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| **UMDONI LOCAL MUNICIPALITY**  logo | |
| **Department** |  |
| **Policy Name** | **Anti-fraud and Corruption Strategy and Fraud Prevention Plan** |
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# **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 initiates 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;

 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.

## **Umdoni 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.

## **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 of such others 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.

**1.5.1.1 Bribery**

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

**1.5.1.2 Embezzlement**

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

**1.5.1.3 Fraud**

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

**1.5.1.4 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.

**1.5.1.5 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).

**1.5.1.6 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.

**1.5.1.7 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.

**1.5.1.8 Favouritism**

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

**1.5.1.9 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.

# **2. Regulatory Framework**

## **2.1 Summary of statutory offences relating to dishonesty**

### **2.1.1 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:

 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;

 Sporting events; and

Gambling games or games of chance.

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.

Section 17 of the Act provides that a public officer who acquires or holds a private interest in any contract, agreement or investment connected with the public body in which he/she is employed, is guilty of an offence unless:

The interest consists of shareholding in a listed company;

The public officer’s conditions of employment do not prohibit him/her from acquiring such interests; or

 In the case of a tender process, the said officer’s conditions of employment do not prohibit him/her from acquired through an independent tender process.

### **2.1.2 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.

### **2.1.3 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 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 FIC 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.

### **2.1.4 Protection of Constitutional Democracy Against Terrorist and Related Activities Act, Act 33 of 2004 (“POCDATARA”)**

On May 20, 2005, the Protection of Constitutional Democracy Against Terrorist and

Related Activities Act (POCDATARA) came into effect criminalizing terrorist activity and terrorist financing and gave the government investigate and asset seizure powers in cases of suspected terrorist activity.

POCDATARA provides for two new reporting obligations under section 28A and section

29 of FICA. The Money Laundering Control Regulation under FICA, have also been

amended, with effect from 20 MAY 2005, for this purpose. The amended regulation now

provide for detailed reporting related to terrorist financing, under new section 28A and

29 of FICA.

The POCDATARA amends section 29 of FICA to extend the reporting of suspicious

and Unusual transactions relating to *“property which is connected to an offence relating to the financing of terrorist and related activities”* or to *“the financing of terrorist and related activities”.* The POCDATARA introduces a new section 28A of FICA that requires the reporting of any property that is associated with terrorist and related activities to the FIC.

## **2.2 Statues combating fraud and corruption**

### **2.2.1 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 of 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.

### **2.2.2 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:

**2.2.2.1 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) A political office bearer of a Municipality is liable for unauthorised expenditure it that office bearer knowingly instructed an official of the Municipality to incur expenditure, which was likely to be considered unauthorised expenditure;

(b) 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;

(c) 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;

(d) 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, in writing, providing details as to:

(a) The fruitless or wasteful expenditure;

(b) Whether any person is responsible or is under investigation with regard to the expenditure; and

(c) 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. Un 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.

**2.2.2.2 Funds transferred to organizations 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.

**2.2.2.3 Supply chain management policy to comply with 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:

(a) Combating fraud, corruption, favouritism and unfair and irregular practices in municipal supply chain management; and

(b) Promoting ethics of officials and other role players involved in municipal supply chain management.

**2.2.2.4 Implementation of 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.

**2.2.2.5 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:

(a) 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

(b) Carry out such investigations into the financial affairs of the Municipality as the council may request.

**2.2.2.6 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:

(a) Contravenes the provisions of the Act;

(b) Fails to comply with a duty imposed by a provision of the Act on the accounting officer of a Municipality;

(c) Permits or instructs another official of the Municipality to make an unauthorised, irregular or fruitless and wasteful expenditure;

(d) 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:

(a) 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

(b) 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.

**2.2.3 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.

**2.2.3.1 Human resources 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.

**2.2.3.2 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:

(a) Provides a copy of the Code of Conduct to every member of the municipality staff;

(b) Provide every member of staff with any amendments to the Code;

(c) Ensure that the purpose, contents and consequences of the Code of Conduct are explained to staff members who cannot read; and

(d) Communicate sections of the Code of Conduct that affect the public, to the local community.

**2.2.3.3 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:

(a) Voting in a particular manner

(b) Persuading the council or any committee in regard to the exercise of any power, function or duty;

(c) Making representation to the council; or

(d) Disclosing privilege or confidential information.

**2.2.3.4 Duty of chairpersons of municipal councils with regard 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:

(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

(e) 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.

**2.2.3.5 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.

# **3. Policy on fraud**

## **3.1 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.

## **3.2 Scope of the Policy**

This policy applies to all employees, Councillors, 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.

## **3.3 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.

## **3.4 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:

* 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.

# **4. 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.

**Fraud and Corruption Control Framework**

|  |
| --- |
| **Structural Strategies**  **.** Sound and ethical culture  . Senior Management Commitment  . Assessment of Fraud and Corruption Risk  . Employee awareness |

|  |  |
| --- | --- |
| Prevention | Detection |
| **Operational strategies** | |
|  | Response |

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| --- |
| **Maintenance Strategies**  **.** Reviewing effectiveness of the Fraud and Corruption control strategies  . Review and update the Fraud and Corruption Plan |

## **4.1 Structural strategies**

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

### **4.1.1 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.

**4.1.1.1 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.

**4.1.1.2 Risk Committee**

The role of the Risk 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. The Umdoni Risk committee shall serve as the Risk Committee. The various Departments should have representation on this committee. The Manager Internal Audit is to be a compulsory member.

The Risk Committee will meet at least on a Quarterly basis 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.

 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.

### **4.1.2 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.

The Code of Conduct for Municipal staff (Appendix B) contains specific standards categorized as follows:

 General Conduct

 Commitment to serving the public interest

 Personal gain

 Disclosure of benefits

 Unauthorised disclosure of information

 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 conduct of Councillors

 Attendance of 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

### **4.1.3 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 yearly. 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.

### **4.1.4 Assessment of fraud and corruption risk**

The Municipality, under the guidance of the Municipal Manager and the Manager Internal Audit, 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.

**4.1.1.1 Fraud and corruption risk assessment process**

The fraud and corruption risk assessment will be conducted using the following framework elaborated in steps:

a) Establish the structure

b) Identify risk exposures

c) Analysis of the risk exposures

d) Evaluate risk exposures

e) Implement prevention plans

f) Monitor and review

It must be noted that communication and awareness is a step that cuts across the entire risk assessment process.

The following is more detailed summary of each of the steps of the risk assessment process as set out above having regard to the particular application of the process to the assessment of fraud and corruption risk:

**i. Establishing the structure**

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

**ii. 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.

**iii Analysing the 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:

 Unsatisfactory; or

 Weak; or

 Satisfactory; or

 Good; or

 Very Good in mitigating the risk to which it relates.

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 controls perceived impact on the specific fraud or corruption risk under consideration.

**iv Evaluating the risk exposures**

Each risk exposure will be evaluated (extreme, high, medium, low) and this will allow the Municipality to prioritise which risk exposures require immediate action.

**v Implementing prevention plans**

All fraud and corruption risks rated as “*High*” and “*Extreme*” 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 Risk Committee.

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

### **4.1.5 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.

## **4.2 Operational Strategies**

### **4.2.1 Internal controls**

Internal controls are the first line of defences 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;

 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.

### **4.2.2 Prevention strategies**

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

**4.2.2.1 Employee awareness**

Employee awareness of the Municipality’s Anti-Fraud and Corruption Strategy, Code of Conduct, Whistle blowing policy and the manifestation of fraud and corruption in the workplace all assist in the creation of an environment which may be considered to be hostile to a would-be transgressor.

**4.2.2.2 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:

a) Verification of identity (birth certificate, driver‟s license)

b) Police criminal history.

c) Reference checks with the two most recent employers – this will normally require telephone contact.

d) A consideration of any gaps in employment history and the reasons for those gaps.

e) 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. Screening will be conducted in accordance with the classification of the employee or the levels of screening outlined below.

Where an employee is promoted into a management position and has not been screened during the course of the previous three years, the applicant will be re-screened. The levels of screening include:

*Level 1* – All employees (including those with administrative functions or computer access)

 Verification of claimed educational qualifications;

 An independent reference checks directly with two referees nominated by the applicant or previous employers; and

 Criminal history checks (after authorisation has been obtained from the prospective employee).

*Level 2* – All Managers and above, IT and Finance staff

 All level 1 checks;

 Employment history checks;

 Directorship and membership searches; and

 Insolvency/credit search.

**4.2.2.3 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, much declare such a conflict in writing to the HR Department and withdraw from any further procedures.

**4.2.2.4 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”.*

**4.2.2.5 Fraud and Corruption prevention 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.

**4.2.2.6 Disclosures of interests**

All senior managers and full-time 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.

### **4.2.3 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.

**4.2.3.1 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 reporting 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:

 Budget reports for each division;

 Reports comparing expenditure against industry benchmarks; and

 Reports highlighting unusual trends in bad or doubtful debts.

The Municipality will implement a strategy to ensure appropriate management accounting report reviews are conducted.

**4.2.3.2 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”.*

### **4.2.4 Response Strategies**

**4.2.4.1 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.

Any suspicion of fraud and corruption will be treated seriously and will be reviewed, analysed, and if warranted, investigated. If an employee becomes aware of a suspected fraud, corruption or any irregularity or unethical behaviour, such issues should be reported in terms of the Whistle Blowing Policy.

**4.2.4.2 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;

 Date 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.

## **4.3 Maintenance Strategies**

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### **4.3.1 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.

## **4.3.2 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**

It is the Municipality’s policy to 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.

### **5.1.1 Handling a 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 Risk 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.

### **5.1.2 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.

### **5.1.3 Other matters**

The Municipal Manager, in conjunction with the Chairman of the Risk 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.

## **5.2 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.

Laying criminal charges to police 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 opening a criminal case (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.

**5.3 Recovery and other remedies**

It is the Municipality policy that 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 conducted in the following focus areas. These focus areas are:

 Human Resources Employment Practices;

 Procurement;

 Housing;

 Citizens Complaints Resolution; and

Financial Systems and Controls.

In conducting the Fraud and Corruption Risk Assessments, workshops will be held with employees, community representatives, stakeholder representatives and the Heads of Departments of the Municipality.

The outcomes of the Fraud and Corruption Risk Assessment are contained in the Fraud and Corruption Prevention Plan which can be found under Appendix I. The Fraud and Corruption Prevention Plan consists of:

 The Focus Areas: the five focus areas including the components at risk under each focus area, as well as the manifestation of fraud/corruption of each component; and

 The Fraud and Corruption Risk Register containing all the risk manifestations and the recommendations to address each of these manifestations.

As indicated under the section dealing with Maintenance Strategies, Fraud and Corruption Risk Assessment need to be conducted on at least an annual basis and the Fraud and Corruption Prevention Plan updated.

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| **APPENDIX A: CODE OF CONDUCT FOR COUNCILLORS** |

**SCHEDULE 1**

**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’ cm council matters, including the performance of the municipality in terms of established indicators. In order to ensure that councillors fulfil 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

(c) 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) filing to remain in attendance at such a meeting.

(2) A councillor who is absent from three or more consecutives 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 time 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. (i) A councillor must -

4.4 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

4.5 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 councillors direct or indirect interest in the titter is trivial or irrelevant.

(ii) 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.

(iii) 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. (i) 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.

(ii) Except with the prior consent of the municipal council, a councillor may not-

(a) be a party to or beneficiary under a contract for-

(i) the provision of goods or services to the municipality; or

(ii) the performance of any work otherwise than as a councillor for the municipality

(b) obtain a financial interest in any business of the municipality: or

(c) for a fee or other consideration appear on behalf of any other person before the council or a committee.

(i) If more than one quarter of the councillors object to consent being given to a councillor in terms of sub item(2) such consent may only be given to the councillor with the approval of the MEC for the local government in the province.

**Declaration of interests**

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:

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, gift 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 or a 10 committee 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; 25

(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 35**

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. 45

(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 municipal council may-

a) investigate and make a finding on any alleged breach of a provision of this Code; or

b) establish a special committee- 5

(i) to investigate and make a finding on any alleged breach of this Code; and

(ii) to make appropriate recommendations to the council.

(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: 10

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 sub item (2) 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. 20

(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

C 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 sub item (3).

(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; 35

(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 40**

(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

the traditional leader's right to participate in the proceedings of the council. 50

(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.

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| **APPENDIX B: CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS** |

**Schedule 2**

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

[S 2 amended by S.29 of Act No. 44 of 2003]

Wording of Sections

**1. Definitions** – In this Schedule “**partner**” means a person who permanently lives with another person in a manner as if married

**2. General Conduct** – A staff member of a municipality must at all times -

a) loyally execute the lawful policies of the municipal council;

b) perform the functions of office in good faith, diligently, honestly and in a transparent manner;

c) act in such a way that the spirit, purport and objects of section 50 are promoted;

d) act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and

e) act impartially and treat all people, including other staff members, equally without favour or prejudice.

**3. Commitment to serving the public interest** – A staff member of a municipality is a public servant in a developmental local system, and must accordingly –

a) implement the provisions of section 50 (2);

b) foster a culture of commitment to serving the public and a collective sense of responsibility for performance in terms of standards and targets;

c) promote and seek to implement the basic values and principles of public administration described in section 195 (1) of the Constitution;

d) obtain copies of or information about the municipality’s integrated development plan, and far as possible within the ambit of the staff member’s job description, seek to implement the objectives set out in the integrated development plan, and achieve the performance targets set for each performance indicator;

e) participate in the overall performance management system for the municipality, as well as the staff member’s individual performance appraisal and reward system, if such exists, in order to maximise the ability of the municipality as a whole to achieve its objectives and improve the quality of life of its residents.

**4. Personal gain –**

(1) A staff member of a municipality may not -

a) use the position or privileges of a staff member, or confidential information obtained as a staff member, for private gain or to improperly benefit another person; or

b) take a decision on behalf of the municipality concerning a matter in which that staff member, or that staff member’s spouse, partner or business associate, has a direct or indirect personal or private business interest.

(2) Except with the prior consent of the council of a municipality a staff member of the municipality may not –

a) be a party to a contract for –

(i) the provision of goods or services to the municipality; or

(ii) the performance of any work for the municipality otherwise than as a staff member;

b) obtain a financial interest in any business of the municipality; or

c) be engaged in any business, trade or profession other than the work of the municipality.

**5. Disclosure of benefits.** -

(1) A staff member of a municipality 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 in writing full particulars of the benefit to the council.

(2) This item does not apply to a benefit which a staff member, or a spouse, partner, business associate or close family member, has or acquires in common with all other residents of the municipality.

**6. Unauthorised disclosure of information**-

(1) A staff member of a municipality may not without permission disclose any privileged or confidential information obtained as a staff member of the municipality to an unauthorised person.

(2) For the purpose of this item “privileged or confidential information” includes any information-

(a) determined by the municipal council or any structure of functionary of the municipality to be privileged or confidential;

(b) discussed in closed session by the council or a committee of the council;

(c) disclosure of which would violate a person‟s right to privacy; or

(d) declared to be privileged, confidential or secret in terms of any law.

(3) This item does not derogate from a person‟s right of access to information in

terms of national legislation.

**7. Undue influence** – A staff member of a municipality may not-

a) unduly influence or attempt to influence the council of the municipality, or a structure or functionary of the council, or a councillor, with a view to obtaining any appointment, promotion, privilege, advantage or benefit, or for a family member, friend or associate;

b) mislead or attempt to mislead the council, or a structure or functionary of the council, in its consideration of any matter; or

c) be involved in a business venture with a councillor without the prior written consent of the council of the municipality.

**8. Reward, gifts and favours. -**

(1) A staff of a municipality may not request, solicit or accept any reward, gift or favour for-

a) persuading the council of the municipality, or any structure or functionary of the council, with regard to the exercise of any power or the performance of any duty;

b) making a representation to the council, or any structure or functionary of the council;

c) disclosing any privileged or confidential information; or

d) doing or not doing anything within that staff member’s powers or duties.

(2) A staff member must without delay report to a superior official or to the speaker of council any offer which, if accepted by the staff member, would constitute a breach of sub item (1).

**9. Council property –** A staff member of a municipality may not use**,** take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that staff member has no right.

**10. Payment of arrears –** A staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from a staff member‟s salary after this period.

**11. Participation in elections** – A staff member of a municipality may not participate in an election of the council of the municipality, other than in an official capacity or pursuant to any constitutional right.

**12. Sexual harassment** – A staff member of a municipality may not embark on any action amounting to sexual harassment.

**13. Reporting duty of staff members** – Whenever a staff member of a municipality has reasonable grounds for believing that there has been a breach of this Code, the staff member must without delay report the matter to a superior officer or to the speaker of the council.

**14. Breaches of Code** – Breaches of this Code must be dealt with in terms of the disciplinary procedures of the Municipality envisaged in section 67 (1) (h) of this Act.

**15. Disciplinary steps** -

(1) A breach of this code is a ground for dismissal or other disciplinary steps against a staff member who has been found guilty of such a breach

(2) Such other disciplinary steps may include-

a) suspension without pay for no longer than three months;

b) demotion;

c) transfer to another post;

d) reduction in salary, allowances or other benefits; or

e) an appropriate fine

[Item 14A inserted by s.29 of Act No. 44 of 2003]

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| **APPENDIX C: FRAUD AND CORRUPTION RISK MANAGEMENT RESPONSIBILITY MATRIX** |

**FRAUD AND CORRUPTION RISK MANAGEMENT RESPONSIBILITY MATRIX**

| **RESPONSIBILTY** | **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. | Manager Internal Audit and Chairman of the Risk 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 | Municipal Manager | As required |
| Understand and monitor adherence with allocated responsibilities under this Responsibility Matrix | Municipal Manager – oversight by the Risk Management Committee | On-going |
| Conduct a review of the Anti-Fraud Strategy and Prevention Plan | Municipal Manager assisted by Line Management – oversight by the Risk Management 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 Risk Management Committee | Within six months of implementation of the Anti-Fraud and Corruption Strategy and Prevention Plan |
| Co-ordination of training including Fraud Awareness Training. | HR assisted by the Manager: Internal Audit and Risk Management Committee | As deemed appropriate |
| Ensuring Fraud Risk Assessments are conducted. | Municipal Manager assisted by Line Management – oversight by the Risk Management 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 Risk Management 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 Manager Internal Audit oversight by Risk Management Committee Committee | As required |
| Maintaining an appropriate recording, reporting and analysis system to ensure that all instances of suspected fraud are satisfactorily resolved. | Manager Internal Audit – oversight by Risk Management 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/ Council | As required |
| Ensuring that Municipal Manager is briefed on allegations of suspected fraud. | Internal Audit/Chairperson of Audit Committee/ Mayor/ | As required |
| Ensuring the MEC for local Government, Auditor 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. | Municipal Manager/Chairman of Audit Committee/Chairpersons of Municipal Councils | As required |
| Preservation of evidence and containment of loss in an investigation | Municipal Manager /  Investigating Manager | As required |
| Compilation of a written report to the Municipal Manager outlining circumstances and recommended remedial action following the investigation. | Investigator | As required |
| Providing details of the fraud or possible fraud to the Audit Committee. | Municipal Manager and Chairman of the Risk Management Committee | As required |
| Determination of whether incidents of fraud will be reported to Police | Municipal Manager | 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. | Municipal Manager 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 |
| Procuring the services of a Hotline Service Provider. | Municipal Manager | 2 months after implementations |

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| **APPENDIX D: DISCLOSURE FORM** |

**APPENDIX D**

**Disclosure Form**

**(Conflicts and Financial Interest)**

**Date of Disclosure : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Municipality : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Full Names : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Position : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Describe the nature of Interest disclosed:**

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**Directorships of companies/Memberships of Close Corporations being the subject of the disclosure (attach further particulars if space provided is not sufficient):**

|  |  |  |
| --- | --- | --- |
| **Name of Company/Close**  **Corporation** | **Company/Close**  **Corporation**  **Number** | **Physical Address of Company/Close**  **Corporation** |
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**SIGN AND DATE HERE:**

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**Signature Date**

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| **APPENDIX E: FRAUD RISK ASSESSMENT TOOLKIT** |

**FRAUD RISK ASSESSMENT TOOLKIT**

**INTRODUCTION**

This toolkit is an important part of any Fraud Prevention Plan/Anti-Fraud Strategy. The objective of this toolkit is to assist in evaluating the effectiveness and adequacy of existing controls, and to determine whether any additional controls are required.

The toolkit provides a range of **Fraud Risk Categories** and the **Inherent Risks** related to these categories. Furthermore, **Recommended Control Measures** are provided which would apply to the specific inherent fraud risk. These measures are not all-inclusive and need to be adapted, or others even added. This will be dependent on the particular circumstances and nature of the organisation

The **Fraud Risk Categories** and its related **Inherent Fraud Risks** and **Recommended Control Measures** can be added to this toolkit by simply adding in a new worksheet with the Fraud Risk Category indicated.

Fraud Risk Assessments should be conducted regularly to ensure that any Fraud Prevention Plans/Anti-Fraud Strategies are current and applicable.

**HOW TO USE THIS TOOLKIT**

1. Focus on one **Fraud Risk Category (Focus Area)** at a time (e.g. Procurement)
2. Consider all **Inherent Fraud Risks** in the first column. Add any others you can think of.
3. Consider each **Recommended Control Measure** separately.
4. Indicate in the third column whether or not that control is in place in your section.
5. Indicate in the fourth column how effective the **Recommended Control Measure** is.
6. Add any other **Recommended Control Measures** that may apply and use the same rating process.
7. Add up the **Risk Assessment rating of Control Measures** to provide you with the **Sum of the Risk Assessment Ratings.**
8. Calculate the **Average Fraud Risk** by dividing the **Sum of the Risk Assessment Ratings** by the number of **Recommended Control Measure**.
9. Transfer the **Average Fraud Risk Rating** to the **Overall Fraud Risk Rating worksheet**.
10. For each **Fraud Risk Category**, determine actions for those **Recommended Control Measures** that received a score of between 3 and 1. Carry these over to the **Fraud Prevention Plan worksheet**.

**RATING OF CONTROL MEASURES**

|  |  |  |  |
| --- | --- | --- | --- |
| **RATING** | **SIGNIFICANCE** | **DEFINITION** | **ACTION REQUIRED** |
| 1 | Unsatisfactory | Exposure to fraud is extremely hard | Priority issue- needs to be addressed urgently |
| 2 | Weak | Provides high opportunity for fraud | Immediate improvement required |
| 3 | Satisfactory | Provides a moderate opportunity for fraud | Improvement required |
| 4 | Good | Provides a low opportunity for fraud | None – but monitor |
| 5 | Very Good | Almost no opportunity for fraud | None |

**FRAUD RISK CATEGORY – HR RECRUITMENT**

|  |  |  |  |
| --- | --- | --- | --- |
| **Inherent Risk**  **(What can go wrong)** | **Recommended Control measures** | **Control measures In place** | **Risk Assessment rating of control measures** |

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Sum of Risk Assessment Ratings

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Average Fraud Risk \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Rating**

1 – Very Low

2 - Low

3 - Moderate

4 - High

5 – Very High

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| --- | --- |
| |  | | --- | | **Fraud Risk Category Average Fraud Risk** | |
|  |

FRAUD RISK CATEGORY - Procurement

FRAUD RISK CATEGORY - HR Recruitment

FRAUD RISK CATEGORY -

FRAUD RISK CATEGORY -

FRAUD RISK CATEGORY -

FRAUD RISK CATEGORY -

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Subtotal \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Total (Subtotal / number of Fraud Risk Categories) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**FRAUD PREVENTION PLAN**

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| --- | --- | --- | --- | --- |
| **Fraud Risk Category** | **Recommended Control Measures** | **Action Plan** | **Responsibility** | **Achieved By** |
|  |  |  |  |  |

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| **APPENDIX F: INVESTIGATIVE PROCEDURES** |

**INVESTIGATIVE 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 Risk 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 Risk 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 Risk 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.
8. The Chairman of the Risk 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 Risk Committee is to be submitted to the Audit Committee outlining details of any fraud or suspected fraud in the past period.

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| **APPENDIX G: GENERIC PREVENTION STRATEGIES FOR MUNICIPALITIES** |

**Generic Prevention Strategies for Municipalities**

| **Focus Area** | **Generic Strategies for all Municipalities** |
| --- | --- |
| **Human Resource** | * Institution of Employee Vetting for all new employees * Employee Vetting – graduated according to level of employee * Employee Vetting to include qualification vetting * All applications received are to be registered and acknowledgement letters sent to applicants * All interviews with prospective employees to be held by both line management and HR * Each person involved in interview, i.e. interviewer, must keep their own notes on the interview. These notes to be handled to HR and filed on the applicant’s file. * New appointments should be on a trial basis for 3 months before the appointment is confirmed * Appointments to be confirmed in writing, signed by the appointee and a copy of the appointment letter filed on a personal file to be created for each employee, new or old * New employees to be reminded of the Code of Conduct applicable to Municipal Officials, and to sign acknowledgement and they have read and understood the code as set out * Rules concerning overtime and travel should be spelled out and should be in the form of a written procedure as well as being part of the employee’s letter of appointment * Procedures applicable to the use of Municipal assets by employees should be spelt out and acknowledged by the new employee * Employees whose job specifications involve any form of decision making with regard to supply chain management or any form of expenditure authorisation, whether recent arrivals or not, should be obliged to complete a conflict of interest declaration. The declaration is to be reviewed on an annual basis and updated and monitored by HR * Payroll to be monitored and reconciled from month to month to avoid payment of ghost workers * Implement a policy regarding the acceptance of outside employment whilst working for the municipality * Regular comparison of employees to the list of directors of companies and members of closed corporation. |
| **Procurement** | * Implementation of whistle-blowing mechanism * All Tender Committee members to sign a Declaration of Interest form at the beginning of each meeting * Internal Audit to conduct post procurement award audit on tenders above R200 000 * Supplier vetting instituted * Implementation of declaration conflicts/interests * Tender procedure to be formalised and applied * Tender submissions to be accepted by at least two people or placed in a tender box * Tender Box to be locked at all times and submitted tenders are to be collected by two specifically authorised personnel – one person should not be able to open the tender box * All tenders received to be registered and filed for record purposes with the successful tender and the subsequent adjudication results * Procurement orders should be supported by the required number of quotations or authorised tender document * All quotations, including the successful quotes, are to be filed with the relevant copy order * All order materials are to be accepted at a central depot within the Municipality, either for offloading at the depot of for subsequent delivery to building or construction sites * Receipt of all delivered supplies and materials are to be signified by a goods received note generated by the central depot * Materials delivered following acceptance by the central depot are to be signed for by an authorised signatory at the remote location * No payments for any materials delivered are to be paid for without the signed goods received notes from both central and remote locations * No orders to be placed unless procurement procedures have been followed and any procurement official operating in any other manner is to subject to disciplinary action * No orders to be placed without a correctly authorised requisition * Implement a database of approved suppliers * Enforce separation of duties – requisitions, quotations, orders, receipts and payments * Regularly review orders placed by an individual – amounts, suppliers, etc. to identify, among others, splitting of orders |
| **Housing** | * RDP housing application lists to be registered * Applicants for RDP houses are to be subjected to the necessary means test * Means test are to be conducted regularly up to the time of allocations to ensure that applicants continue to qualify for RDP housing * All applicants for housing are to be entered into a register at the Municipal Offices and should be available for inspection by applicants * Applicants should be notified as to their position in the waiting list for houses or stands or this information should be immediately available to them from the Municipality Offices * Allocations of stands, whether performed by Provincial Authorities or by local Municipalities, should be checked against applicant registers to ensure that the applicant still qualifies, is still extant and still wishes to occupy the stand * Allocated stands may not be transferred or sold without Council authorisation for a period of at least 5 years following allocation * Building contractors to be appointed either jointly by the Province and the Municipality or by the Municipality * Quality assurance of buildings to be provided by the Municipality * Building contractors are only to be paid following submission of a progress certificate signed by an authorised building inspector * Completed houses to be handled over by the builder in the presence of the occupant and the Municipal inspector * Signed “Happy letter” to be collected by the Municipal Inspector and not by the building contractor * Building material purchased by the Municipality on behalf of contractors or residents are to be subject to strict receipt and issue controls and monitored accordingly by regular physical stock takes and reconciliation to financial records * Contractor certificated claims are to be reconciled to budgets prior to any payments being rendered |
| **Financial Systems** | * Debtors‟ ledger to be reconciled monthly with cash or payment receipts. Reconciliations to be signed off by the CFO * Daily cash receipts to be reconciled to daily bank deposit slips and signed off by a senior official * power and water meters are to be read monthly by officials and readings monitored from month to month, with exceptions being investigated * Meter inspectors to be re-routed on a regular basis to avoid the temptation of colluding with defaulting residents * Ledger accounts to be accessed by authorized personnel only * Audit trails to be installed and monitored to ensure only authorized access to system and authorized changes * Monthly management accounts to be produced within 15 days of month end * All ledger accounts to be reconciled monthly by the end of the month following * Bank reconciliations are to be performed monthly and signed off by senior finance official * Bank recons to be monitored by the CFO to ensure follow up and investigation of reconciling items * Recalcitrant debtors to be monitored and firm consistent action instituted * All payments to be correctly authorized prior to release of any cheques or electronic transfers * All payments to be made only against original invoices * Stringent control of unused receipt books |
| **Citizen complaints resolution** | * Implementation of a whistle-blowing mechanism * Implementation of a log to register all complaints – complainants to be provided with a reference number for follow-up purposes * Appointment of a specific senior official to be charged with monitoring complaints and their resolution * Contravention of legalization regarding the issue of liquor licenses, driving licenses, roadworthy certificates and collection of traffic fines to be monitored and taken up by the Municipal Manager with the relevant authorities |

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| **APPENDIX H: FRAUD AND CORRUPTION PREVENTION PLAN FOCUS AREAS** |

**1. FRAUD AND CORRUPTION PREVENTION PLAN FOCUS AREAS**

**1.1 Focus areas at Risk (Umdoni)**

An extensive exercise was conducted where 5 focus areas, deemed to be the areas where there is a high risk of fraud and corruption being prevalent, were considered. In this regard, the components and activities under each of these 5 focus areas considered to be the most at risk in terms of fraud were identified

| **Focus Area** | **Components** | **Manifestations** |
| --- | --- | --- |
| **HR Employment**  **Practices** |  Hiring of new employees   Application forms   Disciplinary hearings   Investigations   Ghost employees   Overtime   Qualification of employees |  Politicians and officials may be paid by job seekers for promising application success   Officials may sell application forms   Presiding officers accept bribes to influence the outcomes of disciplinary hearings   Investigations are manipulated to favour or victimize officials/employees   Officials create ghost employees for personal gain   Officials claim overtime without proper authorization   In order to secure employment with the Municipality, prospective employees may falsify their qualifications |
| **Procurement** |  Purchase of goods for delivery and use offsite   Direct purchases   Quotations |  Goods not received or utilized for personal purposes   Abuse of delivery system as goods not received centrally   Official manipulate the quotation process, e.g. confidential info to preferred suppliers |
|  |  Kickbacks from suppliers   Quality control   Credentials of tenderers   BEE Fronting   Municipal materials issued to contractors   Flouting tender procedures |  Officials receive rewards on award of tenders   Goods of inferior quality received yet charged at the better quality price   Tenderers falsify their qualification to be on tender list   Suppliers resort to fronting to obtain business   Irregular issue of materials to contractors who then charge the municipality   Tender procedures ignored by certain officials |
| **Housing** |  Sales of houses belonging to the municipality   RDP houses   Award of tenders for construction of RDP houses   Poor quality of RDP houses   Incomplete RDP houses |  Officials sell houses for personal gain   Irregular allocation of houses   Irregular award of tenders for the constructing of RDP houses   Officials certify poorly built houses possibly for a kickback from contractor   Contractors paid for houses not built or incomplete work |
| **Citizen Complaints**  **Resolution** | None identified |  |
| **Financial Systems** |  |  Officials bribed to show low meter readings for water and electricity   Diversion of payments from rate payers intentionally credited to the wrong accounts   Officials keep duplicate receipt books and pocket the money collected. Officials enter different amounts on the original receipt   Officials use municipal vehicles for private business   Officials misappropriate assets through manipulation of asset register   Officials sell assets without authorization   Officials may process duplicate payments   Officials may pass credit without supporting documentation   Officials solicit favours so that creditor invoices receive preferential payment   No control process in place |

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| **APPENDIX I: DETAILED FRAUD PREVENTION PLAN** |

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| **UMDONI LOCAL MUNICIPALITY**  logo | |
| **Department** |  |
| **Policy Name** | **Fraud Prevent Plan** |
| **Policy Number** |  |
| **Status**  **Date** | **Plan** |
| **Approved By** |  |
| **Date Approved** |  |
| **Date Last Amended** |  |
| **Date for Next Review** |  |
| **Date Published on Intranet & Website** |  |

**1 INTRODUCTION**

The Council of the UMdoni Local Municipality (“the Municipality”) is committed to the good and effective discharge of governance within the municipal areas that fall under their responsibility. It recognises that achieving the objectives of the Municipality requires effective control over all risks, including fraud.

The Municipality realises that, to achieve the objective of ensuring the provision of services to the community in a sustainable way, as required by the Constitution of the Republic of South Africa, it is important to take steps necessary to prevent fraudulent or irregular use of Municipal assets.

The Municipal Finance Management Act creates a responsibility on the part of Accounting Officers and other municipal officials to prevent irregular and unauthorised expenditure and losses resulting from criminal activity.

Accordingly, the Municipality is committed to the development and the implementation of a Fraud Prevention Plan.

In terms of the Municipality’s Anti-Corruption and Fraud Policy, fraud prevention is an ongoing activity that requires a sustainable approach. It is not something that we do once a year. It is something that we need to practice every day in our work and actions. Top management realise the need to prepare and implement a coherent strategy for the implementation of the various facets in order to effectively address the risk of fraud occurring within the organisation and the entities it controls. Management and employees must be constantly aware of the risk of fraud and must ensure that appropriate internal controls exist and are enforced. Fraud, by its very nature, cannot be completely eradicated, but management can take steps as part of the risk management initiative to make the organisation less vulnerable to fraud.

An effective Fraud Prevention Plan is one that is updated annually to work within the budgeted resources available. The specific initiatives to be undertaken must be rolled out by the relevant manager within the required timeframes. Initiatives will be changed, added or removed in line with the changing risk priority areas.

**2 OBJECTIVES**

The primary objective of the plan is the protection of the Municipality, its assets, stakeholders and its employees.

**3 OVERVIEW**

The relevant components of the Fraud Prevention Plan are set out below. Each element; how each element will be implemented and the responsibility and timing thereof are discussed in detail in this document.

1. Allocation of Responsibility for Implementation
2. Code of Conduct for Councillors
3. Code of Conduct for Employees
4. Fraud Risk Management Strategy
5. Fraud Risk Management Structure
6. Implementation of an Anti-Fraud Policy
7. Development of a Fraud Response Plan
8. Fraud Detection Reviews/Data Analytics
9. Fraud Risk Assessments
10. Implementation and Roll-out of a Whistle Blower/Reporting Mechanism for the Reporting of Fraud and Other Irregularities
11. The Roll-out of a Fraud Awareness Program for all Staff
12. Fraud Investigation and Remediation
13. Managing Conflicts of Interest/Gifts Policy
14. Information Management System
15. Promotion of Administrative Justice Act 3 of 2000 (“PAJA”)
16. Promotion of Access to Information Act 2 of 2000 (“PAIA”)
17. Personnel Suitability Checks

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| **Fraud Prevention Plan Components** | **Person(s) driving the process** | **Implementation date** | | | |
| **Q1** | **Q2** | **Q3** | **Q4** |
| **3.1 STEP 1 - ALLOCATION OF RESPONSIBILITY FOR IMPLEMENTATION** |  |  |  |  |  |
|  Assign roles and responsibilities for the oversight, planning, implementation and review of the anti-fraud processes. | Council |  |  |  |  |
|  Make resources available for the implementation of the anti-fraud programme. | Council |  |  |  |  |
| **3.2 STEP 2 - CODE OF CONDUCT FOR COUNCILLORS** |  |  |  |  |  |
|  Ensure all new Councillors acknowledge that they are aware of what is expected of them in terms of the Code of Conduct by signing an acknowledgement of receipt. | Speaker |  |  |  |  |
| **3.3 STEP 3 - CODE OF CONDUCT FOR EMPLOYEES** |  |  |  |  |  |
|  Include the Code of Conduct in the induction programme for all new employees. | Human Resources |  |  |  |  |
|  Ensure all employees officially acknowledge that they are aware of what is expected of them in terms of the Code of Conduct by signing an acknowledgement of receipt. | Human Resources |  |  |  |  |
| **3.4 STEP 4 - FRAUD RISK MANAGEMENT STRATEGY** |  |  |  |  |  |
|  Meet regularly to provide strategic plan and direction to the programme. | Municipal Manager |  |  |  |  |
|  Develop a structured monitoring mechanism for the keeping of proper records of the policies and procedures that are updated from time to time. | Auxiliary |  |  |  |  |
|  Develop a formal system whereby the performance of managers is appraised by taking into account fraud risk management goals and deliverables. | Human Resources |  |  |  |  |
|  Monitor the implementation of recommendations following investigations. | Municipal Manager |  |  |  |  |

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| **Fraud Prevention Plan Components** | **Person(s) driving the process** | **Q1** | **Q2** | **Q3** | **Q4** |
|  Communicate ethics and anti-fraud messages to the rest of the management team. | Internal Audit |  |  |  |  |
|  Asses and review ethics and anti-fraud programme. | Risk Committee |  |  |  |  |
|  Ensure that the Municipality has and maintains effective, efficient and transparent systems of financial and risk management and internal control | Municipal Manager |  |  |  |  |
| **3.5 STEP 5 - STRUCTURE** |  |  |  |  |  |
|  Ensure there is ongoing identification of weaknesses in the systems and processes and implement improvements where control weaknesses are identified. | Municipal Manager |  |  |  |  |
|  Mandate employee screening to be carried out by Human Resources across the Municipality’s new recruits. | Municipal Manager |  |  |  |  |

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| **3.6 STEP 6 - ANTI-FRAUD POLICY** |  |  |  |  |  |
|  Implement and roll-out an awareness campaign across all departments within the Municipality to advertise the policy. | Internal Audit |  |  |  |  |
|  Include the policy in the induction programme for all new employees. | Human Resources |  |  |  |  |
|  All employees and councillors in the Municipality must acknowledge, in writing, that they have read the policy and a record should be maintained thereof. | Legal & Estates |  |  |  |  |
|  Ensure that the policy is regularly reviewed and updated where necessary. | Internal Audit |  |  |  |  |

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| **Fraud Prevention Plan Components** | **Person(s) driving the process** | **Q1** | **Q2** | **Q3** | **Q4** |
| **3.7 STEP 7 - FRAUD RESPONSE PLAN** |  |  |  |  |  |
|  A Fraud Response Plan should be compiled in consultation with employees and Councillors providing the Municipality’s management with a step-by-step plan on how to respond to a fraud incident including roles and responsibilities. | Municipal Manager |  |  |  |  |
|  Formalise the Fraud Response Plan and circulate to management across the Municipality. | Municipal Manager |  |  |  |  |
|  Develop a road map for the implementation of the Fraud Response Plan, including training. | Municipal Manager |  |  |  |  |
|  Communicate the Fraud Response Plan to all employees. | Municipal Manager |  |  |  |  |
| **3.8 STEP 8 - FRAUD DETECTION REVIEWS / DATA ANALYTICS** |  |  |  |  |  |
|  Perform data analytics at pre-determined intervals in order to proactively identify any data anomalies which may be indicators/red flags of potential fraudulent activity. | Management |  |  |  |  |
| **3.9 STEP 9 - FRAUD RISK ASSESSMENT** |  |  |  |  |  |
|  Conduct a fraud risk assessment in collaboration with internal audit and those managing fraud risks within the departments. | Municipal Manager |  |  |  |  |
|  Implement a process for oversight of fraud risks by those charged with governance and include the Fraud Risk Management Committee and/or Risk Management Committee as group coordinator. | Chairperson Risk Committee |  |  |  |  |
|  Ensure all investigations identify root causes and control weaknesses for remediation. | Council /  Municipal Manager |  |  |  |  |

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| **Fraud Prevention Plan Components** | **Person(s) driving the process** | **Q1** | **Q2** | **Q3** | **Q4** |
|  Communicate results of the fraud risk assessment with those managing fraud risks within the departments. | Internal Audit |  |  |  |  |
|  Formulate a strategy to communicate to all Heads of Department that they are responsible for managing fraud risks within their areas of responsibility. | Internal Audit |  |  |  |  |
|  Establish and document the processes to be used to regularly identify significant fraud risks to which the Municipality is exposed. | Internal Audit |  |  |  |  |
|  Compile a Fraud Risk Register that is regularly reviewed and updated. | Internal Audit |  |  |  |  |
|  Formalise and approve a Whistle-Blower Policy that includes relevant aspects of the Protected Disclosures Act and other focussed legislation and regulations. | Internal Audit |  |  |  |  |
|  Regularly communicate the Whistle-Blower Policy to employees. | Internal Audit |  |  |  |  |
|  Include the Whistle-Blower Policy in the induction process for new joiners. | Human Resources |  |  |  |  |
|  Ensure that employees are made aware of the types of issues to report as well as the anonymity and protection of whistle-blowers. | Internal Audit |  |  |  |  |
|  Display posters and advertising material within the Municipality with relevant contact details and key elements of the policy. | Communications / Public Participation |  |  |  |  |
|  Ensure that the municipality’s vehicles are branded with the whistle blowing hotline number. | Communications |  |  |  |  |
|  Ensure that the whistle blowing number is written to the billing accounts of customers. | Chief Financial Officer |  |  |  |  |
|  Conduct regular awareness campaigns in all departments. | Internal Audit |  |  |  |  |
|  Ensure that all emails of officials have a fraud hotline number. | Communications |  |  |  |  |
|  Monitor effectiveness of the hotline in terms of reports received and level of awareness. | Internal Audit / Risk Committee |  |  |  |  |

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| **Fraud Prevention Plan Components** | **Person(s) driving the process** | **Q1** | **Q2** | **Q3** | **Q4** |
|  Provide feedback to whistle-blowers in order to assure them that all allegations of unethical conduct, fraud and corruption will be investigated. | Municipal Manager |  |  |  |  |
| **3.11 STEP 11 - FRAUD AWARENESS AND ROLL-OUT PROGRAMME** |  |  |  |  |  |
|  Develop an annual training plan at the beginning of each year in order to ensure that the needs of all employees are adequately addressed. Communicate this annual training plan to the entire organisation once it has been developed. | Human Resources |  |  |  |  |
|  Define roles, responsibilities and timeframes for delivery of the fraud awareness programme and ensure that performance is measured against these deliverables. | Municipal Manager |  |  |  |  |
|  Implement a structured monitoring mechanism in consultation with HR, in order to assist the Municipality to keep a record of all staff members that have undergone the relevant fraud prevention and awareness training. | Internal Audit |  |  |  |  |
|  Incorporate fraud awareness training into the induction program for all new employees. | Human Resources |  |  |  |  |
|  Communicate specific disciplinary steps and forbidden conduct to all employees and Councillors and implement ongoing training of managers in the application of disciplinary measures. | Human Resources |  |  |  |  |
| **3.12 STEP 12 - FRAUD INVESTIGATIONS AND REMEDIATION** |  |  |  |  |  |
|  Implement a case management system to record and monitor all investigations. | Legal & Estates / Internal Audit |  |  |  |  |
|  Perform regular quality reviews on investigators files and reports. | Internal Audit |  |  |  |  |

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| **Fraud Prevention Plan Components** | **Person(s) driving the process** | **Q1** | **Q2** | **Q3** | **Q4** |
|  Ensure that internal and external investigators have the necessary skills and experience to conduct fraud and corruption investigations. | Legal & Estate /  Internal Audit |  |  |  |  |
| **3.13 STEP 13 - MANAGING CONFLICTS OF INTEREST/ GIFT POLICY** |  |  |  |  |  |
|  Ensure that all senior managers and Councillors within the Municipality sign an annual Declaration of Interest at the beginning of each year and a record thereof shall be maintained. | Legal & Estate |  |  |  |  |
|  Ensure that all employees and Councillors are required to sign a Declaration of Interest form at the commencement of a meeting wherein conflicts may arise. | Chairpersons of Meetings |  |  |  |  |
|  Ensure that officials are checked with Companies and Intellectual Property Commission whether they do not have companies doing business with the Municipality and that such companies have been declared. | Internal Audit |  |  |  |  |
|  Ensure that in the event that a conflict of interest arises, the relevant employee shall be required to recuse himself/herself from any process where a decision is taken that may result in or give the appearance of improper personal benefit. | Chairpersons of Meetings |  |  |  |  |
|  Implement a gift policy in order to ensure that both the acceptance and offering of business courtesies, including gifts, by all employees of the Municipality occurs only within the ethical standards as prescribed by the Municipality. | Municipal Manager |  |  |  |  |
| **3.14 STEP 14 - INFORMATION MANAGEMENT SYSTEM** |  |  |  |  |  |
|  Regularly assess the physical security, information security and access control of Umdoni Municipality’s offices and systems and implement improvements where control weaknesses are identified. | IT |  |  |  |  |
|  Develop, implement and monitor a process for ensuring compliance with the Information Technology, Internet, Cell phone and Telephone Usage, and Access Control policies. | IT |  |  |  |  |

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| **Fraud Prevention Plan Components** | **Person(s) driving the process** | **Q1** | **Q2** | **Q3** | **Q4** |
|  Regularly communicate to all employees and Councillors the content of the Information Technology, Internet, Cell phone and Telephone Usage, and Access Control policies. | IT |  |  |  |  |
|  Perform regular detailed reviews of the physical security arrangements at Umdoni Municipality’s offices and other sites and improve weaknesses identified. A specific focus area will be security over infrastructure, assets and staff. | IT |  |  |  |  |
|  Provide training to all employees and Councillors at defined intervals in relation to information security management. | IT |  |  |  |  |
|  Ensure that before taking a decision, the Municipality management will give people whose rights may be affected:  o Proper notice of what they plan to do; and  o Enough time for people to make representations. | Municipal Manager |  |  |  |  |
|  Municipal management will consider these representations before taking any decision. After taking a decision, Municipal management will give anyone whose rights have been affected:   * A clear statement of what they decided; * Notice of any right to review or internal appeal; and * Notice that they can request reasons for the decision. | Municipal Manager |  |  |  |  |

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| **Fraud Prevention Plan Components** | **Person(s) driving the process** | **Q1** | **Q2** | **Q3** | **Q4** |
| **3.16 STEP 16 - PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 (‘PAIA’)** | |  |  |  |  |
|  Appoint an information officer to handle requests for access to information. | Municipal Manager |  |  |  |  |
|  Compile and make available a manual and/or policy relating to the access of information which includes information on the following:   * Instructions on how to request access to records; * A description of the services offered; and * The remedies available if the Municipality does not fulfil its functions. | Auxiliary |  |  |  |  |
| **3.17 STEP 17 - PERSONNEL SUITABILITY CHECKS** | |  |  |  |  |
|  Ensure that when advertising posts, the Municipality will include the following provisions:   * That only individuals with the highest levels of personal integrity will be considered; and * Submissions to appropriate pre-employment screening processes are obligatory for consideration in any post. | Human Resources |  |  |  |  |
|  Conduct thorough pre-employment screening including criminal records checks for all employees joining the employ of the Municipality. | Human Resources |  |  |  |  |
|  Include in the employee induction information pertaining to the Municipality, integrity, ethics and conduct standards, including contract workers. | Human Resources |  |  |  |  |
|  Implement a policy obliging all employees to take annual leave. | Human Resources |  |  |  |  |
|  Implement controls whereby managers monitor and supervise instances where employees do not take leave for extended periods of time due to work commitments. | Human Resources |  |  |  |  |
| **Fraud Prevention Plan Components** | **Person(s) driving the process** |  |  |  |  |
|  Implement a process to ensure that municipal assets are returned promptly by employees leaving the employment of the Municipality. | Human Resources |  |  |  |  |
|  Develop an exit interview process which is aimed at identification of employment condition-related weaknesses, e.g. salary structure and management style. This process will also include assessment of the perceptions of the integrity, ethics and conduct standards within the Municipality. | Human Resources |  |  |  |  |