Anti-Corruption Code of Practice Consultation

Contents

Chartered Institute of Public Finance and Accountancy (CIPFA)

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. CIPFA shows the way in public finance globally, standing up for sound public financial management and good governance around the world as the leading commentator on managing and accounting for public money. Further information about CIPFA can found on the CIPFA website.

Any questions arising from this submission should be directed to:

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Executive Summary

CIPFA is pleased to publish this consultation on the review of the Anti-Corruption Code of Practice (the Code).

Context

Corruption undermines governments' abilities to provide public services. It can threaten a country's sustainable development, reduce prospects for foreign investment and exacerbate poverty and other social divisions.

Chapter II of the United Nations Convention Against Corruption (UNCAC) sets out preventative anti-corruption measures that should be taken at a state level. In order for a state to successfully implement UNCAC Chapter II, public sector organisations in each state will need to contribute to the state's anti-corruption activity and work to prevent corruption at an organisational level.

The Code is intended to support public sector organisations in working towards the prevention of corruption and making a contribution at an organisational level towards the implementation of UNCAC Chapter II.

The Code has been developed by CIPFA's International team and is intended for use by public sector organisations internationally. Application of the Code is intended to be at the option of the public sector organisation.

Summary of the Code

The focus of the Code is on the prevention of corruption. The Code is structured around five key principles:

A. An organisation's leaders should take ownership and lead by example.

The Code emphasises the importance of setting an appropriate 'tone from the top'. Section A of the Code requires that the governing body of an organisation should take ownership of ensuring that the risks associated with corruption are managed effectively across all parts of the organisation. Further, Section A requires that the organisation's leadership team should understand the importance of leading by example and should demonstrate zero tolerance to corruption in their own behaviours.

B. An organisation should identify corruption risks.

The Code emphasises that corruption risk identification is essential to understand an organisation's specific exposures to risk, changing patterns in corruption threats and the potential consequences to the organisation, its service users and wider society. Section B of the Code outlines the specific steps an organisation should take to identify corruption risk.

C. An organisation should develop an appropriate anti-corruption strategy.

Section C of the Code requires that an organisation produces an anti-corruption strategy setting out its approach to managing its risks and defining responsibilities for action.

D. An organisation's leadership should ensure adequate resources are provided to implement the anti-corruption strategy.

The Code emphasises that corruption prevention is generally more cost effective than corruption investigation and subsequent asset recovery. It therefore requires that adequate resources are made available to support the anti-corruption strategy, including resources for corruption risk assessment and corruption prevention activities. Section D of the Code outlines the specific steps the organisation should take to arrange appropriate resources to support the anti-corruption strategy.

E. An organisation should take action in response to corruption risks.

Section E of the Code requires that the organisation should put in place policies and procedures to support the anti-corruption strategy and take action to prevent, detect and investigate corruption. Section E emphasises that the organisation should embrace a culture of zero tolerance for corruption, with the organisation's leadership team setting a tone of zero tolerance for corruption from the top of the organisation.

The main body of the Code sets out the specific steps an organisation should take to achieve the five principles. This is supported by guidance on applying the Code in practice, which states that organisations that apply the Code should consider how progress against corruption can be reported publicly.

Responding to this consultation

CIPFA welcomes feedback on the draft Code from CIPFA members and non-members. In particular, CIPFA welcomes feedback from representatives of public sector organisations outside the UK and from stakeholders with an interest in corruption prevention.

CIPFA welcomes responses to the questions included on page 6 of this document based on the draft Code set out on pages 7 to 14.

Responses should be sent to policy.technical@cipfa.org by **21 September 2022**.

Acknowledgements

CIPFA thanks the Independent Commission Against Corruption Mauritius and the Directorate for Ethics and Integrity in Uganda for their contributions to the development of the Code.

This draft Code draws on principles set out in CIPFA's Code of Practice on Managing the Risk of Fraud and Corruption as developed by the CIPFA Counter Fraud Centre.[1]

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1 This Code, intended for international application, does not replace the Code of Practice on Managing the Risk of Fraud and Corruption which will continue to serve public sector organisations in the UK.

Consultation questions

Question 1a: Do you think that the introduction of a code of practice will encourage the adoption of good anti-corruption practice in your organisation?

If not, what should we change?

Question 1b: Do you think the Code will help to encourage good anti-corruption practice in the wider public sector? If not, what should we change?

Question 2a: Do you think CIPFA has identified the correct core principles of good anti-corruption practice in the following A to E areas of the Code?

A. organisational leaders take ownership and lead by example

B. identify corruption risks

C. develop an appropriate anti-corruption strategy

D. provide resources to implement the strategy

E. take action in response to corruption risks.

Question 2b: If not, what additions or amendments would you suggest?

Question 3: The CIPFA Code of Practice will be voluntary. How do you think take-up of the Code should be encouraged and embedded?

Question 4: What barriers are there to the widespread adoption of the Code in your sector or jurisdiction and how can CIPFA help to overcome those barriers?

Draft Anti-Corruption Code of Practice

Purpose of the document

In the Foreword to the United Nations Convention Against Corruption (UNCAC), then-Secretary-General of the United Nations Kofi Annan describes corruption as "an insidious plague that has a wide range of corrosive effects on societies" that "hurts the poor disproportionately by diverting funds intended for development, undermining a government's ability to provide basic services" (United Nations Convention against Corruption, 2004).

UNCAC Chapter II sets out preventative anti-corruption measures that should be taken at a state level. In order for a state to successfully implement UNCAC Chapter II, public sector organisations in each state will need to contribute to the state's anti-corruption activity and work to prevent corruption at an organisational level. This Code of Practice is for use by public sector organisations based in states that have ratified or signed UNCAC and is designed to be implemented at an organisational level to support the prevention of corruption.

Through applying this Code and implementing effective anti-corruption measures, public sector organisations can play a vital role in addressing corrupt behaviour and improving the quality of life for citizens. The five key principles of the Code to be applied by organisations are:

A. organisational leaders take ownership and lead by example

B. identify corruption risks

C develop an appropriate anti-corruption strategy

D provide resources to implement the strategy

E. take action in response to corruption risks.

A Take ownership and lead by example

The governing body should take ownership of ensuring that the risks associated with corruption are managed effectively across all parts of the organisation. The leadership team should understand the importance of leading by example and should demonstrate zero tolerance to corruption in their own behaviours.

Specific steps should include:

A1 The organisation's leadership team acknowledge:

- the threats of corruption
- the harm corruption can cause to the organisation, its aims and objectives and to its service users
- the harm corruption can cause to the economic development of a country and the prosperity and wellbeing of its citizens.

A2 The organisation's leadership team acknowledge the importance of a culture that is resilient to the threats of corruption and aligns to the principles of good governance.

A3 The organisation's leadership team lead by example through their own ethical behaviour and by actively promoting a culture in which corruption is not tolerated.

A4 The governing body sets specific goals to:

- reject a culture of corruption
- maintain the organisation's resilience to corruption through an effective system of internal controls and corruption risk management
- set an appropriate tone from the top
- include anti-corrupt and ethical behaviour in staff performance targets and promotion criteria, or otherwise reward staff who consistently demonstrate anti-corrupt behaviour
- explore opportunities for financial savings from enhanced corruption deterrence, prevention and detection.

A5 The governing body takes ownership of ensuring the management of its corruption risks and will be accountable for the actions it takes through its governance reports.

A6 The leadership team should be appointed to their own positions via a fair and transparent process.

A7 The leadership team take ownership of communicating the organisational stance on corruption and communicating roles and responsibilities to staff members.

A8 The leadership team will take ownership for ensuring that anti-corruption efforts are integrated and mainstreamed into all areas of operations.

B Identify corruption risks

The risk of corruption can be affected by factors including the external context the organisation operates within, the extant regulatory framework and the existence of incentives and opportunities to engage in corrupt activity. Further, the risk of corruption can arise from issues and practices internal to the organisation including, but not limited to:

- relatively poor levels of remuneration

- opportunities for bribery

- inherent weaknesses in the operating environment

- weak internal control systems

- weak internal audit.

Corruption risk identification is essential to understand specific exposures to risk, changing patterns in corruption threats and the potential consequences to the organisation, its service users and wider society.

Specific steps should include:

B1 Risks of corruption are routinely and regularly considered as part of the organisation's risk management arrangements. The best practice approach would involve the use of formal corruption risk assessment processes.

B2 The organisation identifies the risks of corruption and the importance of behaving with integrity in its governance framework.

B3 The organisation supports the use of trained, professionally accredited corruption risk advisors (or equivalent).

B4 The organisation assesses both the potential magnitude and pervasiveness of losses from corruption using measurement exercises such as analysing the impact of past incidents, recording numbers of cases and using internal corruption perception surveys to aid its evaluation of corruption risk exposures.

B5 The organisation evaluates the harm to its aims and objectives, service users and wider society that different corruption risks can cause.

C Develop a strategy

An organisation produces an anti-corruption strategy setting out its approach to managing its risks and defining responsibilities for action.

Specific steps should include:

C1 The governing body formally adopts an anti-corruption strategy to address the identified risks and align with the organisation's acknowledged responsibilities and goals, and includes risks in a corporate risk register.

C2 The organisation's anti-corruption strategy includes the organisation's approach to corruption risk management and corruption risk assessment.

C3 The strategy includes both proactive and responsive approaches that are best suited to the organisation's corruption risks.

Proactive and responsive components of a good practice response to corruption risk management are set out below.

Proactive

- Developing a culture of zero tolerance to corruption through measures including, but not limited to, an effective tone from the top of organisation and organisation-wide educational activity to raise awareness of corruption issues.

- Preventing corruption through the implementation of appropriate and robust internal controls and security measures.

- Validating data using technology and techniques such as data matching.

- Committing to transparency throughout the organisation's processes, including, but not limited to, recruitment and procurement processes.

- Deterring corruption by publicising the organisation's anti-corruption stance, the benefits of a zero tolerance to corruption policy and the actions the organisation takes against fraudsters and corrupt officials.

- Appointing risk owners to manage perceived risks as identified in the corruption risk assessment process in their areas of responsibility.

- Appointing anti-corruption champions to guide staff and management on corruption issues.

- Promoting adherence to the Code of Conduct and fiscal laws.

- Rewarding good practice and ethical behaviour from employees.

Responsive

- Detecting corruption through data and intelligence analysis.

- Implementing effective whistleblowing arrangements that offer confidentiality and protection to whistleblowers.

- Investigating alleged incidents of corruption.

- Applying sanctions, including internal disciplinary, regulatory and criminal, and prosecuting offenders where appropriate.

- Seeking redress, including the recovery of assets and money where possible.

- Offering rewards to staff who uncover corrupt activity.

- Putting in place a mechanism to learn lessons from corruption investigations to mitigate against recurrence.

C4 The strategy includes clear identification of responsibility and accountability for delivery of the strategy and for providing oversight.

C5 The strategy should address materiality in the specific context of a zero-tolerance approach to corruption, noting that low-value, high-volume corruption may be present eg acceptance of bribes by officials, and that any corruption may pose a reputational risk to the organisation.

C6 The strategy should address risk allocation in situations where the organisation works with, or enters into new working arrangements with, partner organisations, including partner organisations in the private sector.

D Provide resources

The organisation should arrange appropriate resources to support the anti-corruption strategy. As corruption prevention is generally more cost effective than corruption investigation and subsequent asset recovery, the resources made available to support the anti-corruption strategy should include adequate resources for corruption risk assessment and corruption prevention activities.

Specific steps should include:

D1 An annual assessment of whether the level of resource invested in counter corruption is proportionate to the level of risk.

D2 Using an appropriate mix of experienced and skilled staff to guard against corruption. Best practice measures would include the creation of a specific anti-corruption team comprised of corruption risk advisors and corruption investigators with professional accreditation.

D3 Where risk assessment and corruption investigation are conducted by the organisation's own employees, the organisation's leadership team should ensure that sufficient resources are provided to enable the training of risk assessors and corruption investigators, and to enable the completion of risk assessment and follow-up exercises.

D4 The organisation offers anti-corruption and corruption awareness training to all staff to ensure staff are sensitised to poor behaviour, corrupt practices, the consequences of corruption for the organisation and society as a whole, and the penalties for staff who engage in corrupt activity.

D5 An effective induction programme should be in place to ensure new employees are aware of the organisation's culture of zero tolerance for corruption.

D6 The organisation grants corruption risk assessors and staff investigating corrupt practices unhindered access to its employees, information and other resources as required for risk assessment or investigation purposes.

D7 The organisation has protocols in place to facilitate joint working with partner organisations, including partner organisations in the private sector. Such protocols should address information sharing and data exchange in accordance with the principles of the organisation's domestic law.

E Take action

The organisation should put in place policies and procedures to support the anti-corruption strategy and take action to prevent, detect and investigate corruption. The organisation should embrace a culture of zero tolerance for corruption, with the organisation's leadership team setting a tone of zero tolerance for corruption from the top of the organisation.

Specific steps should include:

E1 The organisation has in place a policy framework that supports the implementation of the anti-corruption strategy. As a minimum the framework includes policies on:

- anti-bribery
- anti-corruption
- anti-money laundering
- codes of conduct and ethics
- corporate risk register
- counter fraud
- cybersecurity
- gifts and hospitality register
- information security
- pecuniary interest and conflicts of interest register
- procurement
- sanctions
- staff vetting (remuneration and recruitment)
- supplier due diligence
- whistleblowing.

E2 Written job descriptions should exist for all positions and should be available to all staff.

E3 Zero tolerance for corruption should be considered when writing or revising all organisational policies and procedures including, but not limited to, procurement and staff recruitment procedures.

E4 Plans and operations across all areas of the organisation are aligned to the anti-corruption strategy and contribute to the achievement of the organisation's overall goal of maintaining resilience against corruption.

E5 Proposed responses developed by corruption risk assessors following a process of corruption risk assessment should be assigned to, and owned by, individuals with appropriate seniority in their areas of responsibility. The risk owner takes responsibility for implementing the proposed response and should be held accountable in situations where proposed responses are not appropriately implemented.

E6 The organisation should implement protocols for data and information sharing in accordance with the fundamental principles of domestic law. Such protocols should address data and information sharing within the organisation and also, where appropriate and in accordance with domestic law, externally to support anti-corruption activity.

E7 In line with its organisational protocols on data and information sharing, the organisation should make effective use of national or sectoral initiatives to detect or prevent corruption. Examples might include data matching, peer learning arrangements to facilitate national or international sharing of best practice between corruption risk advisors, participation in national or international anti-corruption information exchange initiatives and blacklisting of vendors or potential suppliers from a national procurement database.

E8 The organisation should provide for independent assurance over corruption risk management, strategy and activities.

E9 The organisation should implement governance structures as appropriate to the size of the organisation, such as oversight committees and internal and external audit arrangements, to support action against corruption.

E10 There is a report to the governing body at least annually, with appropriate frequency determined as part of the corruption risk assessment process, on performance against the anti-corruption strategy and the effectiveness of the strategy from the lead person(s) designated in the strategy.

Applying the Code in practice

UNCAC requires state parties take measures, in accordance with the fundamental principles of its domestic law, to enhance transparency in its public administration (per UNCAC Chapter II, Article 10).

In line with the principle of transparency, organisations that apply this Code should consider how progress against corruption can be reported publicly. The best practice approach would be for the organisation to publish an update on progress in respect of their anti-corruption strategy. Where publication of an annual update is considered impractical, for example as a result of legal restrictions on the publication of sensitive information included in the anti-corruption strategy, the organisation could consider alternative methods of publication. For example, the organisation could publish a redacted version of an update report as submitted to the organisation's governing body according to the requirements of this Code.

When reporting on progress against corruption to the organisation's governing body, the lead individual designated in the anti-corruption strategy may wish to report progress against each response to corruption risk identified by the corruption risk assessment using the reporting template below. This report should identify the owner of each corruption risk response to support requirements A4 and E5 of this Code.

Corruption risk response:	Owner:	Progress to date:

Glossary

Definition of corruption

The United Nations Convention against Corruption recognises that there is no single, agreed definition of corruption. What is considered corrupt is defined instead by the misconduct and offences covered by the convention.

Some definitions of corruption terms from a range of sources are set out below (in alphabetical order):

Corruption Term	Source	Definition
Abuse of functions	UN Office on Drugs and Crime (UNODC), **State of Integrity** (2020)	Performance of, or failure to perform, an act in violation of the law by a public official in order to obtain an undue advantage.
Bribery: Active bribery	UNODC (2020)	The promise, offering or giving to a national public official, foreign public official and official of public international organisations of an undue advantage, in order to act or refrain from acting in matters relevant to official duties.
Bribery: Passive bribery	UNODC (2020)	The solicitation or acceptance by a national public official, foreign public official and official of public international organisations of an undue advantage, in order to act or refrain from acting in matters relevant to official duties.
Bribery in the private sector	UNODC (2020)	Active or passive bribery by any person who directs or works, directly or indirectly, in any capacity, for a private sector entity.
Clientelism	U4 Anti-Corruption Resource Centre, **Glossary**	An informal exploitative system of exchanges (of resources, services, favours) between a wealthier and/or more powerful 'patron' or 'boss' and less wealthy/weaker 'clients' or 'followers'. Such systems are typically found in settings where formal governance structures fail to provide adequate resources (including protection), leaving poor and/or marginalised members of society to seek assistance from powerful figures that can deliver them. The corruption dimension is clear when the 'patron' is an elected official who abuses their entrusted power by inequitably distributing resources under their control, as a reward for electoral support (private benefit). Similar informal systems may not involve elected officials directly but may nevertheless undermine formal rules and institutions, including efforts to combat corruption.
Concealment	UNODC (2020)	Hiding or continued retention of property that has resulted from corruption.

Corruption Term	Source	Definition
Conflict of interest	U4	A conflict of interest is a conflict between an entrusted duty on the one hand and the private interest of the duty-bearer on the other hand. For example, a politician sitting on a committee for healthcare reform might own stock in a major pharmaceutical company. The existence of this private interest could improperly influence the performance of their entrusted responsibilities. Because conflicts of interest create opportunities for corruption to take place, they should be avoided or very carefully managed.
Cronyism and favouritism	U4	The favourable treatment of friends and associates in the distribution of resources and positions, often when those assuming their positions are ill-qualified or have no or little experience. The concept is related to nepotism, where the favourable treatment extends to family members (see also patronage).
Embezzlement	UNODC (2020)	Theft or misappropriation of property, funds, securities or any other item of value entrusted to a public official in their official capacity
Embezzlement of property in the private sector	UNODC (2020)	Embezzlement by any person who directs or works, directly or indirectly, in any capacity, for a private sector entity.
Extortion	U4	The practice of obtaining something (money, favours, property) through the use of threats or force. For example, extortion takes place when armed guards exact money for passage through a roadblock. Withholding life-saving medical attention unless a bribe is paid could also be considered an act of extortion.

Corruption Term	Source	Definition
Facilitation payments	U4	Relatively small, individual amounts paid beyond the official fees to speed up services such as customs clearance, work permits, border crossings, utility installation etc. Technically, these are a bribe. In some countries, however, facilitation payments by companies doing business abroad are exempt from prosecution for bribery in their home countries if they are used to speed up legal processes, rather than to avoid regulations. This exception recognises the stark reality that in certain settings, it is impossible to operate a business without conceding to such payments.
Fraud	**European Anti-Fraud Office** (OLAF); U4	A deliberate act of deception intended for personal gain or to cause a loss to another party. A largely economic crime involving deceit, trickery or false pretences by which someone gains unlawfully at the expense of another. Fraud often accompanies corrupt acts, in particular embezzlement, where it is typically used to falsify records to hide stolen resources.
Gift giving	U4	People offer presents and favours in various circumstances, and it is a cultural practice in many societies. Problems arise when gift giving to and by public officials contradicts impartiality, professionalism and meritocracy. In exchange for a gift, the official is expected to show preferential treatment to the giver. In those cases, gift-giving can be regarded as bribery.
Grease money	U4	Bribes as seen from the angle of the briber, and alluding to the 'drop of oil given to a squeaky wheel' of excessive bureaucracy to make things move smoothly again. Also called a softener, sweetener or gift (see facilitation payments).
Illicit enrichment	UNODC (2020)	A significant increase in assets of a public official that cannot reasonably be explained as being the result of their lawful income.

Corruption Term	Source	Definition
Kickback	U4	A bribe paid after the fact for an undue favour or service. For instance, a company that receives a government contract might send the responsible official regular secret payments for the duration of the contract.
Lobbying	U4	Any activity carried out to influence a government or institution's policies and decisions in favour of a specific cause or outcome. Lobbying can be regarded as an essential tool for stakeholders to make their voice heard with politicians and public officials. For example, citizens engage in lobbying when they write to their elected representative or join a protest. Professional lobbyists, by contrast, are paid to advocate for the specific interests of their clients before responsible public officials. They are sometimes former officials themselves, hired due to their knowledge of the issues and contacts in the sector. If rules or terms of engagement for lobbyists, particularly former public officials or politicians, are not made clear there is evident scope for lobbying to turn into corruptly trading in influence (see below).
Money-laundering	UNODC (2020)	The concealment of the origins of corruptly obtained money, often by means of transfers involving foreign banks or legitimate businesses.
Patronage	U4	The support or sponsorship of a patron (wealthy or influential guardian). Patronage is used to make appointments to government jobs, promotions, contracts for work, etc. The desire to gain power, wealth and status vicariously motivates most patrons. Patronage violates the boundaries of legitimate political influence and the principles of merit.
Rent seeking	U4	The effort to increase existing wealth without creating new wealth. This can be achieved in a number of corrupt ways such as bribery, patronage and trading in influence. Rent-seeking can result in reduced economic efficiency through misallocation of capital and resources, reduced wealth creation and lost revenues.

Corruption Term	Source	Definition
Revolving doors	U4	Revolving doors refers to individuals moving from jobs as legislators or regulators into jobs in companies or lobby firms subject to legislation and regulation. It can be abused if not properly regulated and can also cross over to trading in influence.
State capture	U4	Coined by the World Bank in the early 2000s, state capture refers to a type of systemic political corruption in which private interests significantly influence or direct a state's decision-making processes to their own advantage. For example, businesses can improperly influence legislators to pass favourable laws or persuade government officials to wrongly award contracts or even sell-off state assets cheaply to the exclusion of others.
Trading in influence	UNODC (2020)	Abuse of a public official's influence with an administration, public authority or state authority in order to gain an advantage.

Corruption risk management

The Chartered Institute of Internal Auditors defines risk management as:

"A *structured, consistent, continuous process across the whole organisation for identifying, assessing, deciding on responses and reporting on opportunities and threats that affect the achievement of its objectives.*" (**The Role of Internal Auditing in Enterprise-wide Risk Management**, Chartered IIA, 2009)

This definition effectively encapsulates the key elements that should be contained within the corruption risk management strategy of any organisation:

- structure
- consistency
- continuous management of risk
- a risk assessment process (ie identifying, assessing, deciding on responses)
- achievement of organisational objectives.

Governance and leadership roles

As the Code can apply to a wide range of organisations, generic terms are used to describe governance and leadership responsibilities.

Governing body

The person(s) or group with primary responsibility for overseeing the strategic direction, operations and accountability of the organisation. Examples include the accounting officer, the board, council.

The organisation's leadership team

The leadership team comprises the governing body and management team.

Examples or relevant roles include cabinet members, chair of board, accounting officer, chief executive, executive directors, vice-chancellor, principal, headteacher.

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