

# **MATJHABENG LOCAL MUNICIPALITY**



## **FRAUD PREVENTION PLAN 2017/18**

INDEX

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

## **1. OBJECTIVE**

- 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.

## 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.
- 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**

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

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.

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 or 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.

# MATJHABENG LOCAL MUNICIPALITY

## FRAUD RESPONSE PLAN

### INDEX

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



## **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.

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.

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 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 compliment, 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 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 change will be reported to the Audit Committee/ Risk Management Committee for approval.

Submitted By:

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Date: .....

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