Bitou

MUNICIPALITY

FRAUD and CORRUPTION PREVENTION

POLICY & STRATEGY

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TERMS AND ABBREVIATIONS

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

Constitution — Constitution of the Republic of South Africa, as adopted on 08 May 1996 and amended on 11 October 1996 by the Constitutional Assembly

Demarcation Act — Local Government: Municipal Demarcation Act, No 27 of 1998

Fraud and Corruption — Includes, but is not limited to, the following legal definitions:

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

- - - Unauthorised gratification received or offered by or to a party with an employment relationship;
    - Witnesses and evidential material during certain proceedings;
    - Contracts;
    - Procuring and withdrawal of tenders;
    - Auctions;
    - Sporting events;
    - Gambling games or games of chance.
  - Conflicts of interest and other unacceptable conduct, e.g.:
    - Acquisition of private interests in contract, agreement in or investment in public body;
    - Unacceptable conduct relating to witnesses;
    - Intentional interference with, hindering or obstruction of investigation of offence.
  - Other offences relating to corrupt activities, viz.:
    - Accessory to or after an offence;
    - Attempt, conspiracy and inducing another person to commit an offence;
    - Failure to report corrupt transactions.

  - Irregularities relating to the following:
    - Systems issues: where a process/system exists which is prone to abuse by employees, the public or other stakeholders, e.g., HR Employment Practices like inadequate vetting of employees
  - Supply Chain Management:
    - Non-compliance to tender procedures;
    - Supply chain management fraud, e.g., collusion between employees and suppliers;
    - Fraudulent information submitted by suppliers during the tender process.
  - Housing:
    - Manipulation of the beneficiary waiting list;
    - Irregular allocation of housing subsidy.
  - Financial Systems and Control:
    - Deliberate non-compliance to policies and procedures;
    - Abuse of the system of overtime;
    - Abuse of the system of travel claims;
    - Fraudulent payment certificates submitted for payment;
    - Non-compliance to delegated authority limits;

- ▪ Fraudulent use of fleet fuel cards;
- ▪ Fraudulent change of supplier/employee bank details.

- Financial issues: i.e., when individuals or entities have fraudulently obtained money from BM, e.g.:
  - o HR Employment Practices
    - ▪ Ghost employees;
    - ▪ The regular appointments of staff under undue benefits.
  - o Supply Chain Management:
    - ▪ Suppliers invoicing for work not done;
    - ▪ Service providers' double invoicing;
    - ▪ Contractor "fronting".
  - o Housing:
    - ▪ Diversion of rental payments on rental stock.
  - o Financial Systems and Control:
    - ▪ Theft, e.g., petty cash, etc.;
    - ▪ Fraudulent travel claims by employees;
    - ▪ Fleet fuel card fraud.

- Equipment and resource issues: i.e., where BM's equipment is utilised for personal benefit or stolen, e.g.:
  - o Financial Systems and Control:
    - ▪ Theft of assets;
    - ▪ Abuse of assets;
    - ▪ Deliberate destruction of property;
    - ▪ Use of BM resources and equipment for private gain.

- Other issues: i.e. activities undertaken by employees of BM, which may be against policies or fall below established ethical standards, e.g.:
    - ▪ Conflict of interest;
    - ▪ Favouritism;
    - ▪ Non-disclosure of private work.

LGAS	Local Government Anti-Corruption Strategy
MFMA	Municipal Finance Management Act, No 56 of 2003
Municipal Manager	Natural person appointed in terms of section 82(1) of the Structures Act
Strategy / Policy	Fraud Prevention Policy & Strategy for BM (original May 2009 and periodically reviewed)
RSA	Republic of South Africa

SALGA   South African Local Government Association

SARS   South African Revenue Service

BM   Bitou Municipality

Structures Act   Municipal Structures Act, No 17 of 1998

Systems Act   Municipal Systems Act, No 32 of 2000

Description	Version Number	Date	Changes
Fraud & Corruption Prevention Policy Strategy	**1.0**	**July 2021**	**Approved by Council**
Fraud & Corruption Prevention Policy Strategy	**2.0**	**October 2022**	**Approved by Council**
Fraud & Corruption Prevention Policy Strategy	**3.0**	**June 2023**	**Submitted to Council for approval**

1. INTRODUCTION

Bitou Municipality subscribes to the principles of good corporate governance which require the conducting of business in an honest and transparent fashion.

Consequently, BM is committed to fighting fraudulent behaviour at all levels within the organisation.

This strategy is premised on the organisations core ethical values driving the business of BM, the development of its systems, policies and procedures, interactions with ratepayers, the public and other stakeholders, and even decision-making by individual managers representing the organisation. This means that, in practice all employees of BM, and even external stakeholders, must be guided by this Strategy as the point of reference for their conduct in relation to BM.

In addition to promoting ethical conduct within BM, the Strategy is also intended to assist in preventing, detecting, investigating and sanctioning fraud and corruption.

This dynamic document details the steps, which have been, and will continually be taken by BM to promote ethical conduct and address fraud and corruption.

2. POLICY ON FRAUD AND CORRUPTION

2.1 Objective

The Policy is intended to encourage staff and members of the public by facilitating the disclosure of information relating to criminal and other irregular conduct in the workplace or relating to any BM activities/business in a responsible manner. It provides clear guidelines for the disclosure of such information aimed at protection against reprisal as a result of such disclosure as well as promoting the eradication of fraudulent, criminal and other irregular conduct within BM.

2.2 Policy Stance

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

2.3 Scope of the Policy

This policy applies to all employees, stakeholders, contractors, suppliers and any other party doing business with the institution.

2.4   Definition of Fraud and Corruption

In South Africa, the Common Law offence of <u>fraud</u> is defined as "the unlawful and intentional making of a misrepresentation which causes actual and / or potential prejudice to another". The term "FRAUD" is also used in a wider sense by the general public.

In this regard, the term is used in this document in its widest possible meaning and is intended to include all aspects of economic crimes and acts of dishonesty. In other words, fraud can be described as any conduct or behaviour of which a dishonest reputation and/or appropriation forms an element.

The general offence of corruption is contained in Section 3 of The Prevention and Combating of Corrupt Activities Act. This section provides that, any person who gives or accepts or agrees or offers to accept/receive any gratification from another person in order to influence such other person in a manner that amounts to:

- The legal and authorised performance of such other person's powers, duties or functions;
- An abuse of authority, a breach of trust, and the violation of a legal duty in terms of the applicable rules.
- The achievement of an unjustified result; or
- Any other unauthorised or improper inducement to do or not to do anything
  is guilty of the offence of Corruption.

<u>Corruption</u> in its wider meaning, and as referred to in this document, includes any conduct or behaviour where a person accepts, agrees or offers any gratification for him/her or for another person where the purpose is to act dishonestly or illegally. Such behaviour also includes the misuse of material or information, abuse of a position of authority or a breach of trust or violation of duty.

2.5   Forms of corruption

Corruption takes various forms in the public service and elsewhere in society. The following are examples of different types of corruption.

2.5.1   Bribery

Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of public servants.

2.5.2   Embezzlement

This involves theft of resources by persons who control such resources.

2.5.3   Fraud

Any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

2.5.4   Extortion

Coercion of a person or entity to provide a benefit to a public servant, another person or/and entity, in exchange for acting (or failing to act) in a particular manner.

2.5.5   Abuse of Power

The use by public servant of his or her vested authority to improperly benefit another public servant, person or entity (or using vested authority to improperly discriminate against another public servant, person or entity).

2.5.6   Conflict of Interest

The failure by a public servant to act or to consciously fail to act on a matter where the public servant has an interest or another person or entity that has some form of relationship with the public servant who has an interest.

2.5.7   Abuse of Privileged Information

This involves the use, by public servant, of privileged information and knowledge that a public servant possesses as a result of his/her office to provide unfair advantage to another person or entity to obtain a benefit.

2.5.8   Favouritism

The provision of services or resources according to personal affiliation (for example, cultural or religious) of a public servant.

2.5.9   Nepotism

A public servant ensuring that family members are appointed to public service positions or that family members receive contracts from the state is regarded as nepotism.

These manifestations are by no means exhaustive as corruption appears in many forms and it is virtually impossible to list all of these.

2.6   Action Constituting Fraud and Corruption

Fraud and corruption manifests in a number of ways and varying degrees of intensity. These include, but are not limited to:

- Unauthorised private use of the Institution's assets, including vehicles;

- Falsifying travel and subsistence claims;
- Conspiring unfairly with others to obtain a tender;
- Disclosing proprietary information relating to a tender to outside parties;
- Accepting inappropriate gifts from suppliers;
- Employing family members or close friends;
- Operating a private business in working hours;
- Stealing equipment or supplies from work;
- Accepting bribes or favours to process requests;
- Accepting bribes or favours for turning a blind eye to a service provider who does not provide an appropriate service;
- Submitting or processing false invoices from contractors or other service providers; and
- Misappropriating fees received from customers and avoiding detection by not issuing receipts to those customers.

2.7   Reporting of Fraud and Corruption

2.7.1   **Reporting by Employees**

i.   It is the responsibility of all employees to immediately report all allegations or suspected incidents of fraud and corruption to their immediate managers. Should an employee be concerned that the manager is involved the report can be made to any other member of the management, the Municipal Manager and/or the Executive Mayor, if the Municipal Manager is implicated.

ii.   All managers are responsible for the detection, prevention and investigation of fraud and corruption and must report all incidents and allegations of fraud and corruption to the Municipal Manager and/or Executive Mayor. The Municipal Manager will initiate an investigation into the matter.

iii.   Managers and other employees may also utilize the toll-free fraud hotline, the fraud email address and/or the fraud reporting web-form on the BM website to report in terms of (i) and (ii) above.

2.7.2   **Reporting by Service Provider and other Stakeholders**

BM encourages members of the public or providers of goods and/or services who suspect fraud and corruption to contact any member of management, the Municipal Manager and/or the Executive Mayor.

Should they wish to remain anonymous, the anonymous fraud reporting web-form on the BM website is also available to them.

2.7.3   **Reporting mechanisms**

The following options exist for employees, stakeholders and other members of the public to report alleged fraud and corruption incidents. The hotline and the email allow for possible disclosure of identity, while the web-form can be completed without contact details or storing submission details, while allowing for large attachments to be uploaded.

Fraud reporting web-form on https://www.bitou.gov.za/form/public/

Toll-free fraud and corruption reporting hotline – 0800 86 96 46

Fraud and corruption reporting email address – fraudqueries@plett.gov.za

The email address contains all whistle-blower reports from all three options. These emails are also recorded in Mimecast for 100 years, from which it cannot be deleted.

The web-form may be completed totally anonymously or with contact details of the whistle-blower. The web-form allows for attachments to be uploaded. The notification of a submitted web-form is automatically sent to the fraud reporting email address from which link the nominated officials can access the web-form and attachments to read and download.

The email address can also be used by internal and external whistle-blowers to report allegations without completing the web-form.

The toll-free fraud hotline records all messages in a voice-box with an undisclosed access pin stored off-site with a third party. These voice messages are automatically forwarded to the designated fraud reporting email address, which is a shared mailbox between the Senior Manager: Governance & Compliance and ICT with rights.

In summary, the following options are available for whistleblowing:

- Call the designated fraud hotline from any Telkom or mobile phone and leave a message
- Send the allegations via email to the designated BM fraud reporting email address
- Report the alleged corruption directly on the web-form available on the BM website

2.8   **Dealing with Allegations of Fraud and Corruption**

2.8.1   **Allegations reported directly to management**

i.   For issues raised by members of the public, for example the police, ratepayers, or providers of goods and/or services, the action taken will depend on the nature of the concern. The matters raised will be screened and evaluated and subsequently:

- The managers must telephonically report any allegations reported to them by the employees to the Municipal Manager immediately.
- The managers can also report the reported allegations to the Executive Mayor in case the Municipal Manager is implicated.
- The manager must report in writing within 24 hours from the time of receiving the allegation.
- The Municipal Manager and/or Executive Mayor must evaluate the allegations for substance and decide on appropriate course of action.
- The Municipal Manager and/or Executive Mayor should decide whether to investigate internally or source the services of outside service providers, depending on the seriousness of the allegation.

ii. Any fraud and corruption committed by an employee or any other person will be pursued through investigation and to the full extent of the law, including (where appropriate), consideration of:

a) In case of employees, taking disciplinary action within a reasonable period of time after the incident as stipulated in disciplinary action procedures;
b) Instituting civil action to recover losses;
c) Initiating criminal prosecution by reporting the matter to the SAPS or any other relevant law enforcement agencies; and
d) Any other appropriate and legal remedy available.

2.8.2 **Allegations reported via the web-form, email or hotline**

The call centre / web form will receive and refer all the allegations to the Senior Manager: Governance & Compliance. The following procedure will be followed:

- A report of all the allegations will be sent to the Municipal Manager and/or Executive Mayor.
- The Municipal Manager and/or Executive Mayor will further evaluate the allegations and decide on appropriate action.
- The Municipal Manager and/or Executive Mayor will decide whether to investigate or not based on the nature and substance of the allegation.
- The Municipal Manager will report to the Risk Management Committee on all the allegations received.

2.9   Feedback to reporters of Fraud

The Municipal Manager (or his/her delegate) will, upon receiving a report of fraud from an external person, write to the person making the report within 5 days:

- Acknowledging that the concern has been received;
- Indicating how he proposes to deal with the matter and whether any initial enquiries have been made;
- Giving an estimate of how long it will take to provide a final response;
- Informing them whether any further investigations will take place, and if not, the reasons; and

2.10   Recovery of Losses

i.   Managers are required to ensure that losses or damages suffered by BM as a result of all reported acts committed or omitted by an employee or any other person are recovered from such an employee or other person if he/she is found to be liable for such losses.

ii.   The employee contract will have clauses that give the employer the right to deduct any costs suffered by the Municipality as a result of the fraudulent actions of any employee from his or her salary or any monies due to him/her, such as pension fund payments, etc.

iii.   Where there is clear evidence of fraud or corruption and there has been a financial loss to the Institution, recovery action - criminal, civil or administrative - will be instituted to recover any such losses.

iv.   In respect of civil recoveries, costs will be predetermined to ensure that such action is financially beneficial.

2.11   Confidentiality

All information relating to fraud and corruption that is received and investigated will be treated with confidentiality. The progression of investigations will be handled in a confidential manner and will not be disclosed or discussed with any person(s) other than those who have a legitimate right to such information. This is important in order to avoid harming the reputation of suspected persons who may subsequently be found to be innocent of wrongful conduct.

2.12   Media

No person is authorised to supply any information with regard to allegations or incidents of fraud and corruption to the media without the express permission of the Municipal Manager.

2.13 Protection of Whistle-blowers

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

ii. Any disclosure made in good faith and substantially in accordance with any procedure prescribed by BM for reporting is considered a protected disclosure under this act. An employee making a protected disclosure is protected from victimisation due to his/her disclosure.

iii. An employee or official suspected of dishonest activity or reported such activity which he/she has witnessed should be afforded the opportunity to remain anonymous should he/she so require.

iv. Concerns expressed anonymously are difficult to investigate, yet nevertheless they will be followed up at the discretion of the Municipal and/or Executive Mayor. This discretion will be applied by taking into account the following:

- the seriousness of the concern raised;
- the credibility of the reported concern; and
- the likelihood of confirming the allegations.

v. No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and/or corruption which occurred within BM. This may include:

- **Harassment or victimisation**: BM acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal from those responsible for the irregularity. BM 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 altered as a result of their whistleblowing.
- **Confidentiality**: BM 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 information and a statement by the employee or other person may be required as part of the evidence.

vi. All managers should discourage employees or other persons from making allegations which are false and made with malicious intent. Where such allegations are discovered the person who made the allegations must be subjected to firm disciplinary or other appropriate action.

Parallel to the above enforcement approaches, in the event of breaches, the controls should be amended to limit future recurrence of fraud and corruption. The resolution mechanisms which can be pursued in enforcement are illustrated below.

3. FRAUD AND CORRUPTION STRATEGIES

The **main principles** this Strategy are based on and aligned to in the LGAS include the following:

- Creating a culture which is ethical and intolerant to fraud and corruption;
- Deterrence of fraud and corruption;
- Preventing fraud and corruption which cannot be deterred;
- Detection of fraud and corruption;
- Investigating detected fraud and corruption;
- Taking appropriate action in the event of such irregularities, e.g. disciplinary action, recovery of losses, prosecution, etc.; and
- Applying sanctions that include blacklisting and prohibition from further employment.

The above is not intended to detract from the premise that all the components are equally essential for the successful implementation of the Strategy. The components of the Strategy for BM are the following:

- Focus on the organisation and its employees
- Focus on other stakeholders
- Awareness
- Implementation and Monitoring

3.1 Focus on Organisation and its Employees

3.1.1 Codes of Conduct for Municipal Employees and Councillors

i. In terms of Section 2 of the Systems Act, the Code of Conduct for Municipal employees contains specific conduct standards categorised as follows:

- General conduct;
- Commitment to serving the public interest;
- Personal gain;
- Disclosure of benefits;
- Unauthorised disclosure of information;
- Undue influence;
- Rewards, gifts and favours;
- Council property;
- Payment of arrears;
- Participation in elections;
- Sexual harassment;

- Reporting duty of staff members; and
- Breaches of Code.

ii. In terms of Section 1 of the Systems Act, the Code of Conduct for Councillors contains the following categories:

- General Conduct of Councillors (Cross reference to sections of Act):
- Attendance of meetings;
- Disclosure of interests;
- Personal gain;
- Declaration of interest;
- Full-time Councillors;
- Rewards, gifts and favours;
- Unauthorised disclosure of information;
- Intervention in administration;
- Council property;
- Duty of chairpersons of Municipal Councils;
- Breaches of Code;
- Application of Code to traditional leaders.

iii. A gifts policy should be implemented in order to ensure that both the acceptance and offering of business courtesies, including gifts, by all employees of BM occurs only within the ethical standards as prescribed by BM.

iv. The development of a robust system for the declaration of private business interests and actual or potential conflicts of interest by all employees and keeping of a centralised record thereof is essential.

v. Based on the aforementioned principles of conduct, BM will develop its own code of conduct that will be communicated to all the employees and published on the official website for the benefit of all the stakeholders.

3 .1 .2 Systems, Policies and Procedures

BM has a number of systems, policies and procedures designed to ensure compliance with specific laws, regulations and basic internal controls.

All employees and other stakeholders are expected to comply with the applicable policies and procedures. A fundamental risk in this area is the lack of knowledge, awareness, effective communication and training relating to the prevailing systems, policies and procedures.

Non-compliance with policies and procedures is a risk with the potential to seriously impact the success of this Strategy. This will be addressed by developing clearly defined communication

and training strategies to create awareness of all policies and procedures in order to ensure that all employees are made aware of and adequately trained in the implementation of policies and procedures relevant to their duties and responsibilities, e.g. provisions for all employees to acknowledge, in writing, that they have read the policies and procedures applicable to their duties, have undergone relevant training and/or are aware of these policies and procedures, etc.

A structured monitoring mechanism will be developed for the keeping of proper records of the policies and procedures that are being updated and of new policies and procedures that are being developed in order to set clear targets and monitor progress.

3.1.3   Human Resources – Employment Practices

i.   BM is committed to developing human resource systems, policies and procedures, which incorporate fraud and corruption prevention practices. There is a risk of poor implementation of its human resource systems, policies and procedures and BM undertakes the testing thereof during internal audits in which control shortcomings are subsequently addressed.

ii.   Employee-focused anti-fraud and anti-corruption measures should be visible from the point of advertising a vacant post, recruitment, specific employment conditions, maintaining high employee morale, performance management and even exit procedures upon resignation or retirement. The approaches indicated below are key to BM's efforts in this regard:

- **Advertising posts:** The inclusion of specific provisions when advertising posts to provide an indication to applicants that only people with the highest level of personal integrity will be considered and that submission to appropriate pre-employment screening processes are obligatory for consideration in any post.
- **Pre-employment screening and probity**: BM intends ensuring that pre-employment screening procedures are applicable to all employees.
- **Probation:** Compulsory probationary periods should be applicable to all full-time employees. This provision will be extended to include secondment employees and temporary and contract workers. Relevant vetting will again be considered for employees on probation, during probation and prior to their final appointment in view of the long duration of the probationary period.
- **On-going financial disclosure and lifestyle audits:** Senior managers will be obliged to declare specific personal assets and private business interests.
- **Employee induction programmes:** Employee induction is an opportunity to introduce employees to the culture and ethos of the organisation. Efforts will be made to ensure that organisational strategy, business ethics and conduct standards are included in employee

induction. Specific steps will also be developed to include seconded employees, interns and temporary and contract workers in relevant aspects of induction programs.

- **Obligatory leave periods**: In order to limit the risk of over-worked employees who could become careless leading to non-compliance to internal controls and to further limit the risk of fraud and corruption, BM will compel all employees to take annual leave. This control also limits the risk of unethical individuals monopolising specific tasks.
    - o Managers will be encouraged to ensure that appropriate controls, e.g. appropriate scrutiny and supervisions, are put in place in instances where employees do not take leave for extended periods of time due to work commitments.
- **Exit procedures for employees and control over assets:** The exit procedures for employees leaving BM usually require the return of assets and an exit interview. Steps will be taken to ensure that specific follow-up timeframes are set to encourage managers to apply the requirement for the prompt return of assets.
    - o BM will ensure that an exit interview process is in place which includes the assessment of the perceptions of the business ethics and conduct standards within the organisation. This will assist in identifying areas for improvement.

3.1.4 Risk Management Committee

i. The Risk Management Committee is tasked to develop an Integrity Management Framework.

ii. This committee will be responsible for evaluating breaches of the integrity management framework and initiating investigations where necessary.

iii. The Municipal Manager is appointed as the Municipal Integrity Champion.

iv. This committee will consist of at least the following members:

- Director Financial Services
- Director Engineering Services
- Director Economic Development & Planning
- Director Community Services
- Director Corporate Services
- Accounting Officer and
- A current serving member of the Audit Committee as Chairperson

v. The members of this committee will abide by the principles of the Protected Disclosures Act of 2000

vi.   The terms of reference of this committee will include the following in relation to the Integrity Management Framework:

   a.   Securing buy-in from all stakeholders;
   b.   Information sharing;
   c.   On-going identification of weaknesses in systems and solutions;
   d.   Creating awareness and ensuring adequate training and education to promote the Framework;
   e.   Assessing progress and on-going maintenance and review.

3.1.5   Investigation

i.   **<u>Dealing with suspected fraud and corruption</u>** In the event that fraud or corruption is detected or suspected, investigations will be initiated and, if warranted, disciplinary proceedings, prosecutions or actions aimed at the recovery of losses will be initiated.

ii.   **<u>Investigations</u>** Any reports of incidents of fraud and/or corruption will be confirmed by an independent investigation. Anonymous reports may warrant a preliminary investigation before any decision to implement an independent investigation is taken.

   Investigations will be undertaken by appropriately qualified and experienced persons who are independent of the directorate/section where investigations are required. This may be a senior manager within the institution itself, an external consultant or a law enforcement agency. All investigations performed and evidence obtained will be in accordance with acceptable practices and legal requirements. Independence and objectivity of investigations are paramount.

   Any investigation initiated must be concluded by the issuing of a report by the person/s appointed to conduct such investigations. Such reports will be only disseminated to those persons required to have access thereto in order to implement whatever action is deemed appropriate as a result of the investigation.

Investigations may involve one or more of the following activities:

- Interviewing of relevant witnesses, internal and external, including obtaining statements where appropriate;
- Reviewing and collating documentary evidence;
- Forensic examination of computer systems;
- Examination of telephone records;
- Enquiries from banks and other financial institutions (subject to the granting of appropriate approval/Court orders);
- Enquiries with other third parties;

- Data search and seizure;
- Expert witness and specialist testimony;
- Tracing funds / assets / goods;
- Liaison with the SAPS or other law enforcement or regulatory agencies;
- Interviewing persons suspected of involvement in fraud and corruption; and
- Report preparation.

Any investigation into improper conduct within the Institution will be subject to an appropriate level of supervision by a responsible committee, having regard to the seriousness of the matter under investigation.

iii. **Disciplinary proceedings** The ultimate outcome of disciplinary proceedings may involve a person/s receiving written warnings or the termination of their services. All disciplinary actions will take place in accordance with the Council approved and legislated disciplinary procedures.

Should investigations uncover evidence of fraud or corruption in respect of an allegation or series of allegations, the Institution will review the facts at hand to determine whether the matter is one that ought to be reported to the relevant law enforcement agency for investigation and possible prosecution. Such reports must be submitted to the South African Police Service in accordance with the requirements of all applicable Acts. The institution will give its full co-operation to any such law enforcement agency including the provision of reports compiled in respect of investigations conducted.

3.1.6 Internal Control Review after Discovery of Fraud

i. In each instance where fraud is detected, Line Management will reassess the adequacy of the current internal control environment (particularly those controls directly impacting on the fraud incident) to consider the need for improvements.

ii. The responsibility for ensuring that the internal control environment is reassessed and for ensuring that the recommendations arising out of this assessment are implemented will live with the Line Management of the Department/section concerned.

iii. BM will be consistent and efficient in its application of disciplinary measures. Additional measures which will be considered include:

- Communication of specific disciplinary standards and forbidden conduct;
- Introducing a system where disciplinary measures are applied consistently;
- Steps for on-going training of managers in the application of disciplinary measures;
- Where managers are found to be inconsistent and/or inefficient in the application of discipline, BM will consider firm action;

- Publication (within the permissible legal framework) of the outcomes and sanctions of disciplinary actions, including lessons learned. The successful achievement of these initiatives, together with their communication is expected to have the desired effect.

3.1.7 Municipal Public Accounts Committee

This is the committee of Council appointed in terms of section 79 of the Municipal Systems Act. It consists of Councillors. Its responsibilities include interrogating fruitless and wasteful expenditure, unforeseen and unavoidable expenditure, irregular expenditure, annual report and more.

This committee can also initiate investigations on alleged corruption. It will also receive the reports of investigations initiated by the Municipal Manager and/or Executive Mayor

3.1.8 Financial Systems and Control

i. Appropriate finance policies and procedures are also necessary to ensure appropriate internal control over finance management and to limit fraud and corruption risks. The effectiveness of the existing finance policies and procedures will also be tested during the course of internal audits during which shortcomings are addressed.

ii. The Council of BM must approve an annual budget for BM before the start of the financial year. BM may only incur expenditure in terms of an approved budget and within the limits of the amounts appropriated for the different cost codes in an approved budget.

iii. The Municipal Manager of BM is regarded as the accounting officer for BM. Therefore, the Municipal Manager should ensure that the financial systems and controls that are in place in BM address the following:

- Effective, efficient and economic use of resources;
- Proper recordkeeping of the financial affairs of BM;
- Effective, efficient and transparent systems of financial and risk management and internal control;
- Effective, efficient and transparent systems of internal audit;
- Prevention of irregular or fruitless and wasteful expenditure;
- Institution of disciplinary or, when appropriate, criminal proceedings against employees who have committed an act of financial misconduct or other offence, including fraud and corruption.

iv. Further, the Municipal Manager must ensure that an effective system of expenditure control is in place. According to the MFMA, the accounting officer of BM must report to

the South African Police Services all cases of alleged theft and fraud that occurred in BM once adequately investigated.

v.   Top management, senior management and other officials of BM must assist the Municipal Manager in coordinating the financial systems and controls within BM.

vi. The finance policies, procedures and other frameworks of BM prescribe various controls, which, if effectively implemented, would limit fraud and corruption within BM. These controls may be categorised as follows while recognised that the categories contain overlapping elements:

(a)   Prevention controls, which is further subdivided into:

i.   *Authorisation Controls* which require that all transactions must be authorised or approved by an appropriate responsible person and that the limits for these authorisations are specified in the delegations of authority of BM.

ii   *Physical Controls* which are concerned mainly with the custody of assets and involve procedures and security measures designed to ensure that access to assets is limited to authorised personnel.

(b)   Detection controls, which are further subdivided into:

i.   *Arithmetic and accounting controls*, which are basic controls within the recording function which ensure that transactions to be recorded and processed have been authorised, are complete, are correctly recorded and accurately processed. Such controls include checking arithmetical accuracy of records, the maintenance and taking of totals, reconciliation, control accounts and accounting for documents.

ii.   *Physical controls*, which relate to the security of records and are similar to preventative controls in that they are also designed to limit access.

iii.   *Supervision*, which relates to supervision by responsible officials of day-to-day transactions and the recording thereof.

iv.   *Management Information* which relates to the review of management accounts and budgetary controls. These controls are normally exercised by management outside the day-to-day routine of the system.

(c)   *Segregation of duties*

i.   One of the primary means of control is the separation of those responsibilities or duties that would, if combined, enable one individual to record and process a complete transaction, thereby providing him/her with the

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opportunity to manipulate the transaction irregularly and commit fraud and corruption.

ii.   Segregation of duties reduces the risk of intentional manipulation or error and increases the element of checking.

iii.   Functions that should be separated include those of authorisation, execution, custody, recording, and, in the case of computer-based accounting systems, systems development and daily operations.

iv.   Placed in context with fraud and corruption prevention, segregation of duties lies in separating either the authorisation or the custodial function from the checking function.

vii.   Despite the existence of policies and procedures to address internal control, deficiencies such as ineffective application of policies and procedures resulting from lack of training, expertise, knowledge and capacity has the potential to lead to increased incidence of fraud and corruption.

viii.   BM will continue to initiate steps to address the problem of lack of training, expertise and knowledge in systems, policies and procedures to improve internal control. Areas of weakness will be identified during audits and risk assessments.

ix.   Furthermore, BM will also continue to re-emphasise to all supervisors that consistent compliance by all employees with internal control is one of the fundamental controls in place to prevent fraud and corruption.

Managers will be encouraged to recognise that internal control shortcomings identified during the course of audits are in many instances purely symptoms and that they should strive to identify and address the root causes of these internal control weaknesses, in addition to designing adequate or additional controls.

x.   Where managers do not comply with basic internal controls, e.g., non-adherence to the delegation of authority limits, firm action(s) will be considered.

3.1.9   Supply Chain Management

i.   The MFMA requires every municipality to have a Supply Chain Management policy that is fair, equitable, transparent, competitive and cost effective.

ii.   Further, the MFMA stipulates that the Supply Chain Management policy of BM must at least address the following aspects:

- The barring of persons from participating in tendering or other bidding processes who:

  (a)   have been convicted of fraud or corruption during the past five years;
  (b)   wilfully neglected, reneged on or failed to comply with government contract terms during the past five years; and
  (c)   whose tax matters are not cleared by SARS

iii.   The Municipal Manager of BM must implement the Supply Chain Management policy and pay all responsible steps to ensure that proper mechanisms and separation of duties in the Supply Chain Management system are in place to minimise the risk of fraud, corruption, favouritism and unfair and irregular practices.

iv.   At a minimum, the Supply Chain Management policy of BM should contain the following anti-fraud and anti-corruption provisions:

- The range of supply chain management processes that BM may use, e.g. tenders, quotations, etc.;
- When a particular process must be used;
- Procedures for each type of process;
- Open and transparent pre-qualification processes for tenders and other bids;
- Competitive bidding processes;
- Bid documentation, advertising of and invitations for contracts;
- Procedures for;
  - the opening, registering and recording of bids in the presence of interested parties;
  - the evaluation of bids;
  - negotiating the final terms of the contract; and
  - the approval of bids;
- Screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value;
- Compulsory disclosure of conflicts of interest;
- The barring of persons from participating in tendering or other bidding processes who:
  - have been convicted of fraud or corruption during the past five years;
  - wilfully neglected, reneged on or failed to comply with the government contract terms during the past five years; and
  - whose tax matters that are not cleared with SARS;
- Any additional measures for:
  - Combating fraud, corruption, favouritism, unfair and irregular practices in BM's supply chain management; and
  - Promoting ethics of officials and other role players involved in BM's supply chain management processes.

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3.1.10 Housing Subsidy

i. A housing subsidy is a grant by Government offered to qualifying beneficiaries for housing purposes. The grant is not paid in cash to the beneficiaries. The grant is paid to the seller or may be used to construct a house which is then transferred to a beneficiary.

ii. Applications for a housing subsidy must satisfy the criteria that are in line with BM's housing policy and national and provincial criteria.

3**.1.11 Housing Allocations**

i. BM facilitates the allocation of houses built by means of funding from Provincial and National Government. Furthermore, BM facilitates communication with communities through the different structures, e.g., ward committees etc. Beneficiaries on the waiting list for housing may be captured by BM. A fundamental risk in the allocation of houses is that housing may be irregularly allocated to beneficiaries, e.g., beneficiaries may be moved up the waiting list in exchange for undue benefit.

ii. BM will develop a housing policy that, at a minimum, will address the risk of fraud and corruption.

3.1.12 Risk Management and Assessments

i. In order to identify and address risks facing BM, a risk assessment will be performed on an annual basis. This process will be complemented by the self-assessment of existing controls to mitigate the identified risks. Additional actions to further mitigate these risks will culminate in a risk management plan.

ii. Presentations to employees of BM will be conducted to ensure that they have a more detailed understanding of the fraud and corruption risks facing BM and the areas wherein these risks exist, thus also enhancing the prospect of detecting irregularities earlier.

3.1.13 Fraud Detection Review

BM will perform specific detection reviews in areas which are at high risk of unethical conduct, fraud and corruption on a regular basis. This will include presentations to employees, including managers, to ensure that they have detailed understanding of the risks associated with these areas, thus also enhancing the prospect of detecting irregularities earlier.

The high-risk areas include:

- Recruitment and selection of staff;
- Procurement, e.g., emergency procurement, sole suppliers, etc.;
- Housing, e.g., allocation, administration of housing waiting lists, etc.;
- Financial systems and control, e.g., payment of suppliers, receipt and banking

3.1.14 Internal and External Audit

i. The MFMA stipulates that a Municipality must maintain the system of internal audit (IA) under the control and direction of an audit committee (APAC). Furthermore, the internal audit function of BM is required to report on matters relating to:

- Internal Control;
- Accounting procedures and practices;
- Risk and risk management;
- Loss control;
- Compliance with applicable legislation.

ii. BM recognises the fact that the positive support by all its managers for IA and its functions, speedy response to and the addressing of queries raised by IA is vital to the success of the Strategy. Managers must respond to internal control deficiencies and shortcomings raised by IA without any delay.

iii. Awareness strategies will also be developed to enhance managers' understanding of the role of Internal Audit.

iv. BM is also the subject of annual external audits. These audits include the following tasks:

- Examining evidence supporting the amounts and disclosures in the financial statements;
- Assessing the accounting principles used and significant estimates made by management; and
- Evaluating the overall financial statement presentation.

3.1.15 Physical and Information Security

3.1.15.1 *Physical security*

i. BM's main physical security threat arises in the area of control over its physical assets, facilities and employees. Security personnel and access systems are deployed to mitigate this threat. However, control over security personnel and access systems should continuously be reviewed for adequacy.

ii. BM will also consider conducting a regular detailed review of the physical security arrangements at its offices and other sites and improve identified weaknesses. Specific focus areas will be physical security over infrastructure, assets and staff.

iii. Furthermore, BM will continue to pursue steps to ensure adequate security over its people, confidential information and information systems.

3.1.15.2   *Information security*

i.   BM will ensure that all employees are sensitised on a regular basis to the fraud and corruption risks associated with information security and the utilisation of computer resources, in particular access control, and that systems are developed to limit the risk of manipulation of computerised data.

ii.   Communiqués will be provided to all employees on the management of intellectual property and confidential information to limit the risk of manipulation of information.

iii.   Regular communiqués will be forwarded to employees pointing out security policies, with a particular emphasis on the e-mail and internet usage and the implications (e.g. disciplinary action) of abusing these and other computer related facilities. Where employees are found to have infringed on prevailing policy in this regard, disciplinary action will be taken.

iv.   Regular reviews of information and computer security will also be implemented and weaknesses identified during these reviews will be addressed.

3.2   Focus on other Stakeholders

i.   BM has several other stakeholders with whom it interacts. These are indicated below:

- Trading partners, e.g., suppliers, contractors, consultants;
- Employee representative organisations;
- DPLG;
- SALGA;
- The general public.

ii.   All stakeholders with whom BM interacts are expected to abide by the principles contained in the Strategy. Although BM has limited legal rights to enforce these principles on external stakeholders, it can exercise moral persuasion to gain compliance to the principles contained in the Strategy or choose not to enter into relationships with stakeholders who do not comply.

iii.   It is a common perception that employees face the greatest challenge to their integrity in the form of enticement to accept bribes from unethical suppliers, contractors and consultants. Furthermore, these trading partners are also often viewed as untrustworthy in delivery of goods and/or services.

iv.   Approaches to address the risk of fraud and corruption relating to trading partners are the following:

- Appropriate terms and conditions in invitations to tender for services that prescribe the standards of business ethics expected by BM;
- Appropriate pre-award screening of credentials supplied by contractors;
- Provision for compulsory declaration of actual and/or potential conflicts of interest both by suppliers and employees of BM dealing with these suppliers;
- Appropriate contract terms and conditions indicating the conduct expected by BM;
- On-going communication of these standards;
- Sound project management;
- Monitoring and evaluation of breaches;
- Taking sound action in the event of breaches such as:
  - Prosecution;
  - Loss recovery;
  - Placing of appropriate prohibitions on future contracts and cancellation of existing contracts.

v. Members of the general public will be made aware of BM's commitment to ethics management and fraud and corruption prevention and through awareness programs encouraged to report irregularities affecting BM.

3.3   Awareness

This component of the Strategy comprises two areas, namely education and communication.

3.3.1 Education

Formal awareness presentations will be conducted for employees of BM in planned workshops. The on-going creating of awareness amongst all employees is, however, the responsibility of all managers. Approaches to create awareness amongst employees will address the following issues:

- Employee awareness and the application of professional ethics in the work environment;
- Employee awareness of the current systems, policies and procedures relating to fraud and corruption and their rights should they blow the whistle;
- Encouraging employees to blow the whistle on fraud and corruption within their work environments;
- Encouraging employees to understand specific fraud and corruption related risks to which BM may be exposed, thus enhancing the prospect of detecting irregularities earlier.

3.3.2   Communication

i.   The objective of communication is to further create awareness amongst employees, the public and other stakeholders of the Strategy in order to facilitate a culture where all stakeholders strive to contribute towards making it a success. This will increase the prospect of fraud and corruption being reported and improve BM's prevention and detection ability.

ii.   Communication approaches that will be considered by BM are the following:

- An official launch for the Plan aimed at all stakeholders;
- Posters, newsletters and pamphlets to advertise the Codes of Conduct for staff members and Councillors aimed at employees, the public and other stakeholders;
- A suggestion box for employees and other stakeholders to submit proposals which could enhance the further development of the Strategy;
- Ensuring that ethics promotion is a fixed agenda item in meetings;
- Signing of declarations of commitment to the Plan by all employees;
- Endorsements of other correspondence directed at providers of goods and / or services with pro-ethics, anti-fraud and anti-corruption messages;
- Screensavers on computers with appropriate pro-ethics, anti-fraud and anti-corruption messages; and
- Publishing the Strategy, its implementation and successes in the Annual Report of BM.

3.4   Implementation and monitoring

The Strategy will be reviewed on an annual basis, whilst progress with the implementation of the various components will be reviewed on a quarterly basis. In the latter regard, specific priorities stemming from the Strategy, actions to be taken, responsible persons and feedback dates relating to progress made will also be set.

3.4.1   Monitoring

BM will ensure that a fraud and corruption information system is developed and will include:

(a)   Recording all allegations;

(b)   Tracking progress with the management of allegations;

(c)   Facilitating the early identification of systemic weaknesses and recurring risks and informing managers and employees of such;

(d)   Providing feedback to employees and other whistleblowers about the management of allegations.

3.4.2 Implementation Structure

The Municipal Manager will facilitate the implementation of this Strategy.

APPROVED