

UNIVERSITY OF THE WESTERN CAPE (UWC)

POLICY: FRAUD AND CORRUPTION PREVENTION POLICY

APPROVAL: C2014/05

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Policy Owner: Executive Director: Finance & Services

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1 Policy statement, objective and application

Background

The aim of this policy is to confirm the University of the Western Cape's (UWC) stand against fraudulent and corrupt activity and to reinforce existing systems, policies, procedures, rules, and regulations of UWC aimed at deterring, preventing, detecting, reacting to, and reducing the impact of fraud and corruption.

The purpose and spirit of this document is to confirm that UWC supports and fosters a culture of zero tolerance to fraud and corruption of any form or nature in all its activities.

Objective

The objective of this Policy is to foster a climate at UWC where all stakeholders strive for the ultimate eradication of fraud, corruption, theft, and internal irregularities within the framework provided.

This Policy further provides guidance on what constitutes fraud, theft, and corruption and sets out how to report such incidents.

Relationship with other UWC policies, procedures, and codes.

This Policy must be read in conjunction with the UWC Statute, policies, procedures, guidelines, and codes (e.g. code of conduct).

2 UWC's commitment to prevention of fraud and corruption

UWC is committed to upholding its reputation as a leading higher education institution. We aim to protect our reputation with our stakeholders in the local and international community through the effective prevention, detection, and response to fraud.

The University's ethos is to foster relationships of openness and trust and require that all parties endeavour to execute their responsibilities with integrity and transparency. UWC advocates integrity, ethics, and values aimed at promoting a culture of:

- Accountability;
- Respect and honesty for ourselves and others;
- High level of integrity which is uncompromised;
- Conducting oneself in a professional manner always;
- Trust; and
- Establishing and acting on accurate information.

3 Key Terms Explained

To understand initiatives for managing fraud, theft, and corruption, one has to understand what is meant by, and what constitutes fraud, theft, and corruption.

Fraud

In South Africa, the Common Law offence of fraud is defined as *"the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another"*. The term *"fraud"* is also used in a wider sense by the general public. In this document the term is used in its widest possible sense and is intended to include all aspects of economic crime and acts of dishonesty (including the legal definitions of fraud, theft, and corruption). In other words, fraud can be described as any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

Theft

A person commits theft if he unlawfully and intentionally appropriates moveable, corporeal or intangible property which belongs to and is in the possession of another.

Corruption

Corruption in its wider meaning, and as referred to in this document, includes any conduct or behaviour where a person accepts, agrees or offers any gratification for him/her or for another person where the purpose is to act dishonestly or illegally. Such behaviour also includes the misuse of material or information, abuse of a position of authority or a breach of trust or violation of duty.

Internal Irregularities

Defined for the purposes of this Policy as any act or omission of a material nature that may lead to the diminishing of stakeholder value, where the act or omission is committed within the framework of employee/s:

- General duty to act in the best interests of the employer;
- Employment contract;
- Job description;
- Performance contract;
- UWC's existing policy framework; or
- The Higher Education Act 101 of 1997, as amended or other applicable legislation;

Detailed descriptions and explanations of terms relevant to this policy are listed below for clarity and ease of reference:

"Code of Ethics" means the Code of Ethics set out below;

"Contractor" means any vendor to the University whether in terms of a formal agreement or other arrangement for the supply of goods and services;

"Corrupt Activities Act" means the Prevention and Combating of Corrupt Activities Act No. 12 of 2004;

"Council" means the Council of the University of the Western Cape as appointed in terms of section 27(1) of the Higher Education Act to govern the University. Council is the University's highest decision-making body with an overarching responsibility in terms of the University's governance and conducts its business with the assistance of a number of sub-committees;

"Disciplinary Code" means the Disciplinary Code and Procedure for Employees of the University of the Western Cape;

"Employee" shall mean any person who works for the University excluding an independent Contractor, and who receives, or is entitled to receive, any remuneration from the University, whatever his/her position (academic, research, administrative, support staff or otherwise), and will include persons employed on a permanent, fixed term or part time basis;

"Office of the Executive Director: Finance and Services" means the Person responsible for the management and administration of the financial affairs of the University and all Services required by the University, as employed by the University in the Finance Department, from time to time or his successor-in-

title;

"Gift/s" means any gift, gratuity (including gratification as defined in the Corrupt Activities Act), form of benefit or service given, issued or offered by a current or potential Supplier to an Employee/s, member of Management or Committee members that is intended for the personal benefit of and/or use by such Employee/s or member of Management, where the current or potential Supplier does not expect or require the recipient of the Gift to pay for such Gift.

"Higher Education Act" means the Higher Education Act No. 101 of 1997 as amended;

"Nehawu " shall mean the National Education Health and Allied Workers Union;

"Person" shall mean any natural person, company, close corporation, trust, partnership or other entity whether or not having separate legal personality, as the context may require;

"Policy" means the Policy set out in this document and includes all appendices hereto;

"Service provider" shall mean any third party that renders any service to UWC in terms of any type of service provider agreement with UWC (verbal or in writing);

"Student" shall mean any person registered with UWC for an under-graduate or post-graduate qualification and any post-doctoral fellow of UWC;

"University" shall mean the University of the Western Cape, a public higher educational institution, deemed to be established in terms of the Higher Education Act 101 of 1997, as amended;

"University Council" shall mean the highest decision-making body of the University as contemplated in the Higher Education Act 101 of 1997, as amended.

4 Reporting breaches

Introduction

UWC requires all stakeholders to act honestly and with integrity at all times, and to safeguard all UWC's resources. Stakeholders are responsible for reporting all incidents of fraud, corruption, theft or internal irregularities as set out in this Policy.

In the event you suspect someone of a breach of this Policy, you should:

- Report the matter to your line manager and the Office of the Executive Director: Finance and Services;
- The Office of the Executive Director: Finance and Services will keep the matter confidential. The whistle-blower will be protected in terms of this Policy and the Protected Disclosures Act, No 26 of 2000 as amended ("PDA");
- The Office of the Executive Director: Finance and Services will present the matter to the respective line and/ or relevant structure within the University; and
- The whistle-blower may receive feedback on the investigation at the discretion of the Office of the Executive Director: Finance and Services.

If an employee is not comfortable reporting such matters to his/ her immediate superior, the matter could be reported to the Ethics Line or could be reported directly to the Office of the Executive Director: Finance and Services.

Employees must report suspected incidents to a senior person whose office has the authority to protect that person. Should it be suspected that a member of senior management may be involved; the report should be submitted to the Vice-Chancellor and Principal or the Chairperson of the Audit and Risk Committee.

The available methods of reporting a suspected breach of this policy are explained further in an addendum to this policy.

All reported instances of fraud and misconduct will be co-ordinated by the Office of the Executive Director: Finance and Services. The Executive Management Committee will have ultimate responsibility to assess all reported instances of fraud and misconduct. Only valid reports of fraud and misconduct will be investigated and

followed up in terms of the Fraud and Corruption Prevention Plan considering the application of appropriate remedies and, where applicable, to the full extent of the law. All complaints logged/recorded will be reported to the Audit and Risk Committee.

Investigation

UWC will actively review valid reports of fraud and misconduct and investigate where appropriate. All matters reported will be screened and evaluated and depending on the nature thereof, may be investigated internally or by an outside service provider.

Any fraud and corruption committed by an employee or any other person will be pursued by thorough investigation, including (where appropriate) consideration of:

- In the case of employees, taking disciplinary action within a reasonable period of time after the incident;
- Instituting civil action to recover any loss;
- Initiating criminal prosecution by reporting the matter to the South African Police Service or any other relevant law enforcement agency; and/or
- Any other appropriate legal remedy available.

Feedback to whistle-blowers

UWC, upon receiving a report of fraud and corruption from an external person, will communicate in writing with the person submitting the report and in such communication acknowledge that the concern has been received and indicate where necessary the way in which they will be dealt with and whether any initial enquiries have been made.

UWC accepts that stakeholders who reported the alleged fraud and corruption need to be assured that the matter had been properly addressed. Thus, subject to legal constraints, information about the outcome of any investigation may be disseminated on a "need to know" basis.

Case management

UWC case management will deal with fraud and corruption in the following manner:

- Screening and recording of all allegations;
- Tracking the progress made in the management of allegations;
- Facilitating the early identification of systematic weaknesses and recurring risks and informing managers thereof; and
- Providing feedback to the whistle-blowers on the management of allegations (as appropriate).

UWC is not obliged to provide feedback to whistle-blowers.

Confidentiality

All information relating to fraud, corruption, theft or internal irregularities received and investigated will be treated confidentially. The progress of investigations will be handled in a confidential manner and will not be disclosed or discussed with any other person(s) other than those who have a legitimate right to such information. This is important in order to avoid damaging the reputation of a suspected person who is subsequently found to be innocent of wrongful conduct.

Protection of the whistle-blower

UWC respects the students, employees, contractors, consultants and service providers' right to remain anonymous when reporting fraud, theft, corruption, or internal irregularities. Stakeholders (as defined in the PDA), who report suspected fraud, theft, corruption or internal irregularities are in terms of the PDA protected against dismissal or occupational prejudice where a disclosure has been made to UWC in good faith and in accordance with this Policy. UWC also has a positive obligation to protect that person's identity.

For the purposes of the PDA the definition of employee means:

"Any person, excluding an independent contractor, who works for another person

or for the State and who receives, or is entitled to receive, any remuneration; and

Any other person who in any manner assists in carrying on or conducting the business of the employer."

False accusations

UWC encourages stakeholders to report a violation or suspected violation in good faith. Malicious or intentionally false allegations may be subject to a disciplinary process and could lead to dismissal. It is a serious offense to make a false allegation maliciously or intentionally.

5 Roles and responsibilities

The custodian of this Policy is the Audit and Risk Committee who will be responsible for the administration, revision, and interpretation of the Policy.

Executive Management is responsible for the design and implementation of a Fraud and Corruption Prevention Plan ("the FCPP") to prevent, detect and respond to fraud and corruption. The FCPP includes the following:

- An ethical framework and code of conduct;
- Fraud awareness and communication programme;
- Fraud risk assessments;
- Investigation of fraud and corruption reports and maintenance of fraud register; and
- Reporting to UWC governance structures and external statutory bodies and enforcement agencies.

Executive Management will be responsible for ensuring that all employees under their control are made aware of the relevant policy documentation.

Any stakeholders who are unclear as to what may constitute an act of fraud, theft, corruption or an internal irregularity, should seek further guidance from the office of the Office of the Executive Director: Finance and Services.

6 Policy administration

The Office of the Executive Director: Finance and Services with the support of Executive Management is accountable for the implementation of this Policy.

The Office of the Executive Director: Finance and Services will review this Policy from time to time taking into account any changes in local legislation, UWC policies and procedures and international best practices relating to prevention of fraud and corruption.

Any stakeholder with questions, comment or suggestions relating to the content of this Policy, can direct these to the office of the Office of the Executive Director: Finance and Services.

This Policy may be amended or cancelled at any time and without notice, at UWC's discretion, provided that amendments are communicated by the Office of the Executive Director: Finance and Services to all stakeholders in a manner deemed appropriate by the Executive Management Committee.

The effective date of this Policy is 28 August 2014.

This Policy remains effective until it is repealed or amended or replaced by another policy.