explanations as are necessary concerning any matter under examination;
- require any employee of the Council to produce cash, stores or any other Council property under that person's control.

2.2.3 The Council's Whistle blowing Policy is intended to encourage and enable staff to raise concerns in a confidential environment. The policy, maintained by the Human Resources Division, covers areas which extend beyond fraud and corruption. Employees reporting concerns in this manner are afforded certain rights under the Public Interest Disclosure Act 1998.

2.2.4 Audit and Assurance Services recognises that the circumstances of a suspected fraud or irregularity will have a direct impact on the way in which the case is investigated. It does not therefore stipulate within this document a rigid methodology for investigation. A Fraud Response Plan is maintained by Audit and Assurance Services and all investigations will comply with the Plan and recommendations on such matters from relevant professional bodies.

2.2.5 When initiating an investigation of suspected fraud or corruption the Strategic Director shall appoint an 'investigating officer' who shall have appropriate knowledge and skills. The auditor and the investigating officer will consider the following issues:

- the probable level and extent of complicity in the fraud, within or outside of the Authority; (for example, where an incidents may be linked to, or be part of, a fraud or corruption incident outside of the Council, in which case the actions taken may need to consider the implication on any wider investigation). securing the evidence including documents, stock or assets, etc., relevant to the investigation;
- procedures to follow in attempting to identify perpetrators, along with the extent and cause of the fraud;
- co-ordination of activities with management, personnel, legal counsel, etc.,
- completion of working papers including a chronological log of events (this is essential as audit working papers are often used as evidence for disciplinary action or Police prosecutions).

The investigating officer and the auditor shall maintain confidentiality appropriate to each stage of the investigation.

2.2.6 As part of the investigation, it may be necessary to interview individuals regarding the fraud. The precise form of the interview will remain a matter for the investigating officer and the auditor's discretion. They should normally ensure that:

- a witness to the interview is present (another auditor and a representative for the interviewee – a Trade Union representative, colleague, or a friend)
- that a full record of the interview is kept
- where appropriate, the conditions of the Police and Criminal Evidence Act are followed for which specialist advice would be made available.

In some cases, frauds are discovered by chance or 'tip-off' therefore arrangements are in place to enable such cases to be properly dealt with. The arrangements are contained in the Council's Whistle blowing Policy, which encourages staff to raise concerns and affords them certain rights under the Public Interest Disclosure Act 1998.

### **2.3 Housing Benefit Fraud Investigation Team**

2.3.1 This team deals specifically with fraud perpetrated outside the Council. The terms of reference, under which this team operates are limited strictly to the

investigation of frauds relating to housing benefit claims and awards. The team are available to give advice to other Council divisions providing external funding.

2.3.2 Housing Benefit Investigation Officers are required to notify Audit and Assurance Services of cases of possible benefit fraud where the suspected claimant is an employee or member of the Council. Similarly, should an audit investigation indicate an employee or member is fraudulently claiming benefits, the Housing Benefit Fraud Investigation Officers will be notified.

### **3. RESPONSE**

#### **3.1 Disciplinary action**

3.1 .1 Theft, fraud and corruption are serious offences against the Authority and employees will face disciplinary action if there is evidence they have been involved in these activities. In such circumstances the Council's 'Disciplinary Rules' and 'Disciplinary Procedures for Employees' shall be followed. It may be necessary to suspend an employee to ensure evidence relating to the suspected fraud is not tampered with or destroyed and to enable the investigation to proceed without hindrance. Employees must be clearly aware that suspension does not imply guilt of any offence.

3.1.2 Members will face appropriate action under the policy if they are found to have been involved in theft, fraud and corruption against the Authority. The Procedure for Local Investigations of allegations of Member Misconduct will govern the manner in which investigations are undertaken if not referred to the Police. If the matter is a breach of the Code of Conduct for Members then it will be referred to the National Standards Board.

3.1.3 Action will be taken in addition to, or instead of criminal proceedings, depending upon the circumstances of each case.

#### **3.2 Prosecution**

3.2.1 Where there is adequate evidence to support the opinion that a fraud has or may have taken place the Director or Chief Executive shall notify the Police; the final decision to in respect of a criminal investigation shall rest with the Police or the relevant investigating body. The Council will support the investigating body in any independent prosecution; in some circumstances, the Council may elect to undertake a private prosecution.

3.2.2 Actions relating to prosecutions for housing benefit fraud shall be governed by the Council's Benefit Prosecution and Penalty Policy.

#### **3.3 Publicity**

3.3.1 The appropriate Strategic Director in consultation with the Chief Executive will take any decision to comment publicly on a matter of fraud or corruption. Staff should not comment on any such instances unless it forms part of the remit of their responsibilities.

3.3.2 The Council shall optimize the publicity opportunities associated with anti-fraud and corruption activity within the Council and ensure the results of any action taken,

including prosecutions, are reported to the media. The recovery of any financial loss should also be reported.

3.3.3 The policy and process will be published in order to make, members,



employees and the public aware of the Council's commitment to taking action on fraud and corruption when it occurs.

### **3.4 Corrective action**

3.4.1 The Council will normally seek to recover the losses incurred because of fraud and corruption. This process will also require notifying the Council's Insurance Officer of any potential loss along with details of what recovery action is proposed. An insurance claim shall only be made once all other means of recovery have been fully explored.

3.4.2 Anyone under investigation who offers money in settlement of any losses to the Council must have it made clear that any such offer will only be accepted on the following terms:

- without prejudice to any other action the Council may take
- that acceptance is only in respect of losses identified to date
- the Council reserves the right to seek recovery of any further losses that may arise in the future.

3.4.3 The Council recognizes that corrective action must be taken after any instance of fraud and corruption to ensure the weakness in the systems of internal control, which allowed the fraud to take place, are removed. The Strategic Director concerned and the Section 151 Officer must be satisfied that the corrective action is adequate.

## **4. TRAINING & AWARENESS**

4.1 The success and credibility of its Anti-Fraud and Anti-Corruption Policy will depend largely on how effectively it is communicated throughout the Authority. To meet this objective the Policy will be available to all members and staff via the internet and intranet, from service managers and will be included as part of the induction programme for new employees.

4.2 Employees involved in the review of internal control systems and investigative work must be properly and regularly trained.

4.3 It is the responsibility of Strategic Directors and their managers to ensure all employees refresh their knowledge of the policy and procedures.

## **5. CONCLUSION**

5.1 The Council has in place a clear network of systems and procedures to assist in preventing and detecting fraud and corruption. The arrangements outlined in this policy will be regularly reviewed to embrace future developments in both preventative and detection techniques through the Section 151 Officer, the Monitoring Officer and Audit and Assurance Services.

5.2 The Council has in use a number of policies which have been referred to in this document. It is essential these policies are subject to regular reviews in order to keep them relevant to the services and operations of the Council. Examples of the policies are, along with the responsible officer, shown below:

Code of Conduct for Employees	Assistant Director - Human Resources
Code of Conduct for Members	Monitoring Officer
Standing Orders & Financial Rules	Monitoring Officer & Section 151 Officer
Whistle blowing Policy	Assistant Director - Human Resources
Procurement Policy	Corporate Procurement Manager
Contract Rules	Monitoring Officer
Code of Corporate Governance	Assistant Chief Executive

5.3 The Anti-Fraud and Anti-Corruption Process will be subject to regular reviews by the Board, in consultation with the Joint Management / Union Working Group.