



**THE COUNTY GOVERNMENT OF NYANDARUA
PAMOJA TUJIJENGE**

ANTI CORRUPTION FRAMEWORK

NOVEMBER 2020

Contents

FOREWORD	3
POLICY STATEMENT	3
SCOPE	3
RESPONSIBILITIES OF MEMBERS OF COUNTY GOVERNMENT AND MEMBERS OF STAFF	4
RESPONSIBILITIES TO MEMBERS OF THE PUBLIC	4
FRAUD CONTROL AND MANAGEMENT FRAMEWORK.....	4
MANDATE AND OPERATIONS OF THE RISK DEPARTMENT IN RELATION TO FRAUD	7
CLASSIFICATION OF FRAUD	7
REPORTING CHANNELS	8
INVESTIGATION AND RESPONSE	8
Statement of Intent.....	8
Investigation Standard	8
Investigation Objectives	9
Periodic reporting of investigation findings	9
INFORMATION EXCHANGE WITH REGULATORY OR STATUTORY AUTHORITY	10
REVIEW CYCLE.....	10
RELATED POLICIES AND PROCEDURES.....	10
PROTECTION OF WHISTLE BLOWERS	10
DISCIPLINARY	10
TRAINING.....	10

FOREWORD

The objective of The County Government of Nyandarua under article 174 (a) of the constitution is; ***to promote democratic and accountable exercise of power***. In order to meet this objective the County Government recognizes the high Risk posed by corruption and by implementing this framework seeks to eradicate the vice of corruption in its operations. The County Government further recognizes that corrupt practices can adversely affect its reputation, resources and its responsibility to the people of Nyandarua County. The County Government has promulgated an Anti-corruption Framework to supplement legal provisions and other Government initiatives for fighting and preventing corruption in Kenya. The framework provides for efficient and effective detection and prevention of corruption within the County operations.

POLICY STATEMENT

The County of Nyandarua believes that good Governance is fundamental to the economic and social development process of the County, and hence is inherently linked to objectives and mandate of the County Government. Through this framework the County Government seeks to promote the values of;

- Accountability;
- Transparency;
- Integrity;
- Stewardship
- Professionalism;
- Fairness.

LEGISLATIVE AND ADMINISTRATIVE REQUIREMENTS /CONTENT

This policy shall be read together with other Government legislations; the Anti-Corruption and Economic Crimes Act, 2003; the Bribery Act, 2016; Pubic Finance Management Act, 2012; Integrity and leadership act, 2012; Public Officer Ethics Act, 2003; Public Procurement and Disposal Act, 2005; and the Government Financial Management Act, 2004 and other enabling legislations.

SCOPE

This policy applies to all the County Governments members, staff and all other stakeholders interacting with the County.

DEFINITION

Corruption-Under the Anti- Corruption and Economic Crimes Act 2003, is an offence which constitutes abuse of office, bribery, Fraud, embezzlement or misappropriation of public funds, bid rigging, dealing with suspect property, breach of trust and an offence involving dishonesty in connection with any tax, rate or impost levied under any act or under any written law relating to elections of persons to public office. In this respect, corruption shall be deemed to have occurred when an official who is a holder of a position in the County receives or is promised significant advantage or reward as a person either on his own or with other persons, group or organization for doing something that he/she is under a duty to do or, not to do, for improper legitimate discretion for improper reasons, and for applying illegal means to achieve approved goals of the County Government.

Fraud - Fraud is deceptive behavior intended to result in financial or personal gain or cause a loss to others.

An act of fraud therefore occurs where a person:

- dishonestly makes a false representation;
- dishonestly fails to disclose information; or
- Dishonestly abuses a position of trust.

In each case, there must be intent to make a gain or cause loss to another or expose

False Representation - A representation is false if it is:

- untrue and willfully made to deceive another to his damage;
- untrue in fact, but recklessly made when the maker has no knowledge as to its truth or falsity; or
- A promise made with no intention to carry it out.

Failure to disclose information - A person wrongfully fails to disclose information to another person if s/he has a legal duty to disclose it; or the information is of a kind, which s/he is trusted to disclose, and it is reasonable to expect her/him to disclose it.

Abuse of position - A person abuses a position of trust, when they have been given a position in which they are expected to safeguard another's financial interests and they abuse that position without the other's knowledge.

Theft - A person is guilty of theft if s/he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

Fraud risk - The vulnerability that an organization faces from individuals capable of combining all three elements in the fraud triangle, namely:

- Pressure – this is what motivates the act of fraud in the first place. The individual could for instance have a financial problem that he is unable to solve through legitimate means;
- Opportunity - Defines the method by which the crime can be committed. The person must see some way in which he can use (or abuse) his position of trust to solve his financial problem with low perceived risk of getting caught.
- Rationalization – The person must justify the fraud to himself or herself in a way that makes it an acceptable or justifiable act e.g. "I was only borrowing the money", "I was entitled to the money", "and I had to steal to provide for my family" etc.

RESPONSIBILITIES OF MEMBERS OF COUNTY GOVERNMENT AND MEMBERS OF STAFF

Each member of the County Government and each member of staff should:-

- i. Ensure that all parties carrying out business with the County know and respect this policy;
- ii. Comply with all laws and regulations
- iii. Fight corruption in all its form and manifestations in the conduct of the County affairs; and
- iv. Actively resist any corrupt payment, gift or hospitality and instead report such corrupt payments, gifts and hospitalities to the County for appropriate action.

RESPONSIBILITIES TO MEMBERS OF THE PUBLIC

Members of the public are urged to report all cases of corruption including unethical and criminal conduct by members of the County Government and members of staff by way of letters, e-mails, telephone calls, or suggestion boxes.

FRAUD CONTROL AND MANAGEMENT FRAMEWORK

CEC Oversight		
Provides oversight over the implementation of FRM framework		
<p>1. Fraud Prevention</p> <ul style="list-style-type: none"> • Adherence to relevant policies guidelines i.e. Code of Conduct, FRM Policy, Disciplinary Policy etc. • Performance of training and awareness sessions with management and staff on fraud prevention. • Performance of regular reviews aimed at identifying fraud risks and other process gaps that may contribute to fraud. • Establishment of preventive controls to mitigate identified fraud risks like segregation of duties, delegation of authority, user access rights control etc. 	<p>2. Fraud Detection</p> <ul style="list-style-type: none"> • Evaluation of Fraud Risks (Inherent and Residual) across the enterprise. • Regular review of possible fraud scenarios with management. • Detective Controls like exception reporting, suspicious transactions monitoring, reconciliations, fraud reporting channels and whistleblowing hotlines, audits etc. 	<p>3. Fraud Response / Investigation</p> <ul style="list-style-type: none"> • Authority to investigate directly or indirectly. • Carrying out investigations. • Unrestricted access to premises, records and staff. • Disciplinary and /or legal actions. • Initiatives to recover fraud related losses. • Fraud reports to Management and Board.

This policy defines the roles and responsibilities for various stakeholders as follows:

	Heads Of Department	Internal Audit	Risk Management Function
<p>Fraud Prevention <i>Initiatives aimed at reducing the risk of fraud from occurring.</i></p>	<ul style="list-style-type: none"> • Set the tone at the top with regard to County's zero tolerance to fraud and corruption. • Understand the FRM policy and cascade it together with other relevant communication to their staff. • Understand fraud risks that affect their respective functions. 	<ul style="list-style-type: none"> • Assess internal controls and give recommendation on adequacy and strengthening • Incorporate fraud risk assessment in the annual work-plan 	<ul style="list-style-type: none"> • Develop relevant FRM policies & documentation. • Coordinate fraud risk assessment exercises. • Coordinate communication & awareness initiatives. • Carry out fraud risk process reviews. • Provides regular reports to CEC on the impact of frauds detected and measures taken to mitigate identified fraud risks.

	Heads Of Department	Internal Audit	Risk Management Function
	<ul style="list-style-type: none"> • Establish relevant internal controls and measures to mitigate fraud risks. 		
Fraud / Corruption Detection <i>Initiatives aimed at discovering fraud when it occurs.</i>	<ul style="list-style-type: none"> • Implement adequate internal controls e.g. performing reconciliations. • Adequate supervision to ensure controls are effective. • Report all suspicions of fraud to Risk Management Function 	<ul style="list-style-type: none"> • In the course of audit query areas of exposure to fraud and corruption • Review controls in areas exposed to fraud and corruption • Escalate and assist in investigation of weak controls for fraud 	<ul style="list-style-type: none"> • Manage fraud reporting channels (hotline, email, direct reports etc.). • Suspicious transactions monitoring. • Maintain relevant black list information for referencing
Fraud Response & Investigation <i>Initiatives aimed at taking corrective action and remedying the harm caused by fraud</i>	<ul style="list-style-type: none"> • Hold staff accountable for compliance violations. • Support investigative efforts and provides relevant information, including carrying out necessary investigative procedures as in cooperation with the Risk Management Function 	<ul style="list-style-type: none"> • Receive fraud reports and work together with the risk function to investigate the allegation. • Provide additional support in Fraud response and investigation 	<ul style="list-style-type: none"> • Receive and consolidate all reports on fraud and Corruption. • Carry out (or supervise) investigations and report on findings. • Law enforcement liaison.

The CEC has the overall responsibility for overseeing the Fraud and Corruption prevention program and is responsible for approving, reviewing and monitoring compliance with this Policy. The CEC may delegate this responsibility to the Audit Committee.

Heads of Department (CECM) will oversee the operationalization of the policy in their respective departments. The Accounting officer will have the overall responsibility for implementing the Fraud and Corruption program.

Fraud Prevention and Investigation Unit is a section within the Risk Department with specialist fraud management expertise. They are responsible for providing guidance in relation to this policy and facilitating the implementation of this policy. The rest of the department comprises Risk Analysts who will be required to include fraud risks in the scope of Risk Assessment plans/cycle and highlight red flags where the Risk Analyst believes a possibility of fraud exists.

Staff are required to make themselves aware of this policy at all times, adhere to it, report all suspicions of fraud to their immediate supervisor and where that is not feasible to the head of risk management or Head of department. They will be expected to cooperate fully with investigations.

Where necessary, external support could also be sought for sensitive investigations or where appropriate investigative

competencies are not available in-house.

MANDATE AND OPERATIONS OF THE RISK DEPARTMENT IN RELATION TO FRAUD

The County Government shall mandate the Risk Management department with the responsibility of managing fraud risk.

These responsibilities shall be to:-

- i. Identify corruption risks.
- ii. Set priorities in the prevention of corruption within the County.
- iii. Receive and recommend action on corruption reports made by the public, members of the County Government and members of staff.
- iv. Develop corruption prevention strategies and programs.
- v. Spearhead anti-corruption campaign within the County.
- vi. Monitor progress and evaluate the impact of corruption prevention initiatives.
- vii. Submit quarterly reports on corruption eradication to Kenya Anti-Corruption Authority.
- viii. Carry out Anti-Corruption Sensitization and training programs on matters of ethics, integrity and corruption prevention.

CLASSIFICATION OF FRAUD

The main types of occupational fraud are described below.

- a) Financial statement fraud – the deliberate misrepresentation of the financial condition of an entity accomplished through the intentional misstatement or omission of amounts or disclosures in the financial statements to deceive financial statement users.
- b) Asset misappropriation – includes both the theft of County assets such as cash or inventory and the misuse of assets.
- c) Corruption - The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.
- d) Computer fraud and internet fraud – refers to fraud perpetrated using a computer and the internet as the primary tool to commit fraud.

Outlined on the below is a high level classification of occupational fraud

Financial Statement Fraud	Corruption	Asset Misappropriation	Computer & Internet Fraud
Improper capitalization or deferral of expenses	Bribery	Misappropriation of cash	Unauthorized access
Improper recognition of revenues	Kick Back	Fraudulent disbursements	Data destruction & sabotage
Asset/ Liability manipulation	Economic Extortion	Payroll fraud	Identity theft
Manipulation of tax accounts	Collusion	Employee expense fraud	Disclosure of confidential information

Financial Statement Fraud	Corruption	Asset Misappropriation	Computer & Internet Fraud
Unsupported Journal entries	Procurement fraud	Misappropriation of inventory and other assets	
Improper management Estimates	Conflict of interest		
Significant unusual transaction			

REPORTING CHANNELS

The County encourages all employees to escalate suspicions of fraud through the following channels that have been provided for:

	Reporting line	Contacts
1	HOD	As per the internal Directory
2	Fraud reporting Number	02026660859
3	Fraud Risk Management	frm@nyandaruaCounty.go.ke
4	County Secretary	cs@nyandaruaCounty.go.ke or infor@nyandarua.go.ke
5	County Website	www.nyandarua.go.ke
6	P.O. Box	County Secretary and Head of Public Service County Government of Nyandarua P.O. Box 701-20303 Olkalau.

**** All fraud incidents reported to the HOD must be ultimately reported to the County Secretary and Head of Risk Management Function.*

The County is committed to ensuring that there is a high level of privacy and confidentiality around the escalation of fraud incidents. In the course of investigation there may be need to refer to the reporting staff for additional information or further clarification.

INVESTIGATION AND RESPONSE

Statement of Intent

The County will maintain cost effective mechanisms that ensure suspected fraud is thoroughly and appropriately investigated, so to understand the impacts and root causes of all such events, and respond consistently to each issue as it arises.

Investigation Standard

All fraud investigations will be overseen the by Head of Risk Management. A case management system will be put in place that will classify all the fraud incidence reports received and Head of Risk Management shall develop the escalation criteria,

response procedures and protocols depending on the type and scale of the fraud. Some cases may for instance be investigated by HOD under the supervision of Head of Risk Management while others may be investigated end to end by Head of Risk Management or Human Resources and Administration Department.

Investigations will be concluded with a final report detailing the following:

- The allegations or areas of concern
- Inquiries undertaken
- Findings
- Conclusions
- Control improvements recommended

Investigation Objectives

A fraud investigation consists of gathering sufficient information to determine

- Whether fraud has occurred
- Who was involved
- The methods used to circumvent controls
- The loss or exposures arising

The investigation will be sensitive to the rights of individuals and will be conducted on an independent basis regardless of the suspected wrongdoer's length of service or position in the organization. The following key elements must be taken into account in undertaking an investigation:

- Confidentiality
- Maintaining the integrity of the investigator, ensuring no possible conflict of interest with the area being investigated
- Evidence collection, preservation and presentation standards
- Documentation of the investigations steps and decisions taken

Periodic reporting of investigation findings

The County has zero tolerance to fraud and all fraud and corruption allegations will be investigated and dealt with to conclusion. Further, to this the County considers a fraud event as significant when it meets any of the following criteria:

- Foreseeable net financial loss in excess of KES 1 million
- Extended reputation risk occurs (e.g. one-off adverse national media coverage or linked to a major external investigation)
- Severe legal and regulatory risk arises (e.g. a breach in law)
- Any fraud investigation involving an employee who is graded as a Director and above; or is in a financial control position.

Head of Risk Management will report fraud incidences that meet the above criteria to the CEC or delegate Committees with relevant detail to understand the fraud schemes, including control gaps that contributed to the frauds. Incidences that do not meet the above criteria will be aggregated together and reported as part of overall fraud statistics.

Reports to the individual Administrative Units will be made by Head of Risk Management.

INFORMATION EXCHANGE WITH REGULATORY OR STATUTORY AUTHORITY

Where necessary, the County Government shall share information on incidences of fraud with relevant authorities.

REVIEW CYCLE

This Policy will be reviewed annually by the Risk Manager and any other stakeholders.

RELATED POLICIES AND PROCEDURES

This policy should be read in conjunction with the following:

- Risk Management Framework
- Code of Conduct
- Disciplinary Policy

PROTECTION OF WHISTLE BLOWERS

The County Government will ensure protection of the identity and safety of persons making corruption disclosure. No protection will be accorded to any person for malicious, self-serving, vexation or baseless allegation or disclosures.

DISCIPLINARY

A disciplinary action shall be carried out to any member of the County Government found to have committed an offence contrary to the provisions of this policy.

TRAINING

The County Government of Nyandarua commits itself to continuously sensitize and train members and staff on matters of ethics and integrity.