

# FALKLAND ISLANDS GOVERNMENT

## ANTI-FRAUD AND ANTI-CORRUPTION POLICY AND PROCEDURE



**The Treasury  
Stanley**

### **Procedure Dates**

Procedure supported by ExCo: 60/16 22<sup>nd</sup> March 2016

Procedure extant from: 1<sup>st</sup> July 2016

Procedure review date: March 2018 for July 2018 publication

Responsible officer for review: Financial Secretary

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## ANTI-FRAUD POLICY

The Falklands Islands Government aims to deliver high quality services and provide value for money whilst remaining fully accountable, honest and open in everything it does.

Fraud and corruption undermine these aims by diverting resources from legitimate activities, damaging public confidence in the Government and adversely affecting staff morale.

In administering its responsibilities, the Government will not tolerate any form of malpractice or irregularity, whether it is attempted from the outside or inside.

The Government is committed to operating in an open and honest way to:-

- Encourage the prevention of malpractice;
- Promote the detection of malpractice; and
- Identify a clear pathway for investigation.

It is expected that Elected Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Government expects that individuals and organisations will act towards it with integrity and without thought or actions involving malpractice.

### **1.0 Policy Objectives**

**This policy provides:**

- a clear statement of zero tolerance towards fraud and corruption;
- information for all officers on their rights and responsibilities with regard to raising concerns and the investigation of allegations of fraud and corruption;
- information for management on its responsibility to maintain controls that minimise and detect fraud;
- an environment that encourages staff and the public to report any suspicion of fraud, corruption, or other improper conduct;
- guidance to staff and the public on action to be taken where they suspect any corrupt or fraudulent activity within government;
- an explanation of responsibilities for conducting investigations into fraudulent or corrupt activities; and
- confirmation that staff and the public will be protected when they report or investigate fraudulent activities.

## **2. Background**

### **2.1 The Government's Vision**

The Government's Vision in the Islands Plan, is:

**“To progress the sustainable, economic, social and political development of the Falkland Islands for the benefit of all residents.”**

To achieve this vision the Government, its staff, the people it serves and the businesses it deals with must maintain the highest ethical standards and values.

### **2.2 FIG's Corporate Complaint Handling Procedure sets out a three-stage resolution process:**

1. Frontline Resolution;
2. Investigation;
3. Appeal.

This policy has an approved departure from the Corporate Complaints Handling Policy relating to step 1: frontline resolution. All suspicions of fraud or corruption should be raised as detailed in Policy No. 5 and raised immediately to investigation. For the avoidance of doubt there should be no attempt to resolve such concerns at the frontline and the investigation must not be undertaken within the department.

This policy also does not have a specific appeals process (step 3). This is due to the nature of this policy. However should an investigation result in disciplinary action internal appeals procedures in the Management Code apply.

### **3. Definitions**

#### **3.1 Fraud**

Fraud is a criminal activity. It is the 'abuse of position, or false representation, or prejudicing someone's rights for personal gain'. Put simply, fraud is an act of deception intended either for personal gain or to cause a loss to another person or organisation. Fraud is a deliberate act and is quite distinct from negligence and error.

Fraud is not restricted to financial or material benefits. It includes intangibles such as status and information. There are many ways to commit fraud. Some examples are:

- theft of an employer's assets, stores or money;
- manipulating cash floats or cash received ('teeming and lading');
- financial or other gain by falsifying books and forging records;
- gaining financial advantage from collusion;
- submitting false information to obtain some benefit;
- cashing of a cheque with intention to deceive;
- generating a fictitious creditor payment;
- manipulating payroll or personnel records; and
- suppressing the debtor recovery process.

#### **3.2 Corruption**

Corruption is the, "offering, giving, soliciting or accepting of an inducement or reward that may influence a person to act against the interests of the organisation". Corruption involves two or more people who knowingly conspire together to achieve the some dishonest gain. It must involve the offer, request or receipt of some form of reward.

An example would be where a contractor offers a reward, which is accepted by a government officer. In return the officer arranges for work to be awarded to that contractor.

## **Mandatory Policies**

### **1. Principles of Behaviour**

#### **Policy No. 1**

*Everyone who works within government is responsible for the proper, effective and efficient use of public funds, acting in accordance with the Seven Principles of Public Life and the Public Service Code of Conduct in the Management Code.*

#### **Explanatory Guidance**

Government staff at all levels, both officials and elected members, are expected to work in accordance with the Seven Principles of Public Life (also known as the Nolan Principles). These were updated in 2014 by the United Kingdom Committee on Standards in Public Life:

##### **Selflessness**

Holders of public office should act solely in terms of the public interest.

##### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

##### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

##### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

##### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

##### **Honesty**

Holders of public office should be truthful.

##### **Leadership**

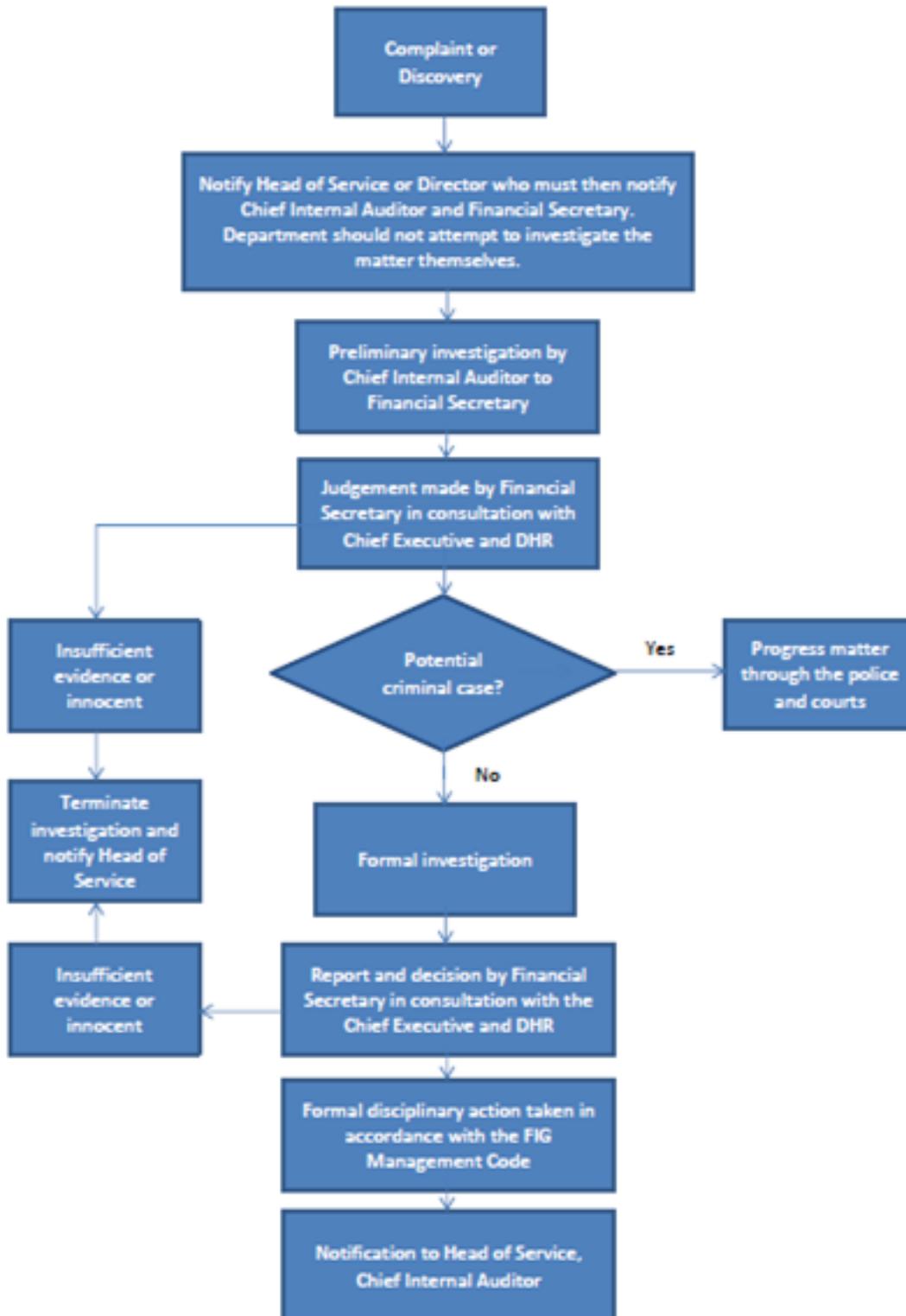
Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## 2. Process

### Policy No. 2

*There is a defined process for the investigation of any allegation of fraud or corruption.*

#### **Explanatory Guidance Flowchart**



### **3. Confidentiality**

#### **Policy No. 3**

*There will be strict confidentiality when dealing with allegations or when investigating allegations of fraud and corruption.*

#### **Explanatory Guidance**

All concerns will be treated in confidence and every effort will be made to respect the wishes of the person raising it concerning confidentiality as well as the protection of their identity. However, the person raising the concern may need to provide a statement or act as a witness and, if so, they will be expected to co-operate fully with the investigation and disclose all relevant information.

The person raising the concern also has a responsibility to keep that concern confidential, and not to discuss it with anyone other than the officer investigating it. Failure to maintain confidentiality could prejudice the investigation and could, ultimately, lead to action being taken against the person raising the concern.

### **4. RESPONSIBILITIES**

#### **Policy No. 4**

*Everyone inside and outside government has a role in the prevention and detection of fraud and corruption. Specific officers within government have additional roles in the investigation of allegations.*

#### **Explanatory Guidance**

##### **The Government**

The Government must create the right environment so that anyone can raise concerns about suspected irregularities with the knowledge that they will be treated seriously and their concerns investigated properly in a confidential manner. The Government will ensure that:

- staff and the public are aware of the issues of fraud and corruption;
- problems are acknowledged;
- arrangements are in place to report suspicions;
- there is no fear in raising concerns; and
- within the limits of necessary confidentiality, there is good communication between those raising concerns and those investigating them.

### **Directors and Heads of Service**

Management is responsible for maintaining sound arrangements to prevent and detect fraud and corruption. Directors and Heads of Service should report their own suspicions of financial irregularity immediately to the Financial Secretary and the Chief Internal Auditor. They should do the same if anyone else's concerns are raised with them.

### **Officers**

All staff have a duty to report any suspicions of financial irregularity or any allegations they receive from the public. If they do not, they may implicate themselves by inaction. They must also co-operate fully with any investigation and disclose all relevant information.

### **The Chief Internal Auditor**

The Chief Internal Auditor must report knowledge of any allegations of financial or other irregularities to the Financial Secretary immediately. The Chief Internal Auditor is also responsible for investigating and reporting on allegations.

### **The Financial Secretary and the Chief Executive**

The Financial Secretary will brief the Chief Executive on the progress of reviews or investigations as they take place. The Financial Secretary will also be responsible for amending Financial Instructions and circulating details to Directors and Heads of Service if internal procedures need to be improved.

### **The Public**

The public should feel able to report any concerns they may have about the behaviour of any member of government, whether officials or elected members. They should also report any concerns about the improper use of public funds or if they believe there are indications of fraud or corruption.

## **5. Reporting Concerns**

### **Policy No. 5**

*All suspicions of fraud or corruption must be reported immediately but they should only be investigated by those authorised to do so.*

### **Explanatory Guidance**

Irregularities in financial matters can be identified in a number of ways. They may be revealed during a routine audit or from allegations or sources inside or outside government. All allegations should be treated with discretion initially because apparently suspicious circumstances may have a reasonable explanation. It is also possible that some reports could be malicious.

Officers suspecting a financial irregularity of any type must tell their Head of Department who will then inform their Director. The only exception to this rule is where there are reasonable grounds for suspecting that the Head of Service or Director is involved. In this case, the officer should tell the Financial Secretary (or in the Financial Secretary's absence, the Chief Internal Auditor).

Concerns may be raised in writing or verbally. Anyone raising a concern should not investigate although they should be able to explain their concerns and demonstrate they have reasonable grounds to raise them.

Officers should not delay reporting concerns while they gather evidence. Simply having a concern is enough for it to be raised and those authorised to investigate will then do so. Nor should officers delay if they feel they need help in putting forward a concern. They can ask for help from Internal Audit, Human Resources, a Trade Union representative or others as described in the Confidential Reporting Procedure.

Directors or Heads of Service who receive allegations of a suspected financial irregularity must inform the Financial Secretary immediately. The Director must not attempt to investigate the suspected irregularity.

If a member of the public suspects financial irregularity of any type in government, they should tell the Financial Secretary straight away. In the Financial Secretary's absence, they should tell the Chief Internal Auditor. While it may help to put their concern in writing, it is not essential. All concerns will be investigated.

Once a concern has been received, the Financial Secretary will write to the person reporting it within three working days telling them what will happen next and how long it is expected to take. If the final decision is that a full investigation is not needed, the reasons for this will be given to the person who raised the concern.

Everyone is encouraged to identify themselves when raising a concern in the knowledge that they will be protected. Anonymous allegations will be investigated but they can be more difficult to investigate but it is better to raise a concern anonymously than not raise it at all.

This policy is designed to deal with genuine concerns made in good faith. Reporting of a concern that is found to be malicious or fictitious or one that is made for personal gain would result in disciplinary and/or legal action unless it is possible to demonstrate a reasonable belief that the concern was raised in the public interest.

## **6. Investigations**

### **Policy No. 6**

*The Chief Internal Auditor (CIA) is responsible for carrying out all investigations on behalf of the Financial Secretary. The CIA will first conduct a Preliminary Review and, if this reveals enough evidence to justify it, carry out a full and detailed investigation. Anyone who is the subject of, or a witness to, an allegation will have the right to be accompanied when interviewed and nobody will be suspended without the advice of the Director of Human Resources.*

### **Explanatory Guidance: Roles and Processes**

#### **Roles: The Chief Internal Auditor: Preliminary Review**

Once a concern has been raised or an allegation received, the Chief Internal Auditor will carry out a Preliminary Review to establish whether there are grounds for a full investigation that could lead to disciplinary proceedings and/or criminal prosecution. The same procedure must be followed if, during the course of an audit, it appears to the Chief Internal Auditor that there are significant errors or that there are indications of financial irregularity. The Chief Internal Auditor will report the outcome of the Preliminary Review to the Financial Secretary as soon as possible (at a maximum within 20 working days from notification of the concern). Concerns or allegations that fall outside the scope of fraud or corruption will normally be considered under other relevant procedures.

#### **Roles: The Chief Internal Auditor: Investigation**

Depending on the outcome of the Preliminary Review, the Chief Internal Auditor may be asked to investigate further and will then liaise with others including:

- the Financial Secretary;
- the Director of Human Resources;
- the Chief Executive;
- the Attorney General; and
- the relevant Head of Department.

#### **Process: Interviews**

If the Chief Internal Auditor needs to interview the officer(s) who is the subject of the complaint he/she will be accompanied by another senior manager or the Director of Human Resources, depending on the nature of the concern. The officer who is the subject of the concern has the right to be accompanied by a colleague or trade union representative, as will any witnesses who are interviewed. Full notes will be taken of the interview and they will be signed by the Chief Internal Auditor and the officer who has been interviewed to confirm they are a complete and accurate record.

**Process: Suspension**

In cases of suspected irregularities, it may be necessary to suspend a person from duty. If so, advice must first be sought from the Director of Human Resources. The aim of suspension is to allow the allegation to be investigated while ensuring there is no opportunity to continue with the alleged act, falsify or destroy records either intentionally or accidentally, influence witnesses, etc. Suspension does not imply guilt.

**Process: Police**

Management should always consider liaising with the Police at an early stage if it appears there may be criminal activity involved. The Police can give valuable advice and delaying contact while a lengthy internal investigation takes place could prejudice any subsequent prosecution.

**7. Care Must be Taken With Evidence Held on Computers****Policy No. 7**

*Evidence held on computer will be protected to ensure its integrity is not compromised.*

**Explanatory Guidance**

When it is suspected that there has been some unauthorised act in respect of the computer system, immediate action will be dictated by the nature of that act. Outside intrusion into the system or some part of it – ‘hacking’ - will require immediate steps to prevent a re-occurrence and to secure evidence of what damage may have been caused. Acts within the organisation are more likely to occur and may be in two broad areas:

- a) use of the computer as a tool to undertake some fraud against the organisation; or
- b) use of the computer by an officer who seeks to cause disruption or loss of data.

The priority must be to secure evidence, which will include isolating a computer and ensuring that actions such as emptying of the ‘recycle bin’ do not dispose of valuable data by mistake. Where outside intrusion is suspected there must be immediate action to isolate the system and to preserve audit trails, which will provide evidence of the source and nature of the intrusion. If in doubt, ask for advice from Synergy Information Systems Ltd, who manage FIG’s computer network.

It is a basic rule that access to any IT system is entirely dependent on need. Whenever an officer stops working for FIG, access to government IT should be withdrawn and all passwords known to the former employee should be changed.

## **8. Post-Investigation Procedure**

### **Policy No. 8**

*There is a defined process for action after investigations take place which may include disciplinary action and/or a criminal prosecution.*

### **Explanatory Guidance**

At the end of the investigation the Chief Internal Auditor will produce a Fraud Investigation Report. The report will set out all the facts relating to the case and will be addressed to the Financial Secretary. If there are grounds for disciplinary action the Fraud Investigation Report will be sent, in strict confidence, to the relevant Head of Service and Director (unless he/she is implicated in the investigation). No other copies will be distributed unless the Financial Secretary decides otherwise.

The Financial Secretary, in consultation with the Chief Executive and Director of HR, will then decide if there is enough evidence for:-

- a) management action to be taken (including consideration of formal disciplinary proceedings), and/or
- b) a formal Police referral.

Under a) If, after a full investigation, disciplinary action is justified the case will be dealt with as set out in Chapter 4 of the Management Code.

Under b) The decision to involve the Police will include the following considerations:

- whether there appears to be evidence of a criminal act;
- the management of public relations;
- the number and seniority of the persons involved;
- the complexity of the case;
- the involvement of people or organisations outside the government; and
- the need to demonstrate a deterrent.

Should there be any doubt in making the decision whether to refer the matter to the Police the advice of the Chief of Police should be taken.

The Chief Executive will inform the Governor and Elected Members immediately should a Police referral be made.

If the investigation identifies a need to improve procedures, the Financial Secretary will be responsible for amending Financial Instructions and circulating details to Heads of Service and Directors.

## **9. Communication And Confidentiality of Allegations And Investigations**

### **Policy No. 9**

*All allegations will be acknowledged and the results of all investigations will be communicated but appropriate confidentiality will be maintained.*

### **Explanatory Guidance**

Unless the concern has been raised anonymously, the person raising it will receive the following:

- an acknowledgement that the concern has been received;
- an indication of how the concern will be dealt with;
- whether any initial enquiries have been made;
- whether further investigations will take place, and if not, why not; and
- reassurance that appropriate action has been or will be taken.

There will be strict confidentiality over audit reports and all documents and information used during investigations. Nothing will be disclosed to anyone except as outlined in this policy and any officer who contravenes this rule could be liable to disciplinary action.

The Financial Secretary will decide whether to discuss the conclusions of the investigation or the content of the final report with the person who has raised the concern. If so, this will only be done on the understanding of strict confidentiality and only by the Financial Secretary or his nominee.

All copies of audit reports must be stamped 'CONFIDENTIAL' on each page, which will also be numbered. Each copy of the report will be numbered and each copy issued will be signed for by the recipient. The Chief Internal Auditor will keep a log of all copies. Any requests for audit documents or copies of documents from any source including Elected Members, must be referred to the Chief Executive.

For this type of audit report (those relating to special inquiries where disciplinary or Police action could arise), the practice of issuing draft reports for comment will not apply. Final audit reports (and interim if appropriate) will be issued personally by the Chief Internal Auditor to the Financial Secretary. A copy of the Final audit report will also be issued directly to the Chief Executive where full action has been agreed under Policy No. 8a) or b).

## **10. Implementation & Review**

### **Policy No. 10**

*The Anti-Fraud and Anti-Corruption Policy will be kept up to date.*

### **Explanatory Guidance**

In the interests of maintaining best practice, the Anti-Fraud and Anti-Corruption Policy will be reviewed by the Financial Secretary at least every two years. It will also be reviewed sooner if there is an amendment to legislation or related guidance, experience or in the light of changing circumstances.