



The Msunduzi Municipality

INTERNAL AUDIT UNIT

'Auditing o Enhance, Protect and Promote Service Delivery'

ANTI- FRAUD AND CORRUPTION POLICY

2018/2019

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TABLE OF CONTENTS

1.	DEFINITIONS	3
2.	INTRODUCTION	7
3	PURPOSE	8
4.	SCOPE OF THE POLICY	8
5.	LEGAL MANDATE	9
6.	POLICY STATEMENT	11
7.	DEFINITION OF FRAUD & CORRUPTION	14
8	PROMOTION OF ANT-FAUD & CORRUPTION CULTURE	14
	8.1 Development of Anti-Fraud & Corruption Strategy.....	14
	8.2 Reporting Procedures of Suspected Incidents.....	15
	8.3 Confidentiality.....	16
	8.4 Publication of Sanctions	17
9.	PROTECTION OF WHISTLE BLOWERS	17
10.	ROLE OF MUNICIPAL STRUCTURES IN HANDLING CASES OF FRAUD AND CORRUPTION	17
11.	ROLE OF INVESTIGATIVE AGENCIES IN HANDLING CASES OF FRAUD AND CORRUPTION	18
	11.1 South African Police Service	18
	11.2 National Prosecuting Authority	19
	11.3 Referral of matters on Fraud & Corruption to SAPS	19
	11.4 Recovery Action.....	21
	11.5 Reporting Obligations.....	21
12.	CREATING AWARENESS	22
10.	ADMINISTRATION OF THE POLICY	22

1. DEFINITIONS

For purposes of this policy, unless the context indicates otherwise, the –

“Abuse of power” involves a public office bearer using her or his vested authority to improperly benefit another public office bearer or person or entity or to improperly discriminate against another.

“Accounting Officer” means the municipal official referred to in section 60 of the Municipal Finance Management Act, Act 56 of 2003.

“Anti-fraud and corruption strategy” means a document put together by an official of Msunduzi Municipality which detail stratagem, tactic and approach in dealing and handling matters relating to fraud and corruption which is supported by matrix of tasks and responsibilities.

“Audit Committee” means an independent advisory body established in terms of Section 166 of the Municipal Finance Management Act (MFMA) (Act No. 56 of 2003) to advise the Municipal Council, Political Office Bearers, the Accounting Officer and management staff of the municipality on matters relating to internal financial control and internal audits, risk management, and others.

“Auditor-General” means the person appointed as Auditor-General in terms of section 193 of the Constitution, and includes a person acting as Auditor-General; acting in terms of a delegation by the Auditor-General; or designated by the Auditor-General to exercise a power or perform a duty of the Auditor-General.

“Bribery” involves a promise, offering or giving of a benefit that improperly affects the actions or decisions of a council employee. A variation of this manifestation occurs where the political party or council is offered or promised or given a benefit that improperly affects the actions or decisions of a political party or council.

“Corruption” means accepting or agreeing or offering to accept any gratification from any other person whether for the benefit of himself or herself or for the benefit of another person: or giving or agreeing or offering to give to any other person any gratification whether for the benefit of that

other person or the benefit of another party in order to act personally or by influencing another person so to act in a manner that amount to the Illegal, dishonest, unauthorized, incomplete or biased; or misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation that amounts to the abuse of a position of authority; a breach of trust; or the violation of a legal duty or a set of rules designed to achieve an unjustified result; or that amounts to any other unauthorized or improper inducement to do or not to do anything.

“Council” means the Msunduzi Municipality Council.

“Councillor” means a member of Msunduzi Council.

“Ethics” means to standards of conduct, which indicate how a person should behave based on moral duties and virtues arising from the principle of right and wrong. Ethics therefore involve two aspects: (a) the ability to distinguish right from wrong; and (b) the commitment to do what is right.

“Extortion” involves coercing a person or entity to provide the benefit to councilor or council employee, another person or an entity in exchange for acting or failing to act in a particular manner.

“Fraud” means introducing a course of action by deceit or other dishonest conduct, involving acts or omissions of the making of false statements, orally or in writing, with the objective of obtaining money or other benefit from, or of evading a liability to another.

“Fraud and Corruption Monitoring Committee” means a committee that has been established by Accounting Officer to monitor implementation of anti-fraud and corruption policy and anti-fraud and corruption strategy and advise Council on ancillary matters thereto.

“Inherent risk” is an adverse event or action that is intrinsic to the operations of a business. The organization’s risk exposure assuming there are no controls.

“Integrity” is the quality or state of being of sound moral principle; uprightness, honesty, and sincerity; the desire to do the right thing, to profess and live up to a set of values and expectations.

“Internal audit unit” is a component within the Msunduzi Municipal Council that is established in terms of Section 165 of the MFMA.

“Internal Controls” are measures, methods, techniques, systems whether manual, electronic or otherwise, policies, procedures and processes that have been put in place by management to prevent, detect and correct a risk.

“Law Enforcement Agencies” means all forms of government that have been established to fight crime including the South African Police Services, National Prosecutions Authority, Assets Forfeiture Unit, Special Investigation Unit, and Directorate of Priority Crime Investigations commonly known as “Hawks”.

“Misconduct” has the same meaning as defined in the Labour Relations Act, of 1995 read in conjunction with the municipal policies.

“Municipal Entity” means a company, co-operative, trust, fund or any other corporate entity established in terms of any applicable national or provincial legislation and which operates under the ownership control of one or more municipalities; and includes, in the case of a company under such ownership control, any subsidiary of (hat company; or a service utility.

“Risk” threat that an event or action will adversely affect an organization's ability to achieve its objectives and to execute its strategies successfully.

“Risk Management” is a structured and systematic approach to set best course of action under uncertainty by identifying, assessing, implementing controls, monitoring and communicating risk issues in an ongoing basis.

“Risk Assessment” is a process of ascertaining the probability and impact of uncertain events or how potential events might affect the achievement of objectives.

“Risk Management Committee” means a management committee of the Msunduzi Municipality established and appointed by the Accounting Officer to assist the municipality in discharging its risk management responsibilities made up of Senior Management.

“Risk appetite” is the broad based amount of risk the municipality is willing to accept in pursuit of its vision.

“Risk tolerance” is the acceptable variation relative to the achievement of an objective.

“Residual risk” is the remaining risk after management has taken action to alter the risks likelihood or impact.

“Reasonable assurance” means that the concept RM, no matter how well designed and operated, cannot provide a guarantee regarding achievement of the municipality’s objectives because of inherent limitations of RM.

“Section 57 manager” is an official appointed in writing by the Council in terms of Section 57 of the Local Government: Municipal Systems Act, Act 32 of 2000, is directly accountable to the Municipal Manager.

“Risk Management Framework” is a document that incorporates, risk management policy, risk management strategy and risk management methodology;

“Strategic” is used with objectives having to do with high level goals that are aligned with and support the entity’s vision (mission)

“Risk officers” mean officers performing risk management support functions to the business units.

2. INTRODUCTION

- 2.1 No organization or administrative process is free of risk of fraud and corruption. It is Management's responsibility to identify and control the risks, which the Msunduzi Municipality (*the municipality*) faces.
- 2.2 It is important to note that the policy is highly prescriptive in its nature. The intention is to develop a philosophy; that the entire Municipality will fight fraud and corruption as a team. When a policy like this, is set at a high level it covers the worst-case scenario. The integrated approach to mitigating fraud and corruption should be committed to by all Councilors, Accounting officer, General Managers, management and all employees of the municipality.
- 2.3 This policy recognizes that the municipality is unique and will need to implement a policy to suit this municipality. Whist this policy will identify relevant issues to be addressed, it is the responsibility of the Accounting Officer to assess the situation at the municipality and how the policy will be implemented and communicated within the rest of the employees of the municipality.
- 2.4 This policy is basically a very simple instrument. It is a means of effectively organizing ideas and efforts. It is a device for both encouraging and assisting management to see the bigger picture – and hence to gain confidence that there are no gaps. As a result, Accounting Officer is better able to effectively acquit the responsibility, which the Municipal Finance Management Act, 56 of 2003 demands.

3. PURPOSE

The Policy seeks to exemplify the following:

- 3.1 Provision of a focal point and allocation of responsibility, accountability and authority;
- 3.2 Serves as a conceptual, analytical, planning and review tool;
- 3.3 Provides a common understanding of what constitutes fraud and corruption that needs to be communicated throughout the Municipal Council;
- 3.4 Raises vigilance, which means that staff, management and councilors need to be actively involved on an ongoing basis in preventing, detecting and investigating fraud and corruption;
- 3.5 Uncover the facts which refer to the processes and skills required to manage allegations of fraud and corruption;
- 3.6 Deterring fraud and corruption, which refers to the processes, required ensuring disciplinary, criminal action and civil recovery are instigated as appropriate, pursuing heavy penalties and advising staff of the outcome; and
- 3.7 Presents the key elements required for effective prevention of fraud and corruption and represent the approach of the municipality to managing risk of fraud and corruption.

4. SCOPE OF THE POLICY

- 4.1 This policy, unless certain parts thereof indicate otherwise, applies to all officials of the municipality including contract workers, interns, other temporary workers, consultants working for the municipality, Msunduzi Municipal entities and Councilors of the municipality.
- 4.2 This policy applies to all commissions and omissions as well as risks of fraud and corruption whether manifested, probable, alleged or suspected.
- 4.3 The Accounting Officer, General Managers and managers should be mindful of the broader Government's policies and policy principles as articulated in this document and should regularly advise the council as to the steps they are taking to meet the aims of this policy.
- 4.4 Although the title of this policy is anti-fraud and corruption that does not mean that, it is only applicable to cases of fraud and corruption but it includes all types of crimes or alternatively acts which give rise to the municipality incurring losses

of any nature through theft, embezzlement, mismanagement, maladministration etc.

- 4.5 The council therefore expects and encourages the intentions and spirit of this policy to flow to other stakeholders, specifically the following:
- a) Suppliers, contractors, service providers;
 - b) Civil society in general;
 - c) Labour;
 - d) Media;
 - e) Users of services/customers;
 - f) Organized religion; and
 - g) All other persons with the links in Msunduzi.
- 4.6 This policy shall be read in conjunction with the Msunduzi Municipality's Whistle Blowing Policy, Anti-Fraud & Corruption Strategy and Forensic Investigation methodology and other policies that have direct and indirect connotation to this policy.

5. LEGAL MANDATE

- 5.1 Chapter 2 of the Constitution deals extensively with the Bill of Rights. The following sections under the Bill of Right are relevant to the imperative of the Constitution versus management of risks including the risk of fraud and corruption.
- 5.2 The Constitution describes one of the values of founding provisions as; Human dignity, the improvement of the quality of life of all citizens and free the potential of each person.
- 5.3 Section 195 of the Constitution, provided normative basic values and principles for public administration, including the following:
- 5.3.1 A high standard of professional ethics must be promoted and maintained.
 - 5.3.2 Efficient, economic and effective use of resources must be promoted.
 - 5.3.3 People's needs must be responded to, and the public must be encouraged to participate in policy-making.
 - 5.3.4 Public administration must be accountable.
- 5.4 Criminal and other irregular conduct in organs of state and private bodies are detrimental to good, effective, accountable and transparent governance in organs of state and open and good corporate governance in private bodies and

- can endanger the economic stability of the Republic and have the potential to cause social damage;
- 5.5 Section 52 of the MFMA placed responsibility of provision of political guidance over fiscal and financial affairs of the municipality to the mayor. The Mayor has a responsibility of ensuring that the municipality performs its constitutional and statutory functions.
- 5.6 Section 61 of the MFMA states that the Accounting Officer of a municipality must:
- (a) Act with fidelity, honesty, integrity and best interest of the municipality in managing its affairs;
 - (b) Disclose to the municipal council and the mayor all material facts which are available to the accounting officer or reasonably discovered, and which in any way might influence the decisions or actions of the council or the mayor; and
 - (c) Seek, within the sphere of influence of the accounting officer, to prevent any prejudice to the financial interest of the municipality.
- 5.7 In terms of section 62 of the MFMA, the accounting officer is responsible for the management of the financial affairs of the municipality, and must for this purpose take reasonable steps to ensure:
- (a) That the resources of the municipality are used effectively, efficiently and economically;
 - (b) That unauthorized, irregular or fruitless and wasteful expenditure and other losses are prevented;
 - (c) That 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 of the MFMA.
- 5.8 Section 95 of the MFMA reaffirms the responsibilities of the Accounting Officer in so far as maintenance of effective, efficient and transparent system of financial and risk management and internal control.
- 5.9 Section 78 of the MFMA outlines the general responsibilities for senior management and other officials of the municipality. The responsibilities of these officials have a direct bearing in financial and risk management and internal controls.
- 5.10 The Accounting Officer is required in terms of section 112 (1) (m) of the MFMA to ensure that supply chain management practices are fair, equitable, transparent, competitive and cost-effective and comply with a prescribed

regulatory framework of municipal supply chain management, which must cover at least the following:

- (a) measures for –
 - (i) combating fraud, corruption, favouritism and unfair and irregular practices in municipal supply chain management;
 - (ii) promoting ethics of officials and other role players involved in municipal supply chain management.
- (n) the invalidation of recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by municipal councilors or municipal officials.

5.11 The following pieces of legislation are relevant to the prevention, detection, investigation and prosecution of alleged cases of fraud and corruption.

5.11.1 Criminal Procedure Act, Act 51 of 1977 (as amended).

5.11.2 Special Investigating and Special Tribunals Act, 74 of 1996 (as amended)

5.11.3 Proceeds of Crime Act, 76 of 1996

5.11.4 The National Prosecuting Authority Act, Act 32 of 1998.

5.11.5 The Prevention of Organized Crime Act, Act 121 of 1999 (as amended by as amended by Act No 24 of 1999 and 38 of 1999).

5.11.6 The Promotion to Access to Information Act, Act 2 of 2000.

5.11.7 The Promotion of Administrative Justice Act, Act 3 of 2000.

5.11.8 The Protected Disclosure Act, Act 26 of 2000.

5.11.9 The Finance Intelligence Centre Act, Act 38 of 2001.

5.11.10 The Prevention and Combating of Corrupt Activities Act, Act 12 of 2004.

6. POLICY STATEMENT

6.1 The municipal Council is committed to protecting its revenue, property and information from any attempt, either by members of the public, contractors, subcontractors, agents, intermediaries, service providers or its own employees, to gain by deceit financial or other benefits. This policy is designed to protect public money and property, protect the integrity, security and reputation of Msunduzi Municipality and maintain a high level of services to the community consistent with good governance.

- 6.2 There are three elements to this policy:
- 6.2.1 Reduction of losses through fraud and corruption by the rigorous implementation of fraud and corruption prevention procedures;
 - 6.2.2 A commitment to a policy of detection, investigation, prosecution and recovery of losses in cases of fraud and corruption; and
 - 6.2.3 Respect for the civil right of the citizens of the municipality– including its employees.
- 6.3 The municipality and particularly its employees and councilors, act as stewards of the public purse will work together with the Law Enforcement Agencies. The community of Msunduzi has, rightly, an expectation that the employees and councilors of the municipality acknowledge and fulfill their responsibility to protect public money and property.
- 6.4 Prevention of fraud and corruption is the protection of public property, revenue, and rights and privileges from fraudulent exploitation. The desired outcome of Anti-Fraud and Corruption Policy is elimination of cases of fraud and corruption, theft, maladministration, mismanagement and other irregularities within the structures of the municipality.
- 6.5 The municipality has through this policy adopted an integrated comprehensive anti-fraud and corruption guideline for programs and operations. This policy provides for: -
- 6.5.1 Adherence to the Council's directives regarding fraud and corruption;
 - 6.5.2 The reporting to South African Police Services (SAPS) of information on all instances of fraud and corruption against the municipality;
 - 6.5.3 The referral to the Directorate of Priority Crimes Investigation (DPCI);
 - 6.5.4 The adherence by the Council to standards, directives and guidelines set by Nation and Provincial Cabinets, National Department of Cooperative Governance and Traditional Affairs, National Treasury, Provincial Department of Cooperative Governance and Traditional Affairs and KwaZulu-Natal Provincial Treasury for the prevention of fraud and corruption, investigation and reporting of fraud and corruption information and statistics.
- 6.6 Council's has expectations from its own employees and these are tabulated hereunder: -
- 6.6.1 The Accounting Officer is responsible for fostering an environment within the municipality, which makes active prevention of fraud and corruption a major responsibility of all council employees, for articulating clear

standards and procedures to encourage the minimization and deterrence of fraud and corruption, and for the detection, investigation and prosecution of offences should they occur.

- 6.6.2 It is incumbent on all council employees; in particular General Managers, Senior Managers and management, to develop, encourage, insist upon and implement sound financial, legal, fair-minded, honest, transparent and ethical decision-making within their Business Units.
- 6.6.3 All council employees are to make themselves familiar with the concepts and responsibilities of prevention of fraud and corruption. The Accounting Officer and managers are to ensure that training programs include appropriate issues dealing with prevention of fraud and corruption. Relevant unions have an important role to play in the development and provision of fraud and corruption prevention training, particularly in the area of ethics and code of conduct.
- 6.6.4 It is the responsibility of the council and all managers to ensure that the council and management decision-making process is as open and public as far as possible save for matters of confidential nature. Fraudulent and corrupt conduct breeds in an environment where systems, standards and procedures are open to exploitation. It is in the best interests of better prevention of fraud and corruption for councils' decision making to be visible and unambiguous to the municipal employees, the Executive Committee, the Council, the corporate sector and the community of Msunduzi as a whole. Visibility is the cornerstone of public sector accountability.
- 6.6.5 Prevention of fraud and corruption is concerned ultimately with the effective utilization of resources and the minimization of waste, abuse, mismanagement, maladministration, theft, fraud and corruption. Effective accountability mechanisms for the use of public funds act to bolster the prevention of fraud and corruption environment. Measures to prevent fraud and corruption should be continually monitored, reviewed and developed particularly as new systems, benefit programs, contracting or arrangements are introduced or modified.

7. DEFINITION OF FRAUD & CORRUPTION

Due to the extensive definition of fraud and corruption and a need to create an in-depth common understanding; these have been defined broadly in the strategy for the benefit of all employees and citizens of Msunduzi.

8. PROMOTING AN ANTI-FRAUD AND CORRUPTION CULTURE

8.1 Development of an Anti-fraud and Corruption strategy

- 8.1.1 The Accounting Officer shall be responsible for developing Anti-Fraud and Corruption Strategy that lay concrete foundation for the promotion of positive culture of anti-fraud and corruption. The strategy must have key interrelated components which contribute to the promotion of anti-fraud and corruption culture within the municipality.
- 8.1.2 The municipality is committed to Zero Tolerance to fraud and corruption. In addition, all incidents of fraud and corruption will be investigated and followed up by the application of all remedies available within the full extent of the law as well as the application 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, procedures, rules and regulations of the municipality.
- 8.1.3 It is the responsibility of all employees of the municipality to report all incidents of fraud and corruption to her/ his Senior Manager/ General Manager/Accounting Officer. It is understood that some employees or councillors or members of the public would want to remain anonymous and to give effect this request, a Whistle Blowing Policy has been developed to guide the process.
- 8.1.4 All employees within the municipality are responsible for the prevention and detection of fraud.

8.2 Reporting Procedures of Suspected Incidents

- 8.2.1 It is the responsibility of all employees, Councillors and members of the public to immediately report all allegations or suspected incidents of fraud or corruption to the Accounting Officer or Chief Audit Executive or Msunduzi Whistle- blowing Hotline. The Accounting Officer shall refer all matters relating to allegations of fraud and corruption to the Chief Audit Executive for investigation purposes.
- 8.2.2 Should the allegations of fraud and corruption be made against the Accounting Officer or the Mayor, the Deputy Mayor or the Speaker, they shall be reported directly to the Msunduzi Whistle- blowing Hotline or alternatively to the Member of the Executive (MEC) responsible for the Cooperative Governance and Traditional Affairs in the Province of KwaZulu-Natal.
- 8.2.3 Should the MEC decide to investigate any allegations, the municipality shall cooperate at all times and provide support that is necessary.
- 8.2.4 If allegations have been referred to the Mayor, Speaker or Accounting Officer by the MEC they shall be referred to the Chief Audit Executive for investigation purposes.
- 8.2.5 Should employees or members of public or councillors wish to report allegations of fraud or corruption anonymously, they can call the Msunduzi Whistle- blowing Hotline toll free number that will be advertised extensively in the municipal buildings and public places.
- 8.2.6 The Chief Audit Executive shall assess the allegations and decide whether the matter should be done within the Unit or would be outsourced to Forensic Investigations expertise to carry out a full scale investigation into the matter; or the specialized unit within South African Police Services; or Public Protector.
- 8.2.7 The Accounting Officer with the assistance of the Chief Audit executive shall co-ordinate processes among law enforcement agencies involved in combating fraud and corruption.

- 8.2.8 Any fraud or corruption committed by an employee of municipality will be pursued by thorough investigation and to the full extent of the law, including consideration of the following:
- 8.2.8.1 Taking disciplinary action within a reasonable period of time after the incident;
 - 8.2.8.2 Instituting recovery of financial losses, including formal civil action or through Assets Forfeiture Unit;
 - 8.2.8.3 Initiating criminal prosecution by reporting the matter to the SAPS or any other relevant law enforcement agency; and
 - 8.2.8.4 Any other appropriate and legal remedy available.
- 8.2.9 The Accounting Officer and the respective managers are also required to ensure that losses or damages suffered by municipality as a result of all reported acts of fraud or corruption committed or omitted by an employee or any other person, are recovered from such an employee or other person if he or she is found to be liable.
- 8.2.10 The Accounting Officer or her/his delegated representative will, upon receiving a report of fraud or corruption from an external person, write to the person (unless the report has been made anonymously) making the report:
- 8.2.10.1 Acknowledging that the concern has been received; and
 - 8.2.10.2 Informing him or her whether any further investigations will take place, and if not, the reasons therefore.
- 8.2.11 The municipality accepts that any member of the public, including employees who reported the alleged fraud 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.

8.3 Confidentiality

- 8.3.1 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 to avoid harming the

reputations of suspected persons who are subsequently found innocent of wrongful conduct.

8.3.2 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 Accounting Officer.

8.4 Publication of Sanctions

The Accounting Officer shall decide, in consultation with appropriate senior managers, whether any information relating to corrective actions taken or sanctions imposed regarding incidents of fraud or corruption should be brought to the direct attention of any person or made public through any means.

9. PROTECTION OF WHISTLE BLOWERS

9.1 Whistle Blowing is intended to encourage employees to raise concerns relating to fraud and corruption, without fear of victimisation.

9.2 No person will suffer any penalty or retribution for reporting in good faith, any suspected or actual incident of fraud and corruption.

9.3 Managers should discourage employees or other parties from making allegations which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations might be subjected to firm disciplinary or other appropriate processes.

9.4 Any other matters related to whistle blowing are dealt with extensively in the Msunduzi Municipal Whistle Blowing Policy.

10. ROLE OF THE MUNICIPAL STRUCTURES IN HANDLING CASES OF FRAUD & CORRUPTION

10.1 The Council is committed to a vigorous and effective internal audit and risk management functions. It recognizes that internal audit is closely linked to fraud and corruption prevention and all managers within the municipality should ensure that such linkage is maintained.

10.2 The Council recognizes that an effective fraud and corruption prevention policy requires a balance between the aims of prevention and the necessity for dealing effectively with cases, which arise. While good systems of internal control are an

essential building block in an overall prevention of fraud and corruption policy, it is inevitable that some individuals will continue to attempt to cheat the council. When fraud or corruption is discovered, the council needs to be able to act quickly and effectively to investigate and deal with the offender, whether by prosecution or the way of internal disciplinary procedures, and to recover money or property lost.

10.3 The Chief Audit Executive has a control role in this process in relation to the investigation of fraud and corruption against the council, the maintenance of a fraud and corruption register on all incidents of fraud and corruption, the provision of advice and specialist expertise. The Accounting Officer and Audit Committee must make sure that Internal Audit Unit conduct quality assurance reviews to ensure that the design system of internal control is adequate and effective to counter the risks fraud and corruption the organization faces.

10.4 The primary responsibility for prevention of fraud and corruption rests with the Accounting Officer accountable to the Mayor and the Council for the full and effective implementation of this policy.

10.5 The Accounting Officer is to disseminate widely within the municipality structures this policy. The Accounting Officer must ensure procedures for implementing this policy in relation to fraud and corruption prevention, its detection, investigation and prosecution, and recovery and civil rights/privacy processes are fully understood by all employees of the municipality and adhered to.

11. ROLE OF THE INVESTIGATIVE AGENCIES IN HANDLING CASES OF FRAUD & CORRUPTION

11.1 South African Police Services (SAPS)

11.1.1 The primary responsibility for investigating fraud and corruption in general lies with the SAPS and as the Government's primary law enforcement agency responsible for the provision of police services. However, the SAPS has a specialized unit (Directorate of Priority Crimes Investigative) commonly known as "Hawks" that deals with matters of fraud, corruption, racketeering and money laundering

11.1.2 Their function includes responsibilities for preventing, detecting and investigating criminal offences against Government law, its revenue,

expenditure and property, including both internal fraud and external fraud committed on Government programs including the municipality.

11.2 National Prosecuting Authority (NPA)

11.2.1 The primary responsibility of the NPA is to prosecute offences against South African law, including Corporations Law, and to conduct related criminal assets recovery through its Assets Forfeiture Unit. All prosecution and related decisions are made in accordance with the guidelines set out in the Criminal Procedure Act, No 51 of 1977.

11.2.2 The NPA conducts all prosecutions for offences against South African Law. The NPA does not only prosecute but also conduct criminal investigations in terms of National Prosecuting Amendment Act, No 61 of 2000. The NPA is the appropriate agency to provide advice on questions of law, the sufficiency of evidence, the requirements of a brief of evidence, and the proceedings to recover the proceeds of crime.

11.2.3 The NPA is also the appropriate agency to advise on issues arising under the Criminal Procedure Act, No 51 of 1977 and Prevention of Organized Crime Act, 121 of 1998 (as amended by Act No 24 of 1999 and 38 of 1999).

11.2.4 Internal Audit Unit is under the leadership of the Accounting Officer is responsible for setting an enforcement strategy that prioritizes investigative activities and adopts appropriate remedies. The NPA can provide advice, if needed, at the stage where a decision is made on whether an alleged offence should be the subject of a criminal investigation or dealt with by some other processes. All role-players must be also consulted in these circumstances.

11.3 Referral of Matters on Fraud & Corruption to the SAPS for Investigation

11.3.1 Essential to effective prevention of fraud and corruption is the provision of information of three types:

- (a) Instances of criminal conduct to be referred to office of the Accounting Officer for investigation by Internal Audit Unit internally or outsourced to service providers who are specialising on forensic investigations depending on the complexity of each case

before it is referred to SAPS for registration of a criminal case and further investigation.

- (b) Fraud intelligence to support agency investigations and to assist agency investigators to assess patterns of criminal activity, and
- (c) Statistical data to assist the municipality in determining where and to what extent losses are occurring.

11.3.2 All arrangements for the provision of information for the purposes of fraud prevention will be subject to the provisions of the Promotion of Access to Information Act, No. 2 of 2000 and any provisions in South African Legislation, which relate to fraud and corruption. The Accounting Officer must assist the investigative agencies wherever possible in the exercise of their responsibilities.

11.3.3 In determining whether a particular matter, fraudulent or otherwise is of sufficient seriousness that it should be referred to the SAPS for investigation, Internal Audit Unit should assist the Accounting Officer before consultation with SAPS or NPA to determine whether referral is appropriate after taking into consideration whether one or more of the following criteria exist, or are believed to exist: -

- (a) A significant monetary or property loss to the municipality;
- (b) Exploitation or attempted exploitation of a municipal program(s), project(s) or scheme (s);
- (c) The matter involves a municipality employee, or person engaged on contract to the municipality, either acting alone or in concert with others;
- (d) Organised or conspiratorial criminal activity;
- (e) Bribery, corruption or attempted bribery or corruption of municipal employee(s) or persons performing duty on behalf of the municipality;
- (f) The security, standing or integrity of the municipality, its resources and interests;
- (g) Relations between the municipality, National or Provincial Government;
- (h) A sustained course of conduct or activity over a protracted period of time; or
- (i) A matter, which is known or suspected to involve criminal activity, committed on more than one department of the Provincial or National Government.

11.4 Recovery Action

- 11.4.1 The municipality is committed to using all avenues available to it to recover money or property lost through fraudulent activities. The Accounting Officer is expected to pursue vigorously the recovery of monies lost. Recovery action is an effective and necessary deterrent.
- 11.4.2 The municipality has its own legal division which provides advice on dealing with civil matters should be approached for assistance.
- 11.4.3 Internal Audit Unit is responsible for the review of the effectiveness of arrangements for recovery of money or property lost regularly under the direction of Audit Committee, which, in turn will report to the Council.
- (a) Co-operate readily and fully with the law and enforcement agencies, the SAPS and NPA, in dealing with crime affecting the council;
 - (b) Be conscious of the impact of their programs on the law enforcement agencies[and criminal justice interests; and
 - (c) Ensure that consideration is given to the impact on the law enforcement and criminal justice system of any new policy proposals.

11.5 Reporting Obligations

- 11.5.1 The Accounting Officer will implement arrangements for the provision of information on all prima-facie cases of fraud and corruption against his programs in line with the fraud and corruption reporting model attached as **ANNEXURE A**.
- 11.5.2 Where, following a preliminary assessment and investigation, The Accounting Officer believes that a prima-facie case of fraud and corruption exists; he or she is required to report information relating to that case, including personal information relating to a suspected offender to investigative agencies.

12. CREATING AWARENESS

It is the responsibility of the Accounting Officer supported by all managers to ensure that councilors and employees are made aware of this policy.

13. ADMINISTRATION OF THE POLICY

- 13.1 The Accounting Officer has the overall responsibility for the implementation, maintenance and operation of this policy and will be supported by Internal Audit Unit, Legal Services and Human Resource Management and all General Managers.
- 13.2 This policy will be reviewed annually or as and when the need arises. The amendment of this policy or any of the provisions thereof shall be reduced in writing and approved by Council. The Chief Audit Executive shall be responsible to facilitate the review of the policy.
- 13.3 This Anti-Fraud and Corruption Policy and any amendments thereto, become effective upon approval by the Council of the municipality.