FRAUD & CORRUPTION PREVENTION AND DETECTION POLICY

Approved by Council on: 31 January 2019

Council Resolution No: A (8)

Review date: June 2020

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LIST OF ACRONYMS

COSO : Committee of Sponsoring Organizations

VAT : Value Added Tax

COGTA : Cooperative Governance and Traditional Affairs

IDP : Integrated Development Plan

SAPS : South African Police Service

DEFINTION OF THE RELEVANT CONCEPTS

Municipality

The term municipality refers to a legal entity that is established in terms of the:

1. Constitution of the Republic of South Africa, as adopted on 8 May 1996.
2. Local Government Municipal Structures Act 177 of 1998.
3. When referred to as a corporate body, it means a municipality as described in section 2 of the Municipal Systems Act 32 of 2000.
4. When referred to as a geographic area, it means a municipal area determined in terms of the Local Government: Municipal Demarcation Act No. 27 of 1998.

Fraud and Corruption

It Includes, but is not limited to, the following legal definitions:

(i) *Fraud*, i.e. "the unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another."

(ii) *Theft*, i.e. the unlawful and intentional misappropriation of another's property or property which is in his/her lawful possession, with the intention to deprive the owner of its rights permanently."

(iii) *Offences* in respect of *corrupt activities* as defined in the Prevention and Combating of Corrupt Activities Act, 2004, i.e.:

- The general offence of *corruption* which could be summarized as directly or indirectly accepting or agreeing to accept any gratification from another person; giving or agreeing to give any other person any gratification in order to influence that person directly or indirectly to exercise his powers, duties or legal obligations in a manner which is/amounts to:
    - Illegal, dishonest, unauthorized, incomplete, or biased.
    - Misuse or selling of information or material acquired.
    - Abuse of position of authority.
    - Breach of trust.
    - Violation of a legal duty or set of rules.
    - Designed to achieve an unjustified result.
    - Any other unauthorized or improper inducement to do or not to do anything.

- Corrupt activities in relation to:
    - Public officials
    - Foreign public officials
    - Agents
    - Judicial officers
    - Members of the prosecuting authority
    - Unauthorized gratification received or offered by or to a party of an employment relationship.
    - Witnesses and evidential material during certain proceedings.
    - Contracts
    - Procuring and withdrawal of tenders
    - Auctions
    - Sporting events
    - Gambling games or games of chance
    - Conflicts of interests and other unacceptable conduct, e.g.:
    - Acquisition of private interests in contract, agreement in or investment of public body.
    - Unacceptable conduct relating to witnesses.
    - Intentional interference with, hindering or obstruction of investigation of offence.

- Other offences relating to corrupt activities, viz:
    - Accessory to or after an offence.
    - Attempt, conspiracy and inducing another person to commit an offence.

- Failure to report corrupt transactions.

Fraudulent and corrupt acts may include:

***System issues*:** where a process/system exists which is prone to abuse by employees, the public or other stakeholders, e.g.:

- Procurement fraud, e.g. irregular collusion in the awarding of tenders or orders for goods and/or services.
- Deliberate non-compliance with delegation of authority limitations.
- Collusion in contract management.

- Revenue Fraud; e.g. reluctance of municipal officials in the verification of suppliers/contractors VAT details before any contractual agreement can be entered into with the purposes of rendering services to the Municipality.
- Travel and subsistence fraud.
- Abuse of sick leave or other permissible leave.
- Disclosure of confidential or proprietary information to outside parties.
- *Financial issues*: i.e. where individuals or companies have fraudulently obtained money from the Municipality e.g.:
- Syndicate fraud, e.g. interception of warrant vouchers; have them reduced from the stated fines by unauthorized officials and or exchanged for cash with guilty parties and documents disposed for future detection of account status.
- Creditor's fraud, e.g. diverting payments to incorrect creditors.
- Suppliers submitting invalid invoices or invoicing for work not done.
- Payroll fraud, e.g. creation of "ghost employees".
- Receiving money on behalf of the Municipality without issuing of an official receipt.
- Theft of funds.
- Making a profit from "inside" information.

Equipment and resource issues: i.e. where the Municipality's equipment or other resources utilized for personal benefit or stolen e.g.:

- Theft of assets, e.g. computers, face value forms, consumables, (stationery, globes, fuses) etc.
- Personal use of resources, e.g. telephones, internet, e-mail.
- Irregular destruction, removal, or abuse of records (including intellectual property).
- Misuse of the Municipality's official time for personal gain/purposes.

Other issues: i.e. activities undertaken by employees of the Municipality, which may be against policies or fall below established ethical standards e.g.:

- Soliciting gifts or favours from consultants or other suppliers, e.g. acceptance of "kick-backs".
- Pursuing private business interests without permission.
- Nepotism
- Favouritism.

Loss control

Loss control is a risk management technique that aims to lower the likelihood and severity of a loss by either preventing/minimizing losses or recouping the loss from a responsible party.

It refers to a multidisciplinary approach in which human, engineering, and management practices are employed to reduce the frequency or severity of losses.

Assets

The following describes the municipality's understanding of the term: "*an item of property owned by the municipality, regarded as having value and available to render municipal services, meet debts, commitments, or legacies."* Or "*Something valuable that the municipality owns, benefits from, or has use of, in generating income." Or "an asset is an economic resource." Or "Something that an entity has acquired or purchased, and that has monetary value (its cost, book value, market value, or residual value). An asset can be (1) something physical, such as cash, machinery, inventory, land and building (2) an enforceable claim against others, such as accounts receivable (3) right, such as copyright, patent, trademark, or (4) an assumption, such as goodwill. Assets shown on their owner's balance sheet are usually classified according to the ease with which they can be converted into cash." (Extracted from: From Wikipedia, the free encyclopaedia.)*

Equipment

Equipment is a specific type of asset. The following describes the municipality's understanding of the term: *"Equipment is defined as any instrument, machine, apparatus, or set of articles that retains its original shape, appearance, and/or character with use."*

Material

The following describes the municipality's understanding of the term: "*Items that the municipality uses to render municipal services such as fuel, oil, tar, cement, chemicals, stationary, and telephone time and computer data."*

Council

This term refers to the Council of the City of Mbombela as referred to in section 18 of the Municipal Structures Act, 1998 Act No. 117 of 1998.

Accounting officer

This terms refers to the Municipal Manager as appointed in terms of section 82 (1) (a) or (b) of the Municipal Structures Act No. 117 of 1998.

Head of a department

The term Head of Department applies to appointed post holders who have the responsibility for either a department such as Financial Services or a Unit such as the Internal Audit Unit.

It also refers to a Manager as per section 56 of the Local Government Municipal Systems Act 32 of 2000.

Manager

From a municipal perspective, the term refers to an official appointed by the institution who is responsible for controlling or administering a group of staff, with the objective of rendering a specific municipal service.

Supervisor

The term refers to an official who supervises an official or an activity.

Official

This term refers to:

- An employee of the City of Mbombela.
- A person seconded to the City of Mbombela.
- A person contracted by the municipality, to render a specific service.

Municipal service

“Municipal service” has the meaning assigned to it in section 1 of the Municipal Systems Act 32 of 2000.

Responsibility

In the understanding of the municipality, the term refers to:

1. The state or fact of having a duty to deal with something or of having control over someone.
2. A duty or obligation to satisfactorily perform or complete a task (assigned by someone), that one must fulfil, and which has a consequent penalty for failure (Reference: Business Directory).

Investigation

The term refers to: "*The careful search or examination with an intension to discover facts. This may include questioning of witnesses, forensic examination and investigation of financial records*" or "t*he process of collecting information in order to reach some goal."*

Evidence

This term refers to: *"the available body of facts or information indicating whether a belief or proposition is true or valid"* or *evidence is anything that you see, experience, read, or are told that causes you to believe that something is true or has really happened."*

Prima-facie evidence

The term refers to evidence that, "*unless rebutted, would be sufficient to prove a particular proposition or fact*" or "*evidence that appears to be factually correct at first view or on the first appearance*."

Internal controls

The Committee of Sponsoring Organizations of the Treadway Commission (COSO) defines internal control as: *"A process, effected by an entity's board of directors, management and other personnel, designed to provide "reasonable assurance" regarding the achievement of objectives in the following categories:*

1. *Effectiveness and efficiency of operations*
2. *Reliability of financial reporting*
3. *Compliance with applicable laws and regulations."*

Internal Controls can be preventative, detective or corrective in nature.

1. Preventative Controls are designed to keep errors or irregularities from occurring in the first place;
2. Detective Controls are designed to detect errors or irregularities that may have occurred;
3. Corrective Controls are designed to correct errors or irregularities that have been detected.

Risk assessment

Risk Management is about the identification, evaluation and minimization of identifiable risks.

The Councils' risk assessment process must be ongoing and be sufficiently robust to enable all fraud and/or corruption to be identified.

Risk assessment should address both the internal and external environments of Council.

It should also cover all functions and operations to establish the level, nature, form and likelihood of risk exposure.

Fraud and corruption risk indicators may include the following:

a. Asset misappropriation
b. Theft of cash
c. False payment requests;
d. Cheque fraud;
e. Billing schemes to defraud the municipality.
f. Misuse of accounts (stealing of passwords).
g. Improper revenue recognition;
h. Misstatement of assets, liabilities and/or expenses;
i. Other accounting misstatements;
j. Journal entry fraud by using journal entries to fraudulently adjust financial statement/figures;
k. Falsified employment credentials;
l. Falsified internal or external documents;
m. Conflict of interest;
n. Kickbacks;
o. Personal interests;
p. Bribery;
q. Extortion.

INTRODUCTION

The municipality is a service delivery instrument with a Constitutional mandate to render municipal services to a specific community.

This mandate must be executed in accordance with the strategic programs of the ruling political party.

From a strategic perspective, the challenge is that the municipality does not have adequate resources in terms of human capital, finance, equipment and material, to render services in accordance with the expectations of the community.

From a management perspective, this leads management to inter-alia have the following strategic focus area namely: "*Optimal utilization of available human capital, finances, equipment and material."*

Fraud and corruption sabotage the ability of the municipality, to optimally utilize available human capital, finances, equipment and material, to render affordable and sustainable municipal services.

It is for this reason that fraud and corruption cannot be tolerated.

Strategically, the policy forms part of the Administration's endeavour to reach the IDP objective of ensuring good governance and institutional development.

The policy is also part of the Internal Control Framework of the municipality.

FRAUD AND CORRUPTION PREVENTION AND DETECTION STATEMENT

The risk of corrupt or fraudulent activities is ever present in all organizations and in all industries.

Experience shows that the City of Mbombela is not immune to the possibility of corruption and fraud activities occurring.

These activities sabotage the municipality in its efforts to render affordable and sustainable municipal services to the community. It also have a negative impact on the reputation of the City of Mbombela as an institution as well as all personnel.

The community expects the highest of standards of ethical behaviour from all who are associated with the municipality.

It expects the employees to practice the highest standard of stewardship of public resources and to establish and maintain a sound system of internal controls.

All councillors and employees must take note of the negative impact of corruption and fraud.

Any suspicious activity must be duly reported to the relevant authority.

Management has an obligation to ensure that sound internal controls are in place and that all municipal activities are conducted in compliance with these internal controls.

The Executive Mayor, Speaker, Chief Whip and Municipal Manager, have committed the City of Mbombela to a zero tolerance stance with regards to fraud and corruption.

Where prima-facie evidence of fraud and corruption is submitted, management will act against the perpetrators.

The Executive Mayor, Members of the Mayoral Committee and Municipal Manager, will endeavour to work closely with all officials to successfully prevent and detect fraud and corruption.

Let us all work together to create a municipality that is free from the scourge of fraud and corruption.

PURPOSE OF THE POLICY

The policy provides a framework to enable the municipality to prevent, limit, reduce and detect losses due to fraud and corruption such as bribery, embezzlement, fraud, extortion, abuse of power, nepotism, and misuse of privileged information, favouritism and conflict of interest.

OBJECTIVES OF THE POLICY

The City of Mbombela hopes to achieve the following objectives with this policy:

1. Prevent and/or minimize losses due to misconduct by means of corrupt and/or fraudulent activities.
2. To create internal control systems of prevention and early detection of any corrupt and/or fraudulent activities.
3. To enable management to investigate any possible case of corrupt and/or fraudulent activity.
4. To enable management to implement consequence management measures to act against any guilty party.
5. To closely cooperate with other spheres of government to eradicate the scourge of fraud and corruption that is sabotaging government service delivery.

6. Encouraging a culture within the Municipality where all employees, the public and other stakeholders continuously behave ethically in their dealings with, or on behalf of the Municipality.

SCOPE AND APPLICATION

This policy is applicable to all councillors, officials and service providers of the City of Mbombela, regardless of their level or seniority.

It covers all circumstances where staff and service providers are performing work, duties or functions for the municipality, as well as related activities, such as work related social functions, travel, conferences and any circumstances where a person is representing the City of Mbombela.

LEGISLATIVE BASIS

The policy is based on the following legislative framework:

- Prevention and Combatting of Corrupt Activities Act no 12 of 2004.
- Local Government: Municipal Finance Management Act no. 56 of 2003.
- Public Service Anti-Corruption Strategy dated 2002.
- Local Government Anti-Corruption Strategy from COGTA
- Government Integrity Management Framework: 2015
- MFMA Circular 76: Municipal Regulations on Financial Misconduct.
- Local Government Municipal Systems Act no 32 of 2000: Code Of Conduct For Municipal Staff Members

ROLE PLAYERS

The following are responsible for the implementation of this policy.

1. Council
2. Section 79 Oversight Committees
3. Executive Mayor
4. Members of the Mayoral Committee
5. Municipal Manager
6. Deputy Municipal Managers
7. Chief Financial Officer
8. General Managers

9. Deputy Chief Financial Officer
10. Senior Managers
11. Managers
12. Supervisors
13. Chief Audit Executive
14. Chief Risk Officer
15. Senior Manager: Office of the Municipal Manager
16. Senior Manager: Corporate Communication

RESPONSIBILITIES OF ROLE PLAYERS

Responsibilities of Council/Oversight Committees

Council must approve policy and all Section 79 Oversight Committees, must fulfil an oversight function as per their mandate and delegated powers.

Responsibilities of the Executive Mayor and Members of the Mayoral Committee

It is the responsibility of the Executive Mayor and Members of the Mayoral Committee to set the tone for the prevention and combatting of fraud and corruption.

They must provide political leadership and support to the Administration in its endeavours to combat fraud and corruption.

Responsibility of the Municipal Manager

It is the responsibility of the Municipal Manager to ensure that this policy is successfully implemented.

Responsibility of the Deputy Municipal Managers

It is the responsibility of the Deputy Municipal Managers to ensure that all Heads of Departments/Units, indeed fulfil their responsibilities in terms of this policy.

Responsibilities of Heads of Departments

Every Head of a Department/Unit has the responsibility to ensure that:

1. This policy is implemented in such a manner that fraud and corruption is successfully prevented/detected and minimized in his/her department/unit.
2. Internal control systems are in place and maintained to identify possible cases of fraud and corruption.
3. Ensure consequence management in cases where fraud and corruption are detected.

Responsibilities of Senior Managers/Managers and supervisors

It is the responsibility of every Senior Manager/Manager/Supervisor to ensure that all internal controls that support this policy, are strictly enforced.

They must fulfil their supervisory duties in such a way that all fraud and corruption is either prevented, minimized or detected.

Responsibilities of the Chief Risk Officer

It is the responsibility of the Chief Risk Officer to:

1. Formulate a Fraud and Corruption Prevention Policy as well as a Fraud and Corruption Prevention Annual Plan.
2. Annual review of this policy and plan.
3. Ensure that the risk of fraud and corruption is included into the risk register of every department.
4. On an annual basis, to arrange at least one fraud and corruption prevention and detection workshop for officials and councillors.
5. Brief new appointees during the induction programme with regards to the zero tolerance stance of the City of Mbombela pertaining to fraud and corruption.
6. Distribute the Fraud and Corruption Prevention and Detection policy statement to all Service Centres.
7. Publish the Fraud and Corruption Prevention and Detection policy statement on Council's website.

Responsibilities of the Chief Audit Executive

It is the responsibility of the Chief Audit Executive to:

1. Investigate all cases of alleged fraud and corruption within the municipality.
2. Submit reports to the Accounting Officer and the Audit Committee.
3. Facilitate the formulation of an Internal Control Framework.
4. Conducting of regular audits to provide assurance that all role players adhere to the Internal Control Framework.

Responsibility of the Senior Manager: Office of the Municipal Manager

It is the responsibility of the Senior Manager to:

1. Establish and maintain an effective Whistle Blower system to enable members of the public and councillors as well as officials, to report cases of fraud and corruption in the municipality.
2. Report all cases that are received via the Whistle Blower System, to the Municipal Manager and the Internal Audit Unit.

Responsibility of the Senior Manager: Corporate Communication

It is the responsibility of the Senior Manager to:

1. Create an awareness amongst employees, the public and other stakeholders that the City of Mbombela has a zero tolerance stance with regards to fraud and corruption.
2. Will utilize amongst others, the following communication measures to create awareness:
    a. Distributing of posters, newsletters, pamphlets and other publications.
    b. Screensavers on computers with appropriate fraud and corruption and pro-ethics messages;
    c. Appropriate attachments to offers of employment and inclusion of appropriate items in induction and training programmes;
3. Ensure that the contact details of the whistle blower system is posted and updated on the Intranet as well as council's website.

Responsibilities of the Disciplinary Board

The mandate of the Disciplinary Board is to investigate all matters of misconduct as referred to in section 171 of the Local Government: Municipal Finance Management Act, (MFMA) (Act no. 56 of 2003).

General Responsibilities of all Managers /Supervisors

Managers are responsible for:

1. To ensure adherence to this policy.
2. Any municipal asset under their control.
3. Reporting any suspected or actual occurrences of fraud or corruption within their departments or divisions to the Head of the Department.
4. Creating an environment in which fraud and corruption is discouraged and readily reported by employees. Such an environment shall be fostered by the department's

own attitude to fraud and corruption and, by the accountability and integrity they both display and encourage from other employees;

5. Ensuring that new employees for whom they are responsible, are aware of their responsibilities in relation to the prevention/detection of possible fraud and corruption.
6. Identifying potential fraud and corruption risks; and
7. Leading by example to promote ethical behaviour.
8. Develop and maintain effective processes and controls to prevent and detect fraud/corruption and theft
9. Ensure that data is secure and prevent unauthorized access to it.
10. Ensure that internal controls are complied with at all times
11. Ensure that all relevant legislation and policies are being adhered to.

General responsibilities of all personnel

All employees are responsible for:

1. Performing their functions and duties with care, diligence, honesty and integrity;
2. Conducting themselves in a professional manner at all times;
3. Taking care for municipal assets which includes avoiding the waste or misuse of resources;
4. Maintaining and enhancing the good reputation of the City of Mbombela.
5. Reporting any occurrence of possible fraud and/or corruption to the relevant Supervisor/Manager or to the Internal Audit Unit or to make use of the Whistle Blower system.
6. Ensuring proper security and handling of municipal resources and funds whether they are involved with payments or receipt from contractors and others.
7. Immediately reporting to a line manager or through a confidential whistle blowing process, any evidence or suspicion of fraud and corruption or failure to carry out procedures properly.
8. Reporting any weaknesses they identify when carrying out their duties – thus playing their part in the prevention/detection of fraud and corruption.

CONTROLS

Internal Control Framework:

The COSO (Committee of Sponsoring Organizations) internal control framework consists of five interrelated components derived from the way management runs a business. *According to COSO, these components provide an effective framework for describing and analysing the internal control system implemented in an organization* as required by financial regulations (see Securities Exchange Act of 1934,[4]) The five components are the following:

Control environment:

The control environment sets the tone of an organization, influencing the control consciousness of its people. It is the foundation for all other components of internal control, providing discipline and structure. Control environment factors include the integrity, ethical values, management's operating style, delegation of authority systems, as well as the processes for managing and developing people in the organization.

Risk assessment:

Every entity faces a variety of risks from external and internal sources that must be assessed. A precondition to risk assessment is establishment of objectives and thus risk assessment is the identification and analysis of relevant risks to the achievement of assigned objectives. Risk assessment is a prerequisite for determining how the risks should be managed.

Control activities:

Control activities are the policies and procedures that help ensure management directives are carried out. They help ensure that necessary actions are taken to address the risks that may hinder the achievement of the entity's objectives. Control activities occur throughout the organization, at all levels and in all functions. They include a range of activities as diverse as approvals, authorizations, verifications, reconciliations, reviews of operating performance, security of assets and segregation of duties.

Information and communication:

Information systems play a key role in internal control systems as they produce reports, including operational, financial and compliance-related information that make it possible to run and control the business. In a broader sense, effective communication must ensure information flows down, across and up the organization. For example, formalized procedures exist for people to report suspected fraud. Effective communication should also be ensured with external

parties, such as customers, suppliers, regulators and shareholders about related policy positions.

Monitoring:

Internal control systems need to be monitored—a process that assesses the quality of the system's performance over time. This is accomplished through ongoing monitoring activities or separate evaluations. Internal control deficiencies detected through these monitoring activities should be reported upstream and corrective actions should be taken to ensure continuous improvement of the system.

MUNICIPAL REGULATIONS ON FINANCIAL MISCONDUCT (MFMA CIRCULAR 76) - THE DISCIPLINARY BOARD TO INVESTIGATE FINANCIAL MISCONDUCT

The Minister of Finance has, in terms of sections 168 and 175, of the Local Government: Municipal Finance Management Act, 56 of 2003, promulgated municipal regulations with regards to procedures and criminal proceedings, pertaining to financial misconduct.

These regulations, were published in Government Gazette no 37699 dated 30 May 2014. (Regulation R430.)

In terms of section 4 (1) of the Regulations, a Municipal Council must establish a Disciplinary Board to investigate allegations of financial misconduct and monitor the institution of disciplinary proceedings against an alleged transgressor.

Disciplinary Board

In terms of section 4 (1) of the Regulation R 430, "*A disciplinary board is an independent advisory body that assists Council with the investigation of allegations of financial misconduct, and provide recommendations on further steps to be taken regarding disciplinary proceedings, or any other relevant steps to be taken."*

FRAUD AND CORRUPTION PREVENTION CONTROLS

Preventative controls are designed to keep irregularities from occurring in the first place.

All heads of departments must ensure that the following prevention controls are functional in their departments:

1. General understanding amongst personnel that fraud and corruption amounts to the sabotaging of the institution's efforts to ensure that affordable and sustainable municipal services are being rendered to the community.
2. Understanding amongst personnel that the municipality maintains a zero tolerance policy pertaining to fraud and corruption.
3. Personnel are properly trained and capacitated to fulfil their daily duties.
4. Promotion of the Code of Conduct as set out in schedule 2 of the Local Government: Municipal Systems Act. (32/2000)
5. Promotion of the Whistle Blower system and the fact that it is a "safe place" to report possible incidents of fraud and corruption.

Specific responsibility of the Chief Financial Officer (CFO) and the General Manager: Legal Services

Standard tender and contract documentation

The CFO in consultation with the General Manager Legal Services, shall ensure that anti-fraud and corruption clauses are included in relevant tender and contract documentation.

This will strengthen the municipality's legal position in the event of attempted or actual fraud corruption.

It may also act as an effective reminder to contractors, suppliers and the municipality's own employees, that fraud and corruption will not be tolerated in commercial relationships.

The following is an example of an anti-corruption clause for inclusion in standard tender and contract documentation: "*You shall not give, provide, or offer to our staff and agents any loan, fee, reward, gift (except items of negligible intrinsic value) or any emolument or advantage whatsoever. In the event of any breach of this condition, we shall, without prejudice to any other rights we may possess, be at liberty forthwith to terminate the contract and to recover from you any loss or damage resulting from such termination."*

Specific responsibility of the General Manager: Corporate Services

Declaration of Interest

Open and democratic societies are less conducive to fraud and corruption than secretive ones.

Staff at many levels have an opportunity to influence the choice of suppliers and contractors. Management procedures should recognize this and should ensure that the selection of suppliers

and contractors always reflects the best interests of the municipality and not the personal or family interest of any member of the institution.

For this reason the need for councillors and officials to declare and register their interests are required.

The General Manager: Corporate Services must ensure that all personnel submit the prescribed declaration of interest forms on an annual basis.

Code of Conduct for Staff Members

The General Manager: Corporate Services in cooperation with Heads of Departments, must ensure that all staff members signed the prescribed Code of Conduct as set out in schedule 2 of the Local Government: Municipal Systems Act. (32/2000) Copies of such must be kept on personnel files.

FRAUD AND CORRUPTION DETECTION CONTROLS

No system of preventative measures can guarantee that fraud and corruption will not occur.

The municipality can however, implement the following detection controls to identify irregular activity.

Application of the Internal Control Framework

The Municipal Manager must ensure that an Internal Control Framework is maintained.

It is the responsibility of all Heads of Departments to ensure that all aspects of the Internal Control Framework is adhered to by all personnel.

It is the duty of the Internal Audit Unit to conduct regular audits to provide assurance that all role players indeed adhere to the Internal Control Framework.

Management supervision

Proper management supervision is very important to detect possible fraud and corruption.

It is therefore the duty of every supervisor and manager to monitor the work of employees and ensure strict adherence to the Internal Control Framework.

Whistle blower system

To facilitate the anonymous reporting of possible fraud and corruption as well as any other crimes, the Office of the Municipal Manager must maintain a whistle blower system that must at least consist out of the following:

1. Telephone number with the capacity to record incoming calls.
2. E-mail address.
3. Fax number.
4. The public, Councillors and personnel must be aware of the fact that the Executive Mayor and Municipal Manager maintains an “open door” policy with regards to personnel and the public who wants to report possible fraud and corruption directly to them.

CORRECTIVE CONTROLS

Corrective controls are designed to correct errors or irregularities that have been detected. Matters need to be handled professionally having regard for labour relation guidelines in order to minimize the risk of claims for unfair dismissal, should this course of action be taken.

INVESTIGATING AND REPORTING OF ALLEGATIONS OF FRAUD/CORRUPTION

Officials/Supervisors/Managers/Senior Managers in a department, must report all cases of alleged fraud and corruption in writing to the Head of the Department. This must be done within 24 hours after such an alleged misconduct was discovered.

The Head of the Department must within 24 hours after the information about possible fraud/corruption was reported to him/her, appoint an official within the department to conduct a preliminary investigation to obtain facts and possible evidence that might support the allegation of fraud/corruption. If no capacity to investigate the allegations is available within the department, the Internal Audit Unit must be requested to conduct the investigation. (Via the Office of the Municipal Manager.)

This investigation must be concluded within a reasonable time and a written report must be submitted to the Head of the Department.

The Head of the department, must duly inform the Municipal Manager, and the relevant member of the Mayoral Committee of the nature of the allegations.

The Prevention and Combatting of Corrupt Activities Act (12 of 2004) Section 34 (1) places an obligation on the Municipal Manager (Section 34 (4) (b) and on a Senior Manager (Section 34 (4) (c) to report any knowledge or a suspicion of fraud and corruption to the SA Police Service, if the monetary value of such misconduct is possibly more than R 100 000-00. (The Senior Manager in the abovementioned paragraph refers to a Senior Manager as duly authorised by the Accounting Officer in the System of Delegations)

It should be noted that there is no discretion when an amount of fraud and/or corruption of R 100 000-00 or more, is involved. All such cases must be reported to the SA Police Service for investigation.

The Municipal Manager and/or Senior Manager (Please refer to the System of Delegations) is in terms of Section 34 (2) of the Prevention and Combatting of Corrupt Activities Act (12 of 2004) act, guilty of an offense if the incumbent/s fails to report such cases to the SA Police Service.

Effectively, if based on the results of the investigation, there is a prima-facie suspicion that fraud/corruption with a monetary value of R 100 000-00 or above has taken place, the case must be reported to the SA Police Service immediately.

The Legal Services Unit (on written instruction from the Municipal Manager as Accounting Officer) will be responsible for reporting cases to the SA Police Service. In terms of Section 34.3 (a) of the Prevention and Combatting of Corrupt Activities Act, the SA Police Service must acknowledge such a request for an investigation by issuing a case number or other official receipt.

The Legal Services Unit must upon receiving such a receipt or case number from the SAPS, submit copies of it to the Office of the Municipal Manager and the GM: Corporate Services.

If the said internal investigation (by the Financial Misconduct Disciplinary Board) reveals that there is prima-facie evidence of fraud and corruption below the monetary value of R 100 000-00, then the Financial Misconduct Disciplinary Board must submit a recommendation to the Municipal Manager pertaining to:

- Disciplinary action.
- Reporting of a criminal case to the SAPS.

If any councillor/official is found guilty in a court of law on any charge of fraud/corruption, the amount of money lost by the municipality must be recouped from the said councillor/official. This is in compliance with Section 32 of the Municipal Finance Management Act (56 of 2003).

RECOVERY OF LOSSES INCURRED AS A RESULT OF FRAUD/CORRUPTION

Recovery and claims must be implemented in terms of the current value of the loss and payment thereof in terms and may accrue interest in terms of National Treasury Regulations.

Recovery can be made from any or all of the parties involved.

Recovery implementation procedures may involve legal action taken by the municipality against the culprits.

Process of recovery

It may happen depending on the outcome of the investigation that the relevant person/s involved, may be approached for compensation regarding any loss/damage, the municipality incurred as a result of the fraud/corruption.

1. Should the person, personally offer to pay off the debt in a once-off payment, or to pay monthly instalments so that the total loss is redeemed within 24 months, an understanding must be obtain him/her and submitted to the delegated official for approval.
2. Implementation of the Municipal credit control and debt and collection policy in cases of non-payments of the loss suffered.

CANCELLATION OF CONTRACTS

If it is to be found that service providers are being involved in any fraud and/or corruption, the Municipal Manager in conjunction with the Chief Financial Officer, GM: Legal Services and the relevant Head of the Department, must contemplate the possible cancelling of the said contract with the service provider.

CONFLICT OF INTEREST

A conflict of interest may arise when personal, financial, business or other interests might affect, or be seen to affect, the way an employee performs his/her duties.

Employees should avoid participating in any business activity outside of the municipality that may be in conflict with their duties.

Employees should not accept gifts which could be seen as a past, present or future conflict of interest in carrying out their duties.

If an employee is faced with a possible conflict of interest, the conflict should be declared, the circumstances discussed with their immediate manager and action taken to avoid any real or perceived conflict of interest.

PROTECTION OF WHISTLE BLOWERS

Under this policy, persons making protected disclosures concerning fraudulent and corrupt conduct, maladministration or serious or substantial waste of municipal funds/resources, must

be given protection against any reprisals or detrimental action in relation to the making of the protected disclosure.

Detrimental action includes injury, damage or loss, intimidation or harassment, discrimination, disadvantage or adverse treatment in relation to employment dismissal from or prejudice in employment or disciplinary proceedings.

Any Councillor/official who takes or facilitates detrimental action against another person for having made a protected disclosure, risks facing a disciplinary action and or civil and criminal litigation by the municipality.

MONITORING AND REPORTING

Top management must on an on-going basis, monitor and evaluate all steps taken to successfully implement this policy and to improve the organization's fraud and corruption prevention/detection techniques.

RISK MANAGEMENT AND FRAUD/CORRUPTION PREVENTION COMMITTEE

The Deputy Municipal Managers must on a quarterly basis, submit reports to the Risk Management and Fraud /Corruption Prevention Committee pertaining to:

1. Steps taken by departments to mitigate the risk of fraud/corruption.
2. Losses incurred by the municipality due to fraud and/or corruption.
3. Action taken by die MM/Heads of departments with regards to consequence management.

REPORTS TO COUNCIL

The Deputy Municipal Manager: Institutional Development, must on an annual basis, submit a report to Council with the following minimum information:

1. Action taken to mitigate the risk of fraud/corruption.
2. Losses incurred by the municipality due to fraud and/or corruption.
3. Action taken with regards to consequence management.

SECTION 79 OVERSIGHT COMMITTEES

It is expected from Section 79 Oversight Committees to fulfil their oversight role in this regard as per their mandate.

INTERNAL AUDIT UNIT

The Internal Audit Unit must in accordance with its annual plan, conduct audits to provide assurance that personnel adheres to the Internal Control Framework.

This report must also be submitted to the Risk Management and Fraud/Corruption Prevention Committee.

CONFIDENTIALITY

All allegations of misconduct pertaining to fraud and corruption must be kept confidential.

The principle that a person is not guilty of any misconduct until proven in a court of law, must be strictly adhered to.

CUSTODIAN

The Risk Management Unit shall serve as the custodian of this policy.

AWARENESS, TRAINING AND DEVELOPMENT

After approval of this policy by Council or after it was reviewed annually, it will be expected from every Head of Department to create awareness in his/her department about the following:

1. Why is it imperative to ensure the optimal utilization of available human capital, finances, equipment and material?
2. Reasons for the municipality's zero tolerance stance towards fraud and corruption.
3. Applicable parts of this policy.
4. Role and responsibility of every official in the preventing and detecting of fraud and corruption.
5. Whistle -blower information.

CONSENQUENCE FOR NON-COMPLIANCE

Non-compliance will be dealt with in accordance with the relevant internal and external policies of the municipality.

COMMENCEMENT OF THE POLICY

This policy will come into effect for implementation on the date upon which it is approved by Council.

POLICY REVIEW

This policy must be reviewed on an annual basis.
