

# **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>

- 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;

- 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:

- 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. 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

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 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**

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 SERVI Hotline 0800 701 701**

## **12. ADOPTION OF THE POLICY**

Adopted by:

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date