

# PROTECT YOUR MUNICIPALITY

**An anti-corruption handbook**



Transparency International is the global civil society organisation leading the fight against corruption. Through approximately 100 chapters worldwide and an international secretariat in Berlin, Transparency International raises awareness of the damaging effects of corruption and works with partners in governments, business and civil society to develop and implement effective measures to tackle it.

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#### Transparency International Norway

Office address: Tollbugata 32, Oslo  
 Mail address: P.O. Box 582 Sentrum, 0106 Oslo  
 Phone: +47 41750872  
[www.transparency.no](http://www.transparency.no)

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# Putting ethics and anti-corruption on the agenda

The endeavours to secure high ethical standards and prevent corruption require continual attention at municipal and county level. The citizens should feel secure that both municipality and county safeguard the community's interests, based on democratic processes and a just handling of local jurisdiction.

In 2013 Transparency International Norway (TI Norway) and the Norwegian Association of Local and Regional Authorities (KS), launched the first version of their "Protect the Municipality! An anti-corruption Handbook". Based on practical experience and feedback from many municipalities and counties, the handbook is now presented in a new and enhanced edition.

The handbook targets elected officials, managers and employees in local municipalities, county municipalities and municipal enterprises. It can also be of use to party groups, organisations and private individuals who interact with municipalities or who provide goods and services to them.

The handbook can be used in introductory programmes for new employees; as a point of departure for seminars in municipal enterprises; in trainings for elected officials, and as a basis for municipal anti-corruption programmes.

Politicians, executives and employees in the municipal sector might find themselves in situations that allow them to misuse positions, trust and power. External actors may also promote special interests and exert pressures that can be difficult to handle and which thus will test the integrity of both the municipality and its public servants.

By recognising the risk of corruption, local and county municipalities can work to prevent corrupt behaviour and thus increase the chances of uncovering potential corruption. Sound control and monitoring procedures are also important in preventing and uncovering irregularities or corruption.

Local authorities can demonstrate that they take the risk of corruption seriously and maintain a high ethical standard. They can emphasise that misusing public positions and trust in order to obtain personal benefits for themselves or others will not pay in the end.

The manual has been prepared by TI Norway in cooperation with the Norwegian Association of Local and Regional Authorities (KS), under the project-heading "Transparency, integrity and anti-corruption in the municipal sector." The undertaking has received financial support from the Norwegian Ministry of Local Government and Modernisation.



**Guro Slettemark**

Secretary General,  
Transparency International  
Norway



**Gunn Marit Helgesen**

Chairwoman of KS

# The need for anti-corruption efforts in local government

## Trust is essential for a large municipal sector

Trust is essential for local municipalities and county municipalities as they manage considerable assets on behalf of the community. Trust is achieved through consistent good practice. By delivering high quality services, procedural processes and the exercise of authority, municipalities can build a good reputation while securing basic democratic values.

The Local Government Act's preamble contains a powerful statement on what values should characterise the municipalities' activities: "The act must also make provision for a confidence-building administration based on high ethical standards."

Local democracy allows citizens to exercise influence over their own communities. Municipalities are authorised to make binding decisions on behalf of their communities, within nationally stipulated frameworks and based on a democratic mandate from the local electorate. The municipal system is a cornerstone of Norwegian democracy.

### The scope and significance of Local Government

- Municipalities provide basic welfare services to individuals and families.
- Municipalities exercise public authority that regulates basic conditions of people's lives and lays down a framework for the development of local communities.
- More than 11,500 elected officials at local and regional level are responsible for activities in 428 municipalities and 18 county municipalities.
- According to the 2015 national budget, the municipal sector will have a total of NOK 435 billion at their disposal, corresponding to almost NOK 85,000 per person, which amounts to nearly 20 percent of GNP.
- 515,000 employees work in the municipal sector. Approximately every fifth employed person in Norway works in this sector.
- In 2011 Norway had 2,547 municipality-owned companies with a combined turnover of NOK 137 billion.

Confidence in local democracy and municipal institutions will be undermined when fraud or corruption is uncovered. Confidence will be reinforced when the municipalities, through their deeds and actions, show that service production, exercise of authority and political decision-making processes are transparent, legal and verifiable. It also inspires confidence when municipalities demonstrate ability to uncover and deal with undesirable incidents in a satisfactory manner.

## Consequences of corruption

Few issues are so damaging to trust and reputation as cronyism, favouritism, abuse of power, fraud or corruption. Several of the corruption cases uncovered in the Norwegian municipal sector<sup>1</sup> have been very serious and have attracted much attention. The reputation of and confidence in the affected municipalities can well suffer.

Corruption implies several societal costs. Resources may be used in other ways than intended, with weak democratic support. Local democracy and people's confidence in the ability of elected officials to represent the interests of the community may be undermined.

- Corruption leads to economic losses as it affects individuals, businesses and municipalities. Money and benefits may enrich individuals who are not entitled to them. Costs and expenditures increase, while municipalities' ability and capacity to solve important tasks and ensure high-quality services is reduced. The result is poorer public services, waste of municipal funds and inefficient operations, as well as distorted competition.
- Municipalities must adhere to the rule of law and ensure equal access and treatment. When corruption affects the exercise of authority, it can lead to discriminatory treatment that unethically or unlawfully might favour someone. On the other hand, other individuals, organisations and enterprises may be negatively affected. If a municipality abandons the principle

of equal treatment due to undue external influence, the confidence in and legitimacy of its operations erodes.

- Municipalities are major employers and should provide a safe and healthy work environment for their employees. Corruption not only affects those who take part in it, but can also undermine an entire work environment.
- The internal climate of cooperation and collegiality may be put to the test. Employees' pride in their workplace may get affected when corruption is uncovered or when a municipality is suspected of wrongdoing. The opportunity to retain and recruit important skilled employees may also significantly suffer.

The social costs of corruption are often invisible or indirect. But they can be significant where the whole community bears the costs of a few people obtaining benefits they are not entitled to. For individuals, the consequences may be very tangible, for example in case of an incorrect decision, permits not being granted,

or contracts not being awarded to suppliers providing the best quality at the lowest price.

The long-term detrimental effects can be more extensive than immediate consequences. It may take considerable time and effort to restore reputation and trust as the municipality has to dispel, in a credible fashion, the impression that corruption pays.

### For reflection

- Is corruption in the public sector more harmful than in the private sector?
- Does a job in a municipality impose even greater demands concerning integrity and an active attitude against corruption than a job in a private company?
- How can I contribute towards a trustworthy local administration?
- Corruption is very rare in my country, and certainly not at my place of work.

## What is corruption, and how can it arise in municipalities?

Norway's problems with corruption may seem modest in an international perspective, but corruption is definitely a worldwide problem. In Transparency International's annual Corruption Perception Index (CPI), the Nordic countries are among those that are perceived to have the lowest level of corruption. Norway has for many years achieved a somewhat lower rating than the other Nordic countries on this index.

While extensive and serious cases in the municipal sector have been uncovered and court judgements have been passed, we have little information on the true extent of corruption in Norway or in the Norwegian municipal sector. There is reason to believe that the extent of corruption is greater than what has been revealed so far.

### Indicators of corruption in the municipal sector:

- Half of the population believe that corruption, in the form of bribery and favouritism, takes place in municipalities (Difi 2013).
- 21 per cent of the population are of the opinion that municipalities and the central government are poor at preventing corruption, while 44 per cent believe that they are good at preventing corruption (Difi 2013).
- Four out of ten executives in the municipal sector state that they have been offered one or more improper advantages over the course of the past year (KS/TNS 2013).
- People have the impression that vested interests in the municipality are given preferential treatment to the detriment of the population's common interests (six out of ten surveyed). On the other hand, seven out of ten have the impression that municipal politicians don't abuse power for their own benefit (Baldersheim 2011, KS's local democracy survey).
- 25 people have been sentenced in six court cases on corruption between 2003 (when anti-corruption legislation came into force) and 2013.

### Provisions against corruption in the Norwegian Penal Code

The Norwegian Penal Code of 2003 defines corruption as follows, in Section 276 a):

- Requesting, receiving or accepting an offer of improper advantage in connection with a position, office or assignment

Or:

- Giving or offering any person an improper advantage in connection with a position, office or assignment.

Provisions on corruption were implemented in the Norwegian penal code in 2003, by the implementation of the Council of Europe Criminal Convention on Corruption. Before 2003 corruption was not a prominent issue in the Penal Code. The terms used were "threats", "compensation" and "offer of advantages." In 2003 the Penal Code was strengthened significantly with the inclusion of three new corruption provisions:

- Corruption
- Gross corruption
- Trading in influence

Both the person offering an improper advantage (active corruption) and the person accepting such an offer (passive corruption), may be prosecuted for corruption under the Penal Code. The Code criminalizes:

- Corruption involving Norwegian public officials and private actor
- Corruption involving foreign public officials and private actors
- Complicity in corruption



The prosecuting authorities are not required to prove that the person offering an improper advantage has achieved the purpose of the act of corruption. It is sufficient to offer or provide, or to request, receive or accept such an advantage in connection with a position, an office or an assignment.

The Penal Code also applies to bribes paid indirectly through agents, consultants or other intermediaries. The penalties for corruption range from fines to imprisonment of up to 10 years, depending on whether the provision relating to “corruption”, “gross corruption” or “trading in influence” is applied.

The provision on trading in influence covers corrupt acts between two persons for influencing a third person. This provision deals with the case where a person gives or offers an intermediary an improper advantage in return for exercising influence on a decision-maker, without the decision-maker receiving any advantage. A central point in the assessment of the legality of the behaviour is the extent to which the intermediary has been open about his activities, relationships and intentions.

## Improper advantage

An “advantage”, according to the preparatory works

leading up to the 2003 amendment of the Penal Code, is “everything that the passive party finds in his/her interest or can derive benefit from”. This broad definition covers:

- economic advantages, such as money in cash or in bank accounts, cars, free travels, entertainment and shares in a company
- non-economic advantages with no direct material value, e.g. the passive party is awarded an honour, is promised a future holiday or a contract, is admitted to an association with restricted membership, receives sexual services, or his/her child is accepted by a private school

A number of factors will count in the assessment, on a case-by-case basis, of the impropriety of the advantage. These may include:

- the purpose of the advantage (i.e. the element of influence)
- the position (public official, top executive, etc.) of the giver (active briber) and of the receiver (passive briber)
- the value and nature of the advantage
- whether or not the principals of the giver and the receiver are aware of the advantage offered and received
- whether or not there has been a breach of internal rules (code of ethics, etc.) or a contract



## Areas of risk in the municipalities

The risk of corruption is linked to several key processes in municipalities and affects the role of elected official, executive and employee in different ways.

### Democracy and political processes

Local democracy is based on the political participation of citizens in and between elections. The right to free and fair elections by secret ballot, the right to stand for election and the principle of “one person one vote”, are basic democratic principles. Open and free debate is a precondition for a vibrant local democracy.

The electoral process can be vulnerable, for example when candidates are not able to stand for elections, ballot counting is manipulated or if voters are subjected to external pressures. A thriving local democracy requires free, fair and democratic municipal elections.

Elected officials represent the residents of a municipality. They must promote both the interests of individual residents as well as the local community and weigh conflicting considerations against each other, and at the same time be a spokesperson for individuals, businesses, organisations or user groups.

The role of a politician implies extensive contact with various stakeholders in the local community, in order to identify wishes, needs and opinions. The mayor, individual representatives or any spokespersons are important people to reach by those looking to promote a view or a case. The preliminary meetings of local political party groups or municipal council groups are central fora for exchanging views and influencing voting decisions. The same may apply when influencing opinion through public debate.

These relationships are important in the political decision-making process and are of great value for elected officials in order to form well-founded opinions and fulfil their responsibilities. They serve to inform the basis for decision-making above and beyond the proposals forwarded by the local administration, and may be crucial for politicians.

For those taking part in these decision-making processes it is necessary to have an understanding of where the line is drawn between legitimate contact and improper coercion, particularly in situations where the independence of elected officials may be called into question. This is something the elected officials should clarify in discussions with their colleagues, and not least communicate to those who have an interest in a certain outcome of a case.

#### Red flag – stop and reconsider! Examples of circumstances which may raise some additional questions for reflection:

- When elected officials are major landowners or run their own business in the community.
- When there is close contact between elected officials and certain vested interests.
- When politicians in the municipality are invited on trips or for gatherings.

### Exercising authority

The municipalities exercise authority in a number of areas. The municipalities issue orders and prohibitions, collect taxes and duties, award permits, distribute grants, determine the provision of services and provide licences that determine the rights and obligations of individuals, businesses and organisations. Equal treatment, legal protection and verifiability are basic requirements in the exercise of authority.

By exercising authority the municipalities may determine the allocation of significant funds, for example when the municipal council makes decisions on land use in the municipality through the municipal plan. Individual decisions have great significance for the welfare and life of individuals, or they may concern income opportunities for businesses that are dependent on being awarded contracts or municipal licences.

Planning decisions on land use is of significant financial importance both for landowners and investors, and they will thus have a strong interest in exerting influence on them. The role of the municipality is to balance competing interests in situations that may arise. This places great demands on integrity and impartiality in procedural matters and on those tasked with making the final decision.

The distribution of municipal grants to organisations, associations or cultural institutions is another example of the exercise of authority by municipalities, where questions often arise concerning equal treatment or professional or political impartiality.

Undue influence may promote irrelevant considerations or improperly influence decisions of local authorities, whether they are made in an elected body or by municipal employees exercising decision-making authority. Executives have often been delegated decision-making authority that also allows for discretionary decisions, where external influence or pressure may have impact

on the exercise of discretion. Not only the outcome, but also the processing time and priority of a case may thus be influenced.

*Executives, employees and elected officials should discuss how they can avoid discrimination when exercising authority.*

## Service provision

The municipal sector has extensive responsibilities for providing services to its constituents, including day care, child protection, education, nursing and care, and public transport services. During the actual provision of services there is a risk that irregularities arise if undue influence or corruption changes the actual design or delivery of the service.

Municipal services are provided in a direct encounter between service provider and recipient. These encounters ensure the quality of the service, making

sure that the recipient receives the service desired, needed or that he/she is entitled to. The service provider's skills, expertise, values and attitudes will greatly influence on the quality of the services.

Good service adaptation, design and quality presuppose contact and dialogue between recipient and service provider. These encounters, however, also provide an opportunity to influence the design of the service, priority of attention and efforts towards the individual recipient.

Undue influence during these encounters may alter the provision of services directly or indirectly or give recipients or service-providers unethical or illegal advantages. For example, gifts to service providers, an exchange of financial incentives or offers of access to holiday cabins or homes have been known to be used to express gratitude by recipients in the nursing and care sector.

*Executives and employees in the municipalities' services sector should discuss how they maintain a clear stance and consistent practice in the face of attempts to favour individuals or groups of recipients.*

### Red flag – stop and reconsider! Examples of circumstances which may raise additional questions for reflection:

- When an executive or employee knows or is a friend of the recipient or his/her relative(s).
- When an employee receives offers of benefits from recipients or their relatives.
- When the service is directly provided by a municipal employee and the recipient, without the involvement of others.

## Local community development

Municipalities are responsible for ensuring positive social development. This means contributing actively to the development of the community, such as through stimulating business development, providing agreeable places to live and do business and attracting inhabitants or enterprises. The regional authorities (county municipalities) have significant development funds at their disposal, which, through the participation of

a number of stakeholders in regional partnerships, are to be used to realise goals of innovation and business growth at the regional level. Many municipalities engage in pro-active, business-oriented work through development agencies and business funds to create local growth opportunities. The future of the municipality is in many places dependent on maintaining a viable business base that provides local employment opportunities. Many municipalities view it as a central task to actively pursue such a role.

In such processes the municipality should proactively reach out to potential stakeholders, and develop alliances and arenas to bring together stakeholders. The municipality's instruments, such as capital and expert resources, should be deployed in cooperation with entrepreneurial forces in the local community or the surrounding region. The mayor, the chief administrative officer or the municipal business executive often play key roles in this context.

*In its development policy the municipality should consider the question of who can participate in important meetings and who has access to municipal resources, and what allows them to achieve such a position. On what basis do the relevant parties participate and how are terms and conditions for municipal participation arrived at? Who receives direct or indirect support from the municipality and on what basis?*

### Red flag – stop and reconsider! Examples of circumstances which may initiate additional questions for reflection:

- When a company manager or owner offers the municipality charitable gifts or contributions to social or cultural projects.
- When private individuals are given the use of facilities or buildings that are municipally funded.
- When the municipality invites external skilled persons or private entrepreneurs to participate in development workshops and partnerships.
- When private individuals approach the municipality requesting cooperation and assistance in order to bring business and employment to the municipality.
- When loans and grants from municipal business funds are to be distributed.



## Corporate governance

Increasingly municipalities are choosing to organise parts of their operations in companies specifically created for this purpose. These include limited companies, municipal and county municipal enterprises and inter-municipal companies (IKS). There are more than 2,500 municipal enterprises and businesses in Norway. The municipality's interests in such enterprises are exercised through corporate governance structures, such as a general assembly, board of directors, enterprise agreements or a board of representatives.

A common feature of these types of enterprises is that the municipality's highest elected body (municipal council or county council) does not have direct control of the companies in the same way they do in the municipal administration in general. At the same time, these companies control substantial assets on behalf of their owners, the municipalities themselves. The purpose of organising enterprises in this manner is to minimise day-to-day political management and instead allow for business-related or purpose-driven considerations by the professional management to steer the operations of these companies.

Several of the corruption cases in the municipal sector have occurred in municipally-owned companies. Managing the risk of corruption in these entities requires conscious and active plan on the owners' part. The handbook "Protect your business! Anti-corruption handbook for the Norwegian business sector" (TI Norway 2014) and KS's 19 recommendations for good corporate governance provide relevant advice to municipally-owned companies in this regard.

*Corporate governance entails that the municipality as owner must ensure the following: clarity in roles, i.e. who can be elected for boards; professionalism in company management, and the opportunity for control and monitoring of activities in order to make sure they are in agreement with the municipality's goals and interests. In their ownership role, municipalities should also make sure that municipally-owned companies have a comprehensive anti-corruption programme.*

**Red flag – stop and reconsider! Examples of circumstances which may raise additional questions for reflection:**

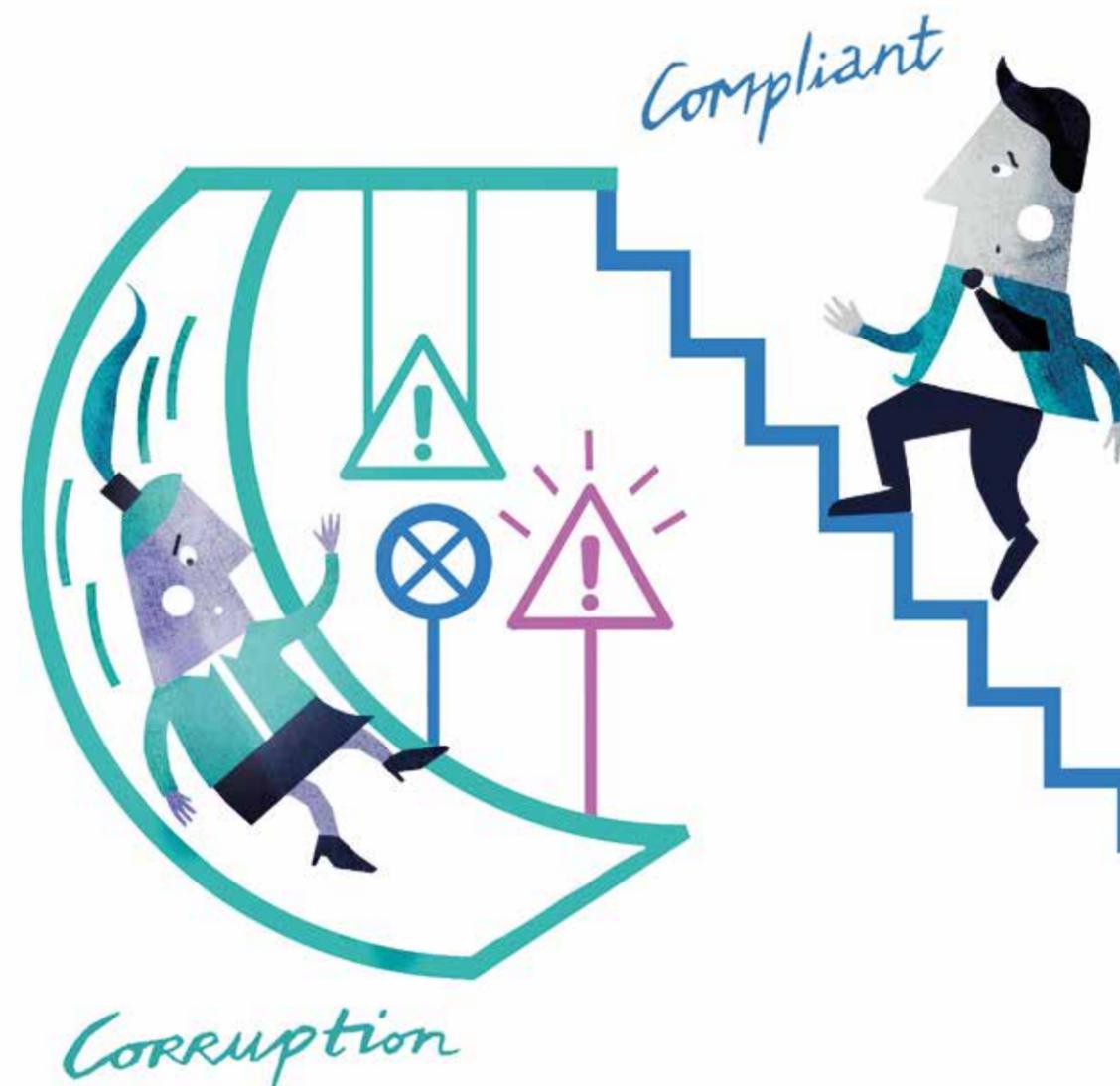
- When the general manager or the board of a municipal company invites local politicians or business connections on trips.
- When the chairman of the board and general manager are personal friends.
- When a municipal company does not have a code of conduct or an anti-corruption programme.
- When a board member of a municipal company also at the same time is a local municipal politician in the same municipality that owns the company.

## Procurements

Municipalities and county municipalities annually buy goods and services valued at approximately NOK 160 billion. Procurements comprise a significant proportion of the municipality's expenses and take place in all areas of municipal operations.

At all levels of a procurement process there is a risk that undue influence or improper considerations may exert influence on the procurement. This risk arises when practice deviates from the fundamental principles for public procurements in the areas of announcement, equal terms of competition and correct procedures. Contracting authorities and suppliers may promote their own interests and achieve improper advantages by deviating from the formal procedures. This inflicts loss and costs for the municipality, its constituents and other suppliers who have observed the legal and ethical standards of public procurement. Therefore, both contracting authorities and suppliers should be responsible for preventing corruption in public procurement processes. Compliance with regulations for public procurement processes is an important factor in preventing corruption. This applies to compliance at all stages of a procurement process.

The needs of the municipalities must be the guiding factor in all procurements. Contracting authorities should ensure that these needs are honoured throughout the process, from the outset when these needs are assessed and determined, until the tender documents are prepared, a competitive bidding process is carried out and the selection of tenders takes place. Finally there is the monitoring of the contract when the delivery goes through.



*Slippery slope: When you start slipping, it's hard to stop.*

In addition there is a particular risk that the municipality can be exposed to, and partly become responsible for, financial crime that arises in the supply chain, for instance if the contracting part engages sub-contractors without securing that they follow the standards they are obliged to, according to the contract signed with the municipality.

*The municipality and its enterprises should consider which undesirable situations could arise in the entire procurement process, from definition of needs to the final delivery.*

**Red flag – stop and reconsider! Examples of circumstances which may raise additional questions for reflection:**

- When a supplier hires one or more subcontractors.
- An employee with extensive authority manages large parts of the process alone.
- Control of what has been delivered.

**From bad habits to corruption**

Corruption can take many forms and can develop gradually: from a practice that is perceived as flexible and appropriate in day-to-day work via shortcuts and deviations from procedures and regulations, to fraud or punishable corruption. The process may take place at the individual level or manifest itself as an institutional bad habit in an environment where vigilance and critical sense has been weakened. In such an ambiguous environment corruption can gain a foothold and make the organisation vulnerable to misuse of authority and position, or reduce resistance to undue influence, coercion or pressure towards achieving improper advantages.

The municipalities must be characterised by high ethical standards and act correctly and impartially. Individuals, executives and politicians can undertake smaller or larger tasks where ethical behaviour in practice is abandoned. Such steps may not necessarily amount to punishable corruption as such. But without correction, such steps may over time establish an unfortunate practice or even a culture which makes additional fraudulent steps acceptable. The boundaries of what is considered inappropriate or unethical are altered.

This phenomenon is often termed “the slippery slope”

in corruption literature: If you start to slip, it might be difficult to come to a standstill. In the figure on page 13 the stages are indicated by steps, to support the more optimistic view that it is possible to stop, reorient oneself, reflect on what is about to happen, and perhaps take a step back and upwards instead of continuing down. An efficient early warning mechanism can prevent sliding down to the next step.

Municipalities should be aware that these “slippery slopes” of corruption may exist in their own organisation, and that preventive attention should not only be directed at individuals, but also at processes that anyone can be involved in, consciously or subconsciously. It is also worth noting that original motives may indeed be honourable and based on a desire to be an efficient, active and forthcoming employee, executive or politician.

Several investigations of corruption cases have been carried out in Norway, both by external investigators and through the administrative audits of municipalities. It appears that the opportunity for corruption often arises as a result of breakdown in simple routines, or deficient control and monitoring systems, including corporate governance of enterprises and companies. The risk increases when there are breaches of rules meant to protect against corruption.

**For reflection:**

- “Are we broad-minded enough to give and accept criticism?”
- “Does everyone know where we draw the line and what is acceptable and what is not?”
- “Do we have control procedures that prevent us from slipping down the corruption slope?”

**Can a municipality be corrupt?**

We have described situations or processes that can expose municipalities to corruption from within or from without. Municipalities are economic actors operating within the framework they set as local authorities. This dual role may lead into grey areas where the municipality itself should be aware of the risk of corruption.

The municipality may stretch its mandate or through dispositions skew market conditions in favour of its own enterprises or activities. The municipality may also influence its own future income basis by the ways it



exercises its authority towards competing private businesses wishing to establish themselves in their area. The municipality must have clear guidelines in order to handle these situations, in order that there be no doubt about how the municipality distinguishes between the role as authority and as financial stakeholder. Such grey areas may arise in several circumstances, for example:

- When the municipal council, as a local consultative body, provides a submission to the Norwegian Water Resources and Energy Directorate concerning a licence for wind power, while simultaneously negotiating with power companies for financial compensation to the municipality for encroachment on nature resulting from the development scheme.
- When the municipality, as local pollution authority, processes an application for an emission permit, while simultaneously negotiating with the applicant of a business with negative environmental effects, but with positive effects on local job opportunities, municipal income and contributions to municipal trusts.
- During processing of land use plans, emission permits and building permits for companies owned by the municipality, if private competitors are treated differently.

- When there are municipal procurements in a market where the municipality’s companies are a supplier in competition with private suppliers.
- When private companies in the municipality provide gifts or donations to the municipality that could create ties or dependency that may influence the exercise of authority in the form of future reciprocal favours.

**Examples of corruption cases in the municipal sector**

TI Norway has published a collection of all legally binding judgements under the penal code’s corruption provisions for the period 2003-2014. Some of these cases from the municipal sector are briefly discussed below:

*Undervisningsbygg:* A former property manager with Undervisningsbygg (Company in charge of educational buildings) in the City of Oslo defrauded both Undervisningsbygg and Neas, (property management company), where he was previously head of department, of almost NOK 100 million. He had also received around NOK 6.5 million in bribes from various companies that

were awarded contracts by Undervisningsbygg. He was sentenced to seven years imprisonment for gross breach of trust, gross corruption and forgery. He was also sentenced to loss of the right to operate a business, and his gains of NOK 112 million were confiscated. In addition, he was sentenced to pay compensation for the losses of the City of Oslo.

*The waterworks case:* For several years there had been extensive financial irregularities in two inter-municipal companies Nedre Romerike Vannverk AS and AS Sentralrenseanlegget RA-2. The former managing director of both companies, along with his son and two managers working for business associates of the companies, as well as the contracting firm Peab AS, had for a number of years defrauded the water works and treatment plant of significant funds. With the gains from the illegal activities, the waterworks director developed a private hunting empire comprising nine farms in South Africa. After being found guilty of gross breach of trust, the director was sentenced to seven years and six months imprisonment, in addition to confiscation of the property in South Africa. His son was convicted of gross corruption as well as aiding and abetting a number of his father's acts, and was sentenced to four years imprisonment. The business associates were convicted of gross corruption and aiding and abetting the director's crimes, and were sentenced to two years and ten months and ten months imprisonment, respectively. The company Peab was handed a corporate penalty of three million kroner.

*The planning and building agency case:* A former case officer working for the planning and building agency in the City of Oslo processed a number of applications for the enterprises of the other defendants in the case, an architect and two brothers. For this he had received illegal compensation of NOK 12,000 from the architect and had a debt of NOK 150,000 for a purchase of a car from the brothers cancelled. All of the accused were convicted of corruption.

*The Bærum municipality case:* A former technical manager for the surface treatment of the buildings of Bærum municipality awarded his family members and other tradesmen contracts for the municipality. The contracts were excessively billed or billed without the work having been carried out. Bærum municipality was

thus defrauded of more than NOK 21 million. The technical manager himself received significant amounts from this fraudulent scheme. In the end, the technical manager was sentenced to five years and six months imprisonment for the crimes of passive gross corruption, committed in part, as activities of an organised criminal group; of gross breach of trust, and of aiding and abetting forgery. He was made, together with four of the accused tradesmen, to compensate Bærum municipality of the amount of approximately NOK 16 million. The other convicted parties in the case received sentences of between one and three years of imprisonment.

*The Unibuss case:* Unibuss AS is a municipal transport company owned by the City of Oslo that operates scheduled bus services in Oslo and other parts of the country. At the end of 2012 two persons were convicted of corruption following summary proceedings on the basis of a guilty plea in connection with the extensive Unibuss case, where a total of 13 people had, to that point, been charged with punishable offences. The first conviction for corruption in the case was given to the sales director of Vest Buss, a supplier of buses to Unibuss. He twice organised trips for Unibuss employees to the World Cup in Biathlon in Rupholding, for which he was convicted of corruption. The other conviction concerned the CEO of the company Solaris AS, another supplier of buses to Unibuss. On three occasions he paid the rental car expenses of the CEO of Unibuss, at a total value of more than NOK 17,000. He was also convicted of corruption for these acts.

*Syden-saken:* A 59 year-old man offered a holiday trip to the Canary Islands to an employee in Skedsmo municipality in order to expedite the processing of a building permit in the town of Lillestrøm. The value of the holiday offer was NOK 19,000 kroner. The Nedre Romerike district court sentenced him to 120 days imprisonment for gross corruption, with a 75-day suspended sentence and a two-year probation period. The 59 year-old represented parties who, according to the sentence, had "significant financial interests in the project," and could "easily come into a position where they obtained significant financial gain at the expense of others". The sentence stated "presenting such an offer is, in the opinion of the court, improper. The conduct of the defendant is clearly reprehensible."

## From areas of risk to forms of corruption

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Corruption is about obtaining an undue advantage. The employees, officers or elected officials of municipalities may misuse their positions ("in connection with a position, office or assignment") to provide someone with an advantage they are not entitled to ("undue advantage"). This often happens in the form of an exchange, where the municipality's representative receives an undue advantage.

Below some examples of corruption forms are discussed.

### Bribes

Bribery is offering, promising, giving, accepting or soliciting an advantage as an inducement for an action which is illegal or a breach of trust. Opportunities for bribes may arise in many situations. Not least because bribery is illegal, it is necessary to make clear to employees and elected officials that bribery can occur in several ways, so there is awareness as to how any such offer should be met. Previously, there used to be less resistance in society to some forms of bribes, while in recent years it has been specified by authorities and companies that e.g. gifts and payment of expenses may constitute bribes.

### Contributions to political parties or candidates

Donations can be given in the form of direct financial support to a party or to candidates or persons holding office. Contributions may also occur in the form of indirect financial support through organisations or associations that provide financial support to political parties and/or politicians. A political contribution is not the same as a bribe, but can nevertheless pose certain risks. A contribution provided to influence a decision in favour of an enterprise or individual, or which may be perceived as such, is considered to be a bribe. This particularly applies if contributions are made to parties or politicians, for example from a business that depends on licensing, permits or contracts from the municipality.

#### Examples of bribes

- Financial donations – cash or equivalent
- A personal return-favour in the form of work on the recipient's property or materials delivered to the person's house
- Gifts with certain conditions attached
- Free use of real estate or properties belonging to another business
- Return commissions (kickbacks)
- Promises of further business
- Gifts that influence a situation where a bid is to be submitted, negotiations are to be started or a contract is to be signed
- Expensive travel, accommodation and events with little or no professional content
- When a person other than one's employer covers expenses for oneself and/or a family member
- Hospitality, entertainment or events intended to influence negotiations or procurements
- Sexual favours
- Cash payments without receipts or documentation
- Coverage of expenses other than normal accommodation costs via the hotel bill
- Payment of personal expenses
- Loans from suppliers, with proper loan agreements but where the loans are never repaid

## Charitable gifts

A municipality or its employees and office holders may directly or indirectly receive contributions through donations to a charity, or a social investment in the community. This could, for example, come from a company offering to finance a sports facility or a cultural event. A charitable gift is not the same as bribery, but it certainly comprises a grey area. A gift given to influence a decision in favour of a business, or one that may be perceived as such, could constitute a bribe.

There might be cases where organisations receiving charities in reality are operated by decision-makers in the municipality or persons connected to them.

## Sponsorship

Sponsorship is not the same as bribery, but can constitute an area of risk. Corruption may be linked to sponsorship if there are conflicts of interest on the payer's or recipient's side. It may, for example, happen if suppliers cover parts of the costs of professional travel or training for municipal employees. Sponsorship may result in an expectation of favours in return. If they are given to one or a few select individuals, they may be considered to be undue advantages.

## Extortion

Extortion or threats to life and health or of substantial financial loss also fall into the category of corruption crimes. Penal code provisions on self-defence may be applicable in such cases. Whether payments under such circumstances are illegal must be considered on a case-by-case basis. The individual exposed to extortion or who acts in self-defence may have an argument against the corruption allegations if the original threat implied serious consequences.

## Gifts, hospitality and expenses

In their interaction with suppliers, organisations, private individuals or stakeholders and representatives of municipalities may be offered gifts, receive invitations to lunches or dinners or be invited to events.

Such offers may be in a grey area with regards to corrup-

tion, or contribute to establishing ties and dependencies which corruption provisions are intended to prevent. Transparency International has developed certain principles to counter bribery in private business ("The Business Principles for Countering Bribery", 2013). These may very well also be relevant for the municipal sector. Gifts, hospitality and expenses covered can be problematic in several ways:

- They are given without apparent expectations of reciprocity or return value. Gifts may be used to express a common purpose and hope of future success and prosperity. Gifts do not belong in the business process other than as a celebration or reinforcement of relations, or to promote the donor's business.
- Hospitality includes entertainment, meals, receptions and tickets to social events, entertainment or sporting events, and may be intended to initiate or develop business relationships. It can be difficult to distinguish between hospitality and gifts, especially if the person providing the hospitality is not present and not acting as the host.
- Covering expenses implies that a company pays or reimburses expenses for travel or other related expenses for a prospective customer or business partner, and where this is not specified in the contract.

Discussion topics: In some cases the municipality itself receives gifts from donors who wish to contribute to benefit the local community. What is the basis for the municipality to accept such gifts? What might be the motives for such gifts? Could there be an expectation of reciprocity? Could the gift create loyalty ties that make it harder to process cases involving the donor later on?

Most municipalities have adopted clear guidelines not permitting employees and politicians to accept gifts or other benefits.

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**Code of conduct for employees of the City of Oslo**  
"Employees of the City of Oslo may not accept gifts, commissions, services or other benefits in connection with procurements or contracts for themselves or others, or when the benefit may influence or is intended by the donor to influence the employee's official actions. This also includes favourable terms related to travel and accommodation. Unless the gift is of insignificant value, employees of the City of Oslo are also obliged to forego gifts and bequests from users of the municipality's care services, even though the gift may not affect the services provided."

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It is important to include provisions on gifts (i.e. under what circumstances gifts, hospitality and expenses are or are not permitted) in the anti-corruption programme of a municipality.

While in most cases these provisions should stipulate that it is illegal, unethical or unacceptable to accept gifts, there may be situations where gifts are natural or will be given. The following rules of thumb may be useful for municipal employees, managers in municipal enterprises, politicians and for companies that interact with the municipalities with regards to accepting gifts:

- Gifts should be given and accepted in full transparency and must never entail an obligation for the recipient. Gifts must not be used to achieve a business advantage or be perceived in such a way.
- The same principles should apply to management and employees. If differences are necessary and acceptable, the rules should be open about this. Covert practice can undermine anti-corruption efforts.
- Gifts should never be given or accepted in connection with hiring, tenders, evaluation or award of contracts. One must also be careful with gifts once a contract has been awarded, as it may be perceived as deferred reciprocity or linked to the approval of amended orders or new contracts.
- If it is inappropriate to reject the gift, it may be returned to the donor at a later date with an explanation, or it may be given to a charitable organisation while informing the donor of this.
- Giving valuable gifts to persons who are subject to strict rules in this area, or accepting gifts in excess of the limits set by the municipality creates awkward situations. It may therefore be appropriate to exchange information on rules for gifts with business partners in advance.
- It is easier for the staff to deal with gifts if rules specify fixed value limits. At the same time, such limits may draw attention away from other important considerations, such as frequency and context (e.g. tenders and contract awards). In their anti-corruption rules and regulations municipalities should specify what types of gifts, of what value and under what circumstances they can be acceptable. Guidelines should also detail approval procedures for cases where limits may be exceeded or other concerns may arise.

## Conflicts of interest and impartiality

When individuals have private interests that conflict with their roles or duties as an employee or politician, a conflict of interest arises. Decisions they are to take may thus be affected by such a conflicting interest. In any such case, it is the municipality's interests that should take precedence, and municipal inhabitants and users must be sure that personal interests do not affect the decisions made on behalf of the municipality.

Conflicts of interest for politicians may arise when they make decisions on matters that directly or indirectly affect themselves. One example might be if elected officials participate in regulatory decisions of an area where they are residents or property-owners, or they are members of an organisation applying for funds from the municipality. They might be employees or owners of a local business dependent on municipal regulation or procurement. Similar conflicts of interest may apply to employees of the municipality.

The disqualification provisions in the Local Government Act and Public Administration Act regulate who is permitted to prepare the basis for a decision or make a decision. The rules allow for discretion, but stipulate certain basic principles that provide clear direction. One must withdraw from processing a case when one:

- is party to the case or related by blood or marriage to a party in the case,
- is in a close friendship or dependency relationship with one party in the case,
- has a strongly conflicting interests with those of a party in the case,
- has a significant financial relationship with a party in the case
- has private business operations, ownership interests or is a director of companies and firms that are a party to the case,
- there are other factors that are likely to undermine confidence in the employee's impartiality.

Within the corporate governance of municipal enterprises there have been a number of examples of dual roles. Prominent municipal politicians are often chosen for board positions, based on the idea that the municipality's ownership interests are best represented in that way. Such participation disqualifies these politicians from



dealing with matters concerning the company when these are to be dealt with in the municipality's elected bodies.

Prominent local politicians may be popular board members and can hold numerous such positions. In several instances critical questions have been raised because politicians are "wearing too many hats". It is important to discuss such potential conflicting roles in order to raise the awareness and ability to manage the roles in a satisfactory manner. Be sure to ask the question: "How many hats can politicians wear?"

KS has issued 19 recommendations for good municipal ownership, corporate governance and control. Here are some that are particularly relevant in an anti-corruption perspective:

#### **Impartiality assessment and political representation**

It is up to each individual ownership body (supervisory board/ general meeting) to decide which type of expertise a board should have. Initially it is recommended avoiding situations where board members are regularly assessed in relation to the Public Administration Act's disqualification provisions

and thus critically evaluate the use of leading politicians on company boards. It is recommended that boards establish fixed procedures for dealing with conflicts of interest, and that the municipal council establishes an appointment committee forwarding nominations to the body electing board members.

As a rule, politicians should not sit on the boards of local government enterprises because of the direct line of reporting between the board and the senior political level.

#### **Remuneration and registration of board assignments**

In connection with the preparation or revision of their company declaration, municipalities should discuss the principle of fees as the basis for the company's determining of fees for board assignments, regardless of the company structure. Everyone who takes on assignments in municipal companies should register these positions at [www.styrevervregister.no](http://www.styrevervregister.no)

#### **Preparation of code of conduct**

It is recommended that the owner ensures that the company boards prepare and regularly revise the code of conduct for company operations.

## Lobbying

Municipal decision-making processes are subject to influence. When affected interests participate and make statements on issues, it is considered part of a democratic right to participate. When organised interests seek to influence decision-making processes for a particular outcome, this can be a case of lobbying outside the ordinary decision-making channels. Lobbying can take the form of information work, campaigns and direct contact to affect the decision-maker's perceptions or attitudes directly or indirectly by influencing the basis and premises for making decisions.

If the general public does not know who has attempted to exert influence through such lobbying or what contacts the lobbyists have had with the decision-makers, there could be reason to doubt that the decision-making processes have proceeded correctly. This is a democratic problem.

There may be need for the municipalities to lay down some ground rules for how they should relate to such lobbying activities.

## Business relationships and partners

Municipalities may be held responsible for acts of corruption performed by others they have business dealings with. In order to counter corruption, municipalities must therefore adequately ensure that business partners and other associates comply with applicable law and ethical principles.

There is a particular risk of corruption in procurements and joint development projects where the municipality collaborates with other parties.

Public procurement regulations stipulate the main principles for the implementation of the municipalities' purchases of goods and services. In their procurement municipalities can impose ethical and social requirements on suppliers and the supply chain. Municipalities should therefore consider how they can ensure a high ethical standard among their suppliers via procurement strategies, both through qualification and in the monitoring of suppliers and deliveries.

Municipalities often work with partners without being bound by the public procurement regulations. This can be ownership of companies, cooperation with or support to NGOs and cooperation on development projects and public-private partnerships (PPP).

Here too the municipality should ensure that the partners have a high ethical standard and a system for preventing corruption.

#### **Background check – "Due diligence"**

Procurements from and negotiations with consultants, contractors, suppliers and other business connections pose potential risks of becoming involved in corruption. For this reason municipalities, on the basis of a risk assessment, should conduct due diligence before entering into a business relationship. This entails taking all necessary precautions to ensure that the municipality is cooperating with reputable and qualified partners and representatives.

Due diligence inquiries into corruption (often called "integrity due diligence") are inquiries into and assessments of business partners so as to obtain a reasonable assurance that one is not becoming involved in prior, ongoing or future acts of corruption through the business partnership.

It is most relevant to conduct such due diligence inquiries into unfamiliar business partners before entering into agreements with them, but it may also be relevant at a later date if new information comes to light.

It may be impractical to conduct due diligence for all business partners. Municipalities should have guidelines with criteria for when this is to be done and how to prioritise this. A minimum requirement should be that due diligence is considered in each individual case, and how thorough the inquiries should be.

Due diligence can be conducted in cooperation with the business subject to the inquiry, or without its knowledge. The inquiry may be carried out by the municipality's own employees or by a consulting firm and may consist of information retrieval from open sources, including the Internet. In critical and difficult cases it may be necessary to hire specialised consulting firms that are capable of carrying out thorough investigations.



# ETHICS POSTER

For elected officials and employees in Grimstad municipality.

The corporate culture in Grimstad municipality must reflect ethical core values. Elected officials and managers should pave the way and encourage ethical reflection and sound choices.

**The ethical core values of Grimstad municipality are:**



**Elected officials and employees contribute to the realisation of the values of the code of conduct when they:**

## **TRANSPARENCY**

- Contribute to transparency in all tasks and interactions in the municipality

## **INTEGRITY**

- Act honestly
- Are aware of their own role and avoid dual roles
- Act impartially and practice equal treatment
- Avoid gifts or other personal benefits that may influence services or arouse suspicion of such influence

## **RESPECT**

- Are clear about their own views and have tolerance and respect for the views of others

- Meet the public and users in a friendly fashion, with respect and consideration
- Show respect for privacy and comply with the duty of confidentiality

## **COURAGE**

- Speak out on matters worthy of criticism to the person concerned, or notify someone who can do something about it
- Take responsibility for ensuring that own actions are in compliance with the code of conduct
- Comply with statutes and regulations, and loyally follow resolutions and decisions, when these are in accordance with the municipality's code of conduct

values must be reflected in the actions municipal representatives take, as managers, employees or elected officials.

In theory, values may often be perceived as universal and easy to support. In practice, employees and elected officials may experience that values are being tested, and that dilemmas or conflicts arise, thus making it less than obvious how to behave. Lack of awareness of this may mean that personal attitudes or perceptions are more important than the municipality's fundamental values.

In order to breathe life into the values and ensure compliance, they must be put on the agenda and made relevant in practical everyday work within all services and at municipal workplaces. Attitudes are created and change, and the organisation's ability to translate the values into specific choices of action presupposes that they are brought forward and seen as a point of departure for conversations and discussions as to what they entail. Here managers have a special responsibility.

The municipalities' management should ensure that fundamental values are formulated and that these are actively used in building a good organisational culture where the objective is to prevent and react to unethical and corrupt behaviour.

## **Code of conduct for employees and elected officials**

Most municipalities have developed code of conduct for employees and elected officials. Municipalities that have not done so should prioritize this work. The ethical guidelines should be processed by the municipal council.

Ethical guidelines often contain clear directions on the conduct expected and what the guiding principle ought to be. They clarify some fundamental requirements that follow from the municipality's core values.

Many municipalities choose to base their own regulations on those of others. It is of course not necessary to reinvent the wheel, but at the same time the regulations should be based on an independent assessment adapted to the individual municipality's situation.

Ethical guidelines are given practical significance by being used and by employees and elected officials actively relating to their meaning. It is of little value if the content of the guidelines is not followed up after they have been adopted.

Such follow up takes place through the communication of the content, local work on translating what this entails for one's own activities, and in regularly bringing them up for assessment and discussion. In order to ensure follow up, work on ethical guidelines may for example be laid down as a part of the management contract with managers in different departments.

The municipalities should also ensure that they apply the ethical guidelines to municipal enterprises and introduce them to municipally-owned companies and important partners.

The Local Government Act Section 48 no. 5 includes a provision stating that the municipality's annual report must describe measures implemented and planned to ensure high ethical standards. This requires the municipality to review its activities in the field of ethics and what its current status is. Such a disclosure could serve as a good point of departure for debates in the municipal council about the municipality's ethics work. It is also an opportunity to highlight ethics work.

## **Examples from the City of Oslo's ethical rules for employees:**

**"The purpose of the City of Oslo's ethical rules is to ensure good ethical practice and define common standards for employees of the City of Oslo. The ethical rules apply to all of the municipality's employees."**

**Managers in the City of Oslo must develop an organisational culture based on transparency, which maintains the city's fundamental values and ethical rules.**

**Managers at all levels must review the ethical rules with their associates once a year, and in the event of new appointments. Managers must ensure that all employees confirm that they have read and understood the city's ethical rules.**

**Employees of the City of Oslo have a personal and independent responsibility to comply with the city's ethical rules. Employees must address cases of doubt in relation to the ethical rules with their immediate supervisor.**

**The city's employees have the right to refuse to follow orders that are illegal or in violation of the ethical rules.**

**Breaches of the ethical rules can, subject to staff regulations, have consequences for continued employment.**

### Tips for ethical guidelines:

- Should include rules prohibiting municipal employees from using framework agreements for purchases in different areas for private purposes.
- It should be clear that breaches of the guidelines will have consequences
- It should be clear that employees or elected officials must not participate on trips funded by or sponsored by the municipality's partners

### Examples and tips on how ethics work can be managed:

#### Management

- Work on ethics must have the support of the management at the individual point of service, at the chief administrative officer level and among the elected officials. The municipal council should discuss the municipality's ethics work.
- It should be clarified who is responsible for ethics and corruption prevention. Responsibility may be given to a team, in order to make it less vulnerable, or a dedicated position may be established – for example an ethics consultant under the chief administrative officer.
- Include ethics as a topic in the management agreement; make ethics an area that managers are assessed at and as a part of the chief administrative officer's requirements from managers. Clarify and demand activities and focus areas, for example in the letter of employment.
- Ethics work must be given priority; time must be set aside for ethics work and for recurring ethical reflections on relevant topics. What is acceptable and not acceptable in the undertaking, so that employees and management acquire an understanding of right and wrong.
- Develop procedures that provide an overview of the managers' and employees' other engagements – for example in staff regulations. The KS board assignments register and the Brønnøysund register should be used.
- Prepare information on regulations and guidelines in order that awareness on compliance is high – that the rules are known, understood and are followed.
- Establish an "ethical council" in the municipality, with e.g. the chief administrative officer, enterprise managers and employee representatives.

- It may be useful to review the municipality's ethical profile, possibly with external assistance, to consider the organisation of ethics work (including the employees' knowledge of ethical regulations, experience with situations, etc.).
- Incorporate a requirement for reporting the status of ethics work in the chief administrative officer's corporate governance, as a basis for monitoring and onward reporting to the municipal council.

#### Information and training for employees

- New employees should confirm that the ethical guidelines have been read and understood.
- Employee representatives should be involved, ethics responsibility may be included in the safety representative's function, and ethics work should be put on the agenda in the working environment committee.
- Ethics and anti-corruption should be addressed in appraisal interviews.
- Procedures should be drawn up on ownership of expertise and the products that employees have developed in their work for the municipality.
- Make clear "acceptable/not acceptable" concerning what that the employees can undertake at the individual workplace. Make clear for municipal employees what is expected from an open and transparent municipality. Focus on greatest possible transparency in all processes.
- Have ethics supervisors in the municipalities' enterprises; conduct training in ethics for new employees.
- Organize an ethics/anti-corruption day.
- Carry out dilemma training at section meetings, departmental meetings and management meetings.

### Risk analyses

The purpose of a risk analysis is to find out how anti-corruption work should be organised and what should be given priority. The review and analysis of the risk for corruption is the basis for risk-reducing measures, either as dedicated targeted measures or as an integrated part of the municipality's overall risk management.

The core of a risk analysis is to identify which undesirable incidents can arise, where they may arise and which consequences they will have. The risk analysis further-

more consists of evaluating the probability of the incident arising. The actual risk emerges by assessing risk and consequence in context, as illustrated in the KS handbook "The chief administrative officer's internal control." Risk of corruption should be analysed at the strategic level in the municipality and in all undertakings. This can be achieved if all municipal undertakings think through the following:

- How can corrupt acts take place in their own business?
- How likely are these incidents?
- What consequences can the incidents have?

Based on such a risk review, the administrative management can put together an overall picture of corruption risk and thus give priority to risk-reducing measures. On the part of the elected officials, the municipal council and other political bodies should set aside time to assess the risk of corruption for the role of elected official and how it may be reduced.

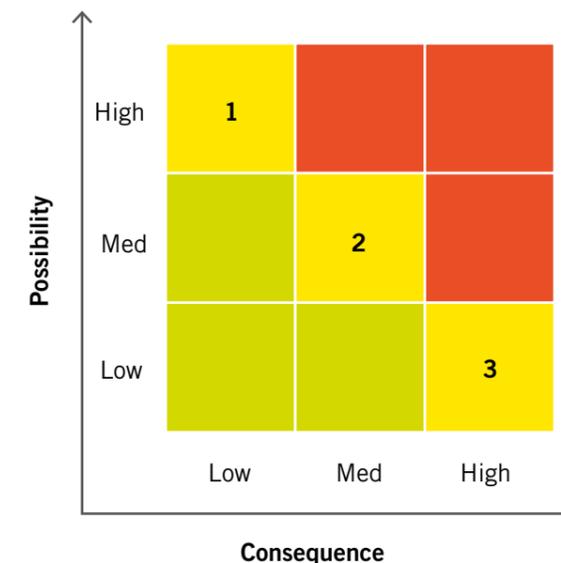
In its supervision and control activities, the control committee should consider whether risk management in the municipality is adequate and whether risk of corruption is covered through risk management.

#### Examples and tips for risk management

Risk and vulnerability analyses (RVA) are used by many municipalities in their work on civil protection and preparedness and within project management. RVA analyses are also a useful tool in efforts to prevent corruption.

#### Assess the risk of corruption – probability and consequence

- An RVA analysis can be conducted at a senior level in the chief administrative officer's management team and within each of the municipality's service areas.
- The analysis can be conducted as a group effort and through brainstorming sessions where risk factors and undesirable incidents in one's own field of work are identified. Based on this, the risk factors are ranked, either through a qualitative assessment and discussion or by quantifying probability and consequence and placing the factors in a risk matrix.
- Surveys among employees can also be a method in identifying the perceived risk of corruption, and might reveal the need for information and adaptation of rules and procedures.



#### Red boxes:

Critical risk. Risk-reducing measures must be implemented.

#### Yellow boxes

1. Significant risk. Risk reduction measures.
2. Central area. Significant risk. Risk reduction measures must be considered.
3. Contingency corner. Significant risk. Risk reduction measures must be considered.

#### Green boxes:

Negligible risk. No action required.

Figure: What areas should be prioritized when implementing risk-reducing measures. (Source: KS, 2013)

#### Implement risk mitigation measures

- On the basis of the RVA analysis, risk-reducing measures can be identified and given priority. The employees must be informed of relevant risk factors at the individual workplace. Procedures and checks are developed to reduce risk where it is revealed. The chief administrative officer should, through governance and internal control, request the status of risk management.

## A sound control system – self-monitoring and internal control

A well-functioning control system is critical in municipal work against corruption. One of the most important instruments in municipal anti-corruption work is therefore efforts to strengthen all functions in the municipal control system. Preventing undesirable incidents and the abuse of authority are explicit goals of control activities. The control systems have an important preventive function, partly through controls that reduce the opportunity to commit corrupt acts, and partly because control increases the risk of being detected. Furthermore, the control system will uncover any fraud, errors or corrupt acts committed.

Weaknesses in the control systems increase the risk of fraud and corruption. Such weaknesses also make it harder to detect errors, fraud or corruption that has been committed. Several corruption cases in municipalities have shown how the failure of simple control procedures has facilitated corruption. The challenge for municipalities is to make the control system effective and efficient in anti-corruption work. Corruption takes place covertly, between parties who have an interest in keeping the corrupt act hidden. The corrupt acts can thus be difficult to detect through control activities.

The main elements of municipalities' control systems follow from the Local Government Act and are outlined briefly below.

*The municipal council has the ultimate responsibility that the municipality acts in accordance with statutes and regulations, that ethical standards are followed, and that services are provided in line with policy objectives. The chief administrative officer as administrative manager has overall responsibility for internal control in the municipality's administration.*

*In principle it concerns having control of service delivery and the exercise of authority, and that the central support procedures are carried out in line with political objectives, technical requirements, statutes and regulations.*

*The control committee appointed by the municipal council must supervise and control the municipality's activities on behalf of the municipal council. The control committee has independent right of access and must*

*perform such investigations it deems necessary to safeguard its control function on behalf of the municipal council.*

The municipal council chooses which kind of audit schemes the municipality should have. The audit conducts administration audits and financial audits. In addition, the audit may perform other tasks for the control committee, for example assisting the control committee in conducting corporate control. Large and complex organisations, as many municipalities are, are based on extensive delegation of responsibility and authority to subordinate units, their managers and individuals. But managers and individuals can make mistakes and they may misuse their trust. It is here that the supervisory and control functions come into play. Responsibility for controlling operations follows lines of delegation. The senior level, through its system of control, must ensure that the subordinate level actually controls what it should.

There is a balance between the resources used on control on the one hand, and efficiency in municipal operations and tasks on the other. A key function of the control system is to carry out risk assessments and analyses so that control activities are directed at those areas where risk is greatest.

KS has prepared a booklet on internal control, describing critical aspects of the design of the internal control system in the municipalities, entitled "The chief administrative officer's internal control. How do you get your own house to function?" (KS 2013).

In a municipal anti-corruption programme, the municipality should describe how the control system uncovers the risk of corruption within all key processes.

### Examples and tips for control work

#### General control functions

- The chief administrative officer's system for internal control should be designed to prevent and uncover corruption. The control activities are carried out in the administration, at service locations and in the key support areas.
- The control committee should, through its supervisory role and administration, examine how measures to prevent and reveal corruption work.

- The municipal council should, when electing members to the control committee, take into account how composition can strengthen confidence in the committee's independence. The control committee's budget should provide the committee with adequate opportunities to initiate investigations and auditing work it deems necessary to assess the corruption prevention activities. When corruption or irregularities in the municipality is uncovered, the control committee should ensure that the circumstances are investigated and followed up with appropriate action.

#### Practical measures

- Hire a central controller and establish a control function on major projects.
- Introduce a system whereby two people approve invoices, and where one of them is present at the delivery and can check it.
- Implement existing control schemes and opportunities, including control committees.
  - Conduct invoice control and annual control of codes/accounts, tenders, protocols, framework agreements and grants.
  - Conduct administrative audits, also in restricted areas, e.g. within internal control and invoice control.
  - Check the municipalities' use of framework agreements

- Conduct internal audits of procedures.
- Introduce control procedures in areas that involve risk. More active control - "control that controls are being carried out," risk-based control rather than spot checks.
- Post-control that procedure is being followed, and find out what is known of the effects of the measures.
- Develop procedures for the withdrawal of goods and materials: Stock levels, common stock, vehicle and fuel use, etc.
- Delegation rules – set financial limits as basis for delegation.
- Establish contingency plans for the follow-up of censurable conditions or whistle-blowing.
- Conduct training of authenticators and markers.
- Review ordering authorisations.
- Establish procurement strategy.
- Check municipal employees' relationships to various external networks.
- Work on developing a "culture of control", so that control is perceived as a system for mutual safety and trust rather than an indication of suspicion.
- The aim should be a risk-based control system where the individual enterprise and unit reduces the risk of error, abuse and corruption to an acceptable level.

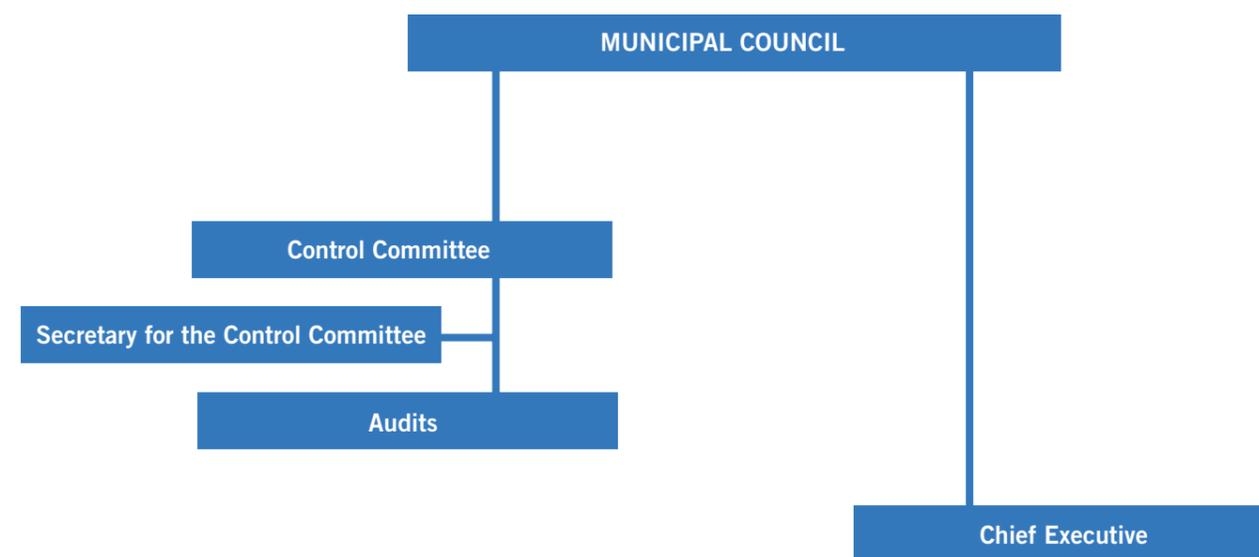


Figure: The Municipal Control System (Source: KS)

## Strategy for procurements

By having a clear strategy for procurements and implementing this at all stages, the municipality can reduce the risk of error, fraud and corruption. Developing procurement expertise, clear procedures and clear responsibility for compliance are key elements in such a strategy.

The Public Procurement Act and related regulations impose clear requirements for an orderly procurement process and the basic principles that must be met. The purpose is to ensure efficient utilisation of public funds and fair competition between suppliers. The Act's Section 5 stipulates the following basic requirements:

- The client must act in compliance with good business practices, ensure high ethical business standards in internal procedures and ensure that there is no discrimination between suppliers.
- A procurement must as far as possible be based on competition.
- The client must ensure that the interests of predictability, transparency and verifiability are maintained throughout the procurement process.
- The selection of qualified candidates and award of contracts must take place on the basis of objective and non-discriminatory criteria.

In preparations for and implementation of a procurement there might be a need for contact with potential bidders and suppliers. Information to suppliers must be identical and not entail unequal treatment that may favour one of them. After contracts are signed and deliveries take place, the municipality should check that it has actually received supplies in accordance with the contract and agreed quality, scope and price. In this follow-up phase municipal purchasers should also be concerned that the municipality avoids establishing dependency or linkages that may affect the independence of future procurement processes.

An efficient market can be crucial in obtaining offers from suppliers in real competition. Municipalities should therefore be aware of the implications of their procurements in relation to competition policy. An effective and competent supplier market may require long-term cooperation to ensure suppliers capable of covering future public needs. Such a strategy for developing suppliers must be open and orderly, and consistent with core values and principles of procurement.

The municipalities can ensure the suppliers' compliance with their corporate social responsibility policies related to the environment, human rights, wages and working conditions, ethics and anti-corruption by including requirements in the tender documents and by monitoring them throughout the entire procurement process. The suppliers may also be made to document how they maintain corporate social responsibility, both in their own operations and toward the supply chain and customers.

The municipality's procurement strategy should describe risk factors in the procurement process. The risk of corruption is present at several stages:

- Assessment of the needs to be covered by the procurement. Here, contacts with suppliers or conflicts of interest among purchasers affect how the need for the procurement is described.
- To what extent is the procurement required? Could the need be covered in other ways?
- Planning and organisation of the actual procurement.
- Here market knowledge and contact with suppliers could affect the planning of the procurement. Asymmetric information between the supplier side and the municipality could influence the description of need and procurement. To what extent is the procurement needed and what are its requirements with regard to standard? Requirements may be described so specifically that it limits potential suppliers.
- Implementation of the competition for the contract. Here choice of competition, design of tender documents, specification of requirements, etc., may be influenced by purchasers or technical experts who are not sufficiently independent. Furthermore, the actual announcement of competition may fail to give equal status to potential suppliers and withhold essential information so that certain suppliers have a competitive advantage. The assessment of bids and final choice of supplier may be subject to improper coercion in the form of friendship, gifts, bribes, and kickbacks or similar. Former municipal employees who have joined the supplier side may have inside knowledge, acquaintances and contacts from whom they benefit in the design of the tender and in any negotiations in the competition.
- Monitoring of the delivery and contract. Here risk might be costs and quality deviating from what was originally agreed, and that the person approving deliveries and handling invoices and payments accepts this. Depending on the type of contract,

there may be a number of steps where risk of corruption is present, from ordering to order confirmation and receipt, invoice approval and payment.

### Examples of risk in procurement processes

- The supplier provides a well-paid job to a relative of the purchaser.
- For no apparent business reason, the supplier hires a private company controlled by the purchaser or by friends or relatives of the purchaser, as subcontractor for the project.
- The contractor carries out work on the purchaser's private home and sends a heavily discounted invoice – in some cases invoices are sent without payment being required, on other occasions no invoice is sent at all.
- Illegal direct procurements.
- Uncoordinated purchases of the same item or service by different purchasers in the municipality.
- Errors in carrying out the procurements that leads to costly appeals and a negative impact on reputation.
- Errors as a result of purchasers rarely conducting procurements (lack of experience)
- Missing documentation/archiving make monitoring and control difficult.
- Procurements/parts of procurements used for private purposes.
- Elected officials get involved to ensure local suppliers are preferred.
- Purchasers who fail to follow the municipality's framework agreements or other agreements.

### Examples and tips for safer procurements

- Conduct a risk assessment of the entire procurement area. Where is the greatest risk of errors? Implement measures based on the risk assessment.
- Develop and update the municipality's procurement strategy
- Provide information so that employees are aware of and follow the strategy and procedures. Incorporate measures against corruption and for human rights in the strategy.
- Safeguard procurement processes with documented receipt of goods before payment; establish that requirements applied to suppliers in the procurement also apply to subcontractors.
- Safeguard the procurement process using e-commerce, electronic invoicing and competition implementation tools.
- Conduct training in the procurement regulations/

Public Procurement Act – including exceptions from the regulations.

- Monitor compliance with the procurement regulations, particularly in sensitive areas and in the event of supplementary orders.
- Enter into framework agreements for larger parts of the municipality's activities.
- Centralize the purchasing function in order to develop strong expertise in procurement in the municipality or in cooperation between several municipalities. In addition to strengthening market power, this centralisation will also ensure that strong expertise in procurement is developed in the municipality or in cooperation between several municipalities. In addition to strengthening market power, such centralization will also guarantee professionalism and the development of expertise in the form of fewer and professional purchasers and persons responsible for ordering. Certify purchasers, with a separate code of conduct for purchasers.
- Develop guidelines and a website with information on the municipality's procurements.
- Develop an owner strategy for municipal companies and enterprises where corruption prevention is a topic, and monitor this through corporate governance.



## Whistle-blowing

Anti-corruption programmes can be of limited value if employees or others who experience unacceptable conditions do not know who they should approach. Based on experience, whistle-blowing has been decisive in exposing conditions that entail a risk of corruption or to uncover undesired events.

Channels of communication from the bottom up, such as whistle-blowing procedures, supplement the management's commitment to counter corruption in the enterprise.

The chief administrative officer and other managers must afford sufficient protection to those who wish to come forth and report deviations from ethical and legal standards in the municipality. This may be implemented by way of confidential hotlines or intranet or Internet sites where employees and business partners may air concerns or provide information. In order for such services to be effective, one must listen to the concerns, and key personnel must act within reasonable time. Legitimate use of whistle-blowing procedures must not lead to reprisals in the form of changes in career opportunities, exclusion from attractive jobs or social ostracism. Such channels should be available not only for employees, but also for business partners, users and residents.

Municipalities that already have a whistle-blowing scheme must consider the need for adjustments when they launch their anti-corruption programme. Municipalities that do not have such services should establish these as part of the programme.

### Experiences from whistle-blowing schemes in the municipalities and from working life show that there are several challenges:

- Whistle-blowers experience negative reactions, from managers or colleagues.
- Whistle-blowers are unaware if the notification has been received and receive no information on what happens next.
- Employees have little knowledge of how they can notify.
- The whistle-blowing scheme is misused to conduct internal power struggles.
- Anonymity and misuse of the scheme, whistle-blowers who want to tarnish named individuals.
- Employees report their own case even though the

scheme is designed for notifications from independent parties.

- In dealing with the person the case concerns.
- Protecting the whistle-blower.
- A perception that “whistle-blowing won't help,” it is too unpleasant to come forward, or people fear negative consequences so that they fail to report unacceptable conditions they observe, especially when it concerns their own bosses.
- Information security, that the notifications are treated securely and that few have access to the information.

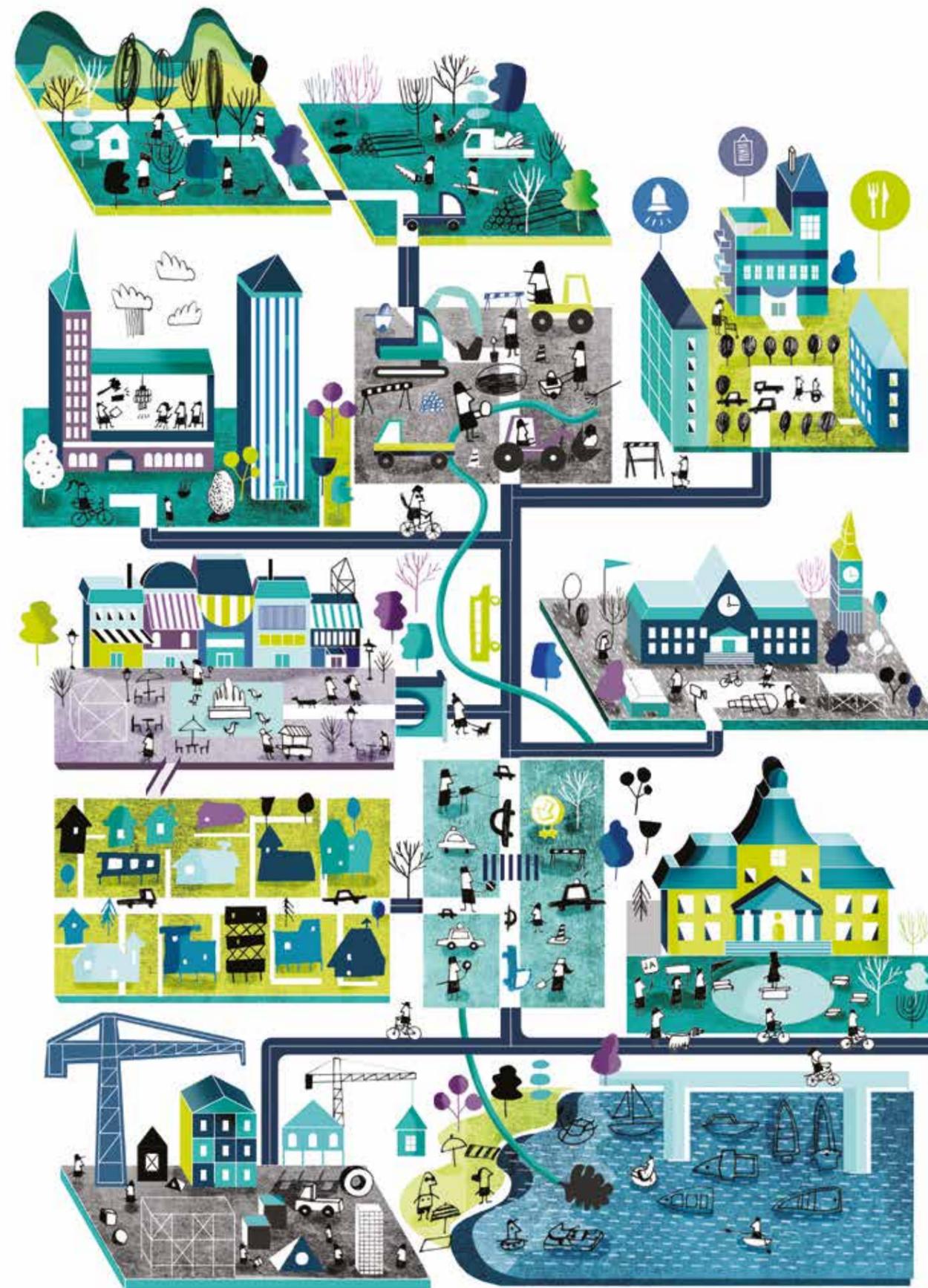
### Tips for establishing a whistle-blowing scheme:

- The whistle-blowing channel should be managed by an independent staff unit (or externally) that reports to the chief administrative officer.
- Anonymous whistle-blowing is a requirement.
- Cases must be handled confidentially and with adequate protection and fair treatment of the whistle-blower and the subject of the whistle-blowing.
- Cases must be investigated and then closed, and they must subsequently be summed up together with the involved persons.
- The municipality must have a good system for documenting and filing notifications, procedures and conclusions.

The municipality must ensure that whistle-blowing is encouraged and that whistle-blowers are protected. When an employee observes unacceptable conditions, he/she should be encouraged to report this. The municipality has a duty to encourage its employees to use their right to speak out, and to facilitate this.

In 2007 provisions for whistle-blowing were incorporated in the Working Environment Act (Sections 2-4 and 2-5). The provisions apply to both the public and private sectors, and require that the municipality has whistle-blowing procedures.

Whistle-blowing is a legal act, and the law provides protection against retaliation in whistle-blowing cases. Protection against retaliation also includes external reporting, for example to public supervisory authorities, the police and the media, and not just internal whistle-blowing. However, the law does not provide completely satisfactory protection, as it requires the whistle-blower to act in a “responsible” manner, which may be interpreted very differently by the parties in a particular case.



## Key acts and rules that require compliance

Municipalities' integrity should be ensured through a number of statutes (with accompanying regulations) in addition to separate municipal rules. Knowledge of rules and legislation is an important element in prevention, and also in order to be prepared to handle situations when they arise. The various statutes and rules are relevant to several of the elements that an anti-corruption programme consists of.

The most important laws are:

- *The Election Act*, which regulates the conduct of democratic elections, election results, eligibility and voting rights.
- *The Local Government Act*, which includes provisions on form of governance, elections and composition of municipal bodies, the administration's tasks and organisation, procedural processes, monitoring and control, auditing, financial provisioning and impartiality.
- *The Public Administration Act*, which includes provisions on procedural processes, decisions, impartiality, duty of confidentiality, right of appeal.
- *The Freedom of Information Act*, which regulates the public's right of access to cases and the limitation of this.
- *The Public Procurement Act*, which regulates procedures for purchases, tendering, tender documents and exclusion of suppliers, etc.
- *The Working Environment Act*, which regulates basic labour rights, the right and obligation to notify and the protection of whistle-blowers
- *The Competition Act*
- *The Act relating to compensation in certain circumstances*
- *The General Civil Penal Code*
- *Procedural rules* in a number of special statutes that regulate the municipalities' responsibilities and duties, and how services and authority shall be provided.
- *Municipal bylaws* and rules that may regulate a number of matters in the individual municipality, including ethical rules for employees and elected officials.
- *The Act relating to inter-municipal companies and other compan law*, which lays out basic management

principles, responsibilities and representation in governing bodies

- *KS' Board Assignment Register*, which includes information on local politicians and the financial interests and employees' board assignments.
- *The Accounting Act*, which requires that large enterprises must account for how they integrate human rights, labour rights and social conditions, the external environment and fight against corruption in their business strategies, their day-to-day operations and in relation to stakeholders.

Current legislation largely includes the elements required to prevent corrupt actions. Yet there is a variety of circumstances that allow corruption to develop.

The conduct of individuals and managers in meeting dilemmas, conflicts of interest and possible temptations can be decisive in preventing malpractice and in halting attempts at corruption. But if the responsibility is exclusively individualized, the municipality becomes vulnerable. The municipality is responsible for working systematically to reduce the possibility that individuals encounter situations in which they can make mistakes or be tempted to do so. The organisation's resistance depends on an organisational culture that maintains and promotes a high ethical standard at all levels. Continuous attention to the topic among employees and elected officials is required.

## Actions to implement the programme

### Support from the municipality's management

The municipal council or executive committee must decide whether a municipal anti-corruption programme should be implemented.

The chief administrative officer will be responsible for developing the elements and initiating the systems in the anti-corruption programme. The chief administrative officer is also responsible for monitoring them through management, support and control of subordinate enterprises. Elected officials and the administrative management must make statements, write and act in accordance with the programme. They must demonstrate a clear and distinct commitment to the programme at all times – during preparation, launching and monitoring.

The chief administrative officer should ask the various enterprises or profit centres to provide status of implementation and compliance with the programme in regular reports and in connection with important decisions.

The programme should include all relevant elements and preferably be introduced as a whole. Introduction in several stages could also be considered.

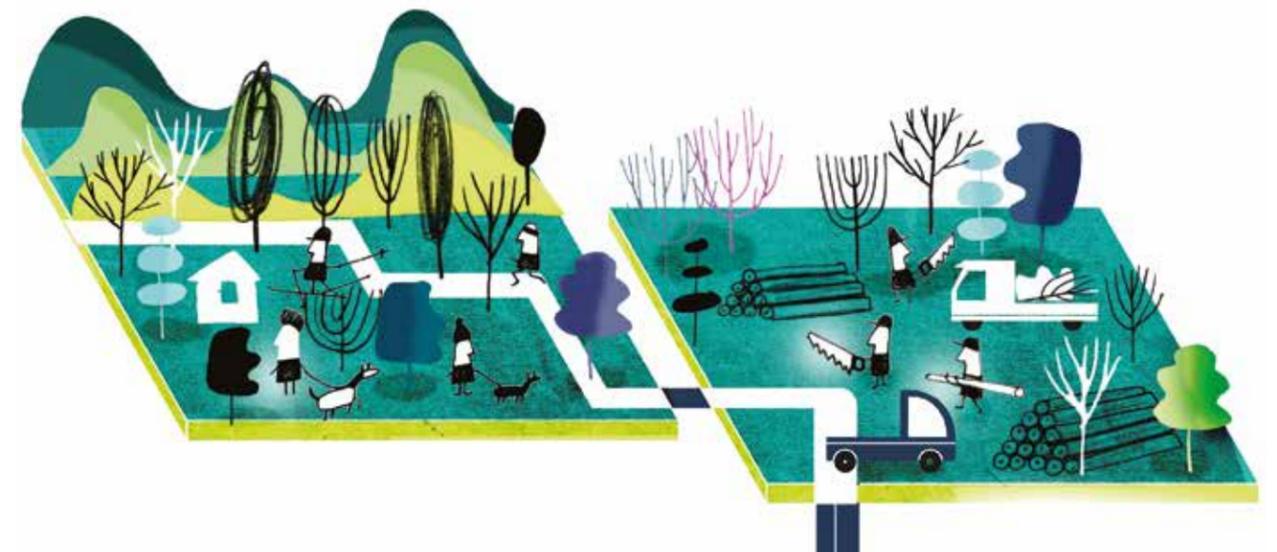
### Training

An anti-corruption programme requires a rigorous information and training scheme targeting all operations in the municipality. The scheme should be adapted to the problems and risks the different units face.

Training should cover all parts of the programme and include discussions of examples and dilemmas. The most effective way is to use specific examples that the organisation has experienced and dilemmas that are relevant for the enterprise.

Training may take the shape of meetings, workshops/seminars and team-building, via online training, or a combination thereof. Meetings with dilemma training in plenary or group work are particularly effective. This requires the preparation of good dilemmas/examples and alternative (favourable or less favourable) solutions, as well as skilled facilitators. It creates commitment and mutual understanding, and helps calibrate the organization's ethical standards.

Corruption risks and anti-corruption efforts should be raised in all enterprises, at staff meetings, section meetings, department meetings or seminars. Information about the programme should be mandatory in the



training of new employees. Anti-corruption training should not be a one-off event, but continuous work.

Anti-corruption training should be repeated every second year.

## Internal and external information

By providing information internally and externally about the anti-corruption programme, the municipality can help create a preventive effect. A number of violations arise from lack of awareness or pure ignorance.

During preparation, launch and implementation of the programme, staff should be given regular information about plans, content and requirements. A specific organisational unit should have the responsibility to receive and process comments and suggestions for the programme, both from internal and external sources, and provide information and advice when asked. The chief administrative officer should regularly report to the municipal council on how the programme is working in practice.

Internal communication measures could be: websites – intranet, staff training, management courses, seminars, management meetings, an ethics hotline and e-mails to employees.

In external communication to the public, users and suppliers, the municipality's values, ethical guidelines and fight against corruption should be conveyed. Written parts of the program, such as regulations, procedures and guidelines, should be made available on the municipality's website and communicated to business partners and administrative bodies the municipality interacts with.

### The municipality should:

- Inform on work with and results of the anti-corruption programme
- Be open about good and poor practice and explain any corruption
- Consider how important information from the whistle-blowing channel is pursued.
- Investigate incidents / report to police.

If suspicion of irregularities, malpractice or corruption within municipal operations is presented, it is essential

to investigate matters and consider whether there is reason to report these to the police. Such an investigation may be carried out by a dedicated team established for the purpose by external parties.

An investigation will often include the following elements:

- Interviews with employees and third parties
- A review of contracts and payments
- A review of tenders and evaluations
- A prioritised review of accounts
- An analysis of financial data
- A review of e-mail and document archives

When a concern is reported through the whistle-blowing channel, it is the organisational unit which manages the channel who in the first instance decides how the matter should be dealt with. Both the person reporting and the accused party must be ensured protection and legal counselling.

## Managing cases that are revealed – responsibility and consequences

The chief administrative officer must communicate clearly that all employees are responsible for implementing the anti-corruption programme and for complying with it. The programme must become a natural and integrated part of the municipal governance and management system. The programme is an important part of the municipality's system of internal control.

Anti-corruption measures should be included in the ongoing management of operations, i.e. in annual budgets and action programmes, project execution plans, procurement procedures, personnel policies and practices and reporting.

Different methods can be used to strengthen implementation, for example that managers confirm in writing that they have received the programme material and simultaneously undertake to implement it, an annual statement of status with a self-evaluation and a declaration of compliance with the programme.

In communications from the municipal administration and in the description of personnel policy procedures, it must be clearly stated that violations of ethical standards or the corruption provisions will be pursued



and will result in disciplinary action. Violations of the mandatory provisions in the anti-corruption programme should lead to sanctions, depending on the gravity of the offence. Furthermore, the municipality is responsible for reporting incidents that may be illegal to the police.

The municipality should consider implementing integrity checks of applicants to critical and vulnerable positions. Anti-corruption terms can be included in employment contracts, and compliance with municipal policies against corruption can be a separate condition in the contract. Efforts to implement and comply with the programme should be included in appraisal interviews.

## Reporting and evaluation

The chief administrative officer must report on internal

control and account for ethics work in the annual report. It should also be considered whether to report on the status of how regulations and systems are practised. Their appropriateness and efficacy should also be assessed.

Based on the systematic gathering of information from various enterprises on the implementation, results and impacts of the programme, improvement and adjustment of the anti-corruption programme should be considered.

An overview of incidents and indicators of the effect of ethics efforts, control and anti-corruption should be established. This could e.g. include indicators of increased awareness, where things most frequently go wrong, is thinking on ethics and anti-corruption the same at all levels? Who monitors reports of concern? Do databases or overviews of this information exist?

## Examples of ethical dilemmas

### Undeclared work

You work as a consultant at the tax office, and realise that your colleague uses undeclared labour at home, both for cleaning and redecorating. Should you do something here?

### The gourmet dinner

You are invited to speak at a seminar on public procurement rules, arranged by a reputable corporate law firm in the capital. There will be a number of interesting experts giving talks. Should you attend the gourmet dinner after the event?

### The community's assets

You are ready for the autumn's many tasks after a nice holiday, and go to the supplies room to pick up what you need to get started. To your astonishment, you see that it is almost empty, and turn to the person responsible to find out when binders, folders, pads and other supplies will be available. You are told that supplies have recently been restocked, but that now – just before school starts – a lot of people “borrow” some extra supplies for the children. Should you say something?

### Prizes

An important supplier to the municipality holds its annual contracted user forum. There is a raffle at the event, and by registering upon arrival you can win an iPad. You win, but can you actually accept this, as you are at work for the municipality?

### Official channels or not?

You have a manager who has little interest in innovation, which is frustrating. Repeated attempts to discuss this with the manager has failed. You now have a lot of faith in a new project, and you are wondering how to proceed. At a party you meet your manager's boss, and you start a conversation. It strikes you that this could be a good opportunity to discreetly explore whether you can promote the project. You know that your manager most likely disagrees. But should you take advantage of the opportunity?



## Postscript

Municipalities run a great risk if they don't have any form of anti-corruption programme. At the same time, for a municipality just getting started at this work the recommendations for such a programme as presented in this manual may seem overwhelming.

### It is worth noting that:

- The programme only needs to cover those risk areas and elements that are relevant for the municipality.
- It is better to start with an incomplete and imperfect programme that deals with the most serious risks, and extend this as you go along, rather than not have a programme at all.

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## TRANSPARENCY INTERNATIONAL NORWAY

**Office address:** Tollbugata 32, Oslo

**Mail address:** P.O.Box 582 Sentrum, 0106 Oslo

**Phone:** + 47 41 75 08 72