

SWELLENDAM MUNICIPALITY



ANTI CORRUPTION AND WHISTLE BLOW POLICY AND STRATEGY, 2016

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DEFINITIONS

“Accounting Officer” means the Municipal Manager referred to in Section 60 of the MFMA;

“Councillor” means a member of the Swellendam Municipality;

“Chief Financial Officer” means a Chief Financial Officer designated in terms of Section 80 (2) (a) of the MFMA;

“Designated official” means the individuals identified in a Municipality to receive reports of allegations of financial offences against councillors, currently the Municipal Manager, Speaker and Executive Mayor in terms of the terms of reference of the disciplinary board on financial misconduct;

“Disciplinary board” means a disciplinary board established in terms of paragraph 4 of Regulations on financial misconduct, 2014;

“Internal Audit” The Institute of Internal Auditors defines internal audit as an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. The Internal Audit unit will evaluate and contribute to the improvement of risk management, control and governance systems through the annual internal audit programme and surprise audits;

“Investigator” means the disciplinary board, treasury, person or team conducting a full investigation in terms of paragraph 5 of Regulations on financial misconduct, 2014;

“Management” includes the Senior Management in terms of section 56 of the MSA and include Managers on the first three levels of the organisational structure;

“MFMA” means the Municipal Finance Management Act, 2003 (Act 56 of 2003);

“Staff” any employee not considered as Management, which is a full-time employee, an individual seconded or contracted to the Municipality in his / her personal capacity;

“Whistle-blower” any employee, ratepayer, member of the public or provider of goods and / or services or any other person reporting corruption in terms of this policy;

DESCRIPTION OF FRAUD AND CORRUPTION

The following definitions summarises the act of corruption and fraud to be dealt with in terms of this policy:

“Abuse of power / discretion” this involves for example a Municipal official using his or her vested authority to improperly benefit another Municipal official, person or entity (or using vested authority to improperly discriminate against another Municipal official, person or entity).

“Abuse of privileged information misconduct” this inter alia involves the use of privileged information and knowledge that a Municipal official or councillor possesses as a result of his or her office to provide unfair advantage to another person or entity to obtain a benefit, or to accrue a benefit to him or herself.

“Act of failure” omitting to report or refusing to report or act upon reports of any such irregular or dishonest conduct.

“Billing fraud” occurs when suppliers of goods and services to a Municipality overcharge or otherwise produce false invoices, and payment is secured on those with the help of an employee.

“Bribery” is the bestowing of a benefit in order to unduly influence a decision or action. It can be initiated by a person who seeks or solicits bribes or by a person who offers and then pays bribes. Bribery is the most common form of corruption. The ‘benefit’ of bribery can be virtually any inducement: money and valuables, company shares, inside information, sexual or other favours. Once bribery has occurred, it can lead to other forms of corruption. Public sector bribery can target any individual who has the power to make decisions or to take an action affecting others and is willing to resort to bribery to influence the outcome of that decision.

“Cheating” this type of corruption is usually perpetrated by an individual or a group of individuals who are out to influence or distort the truth for their selfish gains, e.g. taking leave without completing an application therefor.

“Fraud” is the unlawful and intentional making of a misrepresentation / deceit resulting in actual or potential prejudice to the Municipality and include; Financial Statement fraud, cheque fraud, conflict of interest, gifts and Electronic Fund Transfer fraud.

‘Collusion’ means conspiring with others by staff/councillors/bidders/suppliers especially in planning fraud or conniving and entering into secret agreement for wrongful and improper purposes.

“Conflict of interest” this involves a Municipal official failing to disclose within a reasonable time in writing to the Municipal manager:

- (a) full particulars of any benefit / purchase by an official that he / she might have received from a supplier of goods and services, and / or any interest that his / her spouse, partner or close family member stands to acquire from any contract / friendship concluded with a supplier of goods and services of the Municipality;
- (b) all relationships / friendships with any supplier of goods and services to Theewaterskloof Municipality;- and
- (c) any private business / venture that any employee is involved in.

“Conspiracy” any person who unlawfully and intentionally conspires with any other person to aid or procure a commission from or to commit any offence, whether at common law or against statute or a statutory regulation, shall be guilty of an offence and liable on conviction to the punishment to which the person convicted of actually committing offence would be liable.

“Corporate corruption / theft” this occurs in relationships between officials and the suppliers or clients, when officials use the Municipal resources / contracts for private gain, at the expense of the Municipality.

“Corruption” could be summarised as giving or offering; receiving or agreeing to receive; obtaining or attempting to obtain any benefit which is not legally due to, or by a person who has been charged with a duty or power by virtue of any employment, to do any act or omit to any act in relation to that power or duty.

“Cronyism” it is the practice of appointing friends to high-level, especially political posts regardless of their suitability.

“Embezzlement” this is a form of theft. It is the appropriation of someone else’s property that is already in your possession or control. It is something referred to as theft by conversion in that someone else’s property is converted into your own private use e.g. False accounting entries, Unauthorized withdrawals, Unauthorized disbursements, Paying personal expenses from bank funds, Unrecorded cash payments, Theft of physical property, and Moving money from dormant accounts.

“Equipment or resources misconduct” where the Municipality’s equipment is used for personal benefit and include;

- (a) Personal use of Municipal or vehicles hired by the Municipality;
- (b) Theft of any equipment and or material or other items; and
- (c) Irregular / unauthorised destruction, removal or abuse of records (including intellectual property) and equipment.

“Ethical” being in accordance with the accepted principles of right and wrong that govern the conduct of a profession e.g. good, just, fitting, fair, responsible, principled, correct, decent, proper, upright, honourable, honest, righteous and virtuous. The Municipalities policy on Ethical behaviour must be red with the policy.

“Extortion” is committed when a person unlawfully and intentionally obtains some advantage which is not due to him from another by subjecting the latter to pressure which induces him to hand over the advantage. It could also be used to coerce individuals into ‘cooperating’ in a particular manner or towards a specific cause.

“Favouritism / discrimination” it is the practice of giving special treatment to a person or a group of people. This involves the provision of services or resources according to personal affiliation (for example; ethics, religious, gender, geographical factors, political or other affiliations).

“Forgery” is the unlawful and intentional making of a false document with intent to defraud which can include cheques and handwritten receipts.

“Financial misconduct” to be read with sections 170 to 173 of the MFMA and the description of financial misconduct and financial offences as defined in the MFMA and the regulations on financial misconduct, 2014, and where individuals or companies have fraudulently obtained money from the Municipality by:

- (a) Making profit from insider knowledge;
- (b) Irregular conspiracy in awarding contracts or orders for goods and / or services;
- (c) Suppliers submitting invalid invoices or invoicing for work not done;
- (d) Revenue fraud; and
- (e) Theft or improperly handling or reporting of monies or financial transactions.

“Forms of Corruption” as described in these definitions are by no means exhaustive as corruption appears in many forms and it is virtually impossible to list all of them.

“Friendship” is a form of interpersonal relationship generally considered to be closer than association / colleagues. For this purpose it would mean people connecting/communicating/spending time with one another after office hours as friends.

“Looting / robbing” this is when an individual is involved in the illegal and illegitimate transfer / handover of money or goods from the Municipality or the Municipal bank account to another company / individual. Looting may also take the form of diversion of goods and services from an intended destination to another (un-intended one). An example of this type of corruption is where suppliers or contractors collude with staff to be paid for goods and services that were never delivered.

“Maladministration” is a political term which describes the actions of a government body which can be seen as causing an injustice. Municipalities can only investigate “maladministration causing injustice”. Complaints can be considered about the way a decision was taken by Council, but cannot ignore the decision, only because the person complaining does not agree with it. It also means that the person complaining must have suffered an “injustice” as a result of the faulty decision-making process. Maladministration can include; delays, incorrect action or failure to take any action, failure to follow procedures or the law, failure to provide information, Inadequate record-keeping, failure to investigate, failure to reply, misleading or inaccurate statements, inadequate liaison, inadequate consultation, or broken promises.

“Malpractice” improper / refusal or unethical conduct or unreasonable lack of skill by a holder of a professional or official position; such as engineers, lawyers, and professional public / Municipal officers / staff to stand for negligent or un-skillful performance of duties when professional skills are obligatory / compulsory. Malpractice is a cause of action or no action, by an official or councillor for which damages/claims to the Municipality are occurred / allowed / claimed.

“Misappropriation” is:

- (a) A non-violent criminal taking of property which includes embezzlement, theft, and fraud. Often applied to a staff member’s taking of an employer’s property such as stationary, fuel, tools and equipment.
- (b) Taking / using what belongs to someone else like Municipal quotes and tenders and using it unfairly for one's own gain; for example, or using your position with suppliers for own gain.
- (c) To use wrongly or improperly. In terms of copyright, it is the act of theft or improper use of intellectual property for financial or personal gain.
- (d) Often called unfair competition. A common law form of unfair competition in which an individual or firm copies or appropriates some creation of another that is not protected by patent, copyright, or trademark law, or any other traditional theory of exclusive rights.

“Misconduct” includes all the definitions mentioned in this policy and also means to act badly or dishonestly or improperly and / or to manage the activities of the Municipality poorly.

“Nepotism” When a Municipal official or councillor uses his influence to ensure that family members or friends or partners are appointed into any Municipal vacancies or that family members or friends or partners receive contracts from the Municipality, is it regarded as nepotism.

“Other misconduct” activities undertaken by the staff or councillors of the Municipality which may be unlawful and against the Municipality’s regulations or policies, or drop below established

standard or practices and result in improper conduct can also be dealt with in terms of this policy and include receiving gifts and favours for rendering services;

“Patronage” systems consist of the granting favours, contracts, or appointments to positions by a local public office holder or candidate for a political office in return for political support. Many times patronage is used to gain support and votes in elections or in passing legislation. Patronage systems disregard the formal rules of a local government and use personal instead of formalized channels to gain an advantage.

“Petty corruption” is common in very normal day-to-day interactions and relations in society. It usually involves small gifts, favours or bribes. However, small as petty corruption may sound, its destructive power is as bad as grand corruption due to its pervasiveness in society and due to its apparent appearance as ‘harmless’. It is therefore possible for many people to dismiss it and think its consequences are not destructive to a society e.g. fast-track the delivery of essential services e.g. issuing of a certificate, payment, building plan approval, receipt, or driving license.

“Political corruption” involves councillors seeking bribes or other rewards for their own political or personal benefit in return for political favours to their supporters at the expense of the public interest.

“Systemic Corruption” is when corruption becomes accepted as the ‘norm’ and as part and parcel of the procedures of running public affairs of a Municipality or a society at large. A common manifestation of systemic corruption in our country is the frequent bribes by offenders to traffic police officers either to ignore the lack of road worthiness, or over-loading, or over-speeding.

“Systems misconduct” where a process / system exists which is prone to abuse by either staff or the public, e.g.:

- (a) Misadministration or financial misconduct in handling or reporting of money, financial transactions or assets;
- (b) Conspiracy in allocation of housing;
- (c) Disclosing confidential or proprietary information to outside parties; and
- (d) Irregular approval in the writing off of bad debt;
- (e) Destruction, removal, or inappropriate use of records, furniture, vehicles, fixtures, and equipment.
- (f) Accepting or seeking anything of material value from contractors, vendors, or persons providing services / materials to the Municipality.

“Theft” is the unlawful and intentional misappropriation / misuse / stealing / fiddling / embezzlement of Municipal property with the intention to deprive the Municipality of its right permanently.

“Trans-active corruption” arises from dealings between an official and a supplier of goods and services. It may occur when particular officials want to enrich themselves at the expense of the Municipality. For instance, when an official colludes with a supplier of uniforms and the latter supplies goods of substandard quality to the Municipality at an inflated cost so that they not only share the profits but also so that colleagues get poor quality uniforms, then trans-active corruption is said to have taken place.

“Unethical” not conforming to approved standards of social or professional behaviour e.g. immoral, wrong, improper, illegal, dirty, unfair, shady (informal), dishonest, unscrupulous, under-the-table, unprofessional, disreputable, underhand, unprincipled, dishonourable.

1. ANTI-CORRUPTION STRATEGY

- 1.1. The following document outlines the Anti-Corruption Strategy of Swellendam Municipality and is applicable to all employees, stakeholders, contractors, suppliers, service providers, consultants, clients and councillors of the Swellendam Municipality.
- 1.2. This Strategy must be read together with, and be interpreted consistently with, the other relevant legislation including but not restricted to:
 - (a) The Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)
 - (b) The Promotion of Access to Information Act (No. 2 of 2000)
 - (c) The Promotion of Administrative Justice Act (No. 3 of 2000)
 - (d) The Protected Disclosures Act (PDA) (No. 26 of 2000)
 - (e) The Public Finance Management Act (PFMA) (No. 1 Of 1999)
 - (f) The Municipal Finance Management Act (MFMA) (No. 56 2003)
 - (g) The Financial Intelligence Centre Act (FICA) (no. 38 of 2001)
 - (h) The MFMA Regulation on Financial Misconduct (no.430 of 2014)
 - (g) The Code of Conduct for Municipal Councillors in terms of schedule 1 of the MSA
 - (h) The Code of Conduct for Municipal officials in terms of schedule 2 of the MSA
 - (i) The Swellendam Municipal code of Ethics.
- 1.3. The Anti-Corruption Strategy requires that all staff members and councillors at all times act with honesty, integrity and to safeguard the Municipal resources for which they are responsible for. Fraud and Corruption are ever-present threats to these resources and hence must be a concern to all members of staff.
- 1.4 This Strategy comprises of a Policy Statement (2.2), Prevention Plan (3) and a Response Plan (4).

2. ANTI-CORRUPTION POLICY

2.1 Scope of the policy and application

This policy covers all matters relating to the prevention, detection, investigation and resolution of fraud and corruption in the Municipality. It applies to all councillors, stakeholders, contractors, suppliers, service providers, consultants, clients and staff of the Municipality.

2.2 Policy Statement

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

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

It is the responsibility of all employees to report all incidents of fraud and corruption that may come to his / her attention to his / her supervisor. Alternatively, such reports can be made by way

of submitting a report through the prescribed whistle blowing mechanisms e.g. fraud hotline, unanimous letter or informing the Municipal Manager or Executive Mayor.

Councillors, staff members and the public is encouraged to report any alleged incident of fraud and corruption.

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, and prevention of fraud and corruption, within their areas of responsibility.

2.3 Financial misconduct and reporting procedures

In terms of Regulation 17 (1) of the Regulations for Financial Misconduct and Offences, 2014 the council has established reporting procedures for persons to report allegations of financial misconduct and financial offences on a confidential basis. These procedures have been published and is available on the Municipal website. This policy must be read in conjunction with the reporting procedures and the Regulations for Financial Misconduct referred to above.

2.4 Report fraud and corruption

What should a councillor, staff member or a member of public do if he / she suspects fraud or corruption?

- (a) In terms of the MFMA Regulations on Financial Misconduct (no.430 of 2014); any person must report an allegation of financial misconduct against-
 - (i) the accounting officer, a senior manager or the chief financial officer of a Municipality, to the Municipal council of the Municipality, the Provincial treasury and the National treasury;
 - (ii) an official of a Municipality, other than its accounting officer, to that accounting officer;
- (b) Should a councillor, staff or member of the public wish to report allegations of fraud or corruption anonymously, they can also contact or write to any member of management, the Municipal Manager, Executive Mayor, the Speaker or Internal Audit or uses the national fraud hotline – 0800 701 701.

2.5 Protection of Whistle Blowers

2.5.1 A whistleblower who reports suspected fraud and / or corruption may remain anonymous should he / she so desire. Concerns expressed anonymously are difficult to investigate; nevertheless they will be followed up at the discretion of the Municipal Manager, Executive Mayor or Speaker as the case maybe. This discretion will be applied by taking into account the following: the seriousness of the issue raised; the credibility of the concern; and the likelihood of confirming the allegation.

2.5.2 No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and corruption which occurred within the Municipality. This may include: *Harassment or victimisation*. The Municipality acknowledges the fact that the decision to report possible crime can be a difficult one to make, not least because of fear of revenge from those responsible for the irregularity. The Municipality will not tolerate harassment or victimisation and will take action to protect employees when they raise a concern in good faith. This does not mean that if an employee is already the subject of disciplinary or other action, that action will be halted as a result of their whistle blowing.

Confidentiality: The Municipality will do its best to protect an individual's identity when he / she raises a concern and does not want their identity to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the whistle blower may be required as part of the evidence.

2.5.3 All whistle blowers must refrain from making allegations which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations must be subjected to firm disciplinary, or other appropriate action, which action will be without prejudice of the accused person's rights.

3. ANTI-CORRUPTION PREVENTION PLAN

Despite the best efforts of those responsible for preventing fraud and corruption is that, one inevitable reality remains: "it happens." Because fraud and corruption can occur at various levels in any Municipality, it is essential that appropriate preventive and detective techniques are in place.

3.1 The purpose of the prevention plan is:

The following prevention plan is hereby approved:

- (a) To ensure that Municipality is in compliance with the Municipal Systems Act, Act No. 32 of 2000 which requires the Municipality, amongst other things to develop and adopt appropriate systems and procedures that contribute to effective and efficient management of the Municipality and its resources;

<u>What and how</u>	<u>By Whom</u>	<u>Timeframe</u>
Developing standard operating procedures (SOP) for all processes and services involving the receiving or payments of money, and for the monthly IT control processes that can be followed by staff, for new appointments and internal audit to understand the processes.	Director Financial Services	Continuously
Ensuring that job descriptions is completed for all positions. Ensuring segregation of duties.	Municipal Manager and All Directors within their area of responsibility. Assistance from HR	Continuously
Keeping evidence of interviews with staff	HR	Continuously
Keeping a formal system of delegations and keep a record of all decisions taken in terms thereof.	Municipal Manager and All Directors within their area of responsibility as well as other delegates	Continuously
Keeping evidence of vetting of staff for appointments, Pre-employment screening should be carried out for all appointments, and evidence of such screening will be maintained by HR. Consideration must be given to the following pre-employment screening: <ul style="list-style-type: none"> • Verification of identity. • Police criminal history. • Reference checks with the two most 	HR	Continuously

<p>recent employers.</p> <ul style="list-style-type: none"> • A consideration of any gaps in employment history and the reasons for those gaps. • Verification of formal qualifications claimed. • Categories of Misconduct in terms of schedule 2 of the Local Government: Regulations on appointment and conditions of employment of senior managers - 2014. 		
Reassess, after an incident, the adequacy of the current internal controls (particularly those directly impacting on the fraud incident) for improvements.	Municipal Manager, Directors, Line Managers, Supervisors and Internal Audit	When necessary
Keeping evidence of the IT section securing the municipal information systems from intruders gaining access to systems and data (hacking).	Manager Information Technology	Continuously
Keeping evidence of the debtors, creditor clerks and cashiers trained on fraudulent checks and banknotes.	HR	On appointment and when needed

(b) To ensure compliance section 112 (m) and 155 (b) of the Municipal Finance Management Act No. 56 of 2003 which requires the Municipality to implement measures for combating fraud, corruption, favouritism and unfair and irregular practices and promoting ethics of officials and other role players involved in the SCM and other matters of the Municipality;

How	By whom	When
Ensuring compliance with paragraph 11.8.1 of the SCM policy by keeping an updated register of gifts over the value of R350-00 and requiring that all gifts from suppliers or clients up to the value of R350.00 be declared by all staff.	Manager SCM	Monthly report from all departments to SCM – even a zero report
Ensuring compliance with paragraph 11.8.2 of the SCM policy by alerting employees on the risks involved to accept gifts and to create a culture of cautiousness in respect of gifts and favours.	Manager SCM	Quarterly newsletter item for internal newsletter
	MM and directors	Standing item on monthly agendas of meetings
Ensuring compliance with paragraph 11.8.3 of the SCM policy by officials of the stipulation not to accept gifts over R350-00 without prior approval of the AO.	Manager SCM	Quarterly newsletter item for internal newsletter
Keeping evidence of Staff serving on the	Manager SCM	Every meeting

BAC, BSC and BEC to disclose their private business interests regularly.		
Review of SCM policy	Manager SCM	Annually
Review of IT Policy.	Manager IT	Annually
Review of Risk management Policy	Internal Auditor	Annually
Keep staff informed on ethics policy and amendments to code of conduct	Director Corporate Services	Annually
Keeping evidence of creating an appreciative work environment and acknowledge good work.	Municipal Manager, Directors, Line Managers and Supervisors.	Annual performance review
Keeping evidence of suppliers declaring their relationships (friends, family or acquaintances), if any or none, with officials and/or councillors as well as the previous completed contracts with the municipality.	Manager SCM	Annually

- (c) To commit the Municipality to ensure a zero tolerance policy that results in the detection, investigation and sanctioning, including prosecution, of individuals who are alleged to be involved in acts of fraud, corruption and theft within Swellendam Municipality;

How	By whom	When
By displaying the Fraud and Corruption Policy Statement on the municipal website, and on other notice boards.	Municipal Manager, Directors, Line Managers and Supervisors	Continuously
By having a system where Fraud and Corruption can be reported unanimously.	Municipal Manager	Continuously
By having consultation and open discussions on these topics of fraud and corruption.	Municipal Manager, Directors, Line Managers and Supervisors	Monthly standing item on all agendas
By having Internal Audit to conduct surprise audits: on cash received, material in stock, as well as manual and computerised controls throughout the year,	Internal Audit	When necessary
By having Internal Audit to conduct post-transaction reviews of transactions after they have been identified.	Internal Audit	When necessary

By having Internal Audit to conduct forensic data analysis using software applications during internal audits, surprise audits and to research the continuous data audit techniques available to assist in detecting any possible fraud and corruption.	Internal Audit	When necessary
By having Internal Audit to conduct Management accounting reviews: analysing the trends on accounting reports, focussing on; <ul style="list-style-type: none"> • Budget reports; • Reports on expenditure; and • Reports on doubtful debts. 	Internal Audit	When necessary

- (d) To promote sound governance and management practices that prevent, minimise and defend the Municipality against acts of fraud and corruption;

Having regular discussions on values and ethics.	Municipal Manager, Directors, Line Managers and Supervisors	Continuously
2. By undertaking regular fraud risk assessments in critical areas,	Internal Audit will conduct fraud and corruption risk assessments to identify potential fraud and corruption risk exposures to the Municipality.	Continuously

- (e) To promote a proactive, fraud intolerant culture within the Municipality through increased awareness and vigilance among councillors and staff of the Municipality. Employee awareness of the Municipality's Anti-Fraud and Corruption Strategy, Code of Conduct, Whistleblowing policy and the manifestation of fraud and corruption in the workplace will assist in the creation of an environment which may be considered to be hostile to a would-be transgressor;

By empowering the staff through training on this policy, the code of conduct, and whistle blowing.	HR	Continuously.
By empowering Councillors, through training on this policy, the code of conduct, and whistle blowing.	Speaker's office.	Continuously.
The Anti-Corruption / Fraud Policy will be emailed to all staff with access to the computer network and to all councillors.	Director Corporate Services.	When approved and on revision.

Publicity will be given by articles in the internal newsletter.	Director Corporate Services.	Continuously.
It will be a standing item on all monthly agendas of all departments and units within the municipality	Senior Management.	Monthly.
By having The Anti-Corruption / Fraud Policy available to personnel.	Senior Management	Continuously.
By having The Anti-Corruption / Fraud Policy available to Councillors.	Speaker	Continuously.

- (f) To reduce the losses that the Municipality may incur due to the occurrence of fraud, corruption and theft. Internal controls are the first line of defence against fraud and corruption. While internal controls may not fully protect the Municipality against fraud and corruption, they are essential elements in the overall Anti-Fraud and Corruption Strategy;

By purchasing only what is needed and not to stock-pile the surplus,	SCM and supervisors in control of remote stores	Continuously
By having registers where staff will sign for material or tools,	Line Managers and supervisors	Continuously
By ensuring adequately and sufficient insurance coverage,	Budget office	Continuously
4. by ensuring the segregation of duties,	Municipal Manager and all Directors within their areas of responsibility	Continuously

- (g) To encourage councillors and staff to report suspicions of fraud and corruption to the appropriate structures charged with the responsibility investigating and resolving fraud and corruption within the Municipality;

To report finalised cases of disciplinary hearings where fraud, theft and corruption were considered to the SAPS	HR	Continuously
By encouraging a culture of reporting incidences and suspicion of fraud and corruption by quarterly reports in the newsletters.	HR	Quarterly
By assuring personnel, councillors and the public that the information and their identities will be treated as	HR	Quarterly

confidential when they report possible fraud and corruption by quarterly reports in the newsletters.		
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- (h) To encourage the community to report suspicions of fraud and corruption to the appropriate structures charged with the responsibility investigating and resolving fraud and corruption within the Municipality;

By displaying Councils commitment to fight fraud and corruption in the news papers and invite the community to report incidents.	Municipal Manager's office	Annually
By offering rewards in terms of a councils policy for successful prosecution of reported cases of corruption, fraud and any other lawlessness by newsfeeds in the newspapers and the newsletters. .	Municipal Manager's office	Quarterly

3.2 The objectives of the prevention plan are:

- (a) To provide guidance on what should be done to prevent fraud and corruption within the Municipality;

By distributing the fraud policies and procedures for staff to use,	Municipal Manager, Directors, Line Managers and supervisors	Annually
By ensuring that adequate internal controls in terms of systems, processes, supervision and separation of duties are established,	Municipal Manager, Directors, Line Managers and supervisors	Continuously
By giving training on this policy during the induction of new employees and councillors,	HR	Continuously

- (b) To provide guidance on how to report suspicions or acts of fraud and corruption once they occur;

By displaying the policy's and procedures for staff to use openly	Municipal Manager, Directors, Line Managers and supervisors	Continuously
By demonstrating leadership and management's commitment for a corruption free municipality.	Councillors, Municipal Manager, Directors, Line Managers and supervisors	Continuously

- (c) To establish procedures to direct and guide the actions of the Municipality where fraud has been detected;

By putting the response plan on the website as guidance how to handle an incident,	Internal Audit	Continuously
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- (d) To define procedures for the efficient and effective resolution of fraud and corruption in accordance with the law and in a manner that restores or minimises the damage suffered by the Municipality;

To consider staff comments and suggestions that can assist in restoring and minimising damages,	Municipal Manager, Directors, Line Managers and supervisors	Continuously
Record all assets and tools once received on the asset or stock register	Municipal Manager, Directors, Line Managers and supervisors in consultation with the budget and treasury office	Continuously

- (e) To provide a clear definition of the roles and responsibilities of the various stakeholders and role-players within the Municipality in respect of the prevention, detection, investigation and resolution of fraud;

Use the best practices as norm and the template from National Treasury,	Internal Audit	Annually
Conduct regular anti-fraud and corruption training and awareness programmes,	HR	Annually
Promote and apply a code of conduct and ethics,	Councillors, Municipal Manager, Directors, Line Managers and supervisors	Continuously

- (f) To create an enabling environment for good governance and management practice;

By visibly applying disciplinary measures and sanction against offenders	Municipal Manager, Directors, Line Managers and supervisors	Continuously
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4. ANTI-CORRUPTION RESPONSE PLAN

Flexible detection techniques should be established to meet the changing risks and to uncover fraud events when preventive measures fail or unmitigated risks are realized. Process controls specifically designed to detect corrupt activity, as well as errors, include reconciliations, independent reviews, physical inspections/counts, analyses, and audits.

In addition to detection process controls, the municipality may be able to use data analysis, continuous auditing techniques, and other technology tools effectively to detect fraudulent activity. Data analysis uses technology to identify anomalies, trends, and risk indicators within large populations of transactions.

Internal Audit using this data analytics might be able to continuously drill down into journal entries and other activities looking for doubtful transactions or once off occurring entries at the end of a financial year and later reversed in the next financial year.

Evidence of fraud can sometimes be found in e-mail and on the Municipal computers and laptops as well. The ability of a Municipality to capture, maintain, and review the communications of any of its employees has led to the detection of numerous frauds in the past decade. This is accomplished through the use of strict and regular backup programs that capture data, not with the intent of uncovering fraud, but merely as a safeguard in the event that a retrospective search for evidence may be necessary.

4.1 Detecting Procedures.

- (a) The Municipality will implement detection measures to ensure that high-risk areas and reported suspicions are thoroughly assessed and audited. This will include but not be restricted to the following:
 - (i) Conduct forensic investigations into alleged acts of fraud and corruption;
 - (ii) Undertake regular fraud risk assessments in critical areas;
 - (iii) Compile and present monthly reports to council on incidences and suspicions reported; and
 - (iv) Management and quality assurance to ensure appropriate levels of supervision.

- (b) Implement the right of the Municipality to check on its staff members and those who do not disclose their interests whether it may be:
 - (i) Directorships or Partnerships in any business entity;
 - (ii) Share and securities in any company;
 - (iii) Membership of any close corporation;
 - (iv) Other financial interest in any business undertaking whether he / she is a silent partner or a non-executive director;
 - (v) Interest in any trust or property;
 - (vi) Gifts, sponsorship and grants from other organisations no matter how trifling the gifts, sponsorship and grant may be.

4.2 Dealing with Allegations and / of Fraud and Corruption

- 4.2.1. Issues raised by staff or members of the public the action taken by the Municipality will depend on the nature of the concern and may be:
 - (a) Investigated internally; or
 - (b) Investigated by external forensic auditing consultants; and/ or
 - (c) Referred to SA Police Services or other relevant law enforcement agencies; and/or

- (d) Referred to the Disciplinary committee established by council in terms of the regulations on financial misconduct, 2014 to be dealt with in terms of the policy in this regard.
- 4.2.2. Any fraud or corruption allegations by councillors or staff will be pursued by thorough investigations and to the full extent of the law by the Disciplinary committee established by council in terms of the regulations on financial misconduct, 2014 to be dealt with in terms of the policy in this regard including:
- (a) Taking disciplinary action;
 - (b) Instituting civil action (particularly to recover losses incurred by the Municipality);
 - (c) Initiating criminal prosecution by reporting the matter to the SA Police Services or any other relevant law enforcement agency; and
 - (d) Any other appropriate legal remedies available.
- 4.2.3. Managers are also required to ensure that losses or damages suffered by the Municipality as a result of all reported acts committed or omitted by staff or any other person are recovered if the staff / other person is found liable;
- 4.2.4. The Municipal Manager or his/ her delegatee, will upon receiving a report of alleged / suspected fraud or corruption, write to the complainant.
- 4.2.5. The Municipality accepts that those people who reported alleged fraud or corruption need to be assured that the matter has been properly addressed. Thus subject to legal constraints, information about outcomes of any investigation will be disseminated on a 'need to know basis'.
- 4.2.6 In respect of all reported incidents of alleged / suspected fraud and corruption, managers are required to immediately review and where possible, improve the effectiveness of controls, which have been breached in order to prevent similar irregularities from taking place in the future.
- 4.2.7 It is the Municipality's policy to refer alleged fraud and corruption of a criminal nature for prosecution by the appropriate authorities. Any decision by the Municipal Manager to refer or not to refer an incident can only be undertaken after consultation with Internal Audit. In cases that involve the councillors or senior management, the Municipal Manager may want to appoint outside independent advisers to assist in this evaluation.
- 4.2.8 Any alleged / suspected acts of fraud and corruption as defined in this policy document must be reported to Internal Audit without delay.
- 4.2.9 Internal audit obtains, assembles and researches information on alleged / suspected acts of fraud and corruption and other unlawful and/or irregular conduct and practices in order to identify causes, advice and consult on interventions and action plans.
- 4.2.10 Council and management of the Municipality shall, within the bounds of their authority, render appropriate support and assistance to any investigation undertaken by Internal Audit and shall arrange/take the necessary steps to facilitate free access to Municipality controlled building, equipment, staff and information sources needed.
- 4.2.11 All practices and procedures utilised during investigations shall comply with the requirements of South African law.

4.2.12 Conflict of interest: Once conflicts are disclosed, there are several decision paths:

- a) If the Municipal Manager declares that there is in fact a conflict, he must require the individual to end the conflict of interest or to resign from the Municipality or charge the individual with misconduct.
- b) The Municipal Manager may accept the disclosure and determine that there is no conflict of interest in the situation described.
- c) The Municipal Manager may decide that there is a potential for conflict of interest and may impose certain constraints on the individual to manage the identified risk and to ensure there is no opportunity for a conflict to arise.

4.3 General consideration affecting the investigation of matters

The Municipal Manager or Disciplinary Board should consider the following general points together with internal audit when deciding whether or not to refer an alleged criminal contravention to the appropriate authorities:

- (i) Prima facie existence of an alleged criminal offence;
- (ii) Provisions of relevant legislation;
- (iii) Legal advice obtained;
- (iv) Labour relations advice obtained;
- (v) The sensitivity of the matter and possible impact on the labour force;
- (vi) The opinion of the director of public prosecution and/or senior public prosecutors and the SAPS;
- (vii) The specific merits of the individual case;
- (viii) The magnitude and seriousness or complexity of the matter;
- (ix) The probable impact on the Municipality's image (positive or negative);
- (x) The public interest in the matter.
- (xi) Risk level.

4.4 Roles and Responsibilities

4.4.1 Council

Council is responsible for setting the tone at the top by:

- (i) Considering and adopting a fraud and corruption policy and strategy for the Municipality;
- (ii) Annually, reviewing and amending, if necessary, the fraud and corruption policy and strategy;
- (iii) Overseeing the implementation of the fraud and corruption policy;

- (iv) For the purpose of this policy consider reports from the Disciplinary Board in respect of fraud and corruption matters, and;
- (v) Acting in an ethical and responsible manner.
- (vi) Establishing the Disciplinary Board in terms of the regulations on financial misconduct, 2014.
- (vii) Approve the terms of reference and recommendations of the Disciplinary Board.
- (viii) Provide reasons if the recommendations or findings of the Disciplinary Board are rejected.
- (ix) Instituting by resolution disciplinary proceedings if the recommendations or findings of the Disciplinary Board are accepted.

4.4.2 Municipal Manager

The Municipal Manager is responsible for ensuring that the policy is implemented within the Municipality;

- (i) Ensures that the Municipality develops and implements an anti-corruption and fraud strategy;
- (iii) Ensure that Councillors and staff are educated and aware of the policy;
- (iv) Oversee the implementation of prevention, detection, investigation and resolution measures in respect of fraud and corruption within the Municipality;
- (vi) Abides by the code of conduct of the Municipality
- (vii) After the investigation is completed, submit the Disciplinary Boards report (if the allegation is not about the Accounting Officer) to council at the first sitting after the report is finalised.

4.4.3 Internal Audit

In relation to fraud, internal auditing should provide assurance to the council and to management that the controls are appropriate to deter, detect and prevent fraud by:

- (i) Conduct fraud and corruption risk assessments and susceptibility assessments to identify and address high fraud risk areas;
- (ii) Perform fraud and corruption detection reviews on high fraud and corruption risk areas surprisingly and planned;
- (iv) Investigate all alleged/suspected fraud and corruption;
- (v) Advise the accounting officer and report to the Disciplinary Board on the investigation of alleged / suspected fraud and corruption;
- (vi) Recommend controls to identify and detect fraud and corruption pressures;
- (vii) Investigate high-risk business areas and processes, and advise on the implementation of appropriate internal and external fraud and corruption threats;

- (viii) Facilitate presentations and working sessions relating to fraud and corruption risks to promote awareness and the ethics and integrity standards required by the Municipality.

4.4.4 Audit Committee

The audit committee will be responsible for the following:

- (i) Advising the Municipal council, political office bearers, the accounting officer and management staff of the municipality on matters relating to good governance, fraud and corruption;
- (ii) Support the implementation of the fraud and corruption policy;
- (iii) Act as Anti-Fraud and Corruption Committee to oversee the implementation of the fraud prevention and fraud detection policies and strategies and to respond via Internal Audit to fraud and corruption incidents and report to council.

4.4.5 Councillors

All councillors of the Municipality are responsible for the following:

- (i) Abide by the code of conduct and code of ethics of the Municipality;
- (iii) Perform oversight functions that support the implementation of the fraud and corruption policy of the Municipality;
- (iv) Providing support to the Municipal manager and the efforts of the management team to implement the fraud and corruption policy.

4.4.6 Senior Management

Senior Management has overall responsibility for the design and implementation of a fraud risk management program, including setting the tone at the top for the rest of the organization. As mentioned, an organization's culture plays an important role in preventing, detecting, and deterring fraud. Management needs to create a culture through words and actions where it is clear that fraud is not tolerated, that any such behaviour is dealt with swiftly and decisively, and that whistle-blowers will not suffer retribution.

The Senior Management of the Municipality are responsible for the following:

- (i) Abide by the code of conduct and code of ethics of the Municipality;
- (ii) Share the Municipality's policies and strategies in respect of fraud and corruption with all staff members;
- (iii) Ensure that adequate internal controls are implemented, appropriate systems, and processes are in place to prevent fraud and corruption;
- (iv) Report incidences or suspicions of fraud and corruption;
- (v) Participate in initiatives to prevent, minimise, detect and investigate fraud.

4.4.7 Staff

Management must ensure that they and the staff (permanent, contract and temporary) of the Municipality, be held responsible and accountable for:

- (i) Abiding by the code of conduct and code of ethics of the Municipality;
- (ii) Reporting incidences or suspicions of fraud and corruption;
- (iii) Participating in initiatives to prevent, minimise, detect and investigate fraud;
- (iv) Avoiding conflict of interest.

4.4.8 Community

Management must provide systems and procedures to ensure that the community is able to report alleged or suspected fraud and corruption to the Municipality without favour or prejudice. In this regard they can table matters with their Ward Councillor or utilise the reporting mechanisms that the Municipality has established.

4.5 Disciplinary action

In terms of its zero tolerance policy, the Municipal Manager must institute disciplinary action and legal actions at his / her disposal, on all individuals found responsible for acts of fraud and corruption.

4.6 Code of conduct

The Municipality subscribes wholly to the code of conduct in Schedule 1 and 2 for staff and councillors as outlined in the Municipal Systems Act, Act No. 32 of 2000. In line with Section 70 and item 13(4) of Schedule 1 of the Act, the municipality commits to itself to ensure that all councillors and staff are aware of the code conduct and the consequences of breaching the code.