

2012

ANTI-CORRUPTION AND FRAUD
PREVENTION PLAN



Umzambe
M U N I C I P A L I T Y

Umzambe Municipality

9/13/2012

Table of Contents

Introduction	2
Definition of fraud	3
Forms of corruption.....	4
Regulatory Framework	5
Summary of statutory offences relating to dishonesty	5
Statutes combating fraud and corruption	8
Policy on fraud	13
Actions constituting fraud and corruption.....	13
Fraud and corruption control strategies	15
Procedures for investigations.....	25
Reporting of fraud to SAPS/ External parties.....	26
Recovery and other remedies	27
Fraud and corruption prevention plan	27
Important contacts	27

Appendixes

APPENDIX A: CODE OF CONDUCT FOR COUNCILLORS	28
APPENDIX B: CODE OF CONDUCT FOR MUNICIPAL STAFF	34
APPENDIX C: FRAUD AND CORRUPTION RISK MANAGEMENT RESPONSIBILITY MATRIX	35
APPENDIX D: DECLARATION OF INTEREST FORM	38
APPENDIX E: GIFTS REGISTER	41
APPENDIX F: INVESTIGATION PROCEDURES	42
APPENDIX G: WHISTLE BLOWING POLICY	44



1. Introduction

Statement of attitude to fraud

Fraud represents a significant potential risk to the Municipality's assets and reputation. The Municipality is committed to protecting its funds and other assets. The Municipality will not tolerate corrupt or fraudulent activities whether internal or external to the organizations, and will vigorously pursue and prosecute any parties, by all legal means available that engage in such practices or attempt to do so.

The Public Service Anti-Corruption Strategy

During 1997, Government initiated a national anti-corruption campaign. The campaign progressed to a National Anti-corruption Summit held in April 1999 at which all sectors of society (public and private) committed themselves to establishing sectorial anti-corruption strategies. At the same time, they also committed to the co-responsibility for fighting corruption through the co-ordination of these sectorial strategies. A range of other resolutions emanated from this Summit and all the sectors committed to implementing these.

The Department of Public Service and Administration (DPSA) was instructed to forge various initiatives across the public service into a coherent strategy with the support of the Departments. A Public Service Task Team (PSTT) consisting of key Departments was convened for this task and representation from local government and public entities were included in order to establish a platform for the roll-out of the strategy of the whole of the Public Sector (Public Service, Local Government and Public Entities).

The Local Government Anti-Corruption Strategy

Local Government developed The Local Government Anti-Corruption Strategy (LGACS), which is modelled around the Public Service Anti-Corruption Strategy. The main principles upon which the LGACS is based are the following:

- Creating a culture within municipalities, which is intolerant to unethical conduct, fraud and corruption;
- Strengthening community participation in the fight against corruption in municipalities;
- Strengthening relationships, with key stakeholders, that are necessary to support the action required to fight corruption in municipalities, for example, South African Local Government Association (SALGA), Employee Representative Unions, and Communities;
- Deterring and preventing of unethical conduct, fraud and corruption;
- Detecting and investigating unethical conduct, fraud and corruption;



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

- Taking appropriate action in the event of irregularities, for example, disciplinary action recovery of losses, prosecution, etc.; and
- Applying sanctions, which include redress in respect of financial losses.

Umzumbe Municipality's Anti-Fraud and Corruption Strategy and Prevention Plan

This Anti-Corruption Strategy and Fraud Prevention have been developed as a result of the expressed commitment of Government to fight corruption. It is also an important contribution to the National Anti-Corruption Strategy of the country and supplements both the Public Service Anti-Corruption Strategy and the Local Government Anti-Corruption Strategy.

2. Definition of Fraud and Corruption

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

The general offence of corruption is contained in Section 3 of the Prevention and Combating of Corrupt Activities Act. This section provides that any person who gives or accepts or agrees or offers to accept/receive any gratification from another person in order to influence such other person in a matter that amounts to:

- The illegal or unauthorised performance other person's powers, duties and functions;
- An abuse of authority, a breach of trust, or the violation of a legal duty or a set of rules;
- The achievement of an unjustified result; or
- Any other unauthorised or improper inducement to do or not to do anything is guilty of the offence of Corruption.

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



Forms of corruption

Corruption takes various forms in the public service and elsewhere in society. The following are examples of different types of corruption.

a) Bribery

Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decision of public servants.

b) Embezzlement

This involves theft of resources by persons by persons who control such resources.

c) Fraud

Any conduct or behaviour of which a dishonest representation and/or appropriation forms element

d) Extortion

Coercion of a person or entity to provide a benefit to a public servant, another person or entity, in exchange for acting (or failing to act) in a particular manner

e) Abuse of power

The use of a public servant of his or her vested authority to improperly benefit another public servant, person or entity (or using vested authority to improperly discriminate against another public servant, person or entity)

f) Conflict of interest

The failure by a public servant to act or to consciously fail to act on a matter where the public servant has an interest or another person or entity that has some form of relationships with the public servant has an interest.

g) Abuse of privileged information

This involves the use, by a public servant of privileged information and knowledge that a public servant possesses as a result of his/her office to provide unfair advantage to another person or entity to obtain a benefit.

h) Favouritism

The provision of services or resources according to personal affiliation (for example cultural or religious) of a public servant



i) Nepotism

A public servant ensuring that family members are appointed to public service positions or that family members receive contracts from the state is regarded as nepotism.

These manifestations are by no means exhaustive as corruption appears in many forms and it is virtually impossible to list all of these.

3. Regulatory Framework

Summary of statutory offences relating to dishonesty

a) Prevention and Combating of Corrupt Activities Act, 12 of 2004

The prevention and Combating of Corrupt Activities Act (generally referred to as PRECCA) is aimed at the strengthening of measures to prevent and combat corrupt activities. The act refers to a wide range of offences relating to corrupt activities. In addition to specific offences, the Act also provides for the following:

- The provision of investigative resources;
- The establishment of a register relating to persons convicted of corrupt activities;
- Placing a duty on a person in a 'position of authority' to report certain corrupt transactions; and
- Extra territorial jurisdiction in respect of offences relating to corrupt activities

As far as offences are concerned, the Act defines a general offence of corruption. In addition to the general offence, certain specific offences are defined relating to specific persons or specific corrupt activities.

The offences defined by the Act relate to the giving or receiving of a “**gratification**”. The term gratification is defined in the Act and includes a wide variety of tangible and intangible benefits such as money, gifts, status, employment, release of obligation, granting of rights or privileges and the granting of any valuable consideration such as discounts etc.

The general offence of corruption is contained in Section 3 of the Act. This section provides that any person who gives or accepts or agrees or offers to accept/receive any gratification from another person in order to influence such other person in a manner that amounts to:

- The illegal or unauthorised performance of such other person’s powers, duties or functions;
- An abuse of authority, a breach of trust, or the violation of a legal duty or a set of rules;
- The achievement of an unjustified result; or
- Any other unauthorised or improper inducement to do or not to do anything is guilty of the offence of Corruption.

The Act defines specific offences relating to the following categories of persons:



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

- Public Officers;
- Foreign Public Officials;
- Agents;
- Members of Legislative Authorities;
- Judicial Officers; and
- Members of the Prosecuting Authority.

The Act furthermore defines specific offences in respect of corrupt activities relating to the following specific matters:

- Witnesses and evidential material in certain proceedings;
- Contracts;
- Procuring and withdrawal of tenders;
- Auctions and;
- Sporting events

Section 34 of the Act places a duty on any person in a position of authority to report a suspicion of certain corrupt or illegal activities to a police official. These include certain offences of corruption created under the Act as well as fraud, theft, extortion and forgery where the amount involved exceeds R100 000. Failure to report such suspicion constitutes an offence.

“Position of authority” is defined in the Act and includes a wide range of persons in authority in both public and private entities.

Offences under the Act are subject to penalties including imprisonment for life and fines of up to R250 000. In addition, a fine amounting to five times the value of the gratification involved in the offence may be imposed.

b) Prevention of Organised Crime Act, 121 of 1998 (POCA)

The Prevention of Organised Crime Act, as amended, (generally referred to as ‘POCA’) contains provisions that are aimed at achieving the following objectives:

- The combating of organised crime, money laundering and criminal gang activities;
- The criminalisation of conduct referred to as ‘racketeering’;
- The provision of mechanisms for the confiscation and forfeiture of the proceeds of crime;
- The creation of mechanisms for the National Director of Public Prosecutions to obtain certain information required for purposes of an investigation; and
- The creation of mechanisms for co-operation between investigators and the South African Revenue Services (SARS).



Section 4 of the act defines the 'GENERAL' offence of money laundering and provides that a person who knows, or ought reasonably to have known, that property is, or forms part of the proceeds of unlawful activities, commits an offence if he commits an act in connection with that property which has the effect or is likely to have the effect of concealing the nature and source thereof.

Section 5 of the act creates an offence if a person knows or ought reasonably to have known that another person has obtained the proceeds of unlawful activities and provides assistance to such other person regarding the use or retention of such property.

Section 6 of the act creates an offence if a person knows or ought reasonably to have known that property is or forms part of the proceeds of unlawful activities and acquires uses or possesses such property.

The above offences are regarded as very serious and the act contains exceptionally harsh penalties relating to these offences. A person convicted of one of the above offences is liable to a maximum fine of R100 million or to imprisonment for a period not exceeding 30 years.

c) Financial Intelligence Centre Act, 38 of 2001 (FICA)

Financial Intelligence Centre Act, as amended, (generally referred to as 'FICA') was signed by the President in November 2001. Its provisions were implemented over time, commencing during January 2002. The Act (FICA) establishes a Financial Intelligence Centre and a Money Laundering Advisory Council. The purpose of these entities is to combat money laundering activities. FICA imposes certain reporting duties and compliance obligations. The Act imposes compliance obligations on so-called "accountable institutions" which are defined in Schedule 1 to the Act. These obligations include:

- A duty to identify clients;
- A duty to retain records of certain business transactions;
- A duty to report certain transactions; and
- The adoption of measures to ensure compliance, namely, the implementation of so-called 'internal rules', provision of training etc.

Regarding the reporting of suspicious transactions, FICA makes provision for a duty to report 'suspicious or unusual transactions'. In this regard it provides that any person who carries on a business or who manages or is in charge of or is employed by a business and who knows or suspects certain facts has a duty to report their knowledge or suspicion to the FICA within a prescribed of the following:

The receipt of proceeds of unlawful activities;

- Transactions which are likely to facilitate the transfer of proceeds of unlawful activities;



- Transactions conducted to avoid giving rise to a reporting duty under FICA;
- Transactions that have no apparent business or lawful purpose;
- Transactions relevant to the investigation of tax evasion; or
- The use of a business entity for money laundering purposes.

A person who fails to make a report as required commits an offence and is liable to a fine not exceeding R10 million or imprisonment not exceeding 15 years.

Statutes combating fraud and corruption

a) Protected Disclosures Act, 26 of 2000

The Protected Disclosures Act was promulgated to facilitate reporting by employees (whistle blowers) of fraud, corruption or other unlawful or irregular actions by their employer(s) or co-employees without fear of any discrimination or reprisal by their employers or co-employees.

Any employee who has information of fraud, corruption or other unlawful or irregular action(s) by his/her employer(s) or co-employees can report such actions, provided that he/she has information that:

- A crime has been, is being, or is likely to be committed by the employer or employee(s);
- The employer or employees has/have failed to comply with an obligation imposed by law;
- A miscarriage of justice has or will likely occur because of the employer's or employee(s) actions;
- The health or safety of an individual has been, is being, or is likely to be dangerous;
- The environment has been, is being or is likely to be endangered;
- Unfair discrimination has been or is being practiced; or
- Any of the above has been, is being, or is likely to be concealed.

The Act prohibits the employer from:

- Dismissing, suspending, demoting, harassing or intimidating the employee;
- Subjecting the employee to disciplinary action;
- Transferring the employee against his or her will;
- Refusing due transfer or promotion;
- Altering the employment conditions of the employee unilaterally;
- Refusing the employee a reference or providing him/her with an adverse reference;
- Denying appointment
- Threatening the employee with any of the above; or
- Otherwise affecting the employee negatively if the disclosure is made in terms of the Act.



b) Municipal Finance Management Act 2003 (“MFMA”)

The MFMA was promulgated to facilitate the formal management of municipal finances and associated activities. The controls and administrative systems implemented by any Municipality are very relevant to the content of the Act; certain aspects of the Act refer specifically to activities which might be regarded as being corrupt or fraudulent in nature. Some relevant aspects are as follows:

i. Unauthorised, irregular of fruitless and wasteful expenditure

Section 32 of the Act indicates that, without limiting the liability of the common law or other legislation, the following office bearers in a Municipality are mandated with certain responsibilities, as follows:

- A political office bearer of a Municipality is liable for unauthorised expenditure if that office bearer knowingly instructed an official of the Municipality to incur expenditure, which was likely to be considered unauthorised expenditure;
- The accounting officer (i.e. Municipal Manager) is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer, unless the expenditure was incurred following a decision by the mayor or executive committee of the Municipality, resulting in fruitless or wasteful expenditure, provided that the accounting officer has notified the council, the mayor or the executive committee, in writing, that the expenditure is likely to be considered unauthorised, irregular or fruitless and wasteful;
- Any political office bearer or official of a Municipality who deliberately or negligently committed made or authorised an irregular expenditure, is liable for that expenditure;
- Any political office bearer or official of a Municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.

Furthermore, in the event of such unauthorised, irregular or wasteful expenditure, the Municipality is required to recover the expenditure from the person liable for the expenditure, unless, the council retrospectively authorizes/condones the expenditure on the grounds that it represented an authorized adjustment, or that it is deemed irrecoverable and written off by the council.

The writing off of the expenditure by the council, however, is no excuse in criminal or disciplinary proceedings against the person. The writing off of the expenditure does not signify a condoning of the expenditure.

In the event of unauthorised expenditure, the accounting officer is obliged to advise promptly the mayor, the MEC for local government in the province and the Auditor General of South Africa, in writing, providing details as to:

- The fruitless or wasteful expenditure;
- Whether any person is responsible or is under investigation with regard to the expenditure; and
- The steps taken to recover or rectify such expenditure.



Where irregular expenditure constitutes a criminal offence, or theft or fraud, the accounting officer must report all such cases to the South African Police. On the event that the accounting officer is the person responsible for the unauthorised expenditure, then the council must take all reasonable steps to ensure that the police are advised accordingly.

ii. Funds transferred to organisations and bodies outside government

Section 67 of the Act refers to the transfer of funds and stipulates, inter alia, that no funds will be transferred from the Municipality unless the accounting officer is satisfied that the organisation or body implements effective, efficient and transparent financial management and internal control systems to guard against fraud, theft and financial mismanagement.

iii. Supply Chain Management Policy to comply with the prescribed framework

Section 112 stipulates that the supply chain management policy of a Municipality must be fair, equitable, transparent, competitive and cost effective and comply with prescribed regulatory framework for municipal supply chain management, which must cover, inter alia, measures for:

- Combating fraud, corruption, favouritism and unfair and irregular practices in municipal supply chain management; and
- Promoting ethics of officials and other role players involved in municipal supply chain management.

iv. Implementation of the system

Aligned with the supply chain management policy is section 115, which stipulates that the accounting officer of a Municipality must take all reasonable steps to ensure that proper mechanisms and separation of duties in the supply chain management system are in the place to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practices

v. Audit Committees

Section 116 of the Act stipulates the procedures aligned to Audit Committees. Each Municipality must have an Audit Committee, which is regarded as an independent advisory body which must:

- Advise the municipal council, political office bearers, the accounting officer and management staff on matters relating to, inter alia:
 - i. Internal financial control and internal audits
 - ii. Risk management
 - iii. Effective governance
- Carry out such investigations into the financial affairs of the Municipality as the council may request.



vi. Financial misconduct by municipal officials

Section 171 sets out the stipulations relating to disciplinary proceedings to be adopted in the event of financial misconduct by municipal officials.

The accounting officer commits financial misconduct if he/she deliberately or negligently:

- Contravenes the provisions of the Act;
- Fails to comply with a duty imposed by a provision of the Act on the accounting officer of a Municipality;
- Permits or instructs another official of the Municipality to make an unauthorised, irregular or fruitless and wasteful expenditure;
- Provides incorrect or misleading information in any document which, in terms of the Act, must be submitted to the Mayor, Council, Auditor General, National Treasury or other organ of state, or made public.

The chief financial officer of a Municipality commits an act of financial misconduct if he/she fails to carry out delegated duties in terms of the Act. In addition financial misconduct is committed if he/she permits or instructs another official to make unauthorised or fruitless and wasteful expenditure, or provides incorrect or misleading information to the accounting officer.

The Act stipulates further, under this paragraph, that a Municipality must:

- Investigate allegations of financial misconduct against the accounting officer, the chief financial officer, senior manager or other official of the Municipality unless those allegations are frivolous; and
- If the investigation warrants it, institute disciplinary proceedings against the accounting officer, chief financial officer or any other official in accordance with stipulations set out in the Municipal Systems Act.

c) Municipal Systems Act, No 32 of 2000 (“MSA”)

The MSA sets out procedures to be adopted by municipal management with regard to a number of aspects affecting the management of a Municipality. The Act also stipulates procedures to be adopted with regard to certain aspects related to misconduct and the investigation thereof.

i. Human Recourse Development

In section 67, the Act stipulates that a Municipality, in accordance with the Employment Equity Act, 1998, must develop and adopt appropriate systems and procedures to ensure, inter alia, the investigation of allegations of misconduct and complaints against staff.



ii. Code of conduct

Sections 69 and 70 of the Act deal with the Code of Conduct, details of which appear in Schedule 2 of the Act, to be provided to staff members and communicated to the local community. The municipal manager of a Municipality must:

- Provides a copy of the Code of Conduct to every member of the municipality staff;
- Provide every member of staff with any amendments to the Code;
- Ensure that the purpose, contents and consequences of the Code of Conduct are explained to staff members who cannot read; and
- Communicate sections of the Code of Conduct that affect the public, to the local community.

iii. Regards, Gifts and favours

Under section 9 of the act, it is stipulated that a councillor may not request, solicit or accept any reward, gift or favour for:

- Voting in a particular manner
- Persuading the council or any committee in regard to the exercise of any power, function or duty;
- Making representation to the council; or
- Disclosing privilege or confidential information.

iv. Duty of chairperson of municipal council with regards to council property

A councillor may not use, take or acquire or benefit from any property or asset owned, controlled or managed by the council. In the event that the chairperson of a council, on reasonable suspicion, is of the opinion that a provision of this stipulation has been breached, then the chairperson is obliged to:

- Authorise an investigation of the facts and circumstances of the alleged breach;
- Give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and
- Report the matter to a meeting of the municipal council

The chairperson must furthermore, report the matter to the MEC for local government in the province concerned.

v. Competitive bidding

In the event that a Municipality decides to provide a municipal service through a service delivery agreement, it must select the service provider through selection processes, which, inter alia, minimize the possibility of fraud and corruption



4. Policy on fraud

Background

This policy is established to facilitate the development of controls which will assist in the prevention and detection of fraud and corruption, as well as provide guidelines as to how to respond should instances of fraud and corruption be identified. This policy is also established to give effect to the various legislative instruments as described in the previous section.

Scope of the Policy

This policy applies to all employees, stakeholders, contractors, vendors/suppliers and any other party doing business with the Municipality.

Any fraudulent or corrupt behaviour must be reported immediately through the mechanisms as set out in this document, and such reports will be investigated and acted upon.

Policy

It is the policy of the Municipality that fraud, corruption, maladministration or any other dishonest activities of a similar nature will not be tolerated. Such activities will be investigated, where required, and actions instituted against those found responsible. Such actions may include the laying of criminal charges, civil and administrative actions and the institution of recoveries where applicable.

Prevention, detection, response and investigation strategies will be designed and implemented where necessary. These will include any existing controls (system controls and internal controls) and those currently prescribed in existing policies, procedures and other relevant prescripts to the activities of the Municipality. (See MMFA and MSA)

It is the responsibility of all employees of the Municipality to report all incidents of fraud and corruption, or any other dishonest activities of a similar nature to his/her Manager. Alternatively, such reports can be made by way of submitting a report through the prescribed whistle blowing mechanism.

All reports received will be treated with the requisite confidentiality and will not be disclosed or discussed with parties other than those charged with investigation into such reports.

All Managers are responsible for the detection, prevention and investigation of fraud and corruption or any dishonest activities of a similar nature, within their areas of responsibility

a) Actions constituting fraud and corruption

Fraud and corruption manifests itself in a number of ways and varying degrees of intensity. These include, but are not limited to:



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

- Unauthorised private use of municipal assets, including vehicles;
- Falsifying travel and subsistence claims;
- Conspiring unfairly with others to obtain a tender
- Disclosing proprietary information relating to a tender to outside parties;
- Accepting inappropriate gifts from suppliers;
- Employing family members or close friends;
- Operating a private business in working hours;
- Stealing equipment or supplies from work;
- Accepting bribes or favours to process requests;
- Accepting bribes or favours for turning a blind eye to a service provider who does not provide an appropriate service;
- Submitting or processing false invoices from contractors or other service providers;
- Misappropriating fees received from customers, and avoiding detection by not issuing receipts to those customers.
- Undue influence;
- Rewards; gifts and favours;
- Council property;
- Payment of arrears;
- Participation in elections;
- Sexual Harassment;
- Reporting duty of staff members; and
- Breaches of Code.

The Code of Conduct for Councillors (Appendix A) contains the following categories:

- General and conduct of councillors;
- Attendance at meetings;
- Disclosure of interests;
- Personal gain;
- Declaration of interests;
- Full-time councillors;
- Rewards, gifts and favours;
- Unauthorised disclosure of information;
- Intervention in administration;
- Council property;
- Duty of chairpersons of municipal councils;



- Breaches of Code; and
- Application of Code to traditional leaders.

b) Fraud and corruption control strategies

The approach in controlling fraud and corruption is focused into 3 areas, namely:

- Structural strategies
- Operational strategies; and
- Maintenance strategies.

i. Structural strategies

Structural strategies represent the actions to be undertaken in order to address fraud and corruption at the structural level. It involves the following:

- Sound and ethical culture
- Senior Management Commitment
- Assessment of Fraud and Corruption Risk
- Employee awareness

Responsibilities for fraud and corruption risk management

The following section outlines the fraud and corruption risk management responsibilities associated with different roles within the Municipality. A summary of these and other responsibilities contained in this plan can be found in Appendix C.

Establishing the structure

▪ Municipal Manager

The Municipal Manager bears the ultimate responsibility for fraud and corruption risk management within the municipality. This includes the coordination of risk assessments, overseeing the investigation of suspected fraud and corruption and facilitation for the reporting of such instances.

▪ Anti-Fraud and Corruption Committee

The role of the Anti-Fraud and Corruption Committee is to oversee the Municipality's approach to fraud prevention, fraud detection strategies and response to fraud and corruption incidents reported by employees or other external parties. This committee is a sub-committee of the Audit Committee and will be chaired by one of



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

the independent members of the Audit Committee. The various Departments should have representation on this committee. The Risk Champion/delegated personnel is to be a compulsory member.

The Anti-Fraud and Corruption Committee will meet at least once a quarter to discuss the following:

- Progress made in respect of implementing the Anti-Fraud and Corruption Strategies and Fraud Prevention Plans.
- Reports received by the Municipality regarding fraud and corruption incidents with the view to making any recommendations to the Municipal Manager and Chairman of the Audit Committee.
- Reports on all investigations initiated and concluded and
- All allegations received via the hotline.

Proceedings of such meetings will be minuted and such minutes circulated to the Municipal Manager and Chairman of the Audit Committee.

An ethical culture

The Municipality is required to conduct itself in an ethical and moral way. In this regard, the Municipal Systems Act No. 32 of 2000 (as amended) prescribes a Code of Conduct for Councillors (Schedule 1 to the Act) and a Code of Conduct for Municipal Employees (Schedule 2 to the Act). These Codes of Conduct are appended to this document as Appendix A and B respectively.

Ethics are concerned with human character and conduct and deal with questions of right and wrong, appropriate and inappropriate behaviour and what constitutes good or evil. Ethical conduct is based on a set of principles referred to as values or norms. The collective ethical conduct of all the individual employees of a Municipality reflects the Municipality's ethical conduct. In this regard, the highest standards of ethics are required by employees when fulfilling their duties.

Good governance indicates that organizations should develop codes of conduct (ethics) as part of their corporate governance frameworks. Municipal employees are expected to abide by the Code of Conduct for Municipal Employees whilst Councillors in municipalities are expected to abide by the Code of Conduct for Councillors per the Municipal Systems Act.

Senior management commitment

Senior management is to be committed to eradicating fraud and corruption and ensuring that the Municipality strives to be perceived as ethical in all its dealings with the public and other interested parties. In this regard, senior management, under the guidance of the Municipal Manager, will ensure that it does not become complacent in dealing with fraud and corruption and that it will ensure the Municipality's overall fraud and corruption strategy is reviewed and updated regularly. Furthermore, senior management will ensure that all



employees and stakeholders are made aware of its overall anti-fraud and corruption strategies through various initiatives of awareness and training.

Assessment of fraud and corruption risks

The Municipality, under the guidance of the Municipal Manager and the Chairman of the Anti-Fraud and Corruption Committee, will conduct annual fraud and corruption risk assessment to identify potential fraud and corruption risk exposures will be implemented to mitigate these exposures.

The above will be formulated into ‘Focus Areas at Risk’ and which will provide an indication of how fraud and corruption risks are manifested and, a ‘Fraud and Corruption Risk Register’ which will prioritize the fraud and corruption risks and indicate actions to mitigate these risks.

Fraud and corruption risk assessment process

- **Establishing the structure**

This involves establishing an Anti-Fraud and Corruption Committee that will oversee the implementation of anti-fraud and corruption strategies and ensure that Fraud and Corruption Risk Assessments occur.

- **Identifying risk exposures**

The objective of this phase is to generate a register (the Fraud and Corruption Risk Register) of all possible inherent risks for subsequent analysis. All inherent risks identified should be documented at this point regardless of whether a preliminary assessment concludes that internal controls currently in force will be fully effective in mitigating the risk. How each risk manifests itself should be documented as well as why it occurs.

- **Analysis of risk exposures**

All internal controls that are currently in force and which would tend to have the effect of mitigating the risk of fraud and corruption under consideration will be recorded. The effectiveness of all mitigating internal controls will then be assessed. The assessment should conclude, in relation to each control, whether it is or is likely to be:

Effectiveness category	Category definition
Very good	Risk exposure is effectively controlled and managed
Good	Majority of risk exposure is effectively controlled and managed
Satisfactory	There is room for some improvement
Weak	Some of the risk exposure appears to be controlled, but there are major deficiencies
Unsatisfactory	Control measures are ineffective



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

The assessment of each internal control considered should not represent an assessment of the control in terms of its ability to mitigate business risk generally. Rather, it is an assessment of that control's perceived impact on the specific fraud or corruption risk under consideration

▪ **Evaluating risk exposures**

Each risk exposure will be evaluated (critical, major, moderate, minor) and this will allow the Municipality to prioritise which risk exposures require immediate action.

▪ **Implement prevention plans**

All fraud and corruption risks rated as 'Critical' and 'Major' will require the development and implementation of proposed action aimed at achieving one or more of the following:

- Alteration to existing internal control procedures;
- Introducing new internal control procedures; and
- Introducing procedures aimed at detecting and preventing fraud

Proposed action may also be developed in relation to risks assessed as being of a lower level of residual risk. All actions proposed by the risk assessment team will be evaluated by senior management, as appropriate, prior to implementation. Implementation will also be monitored periodically by the Anti-Fraud and Corruption Committee.

Appendix E contains an Anti-Fraud and Corruption Risk Assessment toolkit which can be used to perform the above assessment.

▪ **Monitor and review**

Risk relating to fraud and risk will be reviewed annually through risks assessment. These will then be monitored by champions delegated by the TOPMANCO.

Employee awareness

The main purpose of fraud and corruption awareness workshops/training is to assist in the prevention, detection and reporting of fraud and corruption by raising the level of awareness as to how fraud and corruption is manifested in the workplace. In this regard, all employees will receive training on the following:

- Anti-Fraud and Corruption Strategy;
- Code of Conduct for Municipal employees;
- Whistle blowing policy;
- How to respond to fraud and corruption;
- Manifestations of fraud and corruption in the workplace.



ii. Operational strategies

Internal Controls

Internal controls are the first line of defence against fraud and corruption. While internal controls may not fully protect the Municipality against fraud and corruption, they are essential elements in the overall Anti-Fraud and Corruption Strategy.

All areas of operations require internal controls, for example:

- Physical controls (securing of assets);
- Authorisation controls (approval of expenditure)
- Supervisory controls (supervising day-to-day issues);
- Analysis of data;
- Monthly and annual financial statements;
- Monthly and annual performance information
- Reconciliation of bank statements, monthly; and
- Reconciliation of ledger accounts, monthly.

The Internal Audit Department will be responsible for implementing an internal audit program which will incorporate steps to ensure adherence to internal controls.

iii. Prevention Strategies

A number of combined initiatives result in an overall preventative environment in respect of fraud and corruption. These include the following:

Pre-employment screening

Pre-employment screening will be carried out for all appointments, and evidence of such screening will be maintained by the HR Department. Consideration should be given to the following pre-employment screening:

- Verification of identity (birth certificate, driver's license)
- Police criminal history
- Reference checks with the two most recent employers – this will normally require telephone contact.
- A consideration of any gaps in employment history and the reasons for those gaps.
- Verification of formal qualifications claimed.

The Municipality's policy of pre-employment screening will cover all new and promoted employees including those with administrative responsibilities or computer access. The screening will be performed by a person/people nominated by the Human Resources Department in conjunction with the Municipal Manager to ensure that screening is consistent and appropriately resourced throughout all Departments.



Recruitment procedures

Recruitment will be conducted in accordance with the requisite recruitment procedure. It will be a transparent process and all appointments will be confirmed only after due recommendation. Any person, involved in any decision-making process, who may have a conflict of interest, must declare such a conflict in writing to the HR Department and withdraw from any further procedures.

Internal audit programme

A robust Internal Audit programme, which focuses on the prevalent high Fraud and Corruption risks, serves as an effective preventative measure. The Internal Audit Department will compile such a programme on an annual basis, and such a programme will also include '*surprise audits*'.

Fraud and corruption plan

Appendix H of this document sets out the Municipality's Fraud and Corruption Prevention Plan. The actions set out in this plan are all focused at mitigating the risk of fraud and corruption in the Municipality.

Disclosures of interest

All staff members and councillors of the Municipality will be required to disclose their specific personal assets and business interests on an annual basis. Such a disclosure form can be found under Appendix D. This register will be kept with the Municipal Manager.

iv. Detection Strategies

Detection of fraud and corruption may occur through:

- Risk Management Function;
- Vigilance on the part of employees, including line management;
- The Internal Audit function;
- Ad hoc Management Reviews;
- Anonymous reports; and
- The application of detection techniques.

The Municipality will embark on a number of initiatives to detect fraud and corruption in the workplace.

Internal Audit

Similar to the prevention strategies, a robust Internal Audit programme which focuses on the prevalent high Fraud and Corruption risks also serves as an effective detection measure. As part of the detection strategy, the Internal Audit programme will cover the following:



- **Surprise Audits:** Unplanned audits conducted on specific business processes throughout the year
- **Post transaction reviews:** A review of transactions after they have been processed and completed can be effective in identifying fraudulent or corrupt activity. In addition to the possibility of detecting fraudulent transactions, such a strategy can also have a significant fraud prevention effect as the threat of detection may be enough to deter a staff-member who would otherwise be motivated to engage in fraud and corruption;
- **Forensic data analysis:** The Municipality's computer system is an important source of information on fraudulent and sometimes corrupt conduct, Software applications will be used during internal audits, surprise audits and post-transaction reviews to assist in detecting any possible fraud and corruption; and
- **Management accounting review:** Using relatively straightforward techniques in analysing the Municipality's management accounting reports, trends can be examined and investigated which may be indicative of fraudulent conduct. Some examples of the types of management accounting reports that can be utilised on a compare and contrast basis are:
 - 1) Budget reports for each division;
 - 2) Reports comparing expenditure against industry benchmarks.

External Audit

The Municipality recognises that the external audit function is an important control in the detection of fraud. The Chief Finance Officer will need to hold discussions with all engaged external auditors to ensure that due consideration is given, by the auditors, to ISA 240 *"The Auditors' Responsibility to Consider Fraud in the Audit of a Financial Statement"*.

v. Response Strategies

Reporting fraud and corruption a Whistle blowing policy

One of the key obstacles to fighting fraud and corruption is the fear by employees of being intimidated to identify or "blow the whistle" on fraudulent, corrupt or unethical practices witnessed in the work place. Those who often do "blow the whistle" end up being victimised and intimidated. For this reason, the Municipality has adopted a Whistle Blowing Policy (Appendix G) setting out the detailed procedure which must be followed in order to report any incidents of fraud and/or corruption. This policy has been designed to comply with the provisions of the Protected Disclosures Act.



Investigating fraud and corruption

Dealing with suspected fraud and corruption

In the event that fraud and corruption is detected or suspected, investigations will be initiated, and if warranted, disciplinary proceedings, prosecution or action aimed at the recovery of losses will be initiated.

Investigations

Any reports of incidents of fraud and/or corruption will be confirmed by an independent investigation.

Anonymous reports may warrant a preliminary investigation before any decision to implement an independent investigation is taken.

Investigations will be undertaken by appropriately qualified and experienced persons who are independent of the section/unit where investigations are required. This may be a senior manager within the Municipality itself, an external consultant or a law enforcement agency. All investigations performed and evidence obtained will be in accordance with acceptable practices and legal requirements. Independence and objectivity of investigations are paramount.

Any investigation initiated must be concluded by the issue of a report by the person/s appointed to conduct such investigations. Such reports will only be disseminated to those persons required to have access thereto in order to implement whatever action is deemed appropriate as a result of the investigation.

Investigations may involve one or two or more of the following activities:

- Interviewing of relevant witnesses, internal and external, including obtaining statements where appropriate;
- Reviewing and collating documentary evidence;
- Forensic examination of computer systems;
- Examination of telephone records;
- Enquiries from banks and other financial institutions (subject to the granting of appropriate approval/Court orders);
- Enquiries with other third parties;
- Data search and seizure;
- Expert witness and specialist testimony;
- Tracing funds/assets/goods;
- Liaison with the police or other law enforcement or regulatory agencies;
- Interviewing persons suspected of involvement in fraud and corruption; and
- Report preparation.

Any investigation into improper conduct within the Municipality will be subject to an appropriate level of supervision by a responsible committee, having regard to the seriousness of the matter under investigation.



Disciplinary proceedings

The ultimate outcome of disciplinary proceedings may involve a person/s receiving written warnings or the termination of their services. All disciplinary proceedings will take place in accordance with the procedures as set out in the disciplinary procedures.

Prosecution

Should investigations uncover evidence of fraud or corruption in respect of an allegation or series of allegations, the Municipality will review the facts at hand to determine whether the matter is one that ought to be reported to the relevant law enforcement agency for investigation and possible prosecution. Such reports must be submitted to the South African Police Services in accordance with the requirements of the Municipal Finance Management Act and the Municipal Systems Act. The Municipality will give its full co-operation to any such law enforcement agency including the provision of reports compiled in respect of investigations conducted.

Recovery action

Where there is clear evidence of fraud or corruption and there has been a financial loss to the Municipality, recovery action, criminal, civil or administrative, will be instituted to recover any such losses. In respect of civil recoveries, costs involved will be determined to ensure that the cost of recovery is financially beneficial.

Internal control review after discovery of fraud

In each instance where fraud is detected, Line Management will reassess the adequacy of the current internal control environment (particularly those controls directly impacting on the fraud incident) to consider the need for improvements.

The responsibility for ensuring that the internal control environment is re-assessed and for ensuring that the recommendations arising out of this assessment are implemented will lie with Line Management of the Department concerned.

vi. Maintenance Strategies

Review of the effectiveness of the Anti-Fraud and Corruption Strategy and Prevention Plan

The Municipality will conduct a review of the Anti-Fraud and Corruption Strategy and Prevention Plan annually to determine the effectiveness thereof. The Municipal Manager is ultimately accountable for this review and appoints a person to take responsibility for this.



Review and updating the Anti-Fraud and Corruption Strategy and Prevention Plan

A central part of any fraud and corruption control programme should involve an on-going review of fraud and corruption risk exposures. Fraud and Corruption Risk Assessments will also be conducted annually at the same time as the review of the Anti-Fraud and Corruption Strategy and Prevention Plan. As with the review, the Municipal Manager is ultimately accountable for this and may delegate a person to take responsibility.



5. Procedures for investigations

The Municipality has adopted a policy of investigation all reports of fraud and corruption, or other improper conduct. The investigation of fraud and corruption can be a complex and, at times, technical process and employees should be aware of the consequences of a poorly conducted investigation, including:

- Denial of natural justice;
- Defamation;
- Action against an employer for wrongful dismissal;
- Inadmissible or poor control over the collection of evidence; and
- Destruction of physical evidence.

To ensure that there is reasonable assurance that investigation are performed and reported properly, and recognising the limited resources within the Municipality, external consultants (e.g. external auditors or forensic accountants) may be used to provide assistance to the Municipality when a fraud is reported. The external consultant may be assisted by experienced personnel within the Municipality who are sufficiently independent of the area or the matter under investigation. The Municipal Manager, within his/her delegated authority, will have the discretion to determine the appropriate external consultants and / or the Municipality personnel to conduct investigations.

i. Handling of fraud allegation

Should a Line Manager receive an allegation of fraudulent or corrupt activity, he or she will ensure that the Municipal Manager is advised at the earliest opportunity.

The Municipal Manager will appoint an appropriate manager (usually within the Department in which the alleged fraud or corruption has been identified) to conduct or co-ordinate an investigation into the allegations. The manager appointed to conduct or co-ordinate the investigation of an allegation of fraud may consult the Chairman of the Anti-Fraud and Corruption Committee on technical aspects of the investigation.

Upon receipt of an allegation of a suspect fraud, the immediate concern of the manager or investigating officer should be the preservative of evidence and the containment of loss.

The investigative procedures to be followed on receipt of an allegation of fraud or corruption are included at Appendix F.

ii. Documentation of the results of the investigation

The appointed investigator is to submit a written report to the Municipal Manager detailing the circumstances and recommending appropriate remedial action following the investigation.



iii. Other matters

The Municipal Manager, in conjunction with the Chairman of the Anti-Fraud and Corruption Committee, will provide the details of fraud/corruption or possible fraud/corruption to the Audit Committee.

In each instance where fraud is detected, the Municipality will reassess the adequacy of the internal control environment (particularly those controls directly impacting on the fraud incident) and consider the need for improvements. Where improvements are required, they should be implemented as soon as practicable.

iv. Reporting fraud to police and / or external parties

The Municipal Manager will be responsible for reporting to the police, in circumstances in which there is evidence of fraud involving:

- An employee / volunteer of the Municipality,
- A client of the Municipality;
- A research grant recipient of the Municipality; or
- A supplier to the Municipality.

Reporting fraud to the police for investigation will be subject to the requirements as set out in the Municipal Finance Management Act and the Municipal System Act. Any decision not to refer an allegation of fraud to the police for investigation (where there is sufficient evidence to justify making such a report) will be referred to the Audit Committee, together with the reasons for the decision.

Responsibility for complainant statements lodged with Police will be assigned on a case by case basis by the Municipal Manager in consultation with the investigator.

v. Recovery and other remedies

The Municipality has adopted a policy wherein it will actively pursue the recovery of any money or property lost through fraud, provided there is a strong prospect of a net benefit to the Municipality from such action.

Where it is considered appropriate that the matter not be reported to the police, the Municipality reserves its right to pursue a range of the other remedies including appropriate disciplinary action. Any disciplinary action pursued will be done in accordance with the Disciplinary procedures.

Exit interviews and exit checklist procedures will be performed in the event of dismissal from the Municipality for misconduct of fraud. This is necessary to ensure that factors contributing to misconduct and fraudulent activity by municipal employees can be managed as a process to mitigate fraud risk.



6. Fraud and Corruption Prevention Plan

Fraud and Corruption risk assessment will be addressed during the Annual Risk Assessment review which is aligned with the approach that is used by the Provincial Treasury which is the Enterprise Risk Management (ERM). The fraud and corruption will also be aligned with the complaints received via Batho Pele complaints boxes located at the reception area as well as Municipal Public Accounts Committee complains box.

In conducting the Fraud and Corruption Risk Assessments, a number of workshops will held with employees, community representatives, stakeholder representatives and the extended manco of the Municipality.

7. Important contacts to report

Anti-fraud hotline: 0800 701 701



APPENDIX A

CODE OF CONDUCT FOR COUNCILLORS

Preamble

Councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainable within the means of the municipality. In fulfilling this role councillors must be accountable to local communities and report back at least quarterly to constituencies' on council matters, including the performance of the municipality in terms of established indicators. In order to ensure that councillors fulfill their obligations to their communities, and the achievement by the municipality of its objectives set out in section 19 of the Municipal Structure Act, the following Code of Conduct is established.

Definitions

1. In this schedule "partner" means a person who permanently lives with another person in a manner as if married.

General conduct of Councillors

2. A councillor must-
 - a) perform the functions of office in good faith, honestly and a transparent manner; and
 - b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

Attendance at meetings

3. A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when:
 - a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or
 - b) that councillor is required in terms of this Code to withdraw from the meeting.

Sanctions for non-attendance of meetings

4. (1) A municipal council may impose a fine as determined by the standing rules and 30 orders of the municipal council on a councillor for:
 - a) not attending a meeting which that councillor is required to attend in terms of item3; or
 - b) failing to remain in attendance at such a meeting.



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

- 2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor,
- 3) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purpose of this item. The uniform standing procedure must comply with the rules of natural justice

Disclosure of interests

5. A councillor must –
 - a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that, that council, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee: and
 - b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.
 - A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council at which it is possible for the councillor to make the disclosure.
 - This section does not apply to an interest or benefit which a council or, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

Personal gain

6. A councillor may not use the position or privileges of – councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.
 - a) Except with the prior consent of the municipal council, a councillor may not-
 - be a party to or beneficiary under a contract for-
 - the provision of goods or services to the municipality; or
 - the performance of any work otherwise than as a councillor for the municipality
 - obtain a financial interest in any business of the municipality: or
 - for a fee or other consideration appear on behalf of any other person before the council or a committee

Declaration of interest

7. (1) When elected or appointed, a councillor must within 60 days declare in writing to the Municipal Manager the following financial interests held by that councillor:



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

- a) shares and securities in any company;
 - b) membership of any close corporation;
 - c) interest in any trust;
 - d) directorship;
 - e) partnerships;
 - f) other financial interests in any business undertaking;
 - g) employment and remuneration;
 - h) interest in property;
 - i) pension; and
 - j) subsidies; grants and sponsorships by any organisation.
- 2) Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually.
 - 3) Gifts received by a councillor above a prescribed amount must also be declared in accordance with sub item (1).
 - 4) The municipal council must determine which of the financial interests referred in sub item (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

Full time councillors

8. A councillor who is {full-time council} or may not undertake any other paid work, except with the consent of a municipal council which consent shall not unreasonably be withheld.

Rewards, gifts and favours

9. A councillor may not request, solicitor accept any reward, gift or favour for-
 - a) voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member;
 - b) persuading the council or any committee in regard to the exercise of any 5power, function or duty;
 - c) making a representation to the council or any committee of the council; or
 - d) disclosing privileged or confidential information.

Unauthorised disclosure or information

10. (1) A councillor may not without the permission of the municipal council discloses any privileged or confidential information of the council or committee to any unauthorised person.
- 2) For the purpose of this item 'privileged or confidential information' includes any information-
 - a) determined by the municipal council or committee to be privileged or confidential;
 - b) discussed in closed session by the council or committee;
 - c) disclosure of which would violate a person's right to privacy; or
 - d) declared to be privileged, confidential or secret in terms of law.



- 3) This item does not derogate from the right of any person to access to information in terms of national legislation.

Intervention in administration

11. A councillor may not, except as provided by law –
- a) interfere in the management or administration of any department of the municipal council unless mandated by council;
 - b) give or purposeful to give any instruction to any employee of the council except when authorised to do so;
 - c) obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or
 - d) encourage or participate in any conduct which would cause or contribute to maladministration in the council.

Council property

12. A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that council {or has no right}

Duty of chairpersons of municipal councils

13. 1) If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must-
- a) authorise an investigation of the Facts and circumstances of the alleged breach;
 - b) give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and
 - c) report the matter to a meeting of the municipal council after paragraphs(a) and (b) have been compiled with.
- 2) A report in terms of sub item (1) (c) is open to the public.
- 3) The chairperson must report the outcome of the investigation to the MEC for local government in the province concerned.
- 4) The chairperson must ensure that each councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets.

Breaches of code

14. 1) A municipality may-
- a) investigate and make a finding on any alleged breach of a provision of this Code; or
 - b) establish a special committee-
 - to investigate and make a finding on any alleged breach of this Code; and
 - to make appropriate recommendations to the council.



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

- 2) If the council or a special committee finds that a councillor has breached a provision of this Code, the council may-
 - a) issue a formal warning to the councillor
 - b) reprimand the councillor;
 - c) request the MEC for local government in the province to suspend the councillor for a period;
 - d) fine the councillor; and
 - e) request the MEC to remove the councillor from office.
- 3)
 - a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of the above paragraph may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.
 - b) A copy of the appeal must be provided to the council.
 - c) The council may within 14 days of receipt of the appeal referred to in paragraph
 - d) make any representation pertaining to the appeal to the MEC for local government in writing.
 - e) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.
- 4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the councillor should be suspended or removed from office.
- 5) The Commissions Act, 1947 (Act 8 of 1947), may be applied to an investigation in terms of the above paragraph.
- 6) If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office. The MEC may-
 - a) Suspend the Councillor for a period and on conditions determined by the MEC;
 - b) Remove the Councillor from office;
 - c) Any investigation in terms of this item must be in accordance with the rules of natural justice.

Application of Code to traditional leaders

15.
 - 1) Items 1,2,5,6,9(b) to (d) 10, 11, 12, 13 and 14 (1) apply to a traditional leader who participates or has participated in the proceedings of a municipal council in terms of section 81 of the Municipal Structures Act.
 - 2) These items must be applied to the traditional leader in the same way they supply to councillors
 - 3) If a municipal council or a special committee in terms of item 14 (1) finds that a traditional leader has breached a provision of this Code, the council may-
 - a) issue a formal warning to the traditional leader; or
 - b) request the MEC for local government in the province to suspend or cancel



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

- c) the traditional leader's right to participate in the proceedings of the council.
- 4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the right of the traditional leader to participate in the proceedings of the municipal council should be suspended or cancelled.
- 5) The Commissions Act, 1947, may be applied to an investigation in terms of sub item (4)
- 6) If the MEC is of the opinion that the traditional leader has breached a provision of this Code, and that such breach warrants a suspension or cancellation of the traditional leader's right to participate in the council's proceedings, the MEC may-
 - a) suspend that right for a period and on conditions determined by the MEC; or
 - b) cancel that right
- 7) Any investigation in terms of this item must be in accordance with the rules of natural justice.
- 8) The suspension or cancellation of a traditional leader's right to participate in the proceedings of a council does not affect that traditional leader's right to address the council in terms of section 81 (3) of the Municipal Structures Act.



APPENDIX B

CODE FOR MUNICIPAL STAFF MEMBERS

As per the code of conduct adopted for the municipality



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

APPENDIX C

FRAUD AND CORRUPTION RISK MANAGEMENT RESPONSIBILITY MATRIX

FRAUD AND CORRUPTION RISK MANAGEMENT RESPONSIBILITY MATRIX RESPONSIBILITY	RESPONSIBLE OFFICER	COMPLETION TIMEFRAME
Overall responsibility for ensuring implementation of the Anti-Fraud and Corruption Strategy and Fraud Prevention Plan, and communication of this to staff.	Municipal Manager and Heads of Departments	On-going
Report on the co-ordination of fraud prevention, detection strategies and response to fraud incidents to the Municipal Manager and Chairman of the Audit Committee.	Risk Champion and Chairman of the Anti-Fraud and Corruption Committee	Quarterly
Engagement of external expertise to assist in conducting investigations	Municipal Manager / Chairman of Audit Committee / Chairpersons of Municipal Councils	As required
Remain vigilant to any suspected fraudulent or corrupt behaviour and report all instances of fraud or potential fraud to line management or through such alternative channels that may be provided.	All Employees	On-going
Comply with the requirements of the Anti-Fraud and Corruption Strategy and Prevention Plan	All Employees	On-going
Assess the need for a formal integrity management strategy	Human Resources Management unit	As required
Conduct a review of the Anti-Fraud Strategy and Prevention Plan	Municipal Manager assisted by Line Management – oversight by the Anti-Fraud and Corruption Committee	Annually
Ensure there is regular communication promoting compliance with the Anti-Fraud and Corruption Strategy and Prevention Plan and adherence thereto by all employees.	Municipal Manager assisted by Line Management – oversight by the Anti-Fraud and Corruption Committee	Within six months of implementation of the Anti-Fraud and Corruption Strategy and Prevention Plan
Co-ordination of training including Fraud Awareness	HR assisted by the Anti-Fraud and	As deemed appropriate



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

FRAUD AND CORRUPTION RISK MANAGEMENT RESPONSIBILITY MATRIX RESPONSIBILITY	RESPONSIBLE OFFICER	COMPLETION TIMEFRAME
Training.	Corruption Committee	
Ensuring Fraud Risk Assessments are conducted.	Municipal Manager assisted by Line Management – oversight by the Anti-Fraud and Corruption Committee	As deemed appropriate
Co-ordinate the follow-up of the Fraud Risk Assessments by ensuring that all timetabled strategies are appropriately implemented	Municipal Manager assisted by Line Management – oversight by the Anti-Fraud and Corruption Committee	As appropriate following each Fraud Risk Assessment
Assign responsibility for pre-employment screening and background checks on all candidates offered positions within the Municipality	Human Resource/Municipal Manager	On-going
Development of fraud detection systems (including retrospective view of transactions, computer strategies and management accounting report analysis) with reference to most recent Fraud Risk Assessments	Municipal Manager assisted by Line Management and Risk Champion oversight by Anti-Fraud and Corruption Committee	As required
Maintaining an appropriate recording, reporting and analysis system to ensure that all instances of suspected fraud are satisfactorily resolved.	Risk Champion – oversight by Anti-Fraud and Corruption Committee	On-going
Ensuring external auditors give adequate consideration to ISA 240 (The Auditors’ responsibility to consider fraud in the audit of a financial statement)	Chief Finance Officer	On-going
Appointment of Municipal personnel and, if necessary, external consultants to conduct investigations.	MM/ Chairpersons of Municipal Councils	As required
Ensuring that Municipal Manager is briefed on allegations of suspected fraud.	Internal Audit/Chairman of the Anti-Fraud and Corruption committee	As required
Ensuring the MEC for local Government, Auditor	Municipal Manager/Chairman of	As required



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

FRAUD AND CORRUPTION RISK MANAGEMENT RESPONSIBILITY MATRIX RESPONSIBILITY	RESPONSIBLE OFFICER	COMPLETION TIMEFRAME
General and other requisite persons in terms of the Municipal Systems Act and Municipal Finance Management Act are briefed on any allegation of suspected fraud.	Audit Committee/Chairpersons of Municipal Councils	
Preservation of evidence and containment of loss in an investigation	Manager Investigators	As required
Compilation of a written report to the Municipal Manager outlining circumstances and recommended remedial action following the investigation.	Investigators	As required
Providing details of the fraud or possible fraud to the Audit Committee.	Municipal Manager and Chairman of the Anti-Fraud and Corruption Committee	As required
Determination of whether incidents of fraud will be reported to Police	MM/Chairman of the Audit Committee	As required
Inform the Audit Committee of any decision not to report the incident to the Police.	Municipal Manager	As required
Determining who will be the complainant when an incident is reported to the Police.	MM in conjunction with the Investigator	As required
Determining the appropriate course of remedial action	Municipal Manager in conjunction with Line Management	As required
Conducting exit interviews and ensuring compliance with the exit checklist of procedures.	HR	As required



APPENDIX D

DECLARATION OF INTEREST FORM



Declaration of interest form



With reference to legislation the declaration of interest is hereby done:

- a) An official or other role player involved in the implementation of the SCM policy must declare – SCM reg. 46(2)(e).
- b) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose -- MSA schedule 1: Code of conduct for councillors’ sec. 5(2).
- c) When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the financial interests held by that councillor and any changes annually – MSA schedule 1: Code of conduct for councillors’ sec. 7(1) & (2).
- d) A staff member of a municipality must disclose in writing the full particulars of the benefit to the council. – MSA schedule 2: Code of conduct for municipal staff members’ sec 5(1).
- e) A person who is appointed in terms of section 56 (senior manager) or a municipal manager must within 60 days after his/ her appointment declare in writing to the chairperson of the municipal council – MSA schedule 2: Code of conduct for municipal staff members’ sec 5A(1) & (2).

If you are in the employ of the municipality and have a company, kindly disclose below

Name and Surname	
Position	
Section/ department	
Appointment date	
Name of supplier in which the person has an interest	
% interest in the supplier	
Date from when person had the interest	
If applicable the date the person no longer had interest	

If your close family member has companies/CCs, kindly disclose below.

Name and Surname (of a family member)	
Institution where the person is working	
Position/ job title of person	
Section/ department	
Appointment and resignation (if applicable) dates	
Name of supplier in which the person has an interest	
% Interest in the supplier	
Date from when person had the interest	
If applicable the date the person no longer had interest	

Undertaking:

I hereby declare that the above information is true and complete, should it appear that the information furnished above is incomplete/incorrect and thereby leading to irregular expenditure in terms of SCM regulations, I will be held liable for the costs thereof.

Signed: Official/Principal	Date	Signed: Municipal manager	Date
----------------------------	------	---------------------------	------

APPENDIX E

GIFTS REGISTER



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

SCM reg 46(2)(e) Controls have been implemented for SCM officials or other role players to declare any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person.

No	Name & surname	Position	Gift From	Date	Amount/Value/Item discription	Signature of the reciever of the gift	Signature of the Ethics Champion	
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								
26								
27								
28								
29								
30								
31								
32								
33								
34								
35								
36								
37								
38								
39								
40								
41	Umtshane Municipality P.O box 561 Hibberdene Sipofu road 4220							
42								
43								



APPENDIX F

INVESTIGATING PROCEDURES

SUSPECTED FRAUD, CORRUPTION OR IRREGULARITY PROCEDURES

- 1) Staff members within the Municipality identifying suspected fraud, commercial irregularity or unethical conduct are to notify their Line Manager. If the staff member prefers they may also notify the Municipal Manager, Chairman of the Anti-Fraud and Corruption Committee, Chairman of the Audit Committee, or they may make a report via the whistle-blowing mechanism.
- 2) A Line Manager to whom the report is first made is to inform the Municipal Manager immediately then secure all relevant documentation and records, or in the case of electronic systems, secure source documents, printouts and relevant reports.
- 3) The relevant Line Manager is to be notified at the earliest opportunity where a report is made direct to the Municipal Manager, Chairman of the Anti-Fraud and Corruption Committee, Chairman of the Anti-Fraud and Corruption Committee, Chairman of the Audit Committee or through the whistle-blowing mechanism.
- 4) The Municipal Manager will appoint a manager to conduct or co-ordinate an investigation into the alleged fraudulent conduct. External consultants may be used for this purpose.
- 5) The manager assigned responsibility for conducting or co-coordinating the investigation is to submit a written report, containing details of the circumstances and recommendations to the Municipal Manager with copies to the Chairman of the Anti-Fraud and Corruption Committee, and relevant Line Manager.
- 6) Once an investigation has begun, consideration needs to be given to whether it would be appropriate in the circumstances to suspend the subject on fully pay until the issue is resolved. Advice should be sought from HR in this regard.
- 7) After consideration by the Municipal Manager, if so resolved, the investigator or the Municipal Manager (or his/her delegate) will refer the matter to the nearest Police Station for further investigation.



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

- 8) The Chairman of the Anti-Fraud and Corruption Committee will maintain a register of all fraud, theft and irregular losses reported.
- 9) The Chief Finance Officer (in consultation with the Municipal Manager) will be responsible for recovering any funds owed to the Municipality as a result of court orders or private treaties with persons found to have been involved in fraudulent or corrupt conduct or negotiated settlements.
- 10) An Officer appointed by the Municipal Manager will maintain files of all reports and working papers relating to investigations of fraud, theft and irregular practices.
- 11) A report prepared by the Chairman of the Anti-Fraud and Corruption Committee is to be submitted to the Audit Committee outlining details of any fraud or suspected fraud in the past period.



APPENDIX G

WHISTLE BLOWING POLICY

1. Introduction

The Protected Disclosures Act came into effect on 16 February 2001. This Act is commonly referred to the Whistle Blowing Act. In order to remain in compliance with the Act, the Municipality has created a whistle blowing program with the following objectives.

- To encourage the reporting of matters that may cause financial or non-financial loss to the Municipality, or damage to the Municipality's reputation;
- To enable the Municipality to effectively deal with reports from whistle blowers by providing clear guidelines for the disclosure of such information and protection against reprisals as a result of such disclosure;
- To provide for the appropriate infrastructure including an alternative mechanism for reporting;

2. Scope of the Policy

The Whistle Blowing Policy is not a replacement of the existing Grievance Procedure and therefore grievances should not be reported in terms of this policy. Any grievances should be lodged in accordance with the provisions of the Grievance Procedure. In terms of the Protected Disclosures Act, the following concerns may be raised:

- That a criminal offence has been committed, is being committed or is likely to be committed;
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
- That a miscarriage of justice has occurred, is occurring or is likely to occur;
- That the health or safety of an individual has been, is being or is likely to be endangered;
- That the environment has been, is being or is likely to be damaged;
- Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, Act 4 of 2000; or
- That any matter referred to in paragraphs (a) to (f) had been, is being or is likely to be deliberately concealed.

3. Purpose of the policy

This policy has been developed to give effect to the objects of the Protected Disclosures Act, namely:



ANTI-CORRUPTION AND FRAUD PREVENTION PLAN

- To protect an employee from being subjected to occupational detriment on account of having made a protected disclosure;
- To provide for remedies in connection with any occupational detriment suffered on account of having made a protected disclosure; and
- To provide for procedure in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his or her colleagues, other stakeholders and employer.

This policy is intended to encourage employees to report the matters as set out under paragraph 2 (a) to (f) by providing procedures and mechanisms for such reporting as well as ensuring that employees who make such reports in good faith are not victimised, harassed and do not suffer any occupational detriment.

4. Who can raise a concern?

Any member or staff who has reasonable belief that there is fraud/corruption or misconduct relating to any of the protected matters specified under paragraph 2 may raise a concern under the procedure detailed below. Concerns must be raised without malice, in good faith and not for personal gain and the individual must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true. The issues raised may relate to a manager, another member of staff, or a group of staff.

5. Confidential reporting procedure

This procedure encourages you to report issues of fraud, corruption or unethical behaviour to your manager, however, should you wish to raise your concern anonymously, such anonymity will be respected.

STEP 2

If you have an issue to report, please raise the issue with your Manager or Head of Department unless he/she is the subject of your complaint. If this is the case, proceed to one level higher to the person to whom the Manager/Head of Department reports. Provide as much information about the concern you wish to raise, providing names, dates and places, where possible, should be set out and the reason why you are particularly concerned about the issue you wish to report. Should the complaint be found by the manager to be substantiated, he/she will decide on whether the matter should be referred to a higher authority, investigated internally or referred to the appropriate external body for investigation.

ALTERNATIVELY

You may write your issue and place it on the boxes placed at the reception area assigned for MPACC or Batho Pele complaints box. You remain anonymous when making such a report. Should the complaint be found by the manager to be substantiated, he/she will decide on whether the matter should be referred to a higher authority, investigated internally or referred to the appropriate external body for investigation.



STEP 2

Should you have exhausted these internal mechanisms or where you have substantial reason to believe that there would be a cover-up or that evidence will be destroyed or that the matter might not be handled properly, you may raise the matter in good faith with a member of the Cabinet or Executive Council in this Province or call the National Anti-corruption hotline on 0800 701 701

6. How the Municipality will Respond

The action taken by the Municipality will depend on the nature of the concern reported. The possible actions open to the Municipality are to:

- investigate internally; and/or
- refer the matter to the South African Police Services or other relevant law enforcement agency, if applicable.

Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form the investigation should take. Concerns raised may not necessarily require an investigation to resolve them.

The amount of contact between the body investigating the issues and the persons raising the concern (if not anonymous) will depend on the nature of the concern raised and the investigations which may require to be performed. If required, further information may be sought from the person who made the report.

All investigation will be handled confidentially and will not be discussed with persons other than those who legitimately have the right to such information.

7. False or malicious allegations

Those wishing to make reports must guard against making allegations which are false and made with malicious intent. Persons making such reports will not enjoy the protection offered by the Protected Disclosures Act.

Furthermore, there are resource and cost implications in respect of initiating investigations, which need to be considered in the event of a false or malicious accusation.

