



*on the Go for Growth*

## **ANTI-FRAUD AND CORRUPTION POLICY**

**2018/19 FY**

**Date:**

**Place:** WDM

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## GLOSSARY OF TERMS

Throughout this document, unless otherwise stated, the words in the first column below have the meanings stated opposite them in the second column (and cognate expressions shall bear corresponding meanings):

1. Fraud - Includes, but is not limited to the following: Fraud, i.e. the unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another
2. Theft, i.e. the unlawful and intentional misappropriation of another's property or property which is in his/her lawful possession, with the intention to deprive the owner of their rights permanently
3. Offences defined in the Prevention and Combating of Corrupt Activities Act, 2004,
4. Including the general offence of corruption, i.e. directly or indirectly accepting or agreeing to accept any gratification from another person; giving or agreeing to give any other person any gratification in order to influence that person directly or indirectly to exercise his powers, duties or legal obligations in a manner which is/amounts to:
  - a) Illegal, dishonest, unauthorised, incomplete, or biased
  - b) Misuse or selling of information or material acquired
  - c) Abuse of position of authority
  - d) Breach of trust
  - e) Violation of a legal duty or set of rules
  - f) Designed to achieve an unjustified result
  - g) Any other unauthorised or improper inducement to do or not to do anything
1. Corrupt activities in relation to:
  - a) Public officials
  - b) Foreign public officials
  - c) Agents
  - d) Judicial officers
  - e) Members of the prosecuting authority

- f) Unauthorised gratification received or offered by or to a party with an employment relationship
- g) Witnesses and evidential material during certain proceedings
- h) Contracts
- i) Procuring and withdrawal of tenders
- j) Auctions
- k) Conflicts of interests and other unacceptable conduct, e.g.: acquisition of private
- l) interests in contract, agreement in or investment in public body
- m) Unacceptable conduct relating to witnesses Intentional interference with, hindering or obstruction of investigation of offence
- n) Accessory to or after an offence
- o) Attempt, conspiracy and inducing another person to commit offence
- p) Failure to report corrupt transactions

2. Frauds manifest themselves in the following areas, amongst others:

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

- a) Procurement fraud, e.g. collusion between employees and suppliers
- b) Contracts management fraud such as suppliers falsifying evidence of project deliverables
- c) Employees allowing scope creep on contracts in return for undue benefits
- d) Fraudulent registration of beneficiaries on the Indigents register
- e) Deliberate failure, in project management, to exercise due care in evaluating and
- f) supervising work carried out by suppliers, consultants and other parties
- g) Abuse of the time management process by submission of false/inflated time
- h) sheets
- i) Non-compliance to tender procedures
- j) Inadequate vetting of employees
- k) Abuse of leave
- l) Abuse of the system of overtime
- m) Abuse of the system of travel claims

- n) Fraudulent information submitted by suppliers when tendering for work
  - o) Fraudulent payment certificates submitted for payment
  - p) Non-compliance to delegated authority limits
3. *Equipment and Resource Issues:* where Municipal equipment and resources are utilised for personal benefit or stolen, e.g.:
- a) Abuse of intellectual property
  - b) Leaking of confidential information and insider knowledge
  - c) Theft of assets
  - d) Abuse of the Municipal resources such as time, equipment, vehicles, internet facilities, telephones
  - e) Deliberate destruction of property
  - f) Use of the Municipal resources and equipment for private gain
4. *Financial issues:* where individuals or entities have fraudulently obtained money from the Municipality, e.g.
- a) Creditors fraud such as false/fictitious invoicing by suppliers, consultants,
    - a. Contractors and other parties
  - b) Electronic Funds Transfer fraud such as diversion of payments to undue beneficiaries
  - c) Deliberate movement of funds between projects to cover up project over-runs
  - d) Theft, e.g. petty cash, etc.
  - e) Fraud related to fiscal dumping
  - f) Suppliers invoicing for work not done
  - g) Fraudulent travel claims by employees
  - h) Abuse of petrol cards
  - i) Insurance fraud, e.g. collusion between employees and public with respect to
  - j) fraudulent insurance claims
  - k) Service providers double invoicing
  - l) Contractors "fronting".
5. *Other issues:* activities undertaken by employees of the Municipality and external parties, which may be against relevant legislation, policies, or fall below established ethical standards, e.g.:

- a) Conflicts of interest
  - b) Undeclared private work interests
  - c) Irregular acceptance and offering of business courtesies such as gifts
  - d) Violation of the MFMA provisions leading to irregular, unauthorised, fruitless and wasteful Municipal expenditure
  - e) Deliberate disclosure of confidential information
  - f) Favoritism
- 6. Municipal Manager-A person appointed in terms of section 82 (1) of the Structures Act
  - 7. Fraud Policy-Fraud Management Policy
  - 8. The Municipality-Waterberg District Municipality

## **REGULATORY FRAMEWORK AND GUIDELINES**

Constitution of the Republic of SA

Treasury Regulations, 2005

Municipal Finance Management Act (56/2003)

Municipality Supply Chain Management (SCM) Regulation

2005 Public Service Act (103/1994)

Minimum Anti-corruption Capacity (MACC)

Prevention & Combating of Corrupt Activities Act (12/2004)

Prevention of Organized Crime Act (121/1998)

Financial Intelligence Centre Act (38/2001)

Preferential Procurement Policy Framework Act (5/ 2000)

Preferential Procurement Regulations, 2011

Labour Relations Act (66/1995)

Protected Disclosures Act (26/2000)

Promotion of Access to Information Act (2/2000)

## **1. BACKGROUND**

1.1 This policy is intended to set down the stance of the Municipality to fraud and Corruption and to reinforce existing systems, policies and procedures of the Municipality aimed at deterring, preventing, detecting, reacting to and reducing the impact of fraud and corruption. Furthermore, the purpose of this document is to confirm that the Municipality supports and fosters a culture of zero tolerance to fraud and corruption in all its activities and ensure compliance with the requirements of the applicable laws and regulations. Promote whistle blowing and the protection of the whistle blower thereafter, promote ethical behavior, communicate management's role with regard to elimination of fraud and Legal Mandate

### **1.2 Legal Mandate**

Section 62(1) of Municipal Finance Management Act (56/2003) states that:

The accounting Officer of a Municipality is responsible for managing the financial administration of the Municipality, and must for this purpose take all reasonable steps to ensure that-

- (a) the resources of the Municipality are used effectively, efficiently and economically
- (b) Unauthorized, irregular or fruitless and wasteful expenditure and other losses are prevented.
- (c) Disciplinary or, when appropriate, criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct or an offence in terms of chapter 15.

## **2. SCOPE OF THE POLICY**

2.1 This policy applies to all employees, stakeholders, contractors, vendors / suppliers and any other party doing business with the Municipality and prohibits all acts of fraud and corruption or any other dishonest activities of a similar nature impacting or having a potential prejudice to the Municipality or members of the public.

2.2 Any investigation required will be conducted without regard to the suspected wrongdoer's length of services, position/title, seniority or relationship to the Municipality.

2.3. All employees and management of the Municipality must comply with the spirit and contents of the Policy.

## **3. POLICY STATEMENT**

3.1 The policy of the Municipality is zero tolerance to fraud and corruption. In addition, all fraud and corruption will be investigated and followed up by the application of all remedies available within the full extent of the law and the implementation of appropriate prevention and detection controls. These prevention controls include the existing financial and other controls and checking mechanisms as prescribed in the systems, policies and procedures of the Municipality.

3.2 The efficient application of instructions contained in regulations and in the policies and procedures of the Municipality, is one of the most important duties to be applied by every employee in execution of their daily tasks.

## **4. POLICY PROVISIONS**

The realisation of our strategic plan depends on us being able to prevent, detect, investigate of fraud and corruption and recover all losses incurred by the Municipality.

### **4.1 The Preventive measures that will attempt to prevent fraud such as**

- a) Ensuring that the controls are in place to address issues of fraud and corruption are adhered to and improved where necessary.

- b) Risk assessment must be conducted regularly to identify indicators of fraud and management is required to immediately review, and where possible, improve the effectiveness of the controls, which have been breached in order to prevent similar irregularities from taking place in future.
- c) Physical securities are deployed to minimize threats against the Municipality's physical assets, facilities and employees and also the control over security personnel and access systems
- d) Employee vetting to all Municipal officials to raise the anti-fraud and anti-corruption measures.
- e) Ethical Culture that adheres to the Municipal's code of conduct.
- f) The management must create an environment and culture in which employees believe that dishonest acts will be detected and investigated. To this end, they must:
  - I. participate in in-house training programs covering fraud and corruption detection, fraud and corruption prevention and training on the code of ethics;
  - II. ensure that staff understand that the internal controls are designed and intended to prevent and detect fraud and corruption or any other dishonest activities of a similar nature;
  - III. encourage staff to report suspected fraud and corruption directly to those responsible for investigation without fear of disclosure or retribution; and
  - IV. require vendors and contractors to agree in writing as a part of the contract process, to abide by the Municipality policies and procedures, and thereby avoid any conflict of interest.
  - V. Measures to prevent fraud and corruption should be continually monitored, reviewed and development particularly as new system, programs, contracting or arrangements are introduced or modified.

## **4.2 Detection Control.**

### **4.2.1 The role of Internal Audit in fraud management.**

The Internal Audit should represent an efficient line of assurance against fraud and corruption within the Municipality, having a role both in monitoring risks as well as in fraud prevention and detection. In their performance of activities, the internal auditors must;

- a) Have enough knowledge in order to identify the signs of possible fraud;
- b) Be attentive of the cases that involve a risk of fraud; and appreciate the necessity to further investigate a case,
- c) Inform the responsible persons from within the Municipality and take actions to eliminate or reduce the possibility of fraud occurrence.

In evaluating fraud risk, the auditor should consider, among others, the following questions.

- a) Can fraud be favoured by the manner in which the management and the employees are remunerated?
- b) How thorough are the internal controls? Can they be avoided?
- c) Who in the organization could have the motivation to commit fraud?
- d) Have there been any major changes within the organization?
- e) Is the organization operating in a field or geographic area with an increased level of fraud?
- f) Have there existed cases where members of the management and employees have been investigated for fraud?
- g) The entity's capability to prevent and detect fraud depends on a correct and complete assessment of fraud risks.

#### **4.2.2 Management action**

The Municipality will ensure that a fraud and corruption system is developed for the following purposes:

- a) Recording all allegations;
- b) Tracking progress with the management of allegations;

- c) To facilitate the early identification of systemic weaknesses and recurring risks, and inform managers and employees of systemic weaknesses/risks;

#### **4.2.3 Reporting of fraud and corruption.**

The municipality encourages all employees, members of the public or providers of goods and services to immediately report all allegations or incidents of fraud and corruption to the **Premier Hotlines 's toll free National Anti-Corruption hotline on 0800 864729.**

Whistleblowers may report allegations of fraud and corruption anonymously if they wish to do so and a reference number that start with 99/current year/date and the time of the call will be provided to the caller.

#### **4.2.4 Process of handling reported cases**

- a) The municipality will screen and evaluate the matter raised and subsequently
- b) The person responsible for investigation shall have free and unrestricted access to all Municipality records and premises, whether owned or rented; and the authority to examine, copy and/or remove all or any portion of the content of files, desks, cabinets, computers and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items when it is within the scope of their investigations.
- c) All employees must promptly co-operate and comply with requests from the investigator with regards to information required to assist investigation.
- d) A progress report with the supporting documents will be submitted to PPH within 90 working days and Presidential Premier Hotlines Commission will present the report at the Case Conference Committee
- e) Where an investigation has revealed that an employee has committed fraud, corruption or any other related incidents, the following may be recommended:
  - Taking disciplinary action;
  - Instituting recovery of financial losses;

- Initiating criminal investigation process by reporting the matter to the appropriate law enforcement agencies;
- Identifying internal controls to be improved;
- SAPS

Feedback on the allegation will be provided to the whistleblower if requested after the completion of investigation process.

## **5. PROTECTION OF WHISTLE BLOWERS**

5.1 The Protection Disclosures Act, Act 26 of 2000 makes provision for procedures in terms of which employees may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers without fear of victimization. A person shall therefore not;

- a) Prejudice, or threaten to prejudice, the safety or career of; or
- b) Intimidate or harass, or threaten to intimidate or harass; or
- c) Do any act that is, or is likely to be, to the detriment of another person because the other person:-
  - (i) has assisted, is assisting or will or may in the future assist the Office of the Municipal Manager or any Law Enforcement Agency in the performance of its functions; or
  - (ii) has furnished, is furnishing or will or may in the future furnish information to the Municipal Manager or any Law Enforcement Agency; or
  - (iii) has been or is, or has been or is employed by, or acting on behalf of, an independent agency or appropriate authority to whom or which an allegation has been referred; or
  - (iv) has exercised a power, or performed a duty, conferred or imposed on the other person or is exercising or performing, or will or may in the future exercise or perform, any such power or duty.

5.2 All whistle-blowers' identities will remain confidential or anonymous to prevent victimization.

- 5.3 Action to cover up to the wrongdoing and or to retaliate against, or victimize witnesses is strictly forbidden, and such actions constitute a conduct within the jurisdiction of the Municipality, which is punishable.
- 5.4 All managers should discourage employees or other persons from making allegations which are 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 and are not protected by the Protection of Disclosure Act

## **6. CONFIDENTIALITY**

- 6.1 All information relating to fraud and corruption that is received and investigated will be treated confidentially. The progression of investigations will be handled in a confidential manner and will not be disclosed or discussed with any person(s) other than those who have a legitimate right to such information. This is important in order to avoid harming the reputations of suspected persons who are subsequently found innocent of wrongful conduct.
- 6.2 No person is authorised to supply any information with regard to allegations or incidents of fraud and corruption to the media without the express permission of the Municipal Manager.

## **7. PUBLICATION OF SANCTIONS**

- 7.1 The Municipal Manager will decide whether any information relating to corrective actions taken or sanctions imposed, regarding incidents of fraud and corruption should be brought to the direct attention of any person or made public through any other means.

## **8. ADMINISTRATIONS-ROLE PLAYERS**

### **8.1 The Risk Officer**

The Risk Officer is the custodian of the Fraud Prevention Plan, and coordinator of Fraud Management activities throughout the Municipality.

### **8.2 Internal Audit**

The role of the Internal Auditing in Fraud Management is to report on any fraud indicators detected during their normal internal audits.

### **8.3 Audit Committee**

The Audit Committee is an independent committee responsible for oversight of the municipality's control, governance and risk management. The responsibilities of the Audit Committee with regard to Fraud management are to provide an independent and objective view of the municipality's Fraud management effectiveness

### **8.4 Municipal Manager**

The Accounting Officer is the custodian of this policy, supported in its implementation by all managers of the Municipality. He/she is responsible for the administration, revision and interpretation of this policy.

### **8.5 Management**

Management is responsible for executing their responsibilities of detection, prevention, and investigation of fraud and corruption outlined in the Fraud prevention plan and for integrating fraud management into the operational routines.

### **8.6 Employees**

Employees are responsible for integrating fraud management into their day-to-day activities and immediately report all allegations or incidents of fraud and corruption on the hotline.

### **8.7 Risk Management Committee**

The members of the Risk Management Committee should understand their role of ensuring that the Municipality has antifraud programs and controls in place to help prevent fraud, and aid in its discovery if it does occur, to properly fulfill their fiduciary duties of:

- a) Review and recommend for the approval of Council, the:
  - (i) Fraud management policy;
  - (ii) Fraud implementation plan;
- b) Evaluate the effectiveness of the fraud management strategies implemented to address the fraud within the Municipality ;
- c) Interact with the Performance and Audit Committee to share information relating to fraud and fraud management;
- d) Review and monitor the fraud reporting processes
- e) Ensure that the fraud risk assessments are conducted and
- f) Review and recommend for the approval of the fraud risk register

## **9. COMMUNICATIONS**

The policy must be continuously communicated to current, new employees and External stakeholders

## **10. COMPLIANCE**

Compliance with this policy is essential to ensure that the fraudulent activities affecting the Municipality are monitored and managed on a continuous basis in order to maximize potential opportunities and minimize the adverse effects of fraud and increase the likelihood that the Municipality's strategic and operational objectives will be achieved.

## **11. REVIEWING**

The Risk Management Committee is to review the Policy annually.

## **12. APPROVAL AND EFFECTIVE DATE OF THE POLICY**

The Fraud Management Policy shall come into effect immediately upon approval by the Executive Council of Waterberg District Municipality

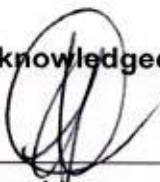
**REVIEWED BY DATE**

**December 2018**

Adopted by Council at its meeting held on the 06 December 2018

Signed at Malmoile Resolution No: A180 / 2018

**Acknowledged by: Acting Municipal Manager**

  
Signature

6 / 12 / 2018  
Date