



Land Governance in an Interconnected World

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The Fight to Eliminate Fraud, Corruption, Tax Avoidance and Evasion in Land Administration.

In any organisation responsible for land administration, taxation or registration, fraud, corruption and financial crime, whether it be bribery, evasion, avoidance, misappropriation, embezzlement or money laundering, operate in environments where opacity, conflict-of-interest, weak audit, lack of oversight and accountability, inadequate procedures, ineffectual and weak organisational cultures are present. This paper seeks to outline an approach to dealing with these matters.

Fraud, corruption and financial crime in land administration may be perpetrated by senior and junior management, political élites, public officials acting as 'lone wolves' or in subcultures and, increasingly, organised crime. The foundations of a structure to deal with these issues are created by the setting of a series of standards or principles for those participating in public life together with a range of effective operational arrangements.

The Principles of Public Life

Whilst there are no hard and fast rules on how to structure a public administration there are a series of underlying principles that underpin the operational pattern of a public body. These principles are often mentioned in a wider context and were contained in a report published in 1994, by a UK government Committee on Standards in Public Life. The committee was chaired by Lord Nolan, and was tasked with making recommendations to improve standards of behaviour in public life.

The first report of the committee established the seven principles of public life, also known as the "Nolan principles". Whilst these form a foundation for operational behaviour and culture they now need to be enhanced to recognise the development of society over the last thirty years. This paper seeks to apply the principles to land administration in a uniform way that can be applied to all countries. The paper further highlights the significant measures that can be taken to reduce the risk of fraud and corruption. The first seven of the following principles were in Nolan the remaining three reflect modern behaviour. It should be a basic expectation that all of those involved in land administration should conduct their day to day working life in accordance with the following principles:-

Selflessness Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them on the performance of their official duties.

Objectivity In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it. . Openness requires an inclusive approach, an outward focus and a commitment to partnership working.

Honesty Holders of public office have a duty to declare any private interests relating to their public duties and to take reasonable steps to resolve any conflicts arising in a way that protects the public interest.

Leadership Holders of public office should promote and support these principles by Leadership and example

To these, I would add

Respect for Others Holders of public office should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability.

Duty to Uphold the Law Holders of public office should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place on them.

A Typical Corporate Framework to reduce the risk of Fraud and Corruption

Any organisation, agency or governance body involved in land administration takes ultimate responsibility for the protection of its operational arrangements and finances. The administrative entity should also recognise that fraud and corruption are costly in terms of reputational risk and financial loss. The Corporate Framework which underpins the entity has a number of components that flow from the overriding principles that exist to protect the entity against fraud and corruption. These include:

Code of Conduct and Ethics for the Governance body

These contain guidance on pecuniary and non-pecuniary interests, confidentiality, access to documents and meetings, relationships between members and officers, gifts and hospitality, Contract Procedure Rules and Financial Regulations and Standards, and the Constitution.

Code of Conduct and Ethics for Employees

This covers general standards; financial and non-financial interests; relationships with colleagues, managers, elected officials, contractors, the press and the public; health and safety; care of money and property; political neutrality and political restrictions together with the responsibilities of Directors and Managers. Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their families or their friends also they should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Register of Pecuniary and Conflicts of interest policies

The entity must maintain a register of interests, pecuniary or otherwise and record all gifts and hospitality offered or given to officials and elected representatives. The register can be made available for public inspection.

The Entity's Constitution, financial regulations and standards

The Constitution sets out how the entity will manage its affairs. Financial Regulations provide the framework within which the entity manages its finances and safeguards its assets. They are issued by the entity and are binding on all employees. Financial Standards are part of Financial Regulations, and define the minimum standards required to provide effective and efficient financial arrangements.

Internal Audit & Controls

These are undertaken by the entity's internal audit (department in accordance with the requirements of any local regulations and associated professional guidelines). Reviews of control systems are conducted across all departments of the entity and coverage is determined using an objective risk based process. The reviews provide assurance on the effectiveness of internal controls and the division of duties. They also alert managers to system weaknesses in order that corrective action can be taken to minimise risk. Ongoing advice on risk management and control improvement is also provided

External Audits

External Audits are an essential element of governance. The external auditor undertakes a planned programme of work across the entity, including an annual

review of the entity's arrangements for preventing and detecting fraud and corruption.

Contract and procurement Procedure Rules

These promote good purchasing and public accountability and deter fraud and corruption. It also covers basic principles, responsibilities, competition requirements for purchase, disposal and partnership arrangements and waivers on contract procedure rules.

Whistle-Blowing Policy and Procedure (or Confidential Reporting)

The entity should have a Confidential Reporting Code, enabling staff to report concerns about employees, or elected officials, without the fear of resultant victimisation, whilst protecting those from ill-informed or vexatious allegations.

Data matching and big data

As part of the annual external audit process, The entity provides data from its computer systems, which is matched with that of other public bodies and agencies, to identify possible fraud. Matches are also taken against commercial data held by non-public external agencies. All matters concerning the manipulation of data must comply with local data protection measures.

From these basic elements the entity can develop the broader range of policies which should be developed in accordance with the law and practice prevailing in the country developing the overall corporate plan. The final plan would include further policies on issues such as a:-

Counter Fraud Policy Statement and procedure

Bribery Policy Statement and Procedure

Prosecution and Sanction Policy Statement

Anti -Money Laundering Policy Statement and Procedure

Anti-corruption policy Statement and Procedure

Information security policy

Cyber security policy

Effective recruitment, selection and disciplinary procedures

The Entity's Constitution, financial regulations and standards