

**MATJHABENG MUNICIPALITY**

# **ANNEXURES**

**FOR THE**

**SECTION 80 POTFOLIO COMMITTEE**

**FOR**

**STRATEGIC SUPPORT SERVICES**

**(IDP)**

**CONVENED FOR**

**WEDNESDAY, 19 JUNE 2019**

**AT**

**10:00**

**AT**

**4<sup>TH</sup> FLOOR ROOM 428, MAIN BUILDING, WELKOM,  
CIVIC CENT**

# MATJHABENG LOCAL MUNICIPALITY



## ANTI-FRAUD AND ANTI-CORRUPTION POLICY 2018/19

<b>Contents</b>	<b>Page</b>
Glossary of terms	3 - 4
1. Policy Objectives	5 - 6
2. Scope of the policy	6
3. The policy	6 - 7
4. Actions constituting fraud, corruption, theft and maladministration	7 – 8
5. Responsibility to conduct investigations	8
6. Confidentiality	8 - 9
7. Reporting procedures and resolution of reported incidents	9 - 10
8. Protection of Whistle Blowers	10
9. Application of Prevention Controls and Detection Mechanisms	11
10. Training, education and Awareness	11
11. Consequences for breaching the provisions of anti-fraud and anti-corruption policy	11
12. Administration	11
13. Adoption of the policy	12

#### 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 similar expressions shall bear corresponding meanings):

*MLM*	Matjhabeng Local Municipality
*Code*	Code of Conduct for Municipal Staff Members as prescribed in Section 69 of the Local Government: Municipal Systems Act, Act 32 of 2000
*Committee*	Fraud and Corruption Prevention Committee
*Fraud and corruption*	<p>Includes, but not limited to, the following:</p> <p>(a) The following legal definitions:</p> <ul style="list-style-type: none"> <li>(i) Fraud, i.e. “the unlawful and intentional making of a misrepresentation which causes actual and/or potential prejudice to another”;</li> <li>(ii) Corruption which 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 do any act in relation to that power or duty”; and</li> <li>(iii) Theft, i.e. “the unlawful possession of something with the intent of keeping it, without the owner’s permission”;</li> </ul> <p>(b) Fraudulent or corrupt acts may include:</p> <p>Systems issues: where a process/system exists which is prone to abuse by either employees or the public, e.g.</p> <ul style="list-style-type: none"> <li>- Misadministration or financial misconduct in handling or reporting of money, financial transactions or other assets;</li> <li>- Irregular collusion in the allocation of housing;</li> <li>- Disclosing confidential or proprietary information to outside parties; and</li> <li>- Irregular collusion in writing off bad debts;</li> </ul> <p>Financial Issues: i.e. where individuals or companies have fraudulently obtained money from the municipality, e. g:</p> <ul style="list-style-type: none"> <li>- Making a profit from insider knowledge;</li> </ul> <p>Equipment and Resource Issues: i.e, where the municipality’s equipment is utilised for personal benefit, e.g:</p> <ul style="list-style-type: none"> <li>- Personal use of vehicles hired by the municipality;</li> </ul>

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- Theft of printer cartridges; and
  - Irregular destruction, removal, or abuse of records (including intellectual property) and equipment:

Other Issues, i.e. activities undertaken by officers of the municipality which may be unlawful against the municipality's regulations or policies, falls below established standards or practices or amounts to improper conduct, e.g.:

- Receiving undue gifts or favours for rendering services, e.g. expensive gifts in contradiction of the Code; and
- Deliberately omitting or refusing to report or act upon reports of any such irregular or dishonest conduct.

*IA*	Internal Audit Department/Services
*Policy*	Anti-Fraud and Anti-Corruption Policy
*SAPS*	South African Police Services
*SIU*	Special Investigation Unit
*NIA*	National Intelligence Agency

## 1. POLICY OBJECTIVES

1.1 The objective of this policy is to:

- To develop an anti-fraud and corruption free culture amongst staff and residents of Matjhabeng Local Municipality.
- To activate policies and systems which minimise fraud and corruption or any other dishonest activities of a similar nature.
- To ensure that Matjhabeng Municipality management is aware of its responsibilities for identifying exposures to fraudulent and corrupt activities or any other dishonest activities of a similar nature and for establishing controls and procedures for preventing such fraudulent and or corrupt activity and/or detecting such fraudulent and corrupt activity when it occurs;
- To provide guidance to employees and members of the public as to what action should be taken where they suspect any fraudulent and or corrupt activity;
- To provide a clear statement to staff or any other persons having a business with Matjhabeng Municipality, forbidding any illegal activity;
- To provide clear guidance as to responsibilities for detecting and reporting investigations into fraudulent and or corrupt activities;
- To provide assurances that any reasonable suspicion of fraudulent and or corrupt activity will be fully investigated;

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- Provide for a swift investigation of fraudulent and corrupt activities;
  - To provide adequate protection and guidance as to appropriate action to employees in circumstances where they are victimised as a consequence of reporting, or being a witness to, fraudulent and/or corrupt activities;
  - To provide a suitable environment for employees to report matters that they suspect may concern corrupt conduct, criminal conduct, criminal involvement or serious improper conduct.

1.2 This policy also sets down the stance of the Municipality to fraud as well as reinforcing existing regulations aimed at preventing, reacting to, and reducing the impact of fraud, corruption, theft and maladministration where these dishonest acts subsist.

1.3 The stance of the Municipality is:

- **FRAUD AND CORRUPTION WILL NOT BE TOLERATED, ZERO TOLERANCE;**
- **ALL INCIDENTS MUST BE INVESTIGATED AND FOLLOWED UP BY THE APPLICATION OF ALL REMEDIES AVAILABLE WITHIN THE FULL EXTENT OF THE LAW;**
- **ALL INCIDENTS OF FRAUD AND CORRUPTION MUST BE REPORTED TO THE SAPS FOR CRIMINAL PROSECUTION; AND**
- **LOSSES OR DAMAGES SUFFERED MUST BE RECOVERED FROM SUCH AN EMPLOYEE/COUNCILLOR IF SHE/HE IS LIABLE IN LAW.**

## 2. SCOPE OF THE POLICY

2.1 This policy applies to all fraud, corruption, theft and maladministration or suspected irregularities of this nature involving the following persons or entities:

- All employees of the municipality;
- Consultants, suppliers, contractors and other providers of goods or service to the municipality;
- Communities and other parties receiving benefits from the municipality; and
- Employees of our clients/stakeholders.

## 3. THE POLICY

3.1 It is the policy of the municipality that fraud, corruption, theft and maladministration or any other dishonest activities of a similar nature will not be tolerated. In addition, these will be investigated and followed up by the application of all remedies available within the full extent of the law.

3.2 Appropriate prevention and detection controls will be applied. These include the existing controls and checking mechanisms as prescribed in existing policies, procedures and other relevant prescripts to the activities of the municipality, and systems of internal control.

3.3 It is the responsibility of every employee of the municipality to report all incidents of fraud, corruption, theft, maladministration or any other dishonest activities of a similar nature to his/her Supervisor/Manager. If the employee is not comfortable reporting such matters to his/her Supervisor/Manager, he/she should report the matter to his/her Supervisor/Manager's superior, with final recourse to the Municipal Manager or the Executive Mayor. Employees may also report incidents by using the anti-fraud and anti-corruption hotline reporting facility, if they wish to remain anonymous or for any other reason.

3.4 All heads of departments are responsible for the detection, prevention and the initiation of the investigation of fraud, corruption, theft, maladministration or any dishonest activities of a similar nature, within their areas of responsibility.

3.5 The Municipality must immediately take appropriate legal recourse to recover losses or damages arising from fraud, corruption, theft or maladministration.

3.6 Internal audit, loss control and risk management must be involved with the implementation of programmes by:

3.6.1 Conducting of risk assessments / process analysis prior to the initiation of the project in order to identify areas of actual and potential loss, the design and implementation of internal controls to prevent such losses; and

3.6.2 The monitoring of compliance to these internal controls during program implementation.

#### **4. ACTIONS CONSTITUTING FRAUD, CORRUPTION, THEFT AND MALADMINISTRATION**

4.1 The term fraud, corruption, theft and maladministration refer to, but are not limited to:

- a) Any dishonest, fraudulent or corrupt act;
- b) Theft of funds, supplies, or other assets;
- c) Maladministration or financial misconduct in handling or reporting of money or financial transactions;
- d) Making a profit from insider knowledge;
- e) Disclosing confidential or proprietary information to outside parties;
- f) Irregularly accepting or requesting anything of a material value from contractors, suppliers, or other persons providing services/goods to the Municipality and/or its programmes and/or clients;
- g) Irregularly offering or giving anything of a material value to contractors, suppliers, or other persons providing services/goods to the Municipality;
- h) Destruction, removal, or abuse of records, furniture, motor vehicles, equipment or any other assets of the Municipality;
- i) Deliberately omitting to report or act upon reports of any such irregular or dishonest conduct;
- j) Acts of misconduct contemplated in terms of schedule 2 (code of conduct for municipal staff members) of the Local Government Municipal Systems Act 2000;

k) Incidents of unauthorized, irregular (expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation) or fruitless and wasteful expenditure (expenditure that was made in vain and that would have been avoided had reasonable care been exercised) as defined in the Municipal Finance Management Act. No.56 of 2003; and

l) Any similar or related irregularities.

## 5. RESPONSIBILITY TO CONDUCT INVESTIGATIONS

The responsibility to initiate investigations relating to the actions listed in this policy resides with the **Head of each Department** within the municipality by reporting it to the **Municipal Manager**. The Municipal Manager can establish the Fraud Prevention Committee of which it will be their responsibility to investigate and report the outcome to the Municipal Manager and the relevant head of the department. Further-more that committee must assist the Municipal Manager in reporting all cases of fraud as required by the Municipal Finance Management Act.

Investigating corruption takes place within a legal framework. Investigating officers need to be familiar with the following addition laws:

- Prevention of Organised Crime Act (Act 121 of 1998)
- Regulation of Interception of Communications and Provision of Communication-related Information Act (Act 70 of 2002)
- Witness Protection Act (Act 112 of 1998)

While all corruption cases must be referred to law enforcement agencies, some preliminary investigations will need to be conducted to determine whether there is evidence of corruption, and to determine which law enforcement agency should be approached. These outside agencies are:

- The Special Investigation Unit
- The South African Police Service
- The National Intelligence Agency

## 6. CONFIDENTIALITY

6.1 All information relating to irregularities 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 other 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 authorized to supply any information with regard to the issues covered within this policy to any external person or the media without the express permission of the Municipal Manager.

## 7. REPORTING PROCEDURES AND RESOLUTION OF REPORTED INCIDENTS



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7.1 It is the responsibility of every employee of the municipality to report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to his/her Supervisor/Manager. If the employee is not comfortable reporting such matters to his/her Supervisor/Manager, he/she should report the matter to his/her Supervisor/Manager's superior, with final recourse to the Municipal Manager.

Employees may also report incidents by using the anti-fraud and anti-corruption hotline reporting facility, if they wish to remain anonymous or for any other reason.

7.2 It is the responsibility of the Managers to report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to the Municipal Manager and the **Fraud Prevention Committee**. If the manager is not comfortable reporting such matters as indicated above, he/she should report the matter to the Executive Mayor. This reporting must take place as follows:

- a) Telephonically immediately after discovery of such an incident;
- b) This telephonic report must be followed by a detailed written report to be submitted within 24 hours of the discovery of such an incident.

7.3 It is the responsibility of the Municipal Manager in conjunction with the relevant Departmental Head and the **Fraud Prevention Committee** to ensure that the required investigations are conducted. The Municipal Manager may obtain relevant support in terms of skills, manpower etc. from:

- 7.3.1 Internal Audit;
- 7.3.2 Public Safety;
- 7.3.3 Corporate and Legal;
- 7.3.4 Human Resources; and
- 7.3.5 Risk Management.
- 7.3.6 External Service Providers.

7.4 The **Fraud Prevention Committee** is responsible for recording all reported incidents on a database to ensure that the information is available for measurement and reporting purposes.

7.5 The **Fraud Prevention Committee** will submit reports in terms of incidents investigated to the Audit Committee.

7.6 If sufficient information is available to substantiate that a criminal offence has been committed, the Municipal Manager or his/her nominee must report the matter to the South African Police Services as soon as possible.

7.7 Where an employee is alleged to have committed an act of fraud, corruption, theft, or maladministration the Municipal Manager must institute disciplinary proceedings, in terms of the disciplinary code agreement of the municipality.

7.8 Managers are also required to ensure that losses or damages suffered by the Municipality as a result of an act committed or omitted by an employee must be recovered from such an employee if he/she is liable in law. The Municipal Manager must determine the amount of the loss or damage and, in writing request that employee to pay the amount within 30 days or in reasonable instalments. If

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the employee fails to comply with the request, the matter must be handed to the Chief Financial Officer for the recovery of the loss or damage.

7.9 The responsibilities and accountabilities in terms of the Fraud Prevention Strategy must be incorporated as a key performance area in the performance management contracts of the relevant employees and stakeholders.

## **8. PROTECTION OF WHISTLE BLOWERS**

8.1 The Protected Disclosures Act, 26 of 2000 makes provision for the protection of employees who makes a disclosure that is protected in terms of the Act.

8.2 Any disclosure made in good faith and substantially in accordance with any procedure prescribed by the employee's employer for reporting is considered a protected disclosure under this Act. An employee making such a protected disclosure is protected from being subjected to an occupational detriment on account of having made a protected disclosure.

8.3 An employee who suspects or reports suspected dishonest activity or such activity which he/she has witnessed should be afforded the opportunity to remain anonymous should he/she so require.

8.4 Allegations made by employees, who are false and made with malicious intentions, should be discouraged by Managers. Where such malicious or false allegations are discovered, the person who made the allegations must be subjected to the municipality's disciplinary action. Such disclosures are not protected by the Protected Disclosures Act.

8.5 Issues not relevant to fraud and corruption need to be reported by means of the normal reporting lines and relevant grievance procedures. These should not be reported through the hotline facility.

## **9. APPLICATION OF PREVENTION CONTROLS AND DETECTION MECHANISMS**

9.1 In all instances where incidents of fraud, corruption, theft, maladministration and other similar irregularities of this nature take place, all Managers are required to immediately review the controls which have been breached in order to prevent similar irregularities from taking place in future, within a period of 48 hours after the occurrence of the initial incident. The Internal Audit may be contacted for assistance in this regard.

## **10. TRAINING, EDUCATION AND AWARENESS**

10.1 It is the responsibility of Heads of Departments to ensure that all employees receive appropriate training and education with regard to this policy.

10.2 The Departmental Head must maintain a register signed by all employees under his/her responsibility signifying that they have read and understand the policy.

## **11. CONSEQUENCES FOR BREACHING THE PROVISIONS OF ANTI-FRAUD AND ANTI-CORRUPTION POLICY**

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- 11.1 Breach of any provisions of this policy by any Matjhabeng Local Municipality employee or any person having dealings with the Municipality shall amount to misconduct and shall lead to disciplinary action and/or laying of criminal charges. Alleged or apparent violation of this policy may not in itself be a disciplinary matter, but misconduct leading to disciplinary action which could result from non-compliance with Council's procedures, directives or resolutions.
- 11.2 Employees will not be accountable for responsibilities and duties of which they had not been made aware through proactive communication of, and training related to the policy and guidelines.

## 11. ADMINISTRATION

11.1 The custodian of this policy is the Municipal Manager who is supported in its implementation by all Managers, Audit Committee and Risk Management Committee.

11.2 Top Management is responsible for the administration, revision, interpretation, and application of this policy. It will be reviewed annually and revised as required.

### NATIONAL ANTI-CORRUPTION HOTLINE FOR THE PUBLIC SERVICE

**Hotline 0800 701 701**

## 12. ADOPTION OF THE POLICY

Adopted by:

\_\_\_\_\_  
Municipal Manager (Mr E. T. Tsoaeli)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Executive Mayor (Cllr Nkonsinjani Speelman)

\_\_\_\_\_  
Date

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## MATJHABENG LOCAL MUNICIPALITY



## ANTI-FRAUD AND ANTI-CORRUPTION STRATEGY

2018/19

This anti-fraud and anti-corruption strategy has been developed for the Municipality in order to give effect to the expressed commitment of government to fight fraud and corruption in the Public Service. In accordance of the National Anti-Corruption Summit, this strategy represents a further step towards Government's contribution towards establishing a National Anti-Corruption Strategy for the country.

*The initiative to promote good governance and accountability is premised on the principle that serving the public is fundamentally a privilege.*

*This means that the discipline and integrity required of those who serve the public as elected representatives or appointed administrators, is higher than that expected of other sectors in our society. The obligations of public office need honest and ingenuous accounting, but also require a commitment to democratic process. We who are entrusted with this privilege should possess a strong sense of responsibility to act with efficiency and competence, and to discipline personal desires to the standards of law and democratic expectation. We have a duty to frame judgments within the context of our constitutional values, yet shape them in response to legitimate public demands. We have further obligation to seek outcomes that are respectful of the public, within the demands of the law, particularly since we are trustees of the public good in an environment dominated by private interests.*

*As custodians of public institutions, we should attend to the long-term legitimacy of these institutions a legitimacy that is prone to erosion with every report of corruption or perception thereof.*

*Transparency reflects whether or not stakeholders obtain a true picture of what is happening inside the organisation.*

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**INDEX**

	Page
<b>1. INTRODUCTION</b>	4
1.1 Purpose and components of the strategy	5
1.2 What entails fraud prevention	6
1.3 Why is fraud prevention important	6
<b>2. Building the fraud prevention plan</b>	7
2.1 Objective	7
2.2 Building process	7
2.2.1 Anti-Fraud and Corruption policy	8
2.2.2 Promotion of a code of conduct	8
2.2.3 Information sessions about Corporate Governance	8
2.2.4 Strengthening of MLM disciplinary processes	9
2.2.5 Review of the Loss Control Committee's scope and function	9
2.2.6 Promoting fraud hotline within the MLM	9 - 10
2.2.7 Introducing employee screening before appointment	10
<b>3. Relationship between risk and fraud management</b>	10
<b>Annexures</b>	
1 Code of Conduct for Municipal Staff Members	11-15
2 Anti-Fraud and Corruption Policy	16-22

## 1. INTRODUCTION

The anti-corruption strategy of Matjhabeng Local Municipality (MLM) is based on the vision and mission of the municipality taking into account the 2025 growth development strategy and the Integrated Development Plan.

### **Vision:**

To be a benchmark developmental municipality in service delivery excellence.

### **Mission:**

To be a united, non-racial, non-sexist, transparent, responsive municipality to provide municipal services in an economic, efficient and effective way; to promote a self-reliant community through the promotion of a culture of entrepreneurship; to create a conducive environment for growth and development; to promote co-operative governance, and; to promote a dynamic community participation and value adding partnership.

The municipality in its Growth and Development strategy highlight important issue of good governance principles which are the pillars of our fraud strategy and is quoted as:

### **“GOOD GOVERNANCE PRINCIPLES**

The MLM will adhere to the following general principles pertaining to good governance:

- Sound political and management leadership is required to steer the MLM towards fulfilling its vision, mission and the desired GDS and IDP outcomes;
- Better service delivery through the principles of Batho Pele will underpin all activities of the MLM;
- Corporate discipline is a commitment by the MLM's senior management to adhere to behaviour that is universally recognised and accepted to be correct and proper;
- Transparency is the ease with which an outsider is able to make meaningful analyses of the MLM's actions, its economic fundamentals and the nonfinancial aspects pertinent to the organisation. It reflects whether or not stakeholders obtain a true picture of what is happening within the organisation:

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- Independence is the extent to which mechanisms have been put in place to minimise or avoid potential conflicts of interest that may exist;
  - Individuals or groups in the MLM, who make decisions and take actions on specific issues, need to be accountable for their decisions and actions. Mechanisms must exist and be effective to allow for accountability;
  - With regard to management, responsibility pertains to behaviour that allows for corrective action and for penalising mismanagement;
  - The systems that exist within the MLM must exhibit fairness and take into account all those that have an interest in Matjhabeng and its future. The rights of various groups have to be acknowledged, respected and balanced against each other.”

## **1.1 Purpose and components of the strategy:**

The purpose of this strategic document is:

- To adopt a plan, based on the legislation and policy;
- To set up the base of information in order that deviations can be monitored and
- detected;
- To reduce deviations and implement legal recourse where needed and improve controls as a response;
- To incorporate fraud prevention as part of the management practice.

The components of the municipality’s fraud strategy consist of the following:

- Prevention
- Detection
- Investigation, and
- Response.

The prevention of fraud is the most important component of MLM strategy in dealing with fraud.



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## 1.2 What entails fraud prevention?

Fraud prevention can be seen as the cumulative effect of both preventative and detection systems incorporated by management. Detection of fraud can only lead to the prevention thereof if the response thereto acts as a deterrent.

It is suggested that if a company wants to implement a truly effective fraud prevention strategy, they have to start at the top which will, thereafter permeate downward.

## 1.3 Why is fraud prevention important?

Your duty in terms of legislation.

The National Government launched an anticorruption strategy as far back as 1997. This was further enhanced by the incorporation of anti-corruption legislation incorporated in for example, Local Government Municipal Structures Act, Municipal Systems Act and the Municipal Finance Management Act.

The principles of good corporate governance as dictated by the King II-IV Report also necessitate the establishment of a Fraud Prevention Plan.

Deciding on an appropriate strategy to address fraud, management has considered the following:

### **Opportunity**

Lack of internal controls, poor control environment, lack of proper segregation of duties, etc, are all examples of opportunities in the work environment, which increase the likelihood of fraud.

Opportunity to commit fraud within the Matjhabeng Local Municipality (MLM) is under the control of management. The implementation of effective and efficient internal controls (both detection and prevention controls) is one of the mechanisms available to management.

Occurrence of fraud within the MLM should initiate a redesign, or if appropriate a reengineering of related internal controls.

**Incentive/Pressure**

Incentive/pressure is to a large extent unresponsive to management intervention. Management can however through increased focus on the control environment and internal controls increase the incentive/pressure threshold. The incentive/pressure threshold can be defined as the quantified cut-off before a person will commit fraud. Although each individual will have a different threshold, management can raise the average threshold of an entity by his or her attitude and response towards the occurrence of fraud.

**Attitude**

Attitude is to a lesser extent under the control of management. Incorporating a zero-tolerance attitude and culture within the MLM will act as a powerful deterrent for fraud. A work culture embracing and rewarding dishonesty can be a fertile breeding ground for fraudulent activities.

Leading by example will be one of the tools used by management to create such a culture of **ZERO-TOLERANCE** toward fraud.

**2. Building the Fraud Prevention Plan****2.1 Objectives**

To present a detailed step by step action plan to implement the Fraud Prevention Plan and assign responsibilities.

**2.2 Building process**

Implementation of the fraud strategy can only be effected through a series of interrelated steps. Some of the steps listed below may need annual revision.

The implementation steps are:

- Development of Anti-Fraud and Corruption Policy (attached as annexure B);
- Development of Code of Conduct (attached as annexure A);
  - Set up of register of Declaration of gifts, interests etc (this must be ongoing)
  - Set up register for permission to conduct other business (Systems Act)
  - Set up a register of third party transactions (MFMA requirement)

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- Register of non-payment of municipal accounts

- Information session about Corporate Governance;
- Strengthening of MLM disciplinary processes;
- Review of the Loss Control Committee's scope and function;
- Promoting hotline within the MLM;
- Introducing employee screening before appointment;
- Defining the Municipal Public Accounts Committee's role.

## **2.2.1 Anti-Fraud and Corruption Policy**

Communication of management's attitude towards fraud is of paramount importance in the fight against corruption and fraud. Deciding on a statement representing management's attitude and promoting such a statement to its stakeholders is of paramount importance.

## **2.2.2 Promotion of a Code of Conduct**

The purpose of a code of conduct as set out in schedule 2 of the Municipal Structures Act is to guide employees in their day-to-day activities. It is further adopted by the MLM by including it as part of its fraud strategic document.

The Human Resource Management and Skills Development is responsible for the promotion of this code by developing and presenting short courses to all employees.

## **2.2.3 Information session about Corporate Governance**

The Report of the Committee on the Financial Aspects of Corporate Governance (the Cadbury report) defined corporate governance as "the system by which organizations are directed and controlled". It identified the three fundamental principles of corporate governance as:

- Openness;
- Integrity; and
- Accountability.

These principles are as relevant to all public sector entities as they are to private sector entities. They apply equally to all public sector entities, irrespective of whether governing bodies are elected or appointed, and whether or not they comprise a group of people or an

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individual. Therefore, management needs to be aware of these principles and inculcate them to their subordinates.

#### **2.2.4 Strengthening of MLM disciplinary processes**

The MLM disciplinary processes are a key link in the accountability cycle as promoted by the MFMA. It is also the tool used by the Municipal Manager as the Accounting Officer to act on officials contravening policies and regulations or any other relevant legislation.

Consistent and swift reaction to all corruption/fraud cases should form the basis of municipality's disciplinary actions.

#### **2.2.5 Review of the Loss Control Committee's scope and function**

In an effort to create a culture of zero-tolerance within the municipality, management must lead by example. The Accounting Officer must appoint top management to a Loss Control Committee and it should be seen as the first step in creating such a culture.

The Committee's function should include among other things, the implementation and coordination of the Fraud Prevention Plan.

#### **2.2.6 Promoting fraud hotline within the MLM**

One of the resolutions taken at the National Anti-Corruption Summit held on 14-15 April 1999 was the development, encouragement and implementation of whistle blowing mechanisms.

The Fraud Prevention Committee must be responsible for the management and promotion of the available whistle blowing channels within the MLM.

Since one of the possible detection mechanisms available to identify cases of fraud is whistle blowing, it is important to inform such officials of their rights as protected by the Protected Disclosure Act No 26 of 2000.

Since one of the possible detection mechanisms available to identify cases of fraud is whistle blowing from within the MLM, it is important to inform such officials of their rights as protected by the Protected Disclosure Act.

Mechanisms to report acts of corruption, misadministration and misconduct within the MLM should be implemented to assist officials with the reporting of such acts.

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### **2.2.7 Introducing employee screening before appointment**

The requirement of a security clearance certificate within the MLM should be applied to all positions up to supervisory level (level 7) and all contract positions including section 57 within MLM. This should be seen as an important preventative control.

Research on the prevalence of fraud within organizations shows employees as the single biggest contributor. Prospective employees with a history of corruption can be eliminated from the process thus decreasing the realization of the attitude/rationalization variable of the fraud triangle considerably.

### **3. Relationship between risk and fraud management**

The risk of fraud is seen as a subcomponent of risk within an entity. As such risk management activities will include the estimation of the likelihood of the occurrence of fraud.

Risk evaluation within the MLM is done using a business process approach. This entails in short, the identification of critical business processes, identification of risks associated within each process and the development of effective, efficient and transparent controls to reduce exposure to identified risks.

Each critical process identified during the business process approach should be evaluated for its susceptibility to fraud. The end result will be a fraud risk map for MLM processes and this will inform management of potential problem areas and to direct management's attention and effort in the management of risk and thus improve controls.

## **ANNEXURE "1"**

### **CODE OF CONDUCT**

#### **FOR MUNICIPAL STAFF MEMBERS**

The code of conduct for municipal staff members is contained in the Municipal Systems Act 32 of 2000 under schedule 2 and is copied here under. This copy does not replace the schedule 2 of the said act.

#### **1. Definition**

In this schedule 'partner' means a person who permanently lives with another person in a manner as if married.

#### **2. General conduct**

A staff member of a municipality must at all times

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- a) Loyally execute the lawful policies of the municipal council;
  - (b) Perform the functions of office in good faith, diligently, honestly and in a transparent manner;
  - (c) Act in such a way that the spirit, purport and objects of section 50 are promoted;
  - (d) Act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and
  - (e) Act impartially and treat all people, including other staff members, equally without favour or prejudice.

### **3. Commitment to serving the public interest**

A staff member of a municipality is a public servant in a developmental local system, and must accordingly:

- (a) Implement the provisions of section 50 (2);
- (b) Foster a culture of commitment to serving the public and a collective sense of responsibility for performance in terms of standards and targets;
- (c) Promote and seek to implement the basic values and principles of public administration described in section 195 (1) of the Constitution;
- (d) Obtain copies of or information about the municipality's integrated development plan, and as far as possible within the ambit of the staff members job description, seek to implement the objectives set out in the integrated development plan, and achieve the performance targets set for each performance indicator;
- (e) Participate in the overall performance management system for the municipality, as well as the staff member's individual performance appraisal and reward system, if such exists, in order to maximize the ability of the municipality as a whole to achieve its objectives and improve the quality of life of its residents.

### **4. Personal gain**

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

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

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

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

a) Be a party to a contract for –

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

ii) The performance of any work for the municipality otherwise than as a staff member,

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

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

## **5. Disclosure of benefits**

(1) A staff member of a municipality who, or whose spouse, partner, business associate or close family member acquired or stands to acquire any direct benefit from a contract concluded with the municipality must disclose in writing full particulars of the benefit to the council.

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

## **6. Unauthorized disclosure of information**

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

(2) For the purpose of this item 'privileged or confidential information' includes any

Information -

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

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

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(c) Disclosure of which would violate a person's right to privacy; or

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

(3) This item does not derogate from a person's right of access to information in terms of national legislation.

## **7. Undue influence**

A staff member of a municipality may not –

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

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

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

## **8. Rewards, gifts and favours**

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

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

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

(c) Disclosing any privileged or confidential information; or

(d) Doing or not doing anything within that staff member's powers or duties.

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



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## **9. Council property**

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

## **10. Payment of arrears**

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

## **11. Participation in elections**

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

## **12. Sexual harassment**

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

## **13. Reporting duty of staff members**

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

## **14. Breaches of Code**

Breaches of this Code must be dealt with in terms of the disciplinary procedures of the municipality envisaged in section 67 (1) (h) of the Municipal Systems Act 32 of 2000.

### **14A Disciplinary steps**

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

(2) Such other disciplinary steps may include:

- a) Suspension without pay for no longer than three months;
- (b) Demotion;
- (c) Transfer to another post;
- (d) Reduction in salary, allowances or other benefits; or

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(e) An appropriate fine.

[Item 14A added by s. 29 of Act 44 of 2003.]

## **ANNEXURE “2”**

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

#### **OF**

#### **MATJHABENG LOCAL MUNICIPALITY**

### **1. BACKGROUND**

1.1 The objective of this policy is to develop and foster a climate within Matjhabeng Municipality where all employees strive for the ultimate eradication of fraud, corruption, theft and maladministration by means of the application of the full spectrum of both proactive measures at their disposal.

1.2 This policy also sets down the stance of the Municipality to fraud as well as reinforcing existing regulations aimed at preventing, reacting to, and reducing the impact of fraud, corruption, theft and maladministration where these dishonest acts subsist.

1.3 The stance of the Municipality is:

- **FRAUD AND CORRUPTION WILL NOT BE TOLERATED ZERO TOLERANCE;**
- **ALL INCIDENTS MUST BE INVESTIGATED AND FOLLOWED UP BY THE APPLICATION OF ALL REMEDIES AVAILABLE WITHIN THE FULL EXTENT OF THE LAW;**
- **ALL INCIDENTS OF FRAUD AND CORRUPTION MUST BE REPORTED TO THE SAPS FOR CRIMINAL PROSECUTION; AND**
- **LOSSES OR DAMAGES SUFFERED MUST BE RECOVERED FROM SUCH AN**
- **EMPLOYEE/COUNCILLOR IF SHE/HE IS LIABLE IN LAW.**

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

2.1 This policy applies to all fraud, corruption, theft and maladministration or suspected irregularities of this nature involving the following persons or entities:

- a) All employees of the municipality;

- 
- b) Consultants, suppliers, contractors and other providers of goods or service to the municipality;
  - c) Communities and other parties receiving benefits from the municipality; and
  - d) Employees of our clients/stakeholders.

### **3. POLICY**

3.1 It is the policy of the municipality that fraud, corruption, theft and maladministration or any other dishonest activities of a similar nature will not be tolerated. In addition, these will be investigated and followed up by the application of all remedies available within the full extent of the law.

3.2 Appropriate prevention and detection controls will be applied. These include the existing controls and checking mechanisms as prescribed in existing policies, procedures and other relevant prescripts to the activities of the municipality, and systems of internal control.

3.3 It is the responsibility of every employee of the municipality to report all incidents of fraud, corruption, theft, maladministration or any other dishonest activities of a similar nature to his/her Supervisor/Manager. If the employee is not comfortable reporting such matters to his/her Supervisor/Manager, he/she should report the matter to his/her Supervisor/Manager's superior, with final recourse to the Municipal Manager or the Executive Mayor. Employees may also report incidents by using the anti-fraud and anti-corruption hotline reporting facility, if they wish to remain anonymous or for any other reason.

3.4 All heads of departments are responsible for the detection, prevention and the initiation of the investigation of fraud, corruption, theft, maladministration or any dishonest activities of a similar nature, within their areas of responsibility.

3.5 The Municipality must immediately take appropriate legal recourse to recover losses or damages arising from fraud, corruption, theft or maladministration.

3.6 Internal audit, loss control and risk management must be involved with the implementation of programmes by:

- 3.6.1 Conducting of risk assessments / process analysis prior to the initiation of the project in order to identify areas of actual and potential loss, the design and implementation of internal controls to prevent such losses; and

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3.6.2 The monitoring of compliance to these internal controls during program implementation.

#### **4. ACTIONS CONSTITUTING FRAUD, CORRUPTION, THEFT AND MALADMINISTRATION**

4.1 The term fraud, corruption, theft and maladministration refer to, but are not limited to:

- a) Any dishonest, fraudulent or corrupt act;
- b) Theft of funds, supplies, or other assets;
- c) Maladministration or financial misconduct in handling or reporting of money or financial transactions;
- d) Making a profit from insider knowledge;
- e) Disclosing confidential or proprietary information to outside parties;
- f) Irregularly accepting or requesting anything of a material value from contractors, suppliers, or other persons providing services/goods to the Municipality and/or its programmes and/or clients;
- g) Irregularly offering or giving anything of a material value to contractors, suppliers, or other persons providing services/goods to the Municipality;
- h) Destruction, removal, or abuse of records, furniture, motor vehicles, equipment or any other assets of the Municipality;
- i) Deliberately omitting to report or act upon reports of any such irregular or dishonest conduct;
- j) Acts of misconduct contemplated in terms of schedule 2 (code of conduct for municipal staff members) of the Local Government Municipal Systems Act 2000;
- k) Incidents of unauthorized, irregular (expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation) or fruitless and wasteful expenditure (expenditure that was made in vain and that would have been avoided had reasonable care been exercised) as defined in the Municipal Finance Management Act. No.56 of 2003; and
- l) Any similar or related irregularities.

#### **5. RESPONSIBILITY TO CONDUCT INVESTIGATIONS**

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The responsibility to initiate investigations relating to the actions listed in this policy resides with the **Head of the Department** within the municipality by reporting it to the **Municipal Manager** and the **Head of Internal Audit**. It is the responsibility of the **Head of Internal Audit** to investigate and report the outcome to the Municipal Manager and the relevant head of the department. Furthermore the **Fraud Prevention Committee** must assist the Municipal Manager in reporting all cases of fraud as required by the Municipal Finance Management Act.

## 6. CONFIDENTIALITY

6.1 All information relating to irregularities 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 other 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 authorized to supply any information with regard to the issues covered within this policy to any external person or the media without the express permission of the Municipal Manager.

## 7. REPORTING PROCEDURES AND RESOLUTION OF REPORTED INCIDENTS

7.1 It is the responsibility of every employee of the municipality to report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to his/her Supervisor/Manager. If the employee is not comfortable reporting such matters to his/her Supervisor/Manager, he/she should report the matter to his/her Supervisor/Manager's superior, with final recourse to the Municipal Manager.

Employees may also report incidents by using the anti-fraud and anti-corruption hotline reporting facility, if they wish to remain anonymous or for any other reason.

7.2 It is the responsibility of the Managers to report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to the Municipal Manager and the **Fraud Prevention Committee**. If the manager is not comfortable reporting such matters as indicated above, he/she should report the matter to the Executive Mayor. This reporting must take place as follows:

a) Telephonically immediately after discovery of such an incident;

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b) This telephonic report must be followed by a detailed written report to be submitted within 24 hours of the discovery of such an incident.

7.3 It is the responsibility of the Municipal Manager in conjunction with the relevant Departmental Head and the **Fraud Prevention Committee** to ensure that the required investigations are conducted. The Municipal Manager may obtain relevant support in terms of skills, manpower etc. from:

7.3.1 Internal Audit;

7.3.2 Public Safety;

7.3.3 Corporate and Legal;

7.3.4 Human Resources; and

7.3.5 Risk Management.

7.3.6 External Service Providers.

7.4 The **Fraud Prevention Committee** is responsible for recording all reported incidents on a database to ensure that the information is available for measurement and reporting purposes.

7.5 The **Fraud Prevention Committee** will submit reports in terms of incidents investigated to the Audit Committee.

7.6 If sufficient information is available to substantiate that a criminal offence has been committed, the Municipal Manager or his/her nominee must report the matter to the South African Police Services as soon as possible.

7.7 Where an employee is alleged to have committed an act of fraud, corruption, theft, or maladministration the Municipal Manager must institute disciplinary proceedings, in terms of the disciplinary code agreement of the municipality.

7.8 Managers are also required to ensure that losses or damages suffered by the Municipality as a result of an act committed or omitted by an employee must be recovered from such an employee if he/she is liable in law. The Municipal Manager must determine the amount of the loss or damage and, in writing request that employee to pay the amount within 30 days or in reasonable instalments. If the employee fails to comply with the request, the matter must be handed to the Chief Financial Officer for the recovery of the loss or damage.

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7.9 The responsibilities and accountabilities in terms of the Fraud Prevention Strategy must be incorporated as a key performance area in the performance management contracts of the relevant employees and stakeholders.

## **8. PROTECTION OF WHISTLE BLOWERS**

8.1 The Protected Disclosures Act, 26 of 2000 makes provision for the protection of employees who makes a disclosure that is protected in terms of the Act.

8.2 Any disclosure made in good faith and substantially in accordance with any procedure prescribed by the employee's employer for reporting is considered a protected disclosure under this Act. An employee making such a protected disclosure is protected from being subjected to an occupational detriment on account of having made a protected disclosure.

8.3 An employee who suspects or reports suspected dishonest activity or such activity which he/she has witnessed should be afforded the opportunity to remain anonymous should he/she so require.

8.4 Allegations made by employees, who are false and made with malicious intentions, should be discouraged by Managers. Where such malicious or false allegations are discovered, the person who made the allegations must be subjected to the municipality's disciplinary action. Such disclosures are not protected by the Protected Disclosures Act.

8.5 Issues not relevant to fraud and corruption need to be reported by means of the normal reporting lines and relevant grievance procedures. These should not be reported through the hotline facility.

## **9. APPLICATION OF PREVENTION CONTROLS AND DETECTION MECHANISMS**

9.1 In all instances where incidents of fraud, corruption, theft, maladministration and other similar irregularities of this nature take place, all Managers are required to immediately review the controls which have been breached in order to prevent similar irregularities from taking place in future, within a period of 48 hours after the occurrence of the initial incident. The Internal Audit may be contacted for assistance in this regard.

## **10. TRAINING, EDUCATION AND AWARENESS**

10.1 It is the responsibility of Heads of Departments to ensure that all employees receive appropriate training and education with regard to this policy.

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10.2 The Departmental Head must maintain a register signed by all employees under his/her responsibility signifying that they have read and understand the policy.

## 11. ADMINISTRATION

11.1 The custodian of this policy is the Municipal Manager through the **Fraud Prevention Committee** who is supported in its implementation by all Managers, Audit Committee and Risk Management Committee.

11.2 Top Management is responsible for the administration, revision, interpretation, and application of this policy. It will be reviewed annually and revised as required.

## 12. ADOPTION OF THE STRATEGY

Adopted by:

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Municipal Manager (Mr E. T. Tsoaeli)

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Date

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Executive Mayor (Cllr Nkonsinjani Speelman)

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Date



# MATJHABENG LOCAL MUNICIPALITY



## FRAUD PREVENTION PLAN 2018/19

	<u>Page</u>
<u>PART 1</u> : OBJECTIVE	3
<u>PART 2</u> : RISK MANAGEMENT	3 - 4
<u>PART 3</u> : LEADERSHIP	4 -5
<u>PART 4</u> : THE ROLE OF AUDITORS	5
<u>PART 5</u> : EMPLOYEE SCREENING	5 - 6
<u>PART 6</u> : DETECTION	6
<u>PART 7</u> : INTERNAL MANAGEMENT SYSTEMS	6 - 7
<u>PART 8</u> : PUBLIC INTEREST DISCLOSURE	7
<u>PART 9</u> : ROLE OF AUDIT IN DETECTION	7 - 8
<u>PART 10</u> : WARNING SIGNS	8
<u>PART 11</u> : INVESTIGATION	8
<u>PART 12</u> : PROCESS OF INVESTIGATION	8
<u>PART 13</u> : FIDELITY INSURANCE	9
<u>PART 14</u> : STANDARD TENDER AND CONTRACT DOCUMENTATION	9
<u>PART 15</u> : REGISTRATION AND DECLARATION OF INTERESTS	9 - 10
<u>PART 16</u> : GIFTS	10
<u>PART 17</u> : HOSPITALITY	10 -11

## 1. OBJECTIVE

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1.1. Fraud prevention is about changing organisational features that allow fraud to occur and possibly go unnoticed or unreported. Fraud control is an essential element of sound corporate governance and is integral to internal risk control.

1.2. Fraud is generally defined as wilful deceit or trickery. It covers a wide range of activities from such minor transgressions as the misappropriation of office stationery by a staff member to more serious crimes such as misrepresentations by Senior Management and Councillors to Council, the public and creditors, and mis-use of confidential information.

1.3. Fraud prevention strategies must be generated from senior management. If the Councillors, Chief Executive Officer, General Managers and Managers at all levels have a commitment to fraud prevention and understand how it may be achieved, this will provide a foundation for other employees to support the notion of fraud control.

1.4. The aftermath of fraud is costly, time-consuming and disruptive. The major thrust of any anti-fraud strategy should therefore be prevention.

## 2. RISK MANAGEMENT

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

The Council's risk assessment process must be on-going, iterative and be sufficiently robust to enable all key fraud risks to be identified. Risk assessment should address both the internal and external environments of the Council and they should cover all functions and operations to establish the level, nature, form and likelihood of risk exposure.

2.2 To accomplish the above, Council's management is responsible for the:

- Identification of specific fraud risks that may be present within each operational management Unit.
- Assessment of the effectiveness of internal controls in force that would tend to impact on the risks identified.

- 
- Determination of an overall risk rating for each risk identified.
  - Development of strategic measures to counter the impact of each fraud risk in light of the individual risk ratings.

2.3 The Accounting Officer oversees the Council fraud risk assessment annually to assist staff to identify and rate the exposures and risk factors relevant to the systems, functions and operations in their area.

2.4 Fraud can be minimised through carefully designed and consistently operated management procedure, which deny opportunities for fraud.

2.5 The classic way to guard against fraud in financial systems is separation of duties, so that no individual has undue management of payments, income or assets.

2.6 Staff must be trained in their roles in the risk management process, and instructed on the extent they will be accountable for their actions. Accountability is the key to providing a deterrent to fraud and theft. Training conveys the organisational culture to the staff and gives them sufficient confidence and direction to implement the policies and procedures. Training also limits the opportunity for staff to claim ignorance when policies are being enforced.

2.7 Appropriate use of exception reporting available from the computer system, monitoring activities and staff rotation are some of the techniques to ensure that policies and procedures are adhered to.

### 3. LEADERSHIP

3.1 Key determinants of the standards of behaviour in most organizations will be the standards observed by senior managers, and the policies and approach to their enforcement promoted by the senior managers.

3.2 The Council and senior managers must therefore ensure that their behaviour is always demonstrably selfless. The Council should produce and disseminate clear policies on:

- Code of Conduct

- Registration and declaration of interests
- Accepting hospitality and gifts
- Prosecution of perpetrators of fraud.

Prosecution is a particularly effective deterrent because of the risk of a custodial sentence and a criminal record. However the threat of prosecution only deters if the threat is real. Therefore each and every case arising should normally be referred to the police, irrespective of the status of the individual. The decision to involve the police shall be taken by the Council or Municipal Manager.

#### 4. THE ROLE OF AUDITORS

4.1. A continuous review of systems by internal audit may deter attempted fraud and should result in continuous improvements. The risk of fraud shall, therefore, be a factor in audit needs assessments and related audit plans.

4.2. External audit's reviews of financial checks and balances and validation testing provide further deterrence, and advice about systems.

#### 5. EMPLOYEE SCREENING

Potential new members of staff should be screened before appointment, particularly for posts with financial responsibility. For example:

- 5.1. References shall cover a reasonable, continuous period; and any gaps should be explained.
- 5.2. An official employer's reference shall be sought.
- 5.3. Doubts about the contents of the reference should be resolved before confirming the appointment.
- 5.4. Relevant qualifications shall be checked before making an offer of employment.
- 5.5. Recruitment procedures shall require applicants to declare any associations with existing Councillors or staff. Members of recruitment panels shall similarly be required to declare such associations.

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## 6. DETECTION

- 6.1. No system of preventative measures can guarantee that frauds will not occur. The Municipality can, however, implement detection measures to highlight irregular transactions.
- 6.2. Correct investigation techniques ensure that any matters highlighted through audit and detection methods (Section 4) are handled in an unbiased, professional manner. Matters need to be handled having regard to Industrial Relations guidelines to minimise the risk of claims for unfair dismissal should this course of action be taken. The requirements of the Whistle-blowers Act must also be considered.

## 7. INTERNAL MANAGEMENT SYSTEMS

- 7.1. This is the most important measure because the risk of processing an irregular transaction is minimised where every transaction is reviewed systematically. Detective checks and balances should be designed into all systems and applied consistently. This would include the separation of duties, reconciliation procedures, random checking of transactions, and review of management accounting information, including exception reports.
- 7.2. Systems should identify transactions, which have not followed normal procedures. However, deception may be used to make improper transactions appear legitimate. The detective elements in each system should therefore be complemented by a general detective approach, to capture suspicions identified through chance, exit interviews and tip-offs.

## 8. PUBLIC INTEREST DISCLOSURE

- 8.1. The adoption of public interest disclosure procedures is advocated. These should guarantee that concerns expressed in good faith would be looked into, without adverse consequences for the complainant.
- 8.2. All suspicions or complaints are to be documented or reviewed by the Accounting Officer. Similar instances or patterns will then be recognised.

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8.3. If a staff member suspects that fraud is being committed against the Council, the staff member must report the matter. The staff member raising the issue should put that complaint in writing or provide sufficient detailed information to enable a comprehensive summary to be prepared.

8.4. All complaints should be made to the staff member's Manager or directly to the Municipal Manager or Chief Financial Officer.

8.5. In order to avoid damaging the reputations of innocent persons initially suspected of wrongful conduct and to protect the Council from the potential civil liability, the results of the audits / investigations will be disclosed or discussed only with those persons who require knowledge of the investigation. The Council will issue a letter to all staff cleared of any wrongdoing acknowledging this conclusion.

## 9. ROLE OF AUDIT IN DETECTION

9.1. The first lines of defence against fraud are robust preventative measures by management, coupled with sound detective checks and balances. Audit should normally be regarded as a long stop.

9.2. However, where a high risk of fraud is identified, auditors may use special techniques to identify fraudulent transactions. Given the sensitivity of fraud, there should be an effective two-way flow of information between internal and external audit.

## 10. WARNING SIGNS

Patterns of behaviour among staff, which might indicate a desire for concealment (such as taking few holidays, regularly working alone late or at weekends, resistance to delegation, and resentment of questions about work), should be investigated. Any indication of addiction to drugs, alcohol or gambling should be addressed by the appropriate line manager in conjunction with the Personnel Section as early as possible, both for the welfare of the individual and to minimise the risks of fraud.

## 11. INVESTIGATION

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Fraud or irregularity occurs unpredictably, in any part and at any level in an organization. It frequently causes disruption, which is out of proportion to the sums involved. Once a fraud is suspected, prompt action is needed to safeguard assets, recover losses and secure evidence for effective legal and disciplinary processes. Meeting these objectives, when the full facts of a case may be unknown, clearly requires contingency planning.

## 12. PROCESS OF INVESTIGATION

12.1. Fraud investigations should normally be independent of management, to ensure impartiality of reporting. Investigations shall normally be undertaken by internal audit which combine independence, investigative techniques and local knowledge.

12.2. If a culprit is aware that an investigation is in progress, he or she may try to frustrate disciplinary or legal action by destroying or removing evidence. The fraud response plan shall cater for the summary dismissal or suspension, with pay, of personnel under suspicion. Suspects should be given as little notice as possible so that they have no opportunity to destroy or remove property.

12.3. If initial investigations by Council Management, Internal Auditors, External Auditors or other consultants confirm that a significant fraud against the Council has been committed, the matter must be referred to the Police.

12.4. After the matter is investigated fully and evidence obtained, there must be a fair, consistent and visible application of the Policy to deal with staff who commit fraud. Without this application, staff will realise they can breach policies with relative immunity.

## 13. FIDELITY INSURANCE

The Municipality must have in place insurance, which provides a level of cover in the event of losses through misconduct by employees.

## 14. STANDARD TENDER AND CONTRACT DOCUMENTATION



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14.1. Senior Managers involved in the issue of tender and contract documentation shall ensure anti-corruption clauses are included in documentation. This will not strengthen the Municipality's legal position in the event of attempted or actual corruption, because this is covered by legislation. However, it may act as an effective reminder to contractors, suppliers and the Municipality's own employees that selflessness is required in commercial relationships.

14.2. The following is an example of an anti-corruption clause for inclusion in standard tender and contract documentation:

*You shall not give, provide, or offer to our staff and agents any loan, fee, reward, gift (except items of negligible intrinsic value) or any emolument or advantage whatsoever. In the event of any breach of this condition, we shall, without prejudice to any other rights we may possess, be at liberty forthwith to terminate the contract and to recover from you any loss or damage resulting from such termination.*

## 15. REGISTRATION AND DECLARATION OF INTERESTS

15.1. Open cultures are less conducive to fraud and irregularity than secretive ones. For this reason the need for Councillors to declare and register their interests is required.

15.2. There is a need for staff to declare and register their interests where appropriate. Staff at many levels will have an opportunity to influence the choice of suppliers and contractors. Management procedures should recognise this and should ensure that the selection of suppliers and contractors always reflects the best interests of the Municipality and not the personal or family interest of any member of the Municipality.

## 16. GIFTS

16.1. The Municipality must have a separate policy on staff accepting gifts. The policy makes clear that staff should not accept any gift, reward or hospitality from any organization or individual with whom they have contact in the course of their work as an inducement either for doing something or not doing something in their official capacity.

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16.2. Staff must record any gifts accepted in the Municipality's gift register. Any queries about the contents of the register should be directed to the Accounting Officer.

## 17. HOSPITALITY

17.1. It is accepted that staff sometimes receives conventional hospitality. They may attend, as part of their official function, an event organised by another body for promotional or influential purposes.

17.2. Offers of hospitality that exceed this norm should in general be refused. The following items should be avoided:

17.2.1. Hospitality offered in substitution for fees for work done on behalf of the municipality.

17.2.2. Inducements which could lead to a contractual position between the Municipality and a supplier, contractor or consultant.

17.2.3. Substantial offers of social functions, travel or accommodation.

17.2.4. Acceptance of meals, tickets and invitations to sporting, cultural or social events, particularly from the same source.

17.3. Particular care should be taken when offered any form of hospitality of gift from a person or organization, which has, or is hoping to have, a contractual relationship with the Municipality. If staff has any doubt about whether to accept hospitality offered they should refer the matter to their line manager/supervisor, who in turn may discuss it with the Municipal Manager.

17.4. If, exceptionally, as Senior Manager agrees that there are circumstances that justify the normal level of hospitality being exceeded, this will be recorded in the central register held by the Accounting Officer.

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# MATJHABENG LOCAL MUNICIPALITY

## FRAUD RESPONSE PLAN

### INDEX

	<u>Page</u>
<u>PART 1</u> : PURPOSE	13
<u>PART 2</u> : INITIATING ACTION	13 - 14
<u>PART 3</u> : PREVENTION OF FURTHER LOSS	14 - 15
<u>PART 4</u> : ESTABLISHING AND SECURING EVIDENCE	15
<u>PART 5</u> : RECOVERY OF LOSSES	16
<u>PART 6</u> : REFERENCES FOR EMPLOYEES DISCIPLINED OR PROSECUTED FOR FRAUD	16
<u>PART 7</u> : REPORTING	16 - 17
<u>PART 8</u> : RESPONSIBILITY FOR INVESTIGATION	17
<u>PART 9</u> : PROTECTION OF WHISTLE BLOWERS	18
<u>PART 10</u> : REVIEW OF FRAUD RESPONSE PLAN	19

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## **FRAUD RESPONSE PLAN**

### **1. PURPOSE**

The purpose of this plan is to define authority levels, responsibilities for action, and reporting lines in the event of a suspected fraud or irregularity. The use of the plan should enable the Municipality to:

- 1.1. Prevent further loss.
- 1.2. Establish and secure evidence necessary for criminal and disciplinary action.
- 1.3. Notify the National/Provincial Government if the circumstances are covered by the mandatory requirements of Legislation.
- 1.4. Recover losses.
- 1.5. Punish the culprits.
- 1.6. Deal with requests for references for employees disciplined or prosecuted for fraud.
- 1.7. Review the reasons for the incident, the measures taken to prevent a recurrence, and any action needed to strengthen future responses to fraud.
- 1.8. Keep all personnel with a need to know suitably informed about the incident and the Municipality's response.
- 1.9. Inform the police and establish lines of communications with the police.
- 1.10. Assign responsibility for investigating the incident.
- 1.11. Establish circumstances in which external specialists should be involved.

### **2. INITIATING ACTION**

- 2.1. All actual or suspected incidents should be reported without delay to the Accounting Officer or in his / her absence another member of the Management Team. If the allegations are against a member of the Executive, then the Mayor or the Chair of the Audit Committee should be contacted.

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2.2. The Accounting Officer (or other appropriate person) shall, normally within 24 hours, hold a meeting of the following project group to decide on the initial response:

- Appropriate Senior Manager
- Head of Finance
- Head of Security
- Head of Personnel
- Internal Audit Manager
- Chief Risk Officer

2.3. The project group will decide on the action to be taken. This will normally be an investigation, led by the internal auditor. The decision by the project group to initiate a special investigation shall constitute authority to the internal auditor to use time provided in the internal audit plan for special investigations, or contingency time, or to switch internal audit resources from planned audits.

2.4. The Municipality's external auditors should be informed of the suspected fraud and kept up-to-date on the work of the above-mentioned project group.

### 3. PREVENTION OF FURTHER LOSS

3.1. Where initial investigation provides reasonable grounds for suspecting a member or members of staff of fraud, the project will decide how to prevent further loss. This may require the suspension, with pay, of the suspects. It may be necessary to plan the timing of suspension to prevent the suspects from destroying or removing evidence that may be needed to support disciplinary or criminal action.

3.2. In these circumstances, the suspect(s) should be approached unannounced. They should be supervised at all times before leaving the Municipality's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the Municipality. Any keys to premises, offices and furniture should be returned.

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3.3. The Corporate Services Director should be required to advise on the best means of denying access to the Municipality while suspects remain suspended (for example by changing locks) and informing security staff not to admit the individuals to any part of the premises). Similarly the Chief Information Officer/IT Manager shall be instructed to withdraw without delay access permissions to the Municipality's computer systems.

3.4. The Internal Audit Manager shall consider whether it is necessary to investigate systems other than that which has given rise to suspicion, through which the suspect may have had opportunities to misappropriate the Municipality's assets.

#### 4. ESTABLISHING AND SECURING EVIDENCE

4.1. A major objective in any fraud investigation will be the punishment of any perpetrator to act as a deterrent to other potential perpetrators. The Municipality will follow disciplinary procedures against any member of staff who has committed fraud. The Municipality will normally pursue the prosecution of any such individual.

4.2. The Accounting Officer in conjunction with the Internal Audit Manager will:

- Ensure that evidence requirements will be met during any fraud investigations.
- Establish and maintain contact with the police.
- Ensure that staff involved in fraud investigations is familiar with and follow rules on the admissibility of documentary and other evidence in criminal proceedings.

#### 5. RECOVERY OF LOSSES

5.1. Recovering losses is a major objective of any fraud investigation. The Internal Audit Department shall ensure that in all fraud investigations, the amount of any loss will be quantified. Repayment of losses should be sought in all cases.

5.2. Where the loss is substantial, legal advice should be obtained without delay about the need to freeze the suspect's assets through the court, pending conclusion of the

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investigation. Legal advice should also be obtained about prospects for recovering losses through the civil court, where the perpetrator refuses repayment. The Municipality would normally expect to recover costs in addition to losses.

## 6. REFERENCES FOR EMPLOYEES DISCIPLINED OR PROSECUTED FOR FRAUD

The Municipality shall require that any request for a reference for a member of staff who has been disciplined or prosecuted for fraud shall be referred to the Accounting Officer or Executive Mayor.

## 7. REPORTING

7.1. Any variation from the approved fraud response plan, together with reasons for the variation, shall be reported promptly to the chairs of both the Council and the Audit Committee/Risk Management Committee.

7.2. On completion of a fraud investigation, a written report shall be submitted to the Audit Committee/Risk Management Committee. If fraud has been established, then the report shall contain:

- A description of the incident, the people involved, and the means of perpetrating the fraud.
- The measures taken to prevent a recurrence.
- Quantification of losses.
- Progress with recovery action.
- Progress with disciplinary action.
- Progress with criminal action.
- Action taken to prevent and detect similar incidents.

7.3. The Internal Audit Department will normally prepare this report.

## 8. RESPONSIBILITY FOR INVESTIGATION

- 
- 8.1. The Internal Audit Department shall normally lead all fraud investigations. Management shall not normally undertake fraud investigations, although management should co-operate with requests for assistance from internal audit.
- 8.2. Some special investigations may require the use of technical expertise, which the Internal Audit Department does not possess. In these circumstances, the project group may approve the appointment of external specialists to lead or contribute to the special investigation.
- 8.3. Proving criminal intent in relation to fraudulent behaviours is often difficult. Consequently, the availability and use of remedies, other than prosecution, is in many cases appropriate and can be more cost effective than undertaking criminal proceedings for minor offences. When deciding on the action that is to be taken, a balance needs to be maintained between the costs of the action and the deterrent effects that prosecution can achieve.
- 8.4. Given the difficulties in prosecuting fraud, there has been increasing reliance in recent years on civil remedies as a complement, or as an alternative to criminal prosecution. In contrast to the criminal law, which requires proof beyond reasonable doubt on intent to defraud, civil remedies only require proof on the balance of probabilities.

## **9. PROTECTION OF WHISTLE BLOWERS**

- 9.1 The municipality must have a separate whistle blowing policy. That policy must be designed to deal with concerns raised in relation to issues relating to fraud, corruption, misconduct and malpractice within Matjhabeng Local Municipality. The policy must cover all genuine concerns raised including the following:

- Financial misconduct
- Health and safety risks
- Environmental damage
- Unfair discrimination
- Corruption and misconduct



The Protected Disclosure Act (Act 26 of 2000) protects employees who disclose information of unlawful or corrupt conduct by their employers or fellow employees from occupational detriment, i.e. any form of victimisation (to make someone suffer unfairly because of what she/he has done or said) or dismissal.

The law encourages honest employees to raise their concerns and report wrong doing within the work place. This law is a corporate governance tool to promote safe, accountable and responsive work environment.

- 9.2 An employee 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 Matjhabeng. This discretion will be applied by taking into account the following:

- 9.2.1 The seriousness of the issue raised;
- 9.2.2 The credibility of the concern; and
- 9.2.3 The likelihood of confirming the allegation.

- 9.2 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 Matjhabeng. This may include:

9.2.1 **Harassment or victimization:** Matjhabeng acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal those responsible for the irregularity. Matjhabeng 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.

9.2.2 **Confidentiality:** Matjhabeng 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

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source of the information and a statement by the employee may be required as part of the evidence.

10. REVIEW OF FRAUD RESPONSE PLAN

This plan will be reviewed for fitness of purpose within 1 year of the previous version or after each use. Proposed changes will be reported to the Risk Management Committee for approval.

Submitted By:

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Date: .....

P. V. Sefuthi: Acting Snr Accountant - Risk Management

Reviewed By:

.....

Date: .....

T. B. Makofane: Director Strategic Support Services

Approved By:

.....

Date: .....

Mr E. T. Tsoaeli: Municipal Manager

## **MATJHABENG LOCAL MUNICIPALITY**



## **RISK MANAGEMENT POLICY**

## Table of Contents

	PAGE NO
1. INTRODUCTION	3
2. DEFINING RISK WITHIN THE CONTEXT OF THE MUNICIPALITY	3-4
3. POLICY INTENTION	4
4. POLICY STATEMENT	4-6
5. POLICY OBJECTIVES	6
7. COMMUNICATION AND CONSULTING	7
8. RISK MONITORING AND REVIEW	7-8
9. PRINCIPLES	8-9
10. REPORTING	9
10.1 REPORTING BY THE CHIEF RISK OFFICER	9
10.2 REPORTING BY THE MANAGEMENT COMMITTEE	9
12. FRAUD MANAGEMENT	9-10
13. POLICY ADMINISTRATION	10
14. CREATING AWARENESS OF THE POLICY	10
<b>1. INTRODUCTION</b>	

Risk Management Policy is a clear, simple statement of how the municipality intends to conduct its services, actions or business with regards to risk management. It provides a set of guiding principles to help with decision making. This policy has been developed in response to the following legislative requirements:

**The Constitution of the RSA Act 108 of 1996 Section 152- Objects of local government**, confers the following areas of responsibility on local municipalities –

- a) to provide democratic and accountable government for local communities;
- b) to ensure the provision of services to communities in a sustainable manner;
- c) to promote social and economic development;
- d) to promote a safe and healthy environment; and

- 
- e) to encourage the involvement of communities and community organisations in the matters of local government.

**Municipal Finance Management Act (Act No. 56 of 2003 sections 62(1) (c))** It requires the Accounting Officer to ensure that the municipality effective, efficient and transparent systems of financial and risk management that is supported by a system of internal control.

**Municipal Finance Management Act Section 165(2) (b) (IV)** requires that the Internal Audit function, which every municipality must have, must advise the Accounting Officer and the audit committee on risk and risk management, amongst other legislated responsibilities.

**Municipal Systems Act (No. 32 of 2000)** mitigates risk by ensuring that municipalities:

Have an inclusive system of municipal governance by setting out the community consultation processes; Implement their Integrated Development Plans (IDP) through a performance management system to support and monitor the IDP implementation process; Develop appropriate policies regarding indigence, credit control and tariffing. Policy documents must be formulated and approved by Municipal Councils.

- 2. DEFINING RISK WITHIN THE CONTEXT OF THE MUNICIPALITY**, risk is defined as any threat of an event or action can adversely affect the organisation's ability to achieve its objectives and execute its strategies' successfully.

Risk can be viewed from three distinct perspectives:

- Risk as opportunity
- Risk as an uncertainty
- Risk as a hazard.

**Risk as an opportunity** is about viewing risk from the opportunity perspective recognises the inherent relationship between the risk and return. Managing risk as an opportunity necessitates actions being taken by line managers to achieve positive gains. Opportunity analysis creates insights that may be used by line managers to increase the likelihood of success and decrease the likelihood of failure.

**Risk as an uncertainty** is about considering risks from this perspective, business units must determine how they can be proactive in preventing uncertainty future events from having a negative impact. The management of uncertainty seeks to ensure that a business unit's actual performance falls within a defined range. The management of uncertainty risk is proactive- one must anticipate the impact of change and establish controls/processes designed to mitigate its effects on the operations of the business unit.

**Risk as a hazard** is risks being viewed as the possibility of a negative event taking place, or the fact that the negative events taking place, or the fact that the negative events include financial loss, fraud, theft and damage to assets.

### 3. POLICY INTENTION

The aim of this policy is to ensure that the Municipality makes informed decisions with regard to the activities that it undertakes by appropriately considering both risks and opportunities.

The intention of this policy cannot be to eliminate all risk to the municipality. It is to assist personnel to manage the risks involved in all activities to maximise opportunities and minimise adverse consequences. Effective risk management requires:

- 
- A systematic process that should be used when making decisions to improve the effectiveness and efficiency of managing risks
  - Taking action to mitigate risks
  - Identifying and exploiting opportunities identified during risk management processes
  - Risk management planning
  - Effective communication
  - Balance between the cost of managing risks and the anticipated benefits.
  - Systems, (Structures, Risk, Register, Risk Management Standard Operating Procedure, Information Technology, etc

#### 4. POLICY STATEMENTS

The Municipality is committed to the effective risk management and treatment of risk in order to achieve the municipality's objectives.

In terms of Section 62(1)(c)(i) of MFMA, the accounting officer of a municipality is responsible for managing the financial administration of the municipality, and for this purpose must take all responsible steps to ensure that the Municipality has and maintains: *Effective, efficient and transparent systems of financial and risk management and internal control.*"

It is important that employees become aware of the risks associated with their area of work and must manage these risks to be within tolerance level by using risk management response strategies outlined in the municipal risk management strategy.

The Accounting Officer has committed the Matjhabeng Local Municipality to a process of risk management that is aligned to the principles of good corporate governance

Risk management is recognised as an integral part of responsible management and the municipality therefore adopts a comprehensive approach to the management of risk. The features of this process are outlined in the Municipality's Risk Management Strategy. It is expected that all departments / sections, operations and processes will be subject to the risk management strategy. It is the intention that these departments / sections will work together in a consistent and integrated manner, with the overall objective of reducing risk, as far as reasonably practicable.

Effective risk management is imperative to the municipality to fulfil its mandate, the service delivery expectations of the public and the performance expectations within the Institution.

The realization of our strategic plan depends on us being able to take calculated risks in a way that does not jeopardize the direct interests of stakeholders. Sound management of risk will enable us to anticipate and respond to changes in our service delivery environment, as well as make informed decisions under conditions of uncertainty.

We subscribe to the fundamental principles that all resources will be applied economically to ensure:

- The highest standards of service delivery;
- A management system containing the appropriate elements aimed at minimizing risks and costs in the interest of all stakeholders;
- Risk Management as a performance management indicator and change agent;
- Education and training of all our staff to ensure continuous improvement in knowledge, skills and capabilities which facilitate consistent conformance to the stakeholder's expectations;

An entity wide approach to risk management will be adopted by the Institution, which means that every key risk in each part of the Institution will be included in a structured and systematic process of risk management. It is expected that the risk management processes will become embedded into the Institution's systems and processes, ensuring that our responses to risk remain current and dynamic.

- Compliance with relevant legislation, and fulfil the expectations of employees,
- Communities and other stakeholders in terms of corporate governance.

The responsibility to ensure effective management of risk in the Matjhabeng Local Municipality rests with all employees. Our commitment to risk management is an expression of our commitment to Batho Pele principles.

In line with the King Report on good corporate governance, the Council of Matjhabeng Local Municipality's Council (through the Mayoral Committee) is committed to:

- Assuming responsibility for the effective implementation of risk management measures
- Ensuring that the risk management processes adopted by the municipality propel the municipality to greater levels of service delivery excellence
- Ensuring effective communication with the senior management of the municipality (through the Municipal Manager) to ensure that effective policies and strategies are put into place
- Partner with the administration in ensuring that there are effective controls and interventions aimed safeguarding the best interests of Council.

In order to ensure this, Council will ensure that there is a continuous assessment of risks facing Council in order to best meet these challenges and take advantage of opportunities that present themselves. Effective risk management processes are critical in ensuring that the Municipality achieves its objectives as the Integrated Development Plan (IDP) as well as the various service delivery objectives of the Municipality.

## **5. POLICY OBJECTIVES**

- 5.1 To explain Municipality's approach to risk management and ensure that it has a consistent and effective approach to risk management;
- 5.2 To ensure that the Municipal culture and processes encourage the identification assessment and treatment of risks that may affect its ability to achieve its objectives;
- 5.3 To explain key aspects of risk management;
- 5.3 To clearly indicate the risk management reporting procedures;
- 5.4 To hold executive, management and officials accountable for the implementation of risk management on their area of responsibility;
- 5.5 To create an environment where all the Municipal employees take responsibility for managing risk;
- 5.6 To create a more risk aware organizational culture through enhanced communication and reporting of risk
- 5.7 To improve corporate governance and compliance with relevant legislation;

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5.8 The implementation of this policy will provide the Municipality with a basis and a framework for:

- more confident and rigorous decision-making and planning;
- better identification of opportunities and threats;
- pro-active rather re-active management;
- more effective allocation and use of resources;
- improved management and reduction in loss and cost of risk;
- improved stakeholder confidence and trust;
- a clear understanding by all staff of their roles, responsibilities and authorities for managing risk.
- 

## **6. Communication and consulting**

Communication and consultation at all stages of the risk management process will be done on an ongoing basis and will be structured at all levels of management, staff, and provincial and national government, consumers and suppliers:

- The risk management policy and strategy will be communicated to all employees as well as relevant stakeholders using communication methods that will suit all of them.
- Quarterly risk management progress will be done through consultation with and thereafter communicated to relatives' risk champions.
- Once a year, the Municipality will undertake a thorough reassessment of its risks at all levels using the following methodology. Risk workshops, interviews, questionnaires and surveys, research, control and risk assessments.
- Risk management implementation plan will undertake to have activities that will enhance effective communication and consultation for risk management.
- In addition, communication and consulting will be ensured through the various responsibilities of risk management stakeholders.

## **7. Risk Monitoring and Review**

- The Risk Management Committee must monitor the handling of key risks by programme managers as in line with the charter. (Key performance indicators must therefore be developed by the committee to facilitate the monitoring of each key risk).
- The Chief Risk Officer must monitor the effectiveness of risk mitigating strategies on quarterly basis;
- The internal audit unit must provide independent assurance on the effectiveness of risk management activities in line with their internal audit coverage plan.
- The success of risk management depends on the availability of reliable information and effective communication at various levels. Pertinent information should be identified, captured and communicated in a form and time frame that enable people to carry out their responsibilities.
- Information is needed at all levels to identify, assess and respond to risks. Management must process and refine large volumes of data into relevant and actionable information.



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- Risk information is to be maintained on a risk management register. The register will be maintained by the Risk Management Unit and Managers. Management is responsible for ensuring that the register is complete, relevant and accurate.
  - For each risk the following minimum information is to be maintained:
    - a) Department
    - b) Unit
    - c) Objective
    - d) Risk Description
    - e) Root Cause
    - f) Consequences of risk
    - g) Inherent risk rating
    - h) Current Controls
    - i) Residual risk rating
    - j) Action to improve management of the risk
    - k) Target date
    - l) Risk Owner

For monitoring the following information should be included:

- a) Progress on the implementation of the action plan
- b) Percentage completed
- c) Reasons for not reaching the target date.

The risk management committee will report to the Accounting Officer as depicted in the risk management policy.

## **8. PRINCIPLES**

- Risk management is recognised as an integral part of management and therefore, Municipality adopts a comprehensive approach to the management of risk. The features of this process are outlined in the Municipal Risk Management Strategy. It is expected that all Components' operations and processes will be subject to the risk management strategy. It is the intention that these components work together in a consistent and integrated manner, with the overall objective of reducing risk, as far as reasonably practicable.
- Risk management must be embedded in the strategic planning of the municipality.
- As risk management is necessary for planning and decision making. Risk management must be embedded in all the decision-making processes. Before decision is taken, the risks it poses must be identified.

- 
- The Municipal risk tolerance level must be determined by top management and is outlined in the Risk Management Strategy.
  - All personnel must be willing and able to take calculated risks to achieve their own and the Municipal objectives and to benefit the municipality. The associated risks of proposed actions and decisions must be properly identified, evaluated and managed to ensure that exposures are acceptable.
  - The Municipality will conduct a risk assessment on an annual basis with a review or re-assessment of the risks conducted on quarterly basis to ensure maximum mitigation thereof.
  - Risks will be owned and managed by the Units where the risk resides.
  - This policy is subject to an annual review in line with risk management framework.

## **9. REPORTING**

### **9.1 REPORTING BY THE CHIEF RISK OFFICER**

- The Risk Owners must submit monthly reports on risk management activities in their units to the Chief Risk Officer.
- The Chief Risk Officer will submit a quarterly report to the Risk Management Committee who will submit to the Chief Audit Executive. The Chief Audit Executive will then submit the report to the Audit Committee, on risk management activities not limited to the following:
  - What has been done to date to implement the control measures in different units,
  - The effectiveness of the control measure in addressing / eliminating / managing the identified risks.
  - Any new potential risks that may arise in different units.
  - To what extent a culture of risk management has been implemented in the Municipality.

### **9.2 REPORTING BY THE RISK MANAGEMENT COMMITTEE**

- The Risk Management Committee will submit a quarterly report to the Accounting Officer that will outline the work performed by the committee in that specific quarter and must consider the responsibilities outlined in the risk management committee charter

## **10 FRAUD MANAGEMENT**

The Chief Risk Officer will develop Fraud Prevention Plan and be reviewed by risk management committee annually.

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The Accounting Officer will approve the fraud prevention plan of the Municipality.

**Fraud prevention plan covers but not limited to the following:**

- Executive Summary by Accounting Officer;
- Objective of the fraud prevention plan;
- Definition of fraud that the Department subscribes to;
- Fraud prevention and detection measures;
- Fraud implementation plan;
- Fraud indicators and warning signs;
- Fraud risk management;
- Fraud reporting and
- Fraud response plan.

The plan should be submitted for review and recommendation to the Risk Management Committee and approval by the Accounting Officer.

## **11 POLICY ADMINISTRATION**

11.1 The effectiveness of the policy will be reviewed annually.

11.2 The amendments will be sent to the Risk Management Committee for recommendation and to Accounting Officer for approval.

## **12 CREATING AWARENESS OF THE POLICY**

It is the responsibility of the managers to ensure that all employees under their control are made aware of the existence, implementation and adherence to the Risk Management Policy.

## **13 ADOPTION OF THE POLICY**

Adopted by:

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Municipal Manager (Mr E. T. Tsoaeli)

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Date

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Executive Mayor (Cllr Nkosinjani Speelman)

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Date

## **MATJHABENG LOCAL MUNICIPALITY**



## **RISK MANAGEMENT STRATEGY**

**2018/19**

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**Table of Contents**

	<b>PAGE NO</b>
1. INTRODUCTION	3
2. LEGISLATIVE REQUIREMENTS	4-6
3. RISK MANAGEMENT POLICY	6
4. OBJECTIVES	7
5. DEFINITIONS	8-10
6. FRAUD MANAGEMENT	10-11
7. ESTABLISHMENT OF RISK	11
8. RESPONSIBILITY AND FUNCTIONS OF RISK MANAGEMENT COMMITTEE	11
9. DISCLOSURE	11-12
10. INTERGRATING RISK MANAGEMENT PLANNING PROCESS	12
11. CONCLUSION	12
12. SIGNATORIES	13

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## 1. INTRODUCTION

The underlying premise of risk management is that every institution exists to provide value to its stakeholders. All institutions face uncertainty and the challenge to management is to determine how much uncertainty to accept as it strives to achieve the goals and objectives. Uncertainty provides both risk and opportunity with the potential to erode or enhance value. Risk management enables management to effectively deal with uncertainty and associated risk and opportunity, enhancing the capacity to build value.

Matjhabeng Local Municipality's risk management strategy outlines a high-level plan on how the municipality will go about implementing the risk management policy. The strategy is informed by the risk management policy and the municipality's risk profile.

The following are the main thrust to the strategy:

- Policy
- Objectives
- Benefits
- Principles
- Roles and responsibilities
- Guidelines

## 2. DEFINITION

ERM deals with risks and opportunities affecting value creation or preservation and is defined as follows:

“Enterprise Risk Management is a process, effected by the Board, Executive Management and personnel, applied in strategy setting and across the operations of the enterprise, designed to identify potential events that may affect the entity, and manage risk to be within its risk appetite, to provide reasonable assurance regarding the achievement of entity's objectives.”

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### 3. BACKGROUND

It is acknowledged that the new style of risk management in the King II Code of Corporate Governance (King II) and the Municipal Finance Management Act (MFMA) addresses a much wider spectrum of risk than in the past. In addition, the corporate governance drivers behind risk management today require new ways of reporting and monitoring Matjhabeng Local Municipality's risk exposures.

The Accounting Officer is responsible and accountable for directing and monitoring Matjhabeng Local Municipality's risk management activities and related performance in a structured framework. All core / support services support the Accounting Officer to maintain an effective system of risk management.

The risk management standards herein set out the rules embedded within Matjhabeng Local Municipality's risk management policy framework. These are the mandatory requirements established by the Accounting Officer for the management of risk in Matjhabeng Local Municipality. The standards are based on current recognized business practices and standards and corporate governance principles.

It is important to note that the Enterprise Risk Management Policy Framework is, of necessity, an evolving document. The contents of the framework reflect the current risk management requirements of the Municipality. Future versions of this document will reflect advances and developments in Matjhabeng Local Municipality's risk management strategies and processes. The document must be reviewed and updated after three years.

### 4. RISK MANAGEMENT POLICY

The Matjhabeng Local has committed Matjhabeng Local Municipality to a process of risk management that is aligned to the principles of good corporate governance, as supported by the **Municipal Finance Management Act (MFMA), Act no 56 of 2003**.

Risk management is recognized as an integral part of responsible management and the Institution therefore adopts a comprehensive approach to the management of risk. The features of this process are outlined in the Matjhabeng Local Municipality's Risk Management Strategy. It is expected that all departments / sections, operations and processes will be subject to the risk management strategy. It is the intention that these departments / sections will work together in a consistent and integrated



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manner, with the overall objective of reducing risk, as far as reasonably practicable.

Effective risk management is imperative to Matjhabeng Local Municipality to fulfill its mandate, the service delivery expectations of the public and the performance expectations within the Institution.

The realization of our strategic plan depends on us being able to take calculated risks in a way that does not jeopardize the direct interests of stakeholders. Sound management of risk will enable us to anticipate and respond to changes in our service delivery environment, as well as make informed decisions under conditions of uncertainty.

We subscribe to the fundamental principles that all resources will be applied economically to ensure:

- The highest standards of service delivery;
- A management system containing the appropriate elements aimed at minimizing risks and costs in the interest of all stakeholders;
- Education and training of all our staff to ensure continuous improvement in knowledge, skills and capabilities which facilitate consistent conformance to the stakeholder's expectations; and
- Maintaining an environment, this promotes the right attitude and sensitivity towards internal and external stakeholder satisfaction.

An entity-wide approach to risk management will be adopted by Matjhabeng Local Municipality, which means that every key risk Matjhabeng Local Municipality will be included in a structured and systematic process of risk management. It is expected that the risk management processes will become embedded into Matjhabeng Local Municipality's systems and processes, ensuring that our responses to risk remain current and dynamic. All risk management efforts will be focused on supporting Matjhabeng Local Municipality's objectives. Equally, they must ensure compliance with relevant legislation, and fulfill the expectations of employees, communities and other stakeholders in terms of

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corporate governance.

The risk policy statement shall be reviewed after three years to reflect the current stance on risk management.

**Every employee has a part to play in this important endeavor and we look forward to working with you in achieving these aims.**

## 5. LEGISLATIVE MANADATES

Section 38(1)(a)(i) of the PFMA required that:

***“The Matjhabeng Local must ensure that the department has and maintains effective, efficient and transparent systems of financial and risk management and internal control”.***

Treasury Regulation 3.2.1 extends the above requirement by putting emphasis on risk assessment, risk management strategy and fraud prevention plan and can be summarized as follows:

- (i) The Accounting Officer must ensure that a risk assessment is conducted regularly to identify emerging risk of the institution.
- (ii) A risk management strategy, which must include a fraud prevention plan, must be used to direct internal audit effort and priority and to determine the skills required of managers and staff to improve controls and to manage these risks.
- (iii) The strategy must be clearly communicated to all officials to ensure that the risk management strategy is incorporated into the language and culture of the institution.

The extension of the general responsibilities, in terms of Section 45 of the PFMA, to all officials is a cornerstone in the institutionalization of risk management in the public service. It establishes accountability for risk management at all levels of organization and does not limit it into the Accounting Officer or Internal Audit activities.

The King III Report on Corporate Governance emphasizes that management is responsible for the implementation of Risk Management. Risk Management should be embedded in the day-to-day activities, be practiced throughout an organization and emphasis on oversight structures.

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## 6. OBJECTIVES OF ENTERPRISE RISK MANAGEMENT

Risk management is pro-active and systematic, enabling the municipality to achieve its objectives with greater certainty. As a management tool, an integrated risk management framework will assist the municipality in achieving objectives more efficiently. Risk analysis as a management tool also promotes effective and efficient resource utilization.

The objectives of a risk management framework are to:

- Align strategic objectives with supporting processes, risk and control;
- Drive specific risk management and control processes to respond to the potential threats and opportunities;
- Provide a common understanding of how the municipality, its business processes and people, describe and priorities objectives, risk and control;
- Embed instinctive and consistent consideration of risk and reward in the day-to-day planning and achievement of objectives and;
- Provide clarity on the municipality's risk appetite – risks must be taken in the pursuit of opportunities.

## 7. BENEFITS OF ENTERPRISE RISK MANAGEMENT

- Better quality decisions
- Increased efficiency, effectiveness and economy of operation
- Reduced losses
- Improved level of compliance
- Continuity in business
- Strengthening the value of system
- Proactive not re-active response to performance threats (focus on preventative measures)

## 8. PRINCIPLES OF ENTERPRISE RISK MANAGEMENT

The principles contained in this strategy will be applied at both strategic and operational levels within the entity.

Matjhabeng Local Municipality's risk management strategy will be applied to all operational aspects of the entity and will consider external strategic risks

arising from or related to our partners in projects, government departments, the public and other external stakeholders, as well as wholly internal risks.

Our positive approach to risk management means that we will not only look at the risk of things going wrong, but also the impact of not taking opportunities or not capitalizing on corporate strengths.

All risk management activities will be aligned to Matjhabeng Local Municipality values and principles, objectives and organizational priorities, and aims to protect and enhance the reputation and standing of the organization.

Risk analysis will form part of organizational strategic planning, business planning and investment / project appraisal procedures. Risk management will be founded on a risk-based approach to internal control, which is embedded in day-to-day operations of the organization.

Our risk management approach will inform and direct our work to gain confidence on the reliability of our risk controls strategies and therefore provide assurance. Managers and staff at all levels will have a responsibility to identify, evaluate and manage or report risks, and will be equipped to do so.

Risk Management in the entity should be proactive and reasoned. Strategic and operational risks should be identified, objectively assessed, and, where this is the appropriate, response actively managed.

The aim is to anticipate, and where possible, prevent risks resulting in unwanted events rather than dealing with their consequences. However, for some risks where the likelihood of a risk occurring is remote, but the consequences on the entity is high, we will ensure that business continuity plans are developed and authorized by the Accounting Officer. This will allow us to contain the negative effect of unlikely events, which might occur.

In determining appropriate risk management controls, the cost of control / risk management, and the impact of risks occurring will be balanced with the benefits of reducing risk. This means that we will not necessarily set up and monitor controls to counter risks where the cost and effort are grossly disproportionate to the impact or expected benefits.

We also recognize that some risks can be managed by transferring them to a third party, i.e. insurance, security etc. In the current climate it is rare to effectively / fully transfer risks by contracted arrangements.

## 9. RISK MANAGEMENT RESPONSIBILITIES AND STRUCTURES

All personnel have a responsibility for maintaining good internal control and managing risk in order to achieve the strategic objectives of the municipality. Collectively, personnel in operational units need the appropriate knowledge, skills, information and authority to establish, operate and monitor the system of risk control. This requires a good understanding of the entity, its objectives, the risks it faces and the people we deal with. Everyone should be aware of the risks they are empowered to take, which should be avoided and reported upwards.

The structures through which risk management will be reported are set out below. Detailed guidelines on roles and responsibilities are provided in Annexure A.

### 9.1 Committee responsibilities

No	Activity	Responsibility	Frequency
01	The Risk Management Committee will meet on a quarterly basis.	Committee Chairperson	Quarterly
02	The Risk Management Committee will review risk management progress on a quarterly basis.	Accounting Officer	Quarterly

### 9.2 Reporting responsibilities

No	Activity	Responsibility	Frequency
03	Matjhabeng Local Municipality Audit / Risk Committee will include statements regarding risk management performance in the annual report to stakeholders.	Committee Chairperson	Annually
04	The Risk Management Committee will submit a risk management report to the Audit Committee on a quarterly basis.	Accounting Officer	Quarterly

### 9.3 Risk assessment responsibilities

No	Activity	Responsibility	Frequency
05	The Council will independently review the key risks of the Municipality at least once a year.	Council	Annually

### 9.4 Control responsibilities

No	Activity	Responsibility	Frequency
06	The Chairperson of the Audit / Risk Committee will consider Internal Audit and management's report concerning the effectiveness of internal controls at least once a year.	Audit / Risk Committee Chairperson	Annually
07	The Risk Management Committee will report to the Risk Committee regarding the performance of internal controls for those risks in the risk registers.	Chief Risk officer	Quarterly
08	The directorates / department will report to the Risk Management Committee regarding the performance of internal controls for those risks in the operational risk registers.	Director / Deputy Director	Quarterly

### 9.5 Governance responsibilities

No	Activity	Responsibility	Frequency
09	Each key risk will have a risk owner, who will be responsible for the following: <ul style="list-style-type: none"> <li>• Updating the risk information;</li> <li>• Providing assurance regarding the risk's controls;</li> <li>• Co-ordinate the implementation of action plans for the risk;</li> <li>• Reporting on any developments regarding the risk.</li> </ul>	All	Monthly

10	The internal audit function will use the outputs of risk assessments to compile its strategic three years rolling and annual internal audit plan, and will evaluate the effectiveness of internal controls.	Internal Audit	Annually and as scheduled
11	The Internal Audit function will formally review the effectiveness of Matjhabeng Local Municipality's risk management processes.	Internal audit	Annually

## **ANNEXURES**

### **A. Risk Management Guidelines**

#### **A.1 Accountability and responsibility guidelines**

##### **A.1.1 Roles and responsibilities of the Council and Accounting Officer**

##### **A.1.1.1 The Council, Accounting Officer and Senior Management are accountable for risk management.**

The Council charter should outline councillor's responsibilities for the management of risk within Matjhabeng Local Municipality. These responsibilities are stated as follows:

- The Council together with the Accounting Officer and Directors are responsible for the identification of major risks, the total process of risk management, as well as for forming its own opinion on the effectiveness of the process. Management is accountable to the Council for designing, implementing and monitoring the process of risk management and integrating it into the day-to-day activities of the entity;
- The Council, Accounting Officer and Directors should identify and fully appreciate the business risk issues and key performance indicators affecting the ability of the entity to achieve its strategic purpose and objectives; and
- The Council, Accounting Officer and Directors should ensure that appropriate systems are in place to manage the identified risks, measure the impact and to proactively manage it, so that the municipality's assets and reputation are suitably protected.

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**A.1.1.2**

**The Council and Accounting Officer will provide stakeholders with assurance that key risks are properly identified, assessed, mitigated and monitored.**

The Council together with the Accounting Officer should receive credible and accurate information regarding the risk management processes of the municipality in order to give the necessary assurance to stakeholders. The reports from the Audit Committee and Management Committees must provide an evaluation of the performance of risk management and internal control. The Council together with the Accounting Officer should ensure that the various processes of risk management cover the entire spectrum of corporate risk.

The assurance process includes statements regarding the appropriateness of the municipality's risk.

Because of the fluid nature of risk in the municipality, it is imperative that risk is confronted in a systematic and structured manner. In our complex environment where there are literally thousands of technical, process and strategic risks, it is vital that the management of risk is undertaken in a formalized manner. The Council and Accounting Officer should provide stakeholders with the assurance that management has a pre-emptive approach to risk.

**A.1.1.3**

**The Council and Accounting Officer will maintain a formal risk policy for the entity**

Stakeholders need to understand the Council and Accounting Officer's standpoint on risk. The Council together with the Accounting Officer should therefore maintain the Municipality's formal risk policy, which decrees the Municipality's approach to risk. The risk policy statement underpins the development of the Municipality's enterprise risk management process. The policy can be used as a reference point in matters of dispute and uncertainty such as risk tolerance and appetite for risk.

**A.1.1.4**

**The Council and Accounting Officer will formally evaluate the effectiveness of entity's risk management process once a year**

The Council together with the Accounting Officer will make up its own mind regarding the effectiveness of the Municipality's risk management processes. Success with risk management will be evaluated from risk committee reports, variance reports, and speed of progress, organizational risk culture, unexpected losses, internal control effectiveness and business success. The Council evaluations will be formally recorded in the minutes of Council meetings. It is recognized that risk management has evolved into a complex management discipline in its own right. The Council's evaluation of risk management, therefore, will be supplemented by



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an independent review to be performed by the Municipality's Internal Audit function.

The annual review will be undertaken by qualified staff, which is able to review all aspects of risk management.

Management must ensure that sufficient independence is maintained in conducting the annual review. Assurance of the processes surrounding key risks must be given. This implies some knowledge of the processes of risk management and assumes that they have been witnessed to some degree. The observation of risk management processes should not, therefore, have had operational participation.

Management must ensure that sufficient independence is maintained in conducting the annual review. Criteria for the evaluation have been established (Refer to **Appendix B** for the tables to be considered for the assessment). Assurance of the processes surrounding key risks must be given. This implies some knowledge of the processes of risk management and assumes that it has been witnessed to some degree.

#### **A.1.1.5**

**The Council and Accounting Officer will confirm that the risk management process is accurately aligned to the strategy and performance objectives of the entity**

The Council together with the Accounting Officer will ensure that the risk management processes address risk in a balanced way, giving due attention to all types of risk. The Council together with the Accounting Officer will evaluate whether appropriate resources are being applied to the management of strategic risks, reputation, customer risk, financial risk, operational, regulatory, and technical risks.

The Council together with the Accounting Officer will evaluate whether risk management processes are aligned to the strategic and performance objectives of the municipality. A balanced perspective of risk and risk management is required in proportion to the weighting of potential risk impact across the Municipality.

The Accounting Officer must ensure that there is a future-looking orientation included in the consideration of risk.

#### **A.1.1.6**

**The Audit / Risk Committee will monitor the entity's risk management processes**

The Audit / Risk Committee will be responsible for addressing the corporate governance requirements of risk management and monitoring the Municipality's performance with risk management. The Audit / Risk Committee has a defined mandate and terms of reference, which covers the following aspects:

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- Constitution;
  - Purpose;
  - Responsibilities and duties;
  - Authority;
  - Membership; and
  - Meetings.

The Risk Management Committee will meet at least on a quarterly basis.

#### **A.1.2 Risk management committee**

The risk management committee will be responsible for addressing the corporate governance requirements of risk management and monitoring the Municipality's performance with risk management. The committee has a defined mandate and terms of reference, which covers the following aspects:

- Constitution;
- Membership;
- Authority;
- Terms of reference; and
- Meetings

The risk management committee will meet on at least a quarterly basis.

#### **Functions and responsibilities of the risk management committee include:**

- Establishment and monitoring of the implementation of the risk management strategy;
- Ensuring that the responsibilities and co-ordination of risk management are clear;
- Advising the Council and Accounting Officer on urgent risk management issues and required initiatives as part of its quarterly reporting process;
- Overseeing the implementation and maintenance of the ongoing process of risk identification, quantification, analysis and monitoring throughout the Municipality;
- Ensuring that the risk management induction, training and education programs are targeted appropriately for all levels of personnel and that it is established and implemented;
- Reviewing and recommending actions for improvement regarding outstanding actions on risk management plans;

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- Evaluating the risk profile of the Municipality as well as for major projects and new ventures, requiring the approval of the Council;
  - Reviewing issues for consideration as identified by the Council and Audit / Risk Committee;
  - Assist with the development of an integrated approach to financing and managing risk to minimize cost;
  - Facilitating the sharing of post loss analysis information and thereby improving prevention and control measures;
  - Reviewing the risk assessments on a quarterly basis to take note of the material risks to which the Municipality may be exposed and consider, notes and if necessary, comments on the strategy for managing those risks;
  - Considering, notes and if necessary, comments on management responses to significant risks; and
  - Keeping abreast of all changes to the risk management and control system and ensures that the risk profile and common understanding is updated, as appropriate.

#### **A.1.3 Roles and responsibilities of Management**

Management is accountable to the Accounting Officer for designing, implementing and monitoring the process of risk management and integrating it into the day-to-day activities of the Municipality.

The Accounting Officer is responsible for appointing a Chief Risk Officer to assist management in discharging its responsibilities.

More specifically Management is responsible for:

- Designing an ERM programme in conjunction with the Chief Risk Officer;
- Deciding on the manner in which risk mitigation will be embedded into management processes;
- Inculcating a culture of risk management in the Municipality;
- Providing risk registers and risk management reports to the Chief Risk Officer pertaining to risk and control;
- Identifying positive aspects of risk that could evolve into potential opportunities for the Municipality;
- Assigning a Manager to every key risk for appropriate mitigating action and to determine an action date;
- Viewing risk as an opportunity by applying the risk / reward principle in all

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decisions impacting upon the Municipality;

- Utilizing available resources to compile, develop and implement plans, procedures and controls within the framework of the Municipality's ERM Policy to effectively manage the risks within the Municipality;
- Ensuring that adequate and cost-effective risk management structures are in place;
- Identifying, evaluating and measuring risks and where possible quantifying and linking each identified risk to key performance measurement indicators;
- Developing and implementing risk management plans including:
  - Actions to optimize a risk / reward profile to maximize reward with risk contained within the Council and Accounting Officer's approved risk tolerance;
  - Implementation of cost effective preventative and contingent control measures; and
  - Implementation of procedures to ensure adherence to legal and regulatory requirements.
- Monitoring of the ERM processes on both a detailed and macro basis by evaluating changes, or potential changes to risk profiles;
- Implementing and maintaining adequate internal controls and monitor their continued effectiveness;
- Implementing those measures as recommended by the internal / external auditors, which, in their opinion, will enhance control at reasonable cost; and
- Reporting to the Audit / Risk Committee on the risk process and resultant risk / reward profiles.

#### **A.1.4 Risk Champions**

Functions of risk champions –

(1) The Risk Champion is a person with the skills, knowledge, leadership qualities and power of office required to champion a particular aspect of risk management.

(2) A key part of the Risk Champion's responsibility should involve intervening in instances where the risk management efforts are being hampered, for example, by the lack of co-operation by management and other officials and the lack of institutional skills and expertise.

(3) The Risk Champion should also add value to the risk management process by providing guidance and support to manage "problematic" risks and risks of a

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transversal nature that require a multiple participant approach.

(4) In order to fulfil his/her function, the Risk Champion should possess:

- (a) a good understanding of risk management concept, principles and processes;
- (b) good analytical skills;
- © expert power;
- (d) leadership and motivational qualities; and
- (e) good communication skills.

(5) The Risk Champion should not assume the role of the Risk Owner but should assist the Risk Owner to resolve problems.

- The Risk Management Coordinator will assist the Chief Risk Officer with updating of risk reporting information; and
- The Risk Champions will be the key contact of the Chief Risk Officer at each directorate / department.

#### **A.1.5 Chief Risk Officer**

Focusing on Enterprise-wide Risk Management the CRO is tasked with the overall efficiency of the ERM function. This is inclusive of the embedding of risk management practices and fostering a risk aware culture within the Institution.

The CRO effectively assumes the role of Institutional advocate for ERM and brings specialist expertise to assist in integrating risk management throughout the Institution.

**The high-level responsibilities of the Chief Risk Officer should include:**

- Working with Senior Management to develop the Institution's vision for risk management;
- developing, in consultation with management, the Institution's risk management framework incorporating, inter alia, the:
  - risk management policy;
  - risk management strategy;
  - risk management implementation plan;
  - risk identification and assessment methodology;
  - risk appetite and tolerance; and
  - risk classification.

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- communicating the Institution's risk management framework to all stakeholders in the Institution and monitoring its implementation;
  - facilitating orientation and training for the Risk Management Committee;
  - training all stakeholders in their risk management functions;
  - continuously driving risk management to higher levels of maturity;
  - assisting Management with risk identification, assessment and development of response strategies;
  - monitoring the implementation of the response strategies;
  - collating, aggregating, interpreting and analyzing the results of risk assessments to extract risk intelligence; reporting risk intelligence to the Accounting Officer / Authority, Management and the Risk Management Committee; and
  - Participating with Internal Audit, Management and Auditor-General in developing the combined assurance plan for the Institution.

In addition to the above mentioned high level responsibilities, the CRO needs to possess certain attributes to function effectively and efficiently.

## **A.2 Reporting requirements**

### **A.2.1 internal reporting processes for risk information**

A tiered structure of risk reporting should be followed and should include amongst others:

- Each directorate / department is required to submit the Top 10 strategic risks to the Risk Management Committee on a quarterly basis;
- The Risk Management Committee is required to submit the top strategic risks (all extreme and high inherent risk exposures) and the top 5 risks per directorate / department to the Audit/ Risk Committee on a quarterly basis. These strategic risks should include residual risk status and actions to be taken to further mitigate the risk consequences; and
- The Chief Risk Officer will assist in the execution of the risk reporting process.

### **A.2.2 The frequency of risk monitoring**

The risk registers should indicate how often a key risk should be monitored and reviewed. In the realm of financial risk, the exposures may be monitored on a continual basis. Other risks such as regulatory change may only need formal review once a year. For the majority of business risks, it is prudent to choose monitoring periods that span between 1 – 3 months.

Risks with an unknown pattern and risks that are new to the Municipality, should receive more frequent attention. The results of monitoring processes will be documented in a defined format.

**A.2.3 Incident reports will be generated for unacceptable losses**

This is an internal management function and will form part of the enterprise risk management framework. The destination of incident reports will be determined by the nature of the loss, but losses that originate from risks contained in the key risk registers should always be elevated to higher levels of management. Variance reports are incorporated into routine management reporting processes. The inclusion of risk-related variances can be incorporated.

**A.3 Risk Assessments**

Once a year, the Municipality will undertake a thorough reassessment of its risks at all levels using the following methodology.

A risk assessment is the process by which the risks to be managed in an organization are identified. Comprehensive identification using a well-structured systematic process is critical, because risks not identified are never further analyzed and potentially are not managed.

There are many different processes and methodologies in use by which risks can be identified i.e. risk workshops, interviews, questionnaires and surveys, research, control and risk assessments.

At a minimum a risk assessment should result in:

- Identification of relevant risks towards the achievement of objectives; and
- The prioritization of risks, which often necessitates estimating the timing, magnitude and probability of risk occurrence.

**A.3.1 Profile the context**

The risk assessment processes begin with the profiling of the Municipality context. The outputs of this task must be documented and should include amongst others:

- Business environment;
- Total size of the core / support services;
- Key players;
- Service portfolios;
- Key suppliers; and
- Market's driving forces.

**A.3.2 Profile the objectives of the directorates / departments**

The profile of the individual directorates / departments objectives should take into consideration:

- Revenue and expenditure targets;

- Consumer objectives and targets;
- Socio economic targets; and
- Other business objectives.

#### **A.3.3 Profile the stakeholders of the Municipality**

Stakeholders may include the following:

- Community;
- Councilors;
- Consumers;
- Business;
- Provincial Government;
- Employee organizations;
- Preferred suppliers; and
- Professional bodies.

#### **A.3.4 Profile the Municipality's value creation processes**

The manner in which economic value is generated by the Municipality must be identified and interpreted. This contributes to the understanding of potential risk in the Municipality. The drivers of value must be identified. Methods of valuation must be understood. The Municipality's values of risk can be identified, calculated and profiled. These values will relate to all classes of asset and liability within the business. The following aspects should be profiled:

- Asset values;
- Revenue and expenditure streams;
- Service portfolios; and
- Socio economic processes.

#### **A.3.5 Identify and profile the Municipality's key assets and performance drivers**

The key assets and performance drivers should be profiled and should include amongst others:

- Critical success factors;
- Consumer satisfaction;
- Core competencies;
- Competitive strengths and weaknesses; and
- Asset performance.



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### **A.3.6 Map the Municipality's strategy**

The Municipality's strategy must be specifically verified and interpreted in the context of risk. This is incorporated in the 5-year integrated development plan. The future direction and intent of the Municipality must be understood.

The Municipality may be seeking to differentiate. For example, investments into technology (for example, upgrading of the IT system) may be the strategic direction of the Municipality. Growth tactics must be profiled.

When mapping the strategy, risk appetite must be considered where the desired return from a strategy should be aligned with the Municipality's risk appetite. Different strategies will expose the Municipality to different risks.

### **A.3.7 Profile the key processes**

The key activity chains must be profiled and documented. The service delivery processes must be profiled. The drivers of service delivery processes and the key features of these processes must be identified and interpreted. For example:

- The processes that generate cash must be profiled.
- The drivers of the Municipality's processes and the key features of these processes must be identified and interpreted.
- Incoming actions such as recruitment, purchasing and procurement must be identified.
- Outgoing processes such as public relations, investments and branding should be profiled.
- Inherent and cyclical processes such as budgeting, information systems and staffing matters must be incorporated into the Municipality's risk profile.

The deliverable of steps A.3.1 to A.3.7 will result in a business / dependency profiles of the Municipality and its related activities.

The next part of the risk assessment process is to identify threats and risks to all of the elements of the Municipality's model, profiled above. This can be done using the following processes:

### **A.3.8 Identify potential sources of risk associated with the Municipality's profile**

Having established the Municipality's profile, the risk assessment process must then identify the potential sources of risk associated with each element of it. The Municipality will follow a top-down approach. Risk is apparent in potential sudden and unforeseen events, in variances, volatility and failure.

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Risk will be apparent in non-linear change, weakness and non-performance. Risk will also be reflected in dimensions of non-conformance. Sources of risk will be classified into external and internal factors. The risk assessment process must select a time period within which risks will be considered, but projecting 18 months into the future is recommended for most key risks. The process must have a future orientation as well as examining the facts of today's business profile.

#### **A.3.9 Assess the impact of risk across the Municipality**

Risks do not normally exist in isolation. They usually have a potential knock-on effect on other functions, processes and risk categories. These cause-and effect relationships must be identified and understood. This principle must become a deliberate and formal part of the risk assessment process. The results of the process must be documented. The aggregated effect of these risk groupings and linkages should be profiled. Many cross-functional effects of risk may not be immediately apparent without deliberate and systematic analysis, so a formal approach is required.

#### **A.3.10 Identify any influencing factors that may contribute to or shape the risk profile**

Having identified a key risk exposure (e.g. increasing competition, lack of funding) the risk assessment must identify the factors that influence and shape the risk (e.g. barriers to entry). Every key risk will have influencing factors or variables. Such factors may relate to inherent risk dynamics such as aggregation, accumulation and correlation. Others may relate to timing and cyclical factors.

Other influences will be reflected in volatility, dependencies and criticality. The degree of diversification and spread of value may also shape the risk profile. All influencing factors must be documented as part of the process.

#### **A.3.11 Evaluate recent and imminent internal changes as possible sources of risk**

Recent changes in the Municipality may be a source of present risk (e.g. restructuring process). Equally, imminent change may alter the risk profile. The nature of the changes may relate to the launch of programmes or services. Mergers and acquisitions are another potential source of risk.

Major changes in the Municipality's organizational structure can change the dynamics of risk. Retrenchments, cutbacks and layoffs are obvious sources of risk. Significant shifts in strategic direction may increase the values at risk in the Municipality.

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**A.3.12 Identify external changes and identify associated risks**

Risk assessment processes must not only focus on existing dynamics prevailing in the Municipality. Near-future changes must also be included in the process. Time horizons should be determined for this. Anticipated changes that are self-generating will be easily identifiable, such as investments, capital projects or launching of new capital projects. Their associated risks must be assessed as part of the risk framework. Certain changes in the local government sector, but outside of the Municipality's control can also be anticipated such as regulatory change and competitive movements. Associated risks must be assessed.

**A.3.13 Identify the potential root causes of risk events**

Exposures could indicate the potential for risks materializing. Perils or triggers cause actual events. Such triggers or events must be identified and documented. The purpose of identifying potential root causes is to give direction to risk intervention measures. This process of identifying root causes of events may be left until after the first round of risk assessments has been completed.

**A.3.14 Identify the key controls currently implemented for the identified risks**

The existing controls implemented for identified risks must be documented. The term "control" should not be construed only as a financial term. It is now the commonly accepted term to describe any mitigating measure for any particular type of risk. Controls may take the form of financial mitigations such as hedges, insurance or securities.

They may be managerial in nature such as compliance procedures, policies and levels of authority. Controls may be strategic in nature such as diversification related. Controls could also be legal such as contracts and indemnities.

**A.3.15 Identify the perceived shortcomings in current measures to mitigate the impact of risks**

Management must embark upon a formal process to evaluate the appropriateness of current controls. The levels of risk appetite and limits of risk tolerance will provide the framework to gauge these. Executive observation and judgment is often sufficient to identify shortcomings in control measures, and the level of desired control effectiveness can be expressed.

Operational and technical risks lend themselves more to a more rigorous process of evaluating control effectiveness. Management must consider all categories of mitigation in this process.

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Results must be recorded in the relevant risk registers.

**A.3.16 Calculate the probability of risk events (Pre-control)**

This is the probability that the identified risk / threat will occur within a specified period of time (between 1 and 3 years) on the basis that management have no specific / focused controls in place to address the risk / threat. The probability of occurrence must be assessed for every identified risk.

Different methods of calculating probability can be considered dependent upon the nature of the risk, but the attached tables should be considered in the risk assessment protocol.

**(Appendix B).** Please refer to the attached table to guide your risk calculations.

A realistic evaluation of risk probability is essential, because it guides the allocation of resources in the Municipality. When deciding upon a probability factor from the table, the following guidelines should be considered:

- Consider how many similar incidents have occurred in the Municipality; and
- Consider, and research if necessary, how many similar incidents have occurred at other district municipalities; and
- Consider the effectiveness of the existing preventative controls for the risk.

**A.3.17 Calculate the potential impact of the identified risk scenarios (Pre-control)**

This is the potential magnitude of the impact on the Municipality's operations should the risk / threat actually occur. This is assessed on the basis that management has no specific / focused controls in place to address the risk / threat (therefore before any controls). The consequences of risk are not only characterized in financial terms. Management must consider the various scales of impact that are relevant according to the prevalent categories of risk. These may include the scales for reputation damage, personal injuries and fatalities, media coverage, and operational impact.

From a strategic viewpoint, management should determine the scale of potential impact upon defined objectives of the strategy. Scales of financial impact are invariably the most common put in place, and rely upon, to manage the strategic and significant risks.

**Please refer to the attached table to guide your risk calculations. (Appendix B).**

**A.3.18 Rank the risks in order of priority (Inherent risk)**

Inherent risk is the risk to the Municipality in the absence of any actions management might take to alter either the risk's likelihood or impact.

Inherent risk is the product of the impact of a risk and the probability of that risk occurring before the implementation of any direct controls. The score for inherent risk assists management and internal audit alike to establish relativity between all the risks / threats

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identified.

The ranking of risks in terms of inherent risk provides management with some perspective of priorities. This should assist in the allocation of capital and resources in the operations.

Although the scales of quantification will produce an automated ranking of risks, management may choose to raise the profile of certain risks for other reasons.

This may be justified because of non-financial influences such as media implications, social responsibilities or regulatory pressures. The ranking of risks should be shaped by strategic and business objectives.

#### **A.3.19 Consider perceived control effectiveness**

Controls are the management activities / policies / procedures/ processes / functions /departments / physical controls that the Council, Municipal Manager and Management have put in place, and rely upon, to manage the strategic and significant risks. These actions may reduce the likelihood of occurrence of a potential risk, the impact of such a risk, or both. When selecting control activities management needs to consider how control activities are related to one another.

Management then needs to assess the control effectiveness based on their understanding of the control environment currently in place at the Municipality. At this stage of the process, the controls are un-audited, and rated according to management's interpretation of control effectiveness.

**Please refer to the attached table to guide your risk calculations. (Appendix B).**

#### **A.3.20 Calculate residual risk status**

Residual risk reflects the risk remaining after management's intended actions to mitigate an inherent risk have been effectively implemented. Risks are now ranked, taking into consideration the inherent risk rating, and the control effectiveness rating. The ranking of risks in terms of net potential effect provides management with some perspective of priorities, and should assist in the allocation of capital and resources in the Municipality.

**Please refer to the attached table to guide your risk calculations. (Appendix B).**

### **A.4 Control requirements**

Every risk will have a number of controls, mitigations or interventions that have been designed to contain the potential impact or likelihood of the risk. These controls need to be identified and evaluated. They will form the basis of an assurance plan to the Council and Municipal Manager, and may be tested by the internal audit process or other independent means of

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evaluation.

The following aspects of the control environment should be considered:

**A.4.1 Verify and evaluate the controls currently in place for key risks**

It is vital that all of the existing controls for identified risks are in turn identified and evaluated. Such controls may take the form of policies, procedures, management activities and instructions. The controls must be evaluated in two essential ways.

Firstly, an evaluation of the appropriateness and adequacy of the existing controls for the risk must be undertaken.

Secondly, the performance of the existing controls must be evaluated.

Desired levels of control effectiveness must be determined. The gap between existing control effectiveness and desired effectiveness must result in an action plan.

**A.4.2 Evaluate the strategic mitigations in place for key risks**

A specific review of the Municipality's strategic position in the context of risk must be carried out. The Municipality's ability to liquidate its positions must be assessed. The degree of strategic flexibility in response to a risk event must be considered.

The robustness of the strategy in the context of the risk assessment findings must be evaluated. Likely strategic responses to risk and their performance are aspects that must be fully understood. This process may require separate processes of scenario planning around strategic intent.

**A.4.3 Identify and evaluate the post-event measures in place for response to risk**

The ability of the Municipality to respond to a risk event must be evaluated in detail, and the results recorded as a control in the risk register. Post-event measures include crisis management capabilities, emergency planning, business continuity plans and contingency planning. These responses should incorporate planned measures that cover the basic types of managerial response, such as finance, people, technology and customers.

The criteria for performance will include speed of response, comprehensiveness of response and degree of readiness.

**A.4.4 Review the financial risk protection measures in place to respond to the consequences of risk events**

The Municipality's risk finance measures include an insurance portfolio, self-insurance policies and funds, financial provisions, and operating budgets for the funding of losses or variances. Management must compare the results of risk assessment processes with the current risk finance arrangements.

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This will highlight the net financial effect of risk events upon the Municipality. It will also influence the decisions relating to the structure of risk finance. Certain risks may be deemed intolerable and may require a self-insurance facility or provision to manage the risk. Low risks may lead to greater risk retention limits.

#### **A.4.5 Verify the levels of compliance with regulatory requirements**

Adherence to legislation and regulatory frameworks is not negotiable. It is essential that risk related requirements are incorporated into control frameworks. Relevant requirements must be verified. It is the responsibility of management to build compliance processes around these requirements. Any material breaches must be reported as deemed appropriate through the structures of reporting developed for this.

**Having ascertained the suitability, appropriateness and effectiveness of risk controls, management will decide upon further action plans for actual and possible risks:**

#### **A.4.6 Take decisions on the acceptability of identified risks and controls**

A distinct and conscious process of decision-making for each key risk must be made taking into consideration the risk tolerance levels for the entity. The decisions made for every key risk must be recorded. Decision options include the possibility to tolerate / accept, treat /reduce, transfer / share or terminate / avoid risks. The potential impact upon strategic and operational objectives will influence the outcomes of decision-making processes.

When taking a decision care should be taken when taking any action that could:

- Result in serious injury or fatality;
- Result in significant harm to the environment;
- Impact on the reputation of the Municipality;
- Impact on the performance of the Municipality;
- Result in a fine by regulatory authorities; or
- Undermine the independent and objective review of activities.

Possible prohibited risk areas include the following:

- Changes that could result in regulatory breach;
- Fraud and corruption;
- Theft of the Municipality property; and
- Access to the property by unauthorized personnel.

**Any of the above would constitute an unacceptable risk.**

**A.4.7 Document your action plans for risk mitigation**

The action plans for improving or changing risk mitigation measures must be documented in the risk registers. It is important that a process of tracking progress made with risk interventions is followed. Such a process provides a trail of information that may prove to be necessary at some future stage. Good governance practices would expect this. Because risk is often a process of perception, misunderstandings can arise where no record is kept.

The action plans must be unambiguous and provide target dates and names of responsible persons. A process of follow-through must be used.

**A.4.8 Use the outputs of risk assessments for budgeting and capital allocation processes**

It is important that risk information is factored into budgeting decisions. The variability of budgeted targets must be considered, and one must assume that the risks associated with key Municipality objectives in the budgets have been evaluated as part of risk assessment processes. Considerations around budgeting should also be put in the context of cost-of-risk evaluations.

**A.5 Governance requirements**

**A.5.1 Establish an organizational framework of assurance for key risks and controls**

A framework of assurance must be developed for your risks. Key players in the Municipality will combine to provide assurance to the Council and Accounting Officer that risks are being appropriately managed. This combined approach to assurance normally involves external auditors, internal auditors and management working together through the audit / risk committee. Other experts should be chosen to provide assurance regarding specialized categories of risk, such as environmental management. The assurance framework must be formalized and should incorporate appropriate reporting processes.

**A.5.2 Internal audit provides assurance that management processes are adequate to**

Municipality, and the Internal Audit Function will examine this. The reliability of risk information, particularly the information regarding controls, should be scrutinized by the Internal Audit Function. The Internal Audit Function should work with specialist providers of assurance where necessary.



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**A.5.5 Internal audit provides objective confirmation that the Council and Accounting Officer receives the right quality of assurance and reliable information from management regarding risk**

The Internal Audit Function plays a key role in coordinating the key players in the risk management process to provide assurance to the Council and Accounting Officer. The Internal Auditor is not normally the only provider of assurance.

The function does, however, have an important role in evaluating the effectiveness of control systems. The process of assurance must of necessity involve the Council, the Audit Committee, Accounting Officer, Management, External Auditors, Regulators and the Internal Audit Function.

**A.5.6 Operational, Health and Safety Management**

A formal safety management programme is essential for our business. The risks will vary according to each operational site, but the principles of risk management will always apply, i.e. risk identification, risk assessment, formal action plans for mitigation, monitoring, reporting and assurance.

**A.6 Common Language**

Given that the enterprise risk management process will strive to integrate various participants and specialists from disparate risk professionals, it is vital that the process does not confuse all concerned by using disjointed terminology.

Frequently used risk management terminology should be defined in such a way that it ensures different disciplines have a common interpretation of the terminology in question.

(The secret is to keep it simple).

See **Appendix C** for terminology.

**B. RATING TABLES**

**Impact-** the following table is to be used to assist management in quantifying the potential impact that a risk exposure may have on the municipality

Risk rating	Inherent risk magnitude	Response
15 – 25	High	Unacceptable level of risk – High level of control intervention required to achieve an acceptable level of residual risk
8 – 14	Medium	Unacceptable level of risk, except under unique circumstances or conditions – Moderate level of control intervention required to achieve an acceptable level of residual risk

1 – 7	Low	Mostly acceptable – Low level of control intervention required, if any.
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**Residual risk exposure (impact x likelihood) and refer to risk mapping above:**

Risk rating	Residual risk magnitude	Response
15 – 25	High	Unacceptable level of residual risk – Implies that the controls are either fundamentally inadequate (poor design) or ineffective (poor implementation). Controls require substantial redesign, or a greater emphasis on proper implementation.
8 – 14	Medium	Unacceptable level of residual risk – Implies that the controls are either inadequate (poor design) or ineffective (poor implementation). Controls require some redesign, or a more emphasis on proper implementation.
1 – 7	Low	Mostly acceptable level of residual risk – Requires minimal control improvements.

**Risk rating:**

High	15-25
Medium	8-14
Low	1-7

Perceived controlled effectiveness criteria designed to measure the effectiveness of the current controls.

Effectiveness Category	Category definition	Factor
Very good	Risk exposure is effectively controlled and managed	20%
Good	Majority of risk exposure is effectively controlled and managed	40%
Satisfactory	There is room for some improvement	65%
Weak	Some of the risk exposure appears to be controlled but there are major deficiencies	80%

Unsatisfactory	Control measures are ineffective	90%
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The municipality will place reliance on both external and internal audit assessments of internal control effectiveness.

#### **Risk Tolerance**

**Risk tolerance is based on the municipality's financial strength and its ability to withstand shocks. The risk tolerance of the organization is as follows:**

Quantitative Indicator	Qualitative Indicator	Response option
15 – 25	High risk	Unacceptable level of residual risk – Implies that the controls are either fundamentally inadequate (poor design) or ineffective (poor implementation).  Controls require substantial redesign, or a greater emphasis on proper implementation.
8 – 14	Medium risk	Unacceptable level of residual risk – Implies that the controls are either inadequate (poor design) or ineffective (poor implementation).  Controls require some redesign, or a more emphasis on proper implementation.
1 – 7	Low risk	Mostly acceptable level of residual risk – Requires minimal control improvements.

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**C. TERMINOLOGY****Terminology**

Terminology	Definition of terminology
<b>Risk</b>	Risks are uncertain future events (threats and opportunities) that could influence the achievement of the goals and objectives of the Municipality.
<b>Risk Management</b>	A continuous, proactive and systematic process of the identification, evaluation and addressing of risks on a continuous basis to provide reasonable assurance regarding the achievement of the institutions goals and objectives.
<b>Risk Assessment</b>	<p>The overall process of identifying, analysing and evaluating risk.</p> <p>The risk assessment process should consider risks that are significant to the achievement of the Municipality's objectives. This is a continuous process, requiring regular reviews, as and when internal and external changes influence the Municipality's strategies and objectives.</p>
<b>Enterprise Risk Management (ERM)</b>	Enterprise risk management is a structured and consistent approach across the Municipality that aligns strategy, processes, people, technology and knowledge with the purpose of evaluating and managing the risks (threats and opportunities) that the Municipality faces to create

	<p>stakeholder value</p> <p>or</p> <p>Choices made under conditions of uncertainty, bound by acceptable levels of risk, designed to sustain / maximize stakeholder value.</p>
<b>Risk appetite</b>	The amount of residual risk that management is willing to take.
<b>Risk tolerance</b>	The level of risk that management is capable of bearing.
<b>Inherent risk</b>	<p>The likelihood and impact of the risk in the absence of management control or interventions (existing controls)</p> <p>The consequence of the risk to the institution in its unmanaged state.</p>
<b>Residual Risk</b>	The level of risk remaining after the mitigating influence of the existing control has been considered.
<b>Risk Mitigation</b>	The process of selecting and implementing measures to modify risk (encompasses risk avoidance, risk reduction, risk retention and risk transfer).
<b>Risk Categories</b>	<p>Grouping of risks with similar characteristics used in establishing the clients risk portfolio (see risk profile).</p> <p>Ultimately determined by the client, the characteristics used to define risk</p>

	categories typically reflect the client's business model, industry or other factor that drives risk within the organization.
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**Submitted By:**

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**Date:** .....

**P. V. Sefuthi**

**(Acting Senior Accountant): Risk Management**

**Reviewed By:**

.....

**Date:** .....

**T. B. Makofane**

**Director: Strategic Support Services**

**Approved / Not Approved**

.....

**Date:** .....

**Mr E. T. Tsoaeli: Municipal Manager**

# Risk Management Implementation Plan



**2018/19**

Activity	Responsible official or Department	Due date	Outputs / Outcomes
<b>Risk planning</b>			
Detailed risk management implementation plan.	Chief Risk Officer (CRO)	01/07/2018	An approved risk management plan for the year.
Presentation on Risk Management Awareness, Fraud Risk Awareness to Management.	Chief Risk Officer	30/09/2018	Understanding of Risk Management and Fraud Risk Awareness by Management.
Presentation on Risk Management Awareness, Fraud Risk Awareness to operational employees.	Chief Risk Officer	30/09/2018	Understanding of Risk Management and Fraud Risk Awareness by operational employees.
<b>Risk orientation (Authorities, structures and responsibilities)</b>			
Appointment of the Chief Risk Officer.	Accounting Officer	01/07/2018	Chief Risk Officer appointed.

Activity	Responsible official or Department	Due date	Outputs / Outcomes
			Formal delegation of responsibilities Formal delegation of responsibilities
Establishment of Risk Management Committee.	Accounting Officer	17/10/2018	Risk Management Committee Formal delegation of responsibilities to committee
Orientation of Risk Management Committee.	Accounting Officer	14/11/2018	Completed orientation (Risk Management Committee)
Orientation of Chief Risk Officer.	Accounting Officer	30/07/2018	Completed orientation (CRO)
Development of Risk management policy, Anti-fraud policy, risk management strategy and fraud prevention strategy.	Chief Risk Officer	01/07/2018	Approved risk management strategy and fraud prevention strategy
<b>Departmental Risk Profile</b>			
Strategic risk identification, assessment and capturing on Barnowl system and indication of 20 top risk.	Chief Risk Officer	30/09/2018	Approved strategic risk profile
Operational risk identification, assessments and capturing on Barnowl system and indication of 20 top risks.	Chief Risk Officer	30/09/2018	Approved operational risk profile and agreed cycle
<b>Risk response</b>			
Drafting of action plans for all gaps identified for the top risks, fraud risks.	Risk Owners / CRO	28/12/2018	Action plans for top risks
Compilation of Risk Assessment Report, Fraud Risk Assessment Report.	Chief Risk Officer	Quarterly	Inform the Board of the risk assessment Assisted in the development of the risk assessment
<b>Risk monitoring</b>			
Monitoring effectiveness of mitigation strategies.	Chief Risk Officer	Quarterly	Extent to which mitigation strategies are effective.
Evaluating effectiveness of Risk Management & Fraud Management processes.	Internal / External Audit /	Quarterly	Risk Management & Fraud Management processes
Accounting Officer's report.	Risk Management Committee Chair	28/02/2019	Report produced for the Board content.
Audit committee report.	Risk Management Committee Chair	Quarterly	Report produced for the Board content.



Activity	Responsible official or Department	Due date	Outputs / O
Annual report disclosure.	Accounting Officer	15/06/2019	Disclosure
Risk management committee report.	Chief Risk Officer	Quarterly	Report pro content.
Monitoring of the RMIP of Municipality.	Chief Risk Officer	Quarterly	

**PREPARED BY:****REVISED BY:****ACCEPTED BY:****ACCEPTED BY:****DIRECTOR:****MUNICIPAL MANAGER****ACTING SENIOR Manager****STRATEGIC SUPPORT SERVICES: Mr E.T Tsoaeli****Risk Management****T.B MAKOFANE****Name Puleng Sefuthi****Signature** \_\_\_\_\_**Date** \_\_\_\_\_

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## MATJHABENG LOCAL MUNICIPALITY



## WHISTLE BLOWING POLICY 2018/19

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TABLE OF CONTENTS

	Page
1. INTRODUCTION	3
1.1 What is whistle-blowing	3
1.2 Why is whistle-blowing important	3
1.3 Why don't people blow the whistle	4
1.4 The conceptual core	4
1.5 The Protected Disclosure Act, 2000	4-5
2. PURPOSE OF THE POLICY	5
3. SCOPE OF THE POLICY	5-6
4. CONFIDENTIAL REPORTING PROCEDURE	6-8
5. ANONYMOUS ALLEGATIONS	8
6. UNTRUE ALLEGATIONS	8-9
7. WHAT NOT TO DO	9
8. HOW THE MUNICIPALITY WILL RESPOND TO CONCERNS	9-10
9. CREATING AWARENESS	10
10. ADMINISTRATION	10
11. ADOPTION OF THE POLICY	10

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## 1. INTRODUCTION

This policy is intended to make it clear that Matjhabeng Local Municipality (hereafter referred to “MLM”) is committed to the fight against fraud and corruption whether the perpetrators are internal or external. The Whistle-blowing policy and procedures is part of the Municipality’s commitment to working towards a culture of openness, accountability and transparency. Confidentiality will be maintained, to the extent provided by the law, and nobody will be penalized for disclosing in good faith, information that might be in the Municipality’s interest.

Thus, any serious concerns that any person may have about any aspect of service delivery or the conduct of officials or members of the Matjhabeng Local Municipality council or others acting on behalf of the Municipality, can be reported under this policy.

All concerns will be treated in confidence and every effort will be made not to reveal the identity of whistle-blowers ‘if they so wish’. At the appropriate time, however, the whistle-blower may need to come forward as a witness.

### 1.1 What is whistle-blowing

Understood correctly, whistle-blowing is not about informing in the negative, anonymous sense but rather raising a concern about malpractice within an organisation.

### 1.2 Why is whistle-blowing important

Whistle-blowing is an early warning system to avert possible risks to the organization and alert Management about any wrong doing in time so that they can take necessary corrective action. A positive whistle-blowing culture is a critical element in the success of any risk management system.

An organization that positively encourages whistle-blowing stands a far better chance of demonstrating that it is properly run and managed. The existence of a working whistle-blowing policy is pivotal in legal proceedings.

Ethical dilemmas in whistle-blowing

Ethical behaviour should guide or conduct. Often in the case of whistle blowing, ethical dilemmas arise:-

- Gifts and gratuities
- Conflicts of interest

- Confidentiality
- Permission to do outside work
- Discrimination

## **1.3 Why don't people blow the whistle**

While employees are usually the first to know of wrongdoing, many feel they stand to lose the most by speaking up. Those who genuinely suspect that something may be going seriously wrong in the workplace usually face an acute dilemma. They can stay silent and look the other way, they can raise the matter with the employer, or they can take their concerns outside the organization.

The fear of being labelled a sneak or a troublemaker, the fear of breaking ranks and appearing disloyal to colleagues, and the fear of being required to provide irrefutable evidence are powerful disincentives to speaking up; and encourages people not to blow the whistle. A good policy encourages and protects responsible whistle-blowing.

## **1.4 The conceptual core**

At its heart, the Protected Disclosure Act contains a simple idea; that, it is in the best interest of both the employer and the (responsible, potential whistle-blower) employee to blow the whistle internally within the organization rather than externally, to, for example, the media.

Once a disclosure is made externally the stakes are much higher for both the employer and the employee.

For the employer, it may result in damaging publicity, whether warranted or not.

For the employee, it may be more likely that the employer may react negatively to the disclosure, with adverse consequences for the employee and his or her future work prospects.

## **1.5 The Protected Disclosure Act 2000**

**1.5.1 The Protected Disclosure Act sets out a clear and simple framework to promote responsible whistle-blowing by:**

- Reassuring workers that silence is not the only safe option;
- Providing strong protection for workers who raise concerns internally;

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- Reinforcing and protecting the right to report concerns to public protection agencies such as The Special Investigation Unit, The South African Police Services, The National Intelligence Agency, Public Protector and Auditor General; and
  - Protecting more general disclosures provided that there is a valid reason for going wider and that the particular disclosure is a reasonable one.

## **1.5.2 The following are objects of the Act:**

- (a) To protect an employee, whether in the private or the public sector, from being subjected to an occupational detriment on account of having made a protected disclosure;
- (b) To provide for certain remedies in connection with any occupational detriment suffered on account of having made a protected disclosure; and
- © To provide for procedures in terms of which an employee can, in a responsible manner, disclose information regarding improprieties by his or her employer.

## **2. PURPOSE OF THE POLICY**

The purpose of this policy is to provide a means by which staff is able to raise concerns through appropriate channels or line management or specific appointed person in the Municipality, where they have reasonable grounds for believing that there is fraud and corruption within the Municipality.

The Protected Disclosure Act, Act 26 of 2000, provides protection to employees for disclosures made without malice and in good faith, in defined circumstances. In terms of the Protected Disclosure Act employees can blow the whistle on fraud and corruption in the working environment without fear of suffering an occupational detriment as defined by the Act.

Matjhabeng Local Municipality's Management encourages staff to raise matters of concern responsibly through the procedures laid down in this policy documents. The Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004 provides for measure to prevent combat corruption and corrupt activities, investigative measures and penalties and related matters.

## **3. SCOPE OF THE POLICY**

This policy is designed to deal with concerns raised in relation to issues relating to fraud, corruption, misconduct and malpractice within Matjhabeng Local Municipality. The policy will not apply to personal grievances, which will be dealt with under existing procedures on grievance, discipline and misconduct.

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The policy covers all genuine concerns raised including but not limited:

- Financial misconduct
- Corruption
- Fraud
- Theft
- Health and safety risks
- Environmental damage
- Any person abusing their position in connection with unauthorised activity for personal gain
- Misuse of the municipal property and resources.

If in the course of investigation of any concern raised in relation to the above matters it appears to the investigator that concerns raised relate more appropriately to grievance or discipline, those procedures will be evoked.

#### **4. CONFIDENTIAL REPORTING PROCEDURE**

4.1 Any member of staff who has a reason to belief that there is corruption or misconduct relating to any of the matters specified above may raise a concern under the procedure detailed in this policy. Concerns must be raised without malice, in good faith and not for personal gain and the individuals must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.

4.2 The issue raised may relate to a manager, another member of staff, a group of staff, the individual own section or different section of the municipality. The perpetrator can be an outsider, an employee, a manager, a customer or an ex-employee. You may even be aware of a system or procedure in use, which may cause Matjhabeng Local Municipality to transgress legal obligations.

4.3 Any suspicion of fraud or other wrong doing will be treated seriously with strictest confidence and will be reviewed and analysed.

4.4 Matjhabeng Local Municipality recognizes that it needs a channel through which suppliers, rate payers and other community members can report irregular activities, free from victimisation. The primary means of detecting fraud will always remain a sound system of internal control and regular internal audits.

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4.5 These measures will be supplemented with a fraud-reporting channel where information regarding fraud, theft and corruption is collected, and decisive corrective and protective steps are taken to limit the municipality's exposure to further or future loss. Vital to this function is the assurance of anonymity, commitment to investigate all irregularities, protection of the whistleblower and consistent application of the fraud policy, regardless of the seniority of the alleged offender.

4.6 Any suspected or actual fraud must be reported to the Supervisor or Manager if you are an employee. If the employee is not comfortable reporting such matters to his/her Supervisor/Manager, he/she should report the matter to his/her Supervisor/Manager's superior, with the final recourse to the Municipal Manager. People may also report incidents by using the Anti-Fraud & Anti-Corruption hotline if they wish to remain anonymous.

4.7 It is the responsibility of the Managers to report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to the Municipal Manager and the **Head of Internal Audit**. If the manager is not comfortable reporting such matters as indicated above, he/she should report the matter to the Executive Mayor. This reporting must take place as follows:

- a) Telephonically immediately after discovery of such an incident;
- b) This telephonic report must be followed by a detailed written report to be submitted within 24 hours of the discovery of such an incident.

4.8 If sufficient information is available to substantiate that a criminal offence has been committed, the Municipal Manager or his/her nominee must report the matter to the South African Police Services as soon as possible.

4.9 Where an employee is alleged to have committed an act of fraud, corruption, theft, or maladministration the Municipal Manager must institute disciplinary proceedings, in terms of the disciplinary code agreement of the municipality.

4.10 Managers are also required to ensure that losses or damages suffered by the Municipality as a result of an act committed or omitted by an employee must be recovered from such an employee if he/she is liable in law. The Municipal Manager must determine the amount of the loss or damage and, in writing request that employee to pay the amount within 30 days or in reasonable instalments. If the employee fails to comply with the request, the matter must be handed to the Chief Financial Officer for the recovery of the loss or damage.



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## 5. ANONYMOUS ALLEGATIONS

This policy encourages whistle-blowers to put their names to their allegations whenever possible. Where an individual chooses to report their concerns anonymously, such anonymity will be respected.

It should be noted that, if the report suggests criminal activity, and the case is to be pursued by police, the identity of the person reporting the details may be important at a later date if the criminal proceedings are to be pursued effectively.

## 6. UNTRUE ALLEGATIONS

Public, employees, and third parties may raise their concerns orally, telephonically or in writing. A person raising a concern or blowing the whistle, should give the details about the place and venue where the activity has taken place, is taking place or is going to take place, the time and the date where possible.

Anti-Fraud & Anti-Corruption hotline will be administered by Internal Audit in conjunction with the municipality's Investigation Unit will be put in place for the purpose of reporting fraudulent and corrupt activities.

Those who wish to make written reports are invited to use the following methods:

- Encrypted fax
- Letters addressed to the Municipal Manager and he will forward it to the Investigation Unit for investigation
- Visiting our offices
- Telephonically, through Anti-Fraud & Anti-corruption hotline ()
- Use of fraud & corruption reporting boxes that will be placed at different offices of the municipality of which access will be 48 hours.

Although whistle blowers are not expected to prove beyond reasonable doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for their concern.

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## 7. WHAT NOT TO DO

A whistle-blower must not do any of the following:

- Contact the suspected perpetrator in an effort to determine facts or demand restitution
- If the whistle-blower is an employee of the municipality, discuss the case facts, suspicions, or allegations with anyone outside the municipality (including the Press or Media)
- Discuss the case with anyone within the municipality other than the people administering the Anti-Fraud & Anti-corruption hotline
- Attempt to personally conduct investigations or interviews or question anyone.

## 8. HOW THE MUNICIPALITY WILL RESPOND TO CONCERNS.

The municipality will respond to concerns raised by whistle-blowers by:

- Investigating all reported cases;
- Institute disciplinary hearings where appropriate;
- Lay criminal charges where necessary, and
- Blacklist perpetrators where appropriate (name and shame).

In order to protect individuals and those accused of possible malpractice, initial enquiries will be conducted to determine whether an investigation is appropriate or not and, where appropriate, what form should the investigation take.

The overriding principle which the municipality will uphold is of the public interest.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

The municipality accepts that whistle-blowers need to be assured that the reported matters have been properly addressed. Thus, subject to legal considerations, the municipality will inform whistle-blowers of the outcome of investigations conducted as a result of their disclosure.

If you are unhappy with the municipality's response, remember you can go to the other levels and bodies detailed in this policy. While we cannot guarantee that the municipality will respond to all

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matters in the way you might wish, the municipality commit to handle every matter fairly and properly.

## 9. CREATING AWARENESS

It is the responsibility of all Managers to ensure that all employees are made aware of, and receive appropriate training and education with regard to this policy.

This policy should also be publicized following the process that is being followed by the municipality to ensure that community members and other third parties are aware of it.

## 10. ADMINISTRATION

The custodian of this policy is the Municipal Manager, who is supported in its implementation by the Council and all Executive Management, all Managers and staff of Matjhabeng Local Municipality. The Municipal Manager is responsible for the administration, revision and interpretation of this policy. The policy will be reviewed as and when necessary preferably annually together with Anti-Fraud & Anti-Corruption Strategy of the municipality.

## 11. ADOPTION OF THE POLICY

**Adopted by:**

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**Municipal Manager (Mr E. T. Tsoaeli)**

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**Date**

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**Executive Mayor (Cllr Nkosinjani Speelman)**

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**Date**