

**BUFFALO CITY METROPOLITAN MUNICIPALITY
FRAUD RISK MANAGEMENT FRAMEWORK**



**BUFFALO CITY
METROPOLITAN MUNICIPALITY**

FRAUD RISK MANAGEMENT FRAMEWORK

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APPROVED

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BUFFALO CITY METROPOLITAN MUNICIPALITY



POLICY: FRAUD / CORRUPTION.

1. FRAUD MITIGATION STRATEGY

1.1 Introduction

A fraud mitigation strategy is a process implemented to limit exposure to fraud, irregularities, and corruption.

Fraud and other irregularities include, but are not limited to, the items set out hereunder. [The use of the word “fraud” throughout this document includes all irregularities involving dishonesty.]

- Forgery of cheques, documents, etc.
- Misappropriation of funds, supplies or any other asset including furniture, fixtures and equipment.
- Any deliberate irregularity in the handling or reporting of financial transactions.
- Seeking or accepting anything of value from suppliers, consultants or contractors in violation of the Code of Conduct or Ethics.
- Unauthorized use or misuse of Council property, vehicles, equipment, materials or records.

- Any computer related activity involving the alteration, destruction, forgery or manipulation of data for ulterior purposes.
- Any claim for reimbursement of expenses that were not incurred bona fide for the benefit of the Council. etc.

The Municipal Manager as Accounting Officer is ultimately responsible for the prevention and detection of fraud. Fraud control requires active management participation as fraud is difficult to detect and there may be a tendency to discount the possibility of it occurring. The effectiveness of fraud control will largely depend on the successful integration of the most appropriate mix of prevention and detection measures.

It is the intention of BUFFALO CITY METROPOLITAN MUNICIPALITY to concentrate its efforts on preventing fraud, rather than responding to fraud. To achieve this objective this Fraud Mitigation Strategy [“FMS”] has been developed. The emphasis is on proactive preventative techniques.

At the outset, it is accepted that the intention of the perpetrators of fraud and other irregularities, is that their actions will not be uncovered and that without the creation and implementation of adequate internal control procedures, fraud and other irregularities will occur. It is however also accepted that notwithstanding the implementation of internal control procedures, fraud and other irregularities will occur from time to time.

1.2 The elements of the Strategy

The FMS is multifaceted, and is broadly divided into distinct sections, which are set out hereunder:

<p>i. Fraud Policy Statement</p>	<p>It is the responsibility of the accounting officer [the Municipal Manager] to “prevent” fraud in the workplace.</p>
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	<p>This responsibility is formalised in the Fraud Policy Statement and in the Fraud Prevention Policy. The policy statement is a short summary setting out the policy on dealing with fraud. This statement sets an aggressive and firm attitude towards fraud and corruption.</p>
<p>ii. Fraud Policy</p>	<p>This document sets out an aggressive and firm attitude towards fraud and corruption, an undertaking to aggressively seek it out, to investigate all allegations, to prosecute offenders, and to encourage staff to report any incidences. This document is to be distributed to all staff members.</p> <p>The Fraud Prevention Policy is worded in such a way as to achieve “buy-in”. It seeks to create a level of fraud awareness among staff and encourage them to report suspected fraud in the workplace.</p> <p>This document defines various offences, clarifies the reporting structures, assigns responsibility to designated officials, makes provision for training, establishing a hotline, publication of the policy, confidentiality, anonymity, protection of whistleblowers rights, etc.</p>
<p>iii. Fraud and Corruption Mitigation Framework and</p>	<p>This document sets out the procedures to be followed to implement the strategy.</p>

<p>Fraud Mitigation Plan</p>	<p>The primary means of detecting fraud will always remain a sound system of internal control. Other measures include highlighting red flags, setting out details of fraud assessment questioning, mandatory vacations, surprise audits, investigative techniques, training requirements, etc.</p> <p>The overall emphasis is the creation of awareness that fraud is a possibility which must not be taken lightly, and that management has a duty to actively seek out fraud.</p>
<p>iv. Fraud Response Plan</p>	<p>This document sets out details of the “who, what, where, when, why and how” of responding to fraud or allegations of fraud.</p> <p>The plan defines the “damage control” processes, sets the action plan in motion, controls the investigation, and sets in action the recovery procedures. Implicit in this is the institution of disciplinary action and improved internal control procedures. It is an overall “game plan”.</p>
<p>v. Fraud Susceptibility Assessment</p>	<p>Certain sectors are more susceptible to fraud and corruption than others. Each section within a Directorate has unique risks.</p> <p>As part of the fraud prevention strategy, each department will be assessed on a regular basis to highlight areas of concern. The fraud susceptibility assessment is intended to highlight any “fraud</p>

	<p>friendliness” in the control environment. This information will be used to highlight priority areas. It is part of the overall “game plan”.</p>
<p>vi. Code of Conduct and Ethics</p>	<p>Fraud thrives in an environment of poor moral and ethical values.</p> <p>At the heart of the strategy is the establishment of an environment rich in moral and ethical values and behavior.</p> <p>The Code of Conduct [as set out in the MSA] as well as the Municipality’s Code of Conduct encompasses the highest level of moral and ethical values critical to ensuring the success of any fraud prevention strategy.</p> <p>The Codes of Conduct will be regularly reinforced with staff at all levels.</p>
<p>vii. Hotline</p>	<p>Although fraud is hidden a number of persons are often aware of instances of fraud.</p> <p>Employees, suppliers, contractors and other third parties require a mechanism to report irregular activities, free from fear of victimization or repercussions. Vital to this is the assurance of anonymity, a commitment to investigate irregularities, protection of the whistleblower and consistent</p>

	<p>application of the fraud policy, regardless of the seniority of the alleged offender.</p> <p>The hotline is a vital tool in fraud prevention.</p>
<p>viii. Training</p>	<p>It is vital that staff be aware of fraud risks and more importantly that they have information to assist them to recognize the symptoms of fraud and corruption.</p> <p>To achieve this, training initiatives are crucial. Three levels of training are provided –</p> <ul style="list-style-type: none"> • sensitization to fraud and its risks for staff and management, • specific training on the red flags as well as measures to combat or prevent fraud through specific internal control processes, and • specific and specialized fraud investigative courses for the Fraud Audit team.
<p>ix. Supplier and Trading Partner Awareness</p>	<p>As the exposure to fraud is wider than just internal fraud, it is important to involve external parties in fraud prevention.</p> <p>For this, two aspects are addressed, namely obtaining all relevant details about the trading partners in a fraud limitation exercise, and secondly advising trading partners of the fraud prevention strategy, requesting their assistance in fraud prevention and informing them</p>

	<p>of the possible consequences of becoming involved with any fraudulent practices.</p> <p>[Refer also to the Suppliers Code of Conduct contained in the Buffalo City Metropolitan Municipality: Supply Chain Management Policy and Procedures.]</p>
<p>x. Road show</p>	<p>It is important that the concept of preventing fraud is embraced by all the stakeholders and that the aims and objectives are “sold” to staff.</p> <p>Effective marketing is therefore critical to the strategy’s success. A road show has potential benefits, especially at the initial implementation stage.</p>

Council believes that the majority of Buffalo City Metropolitan Municipal staff are ethical and well-intentioned.

The following Acts are of relevance and are attached as Annexures to this strategy document:

The Local Government: Municipal Systems Act No 32 of 2000 – Code of Conduct for Employees

The Prevention and Combating of Corrupt Activities Act No 12 of 2004

The Protected Disclosures Act No 26 of 2000

The Promotion of Access to information Act No 2 of 2000

The Promotion of administrative justice Act No 3 of 2000

The financial intelligence center act 38 of 2001

The Local Government: Municipal finance management Act No. 56 of 2003

BUFFALO CITY METROPOLITAN MUNICIPALITY.



2. POLICY: FRAUD / CORRUPTION

2.1 Statement of Policy Principles

Buffalo City is committed to protecting its revenue, property, information and assets from any attempt, either by members of the public, contractors, intermediaries or by its own employees, to gain by deceit, financial or other benefits.

2.2 Purpose

The purpose of this policy is to define what constitutes fraud and corruption and regulate the reporting, investigation and monitoring of such cases.

2.3 Scope, Definition and Applicability

Fraud and other irregularities include, but are not limited to, the items set out hereunder. The use of the word "fraud" throughout this policy includes all irregularities involving dishonesty.

1. Forgery of cheques, documents, etc.
2. Misappropriation of funds, supplies or any other asset including furniture, fixtures and equipment.
3. Any deliberate irregularity in the handling or reporting of financial transactions.
4. Seeking or accepting anything of value from suppliers, consultants or contractors in violation of the Code of Conduct or Ethics.
5. Unauthorized use or misuse of Council property, vehicles, equipment, materials or records.
6. Any computer related activity involving the alteration, destruction, forgery or manipulation of data for ulterior purposes.
7. Any claim for reimbursement of expenses that were not incurred bona fide for the benefit of the Council, etc.

This policy applies to all employees of Buffalo City Metropolitan Municipality.

2.4 Policy Statement

The Council is committed to clean administration and will not tolerate corruption or any fraudulent activities.

2.5 Key Objectives and legislation.

The objective of this policy is to regulate the activities of reporting and investigating instances of fraud or related irregularities. The principles relating to this policy are to be found in the Code of Conduct forming part of the Local Government: Municipal Systems Act, the Prevention and Combating of Corrupt Activities Act No 12 of 2004 and in the Government's Anti-Fraud Strategies.

2.6 General Policy and Responsibilities

- I. It is the Council's intention to fully and diligently investigate all acts of fraud, misappropriation or any other similar irregularity.
- II. Each Head of department is responsible for instituting and maintaining a system of internal control to provide reasonable assurance for the prevention and detection of fraud, misappropriation or other irregularities.
- III. The primary responsibility for the investigation of irregularities rests with the Directorate concerned. A Directorate may, however, request advice from the General Manager: Human Resources Head: Legal Services, Chief Risk Officer, Head Internal Audit & Governance or other Directorate where applicable. Before approaching another Directorate for assistance, the Legal Service Unit should liaise with the General Manager: Human Resources, Chief Risk Officer and the Head Internal Audit & Governance.
- IV. Upon the receipt of the complaint or allegation the legal service Unit will notify the Municipal Manager, Audit Committee and the Risk Management Committee of any action /investigation to be undertaken. The action that will be taken will depend on the nature of the concern. The possible actions may, amongst others be to investigate by line Management, investigate by legal Service Unit, Disciplinary board investigation or refer to the SAPS or other relevant law enforcement agency.
- V. In all circumstances, where there are reasonable grounds to indicate that a fraud may have occurred, the Directorate concerned shall advise the Head: Legal Service thereof in writing. The Chief Risk officer shall be kept informed of

progress and any further developments as the investigation proceeds so as to update the risk profile of BCMM.

- VI. Upon conclusion of an investigation, the results shall be reported to the City Manager for report purposes and to ensure that there is a reasonable assurance that investigation are performed and reported properly.
- VII. The Chief Risk Officer will annually summarise the details of fraud cases in a report to the Municipal Manager Risk Management Committee and the Audit Committee with recommendations to improve the control environment.

2.7 Procedures

Definition of fraud and related irregularities

Fraud and other irregularities include, but are not limited to, the items set out hereunder. The use of the word “fraud” throughout this documentation includes all irregularities involving dishonesty in any form.

1. Forgery of cheques, documents, etc.
2. Misappropriation of funds, supplies or any other asset including furniture, fixtures and equipment.
3. Any deliberate irregularity in the handling or reporting of financial transactions.
4. Seeking or accepting anything of value from suppliers, consultants or contractors in violation of the Code of Conduct or Ethics.
5. Unauthorized use or misuse of Council property, vehicles, equipment, materials or records.
6. Any computer related activity involving the alteration, destruction, forgery or manipulation of data for ulterior purposes.
7. Any claim for reimbursement of expenses that were not incurred bona fide for the benefit of the Council, etc. An alternative view is that “Fraud can be defined as any

practice that involves deceit or other dishonest means by which a benefit is obtained from the government.”

This definition takes a broad view and includes non-monetary benefits, such as misusing “company time” or assets. Fraud can therefore take many forms, including:

- Misappropriation of funds;
- Substituting new goods with old;
- Using the department’s assets for private profit;
- Using significant time at work for private purposes; and
- Taking unrecorded leave.

It is important that all managers and staff understand and accept what constitutes fraud in the municipality.

The outline procedures to be followed are set out hereunder:

2.7.1 All Employees.

- I. For minor issues, employees should normally raise the concerns with their immediate Head of department. In general, however, the whistle blowing procedure is expected to be used for potentially more serious and sensitive issues (e.g. fraud and corruption).
- II. The first step will be for the employee to approach his/her immediate supervisor/Head unless the Senior management is the subject of the complaint, in which case the Head: Legal Services should be informed. Should the complaint be found by the line manager to be substantiated, he/she will consult with the Head legal services, on whether the matter should be investigated internally or referred to the appropriate external body (e.g. the SAPS).
- III. Employees who knowingly make false allegations may be subject to disciplinary action.

- IV. Officials who fail to report cases of fraud, reasonably discoverable by them, could face disciplinary and possible criminal action. [Refer Prevention and Combating of Corrupt Activities Act No 12 of 2004]

2.7.2 Managers

- I. Upon notification of a suspected fraud, or if the manager has reasonable suspicion that a major fraud¹ or other irregularity has occurred, the manager shall immediately notify the Head Legal Services, the General Manager: Human Resources and the Chief Risk Officer: of such suspicions.
- II. The Manager should not investigate suspected major fraud or discuss the matter with anyone else until such time that an investigation method has been determined. The method of investigation will be determined by the Head: Legal Services.
- III. Permission is granted to the responsible Manager to proceed with an investigation of minor fraud or other irregular activity without consulting the Head Legal Services.
- IV. The Manager shall, however, immediately inform his General Manager and the Head of the Department of the incident and the investigation. The Manager shall also inform the General Manager: Human Resources; Chief Risk officer: as well as the Legal Service Unit of the suspected fraud and that it is being investigated.
- V. All cases of fraud or theft [regardless of value] shall be reported to the South African Police Services by the relevant Manager for further action. [Note that in certain cases the decision to report or not report an instance of an irregularity, or

the timing of such reporting shall be taken by the Head of Department in consultation with the General Manager: Human Resources and in certain cases the Senior Legal Advisor.]

2.7.3. Head: Legal Services

- I. Upon notification or discovery of a suspected major fraud, the Head: Legal Services shall assist with advice regarding the investigation.
- II. The Head: Legal Services shall not investigate such major fraud unless circumstances exist, which in his opinion require his intervention. Such intervention shall first be approved by the Municipal Manager.

2.7.4. General Manager: Human Resources²

- I. Upon notification or discovery of a suspected fraud, the General Manager: Human Resources shall assist with advice regarding possible suspension and such other matters as may be appropriate.
- II. All letters of suspension shall be affected by the General Manager: Human Resources after approval by the Municipal Manager.

2.7.5. Security of Evidence

- I. Upon discovery of any instance of fraud [but particularly a potential major fraud], the Director concerned shall take immediate action to prevent the theft, alteration, or destruction of relevant records.

- II. Such action may include, but is not necessarily limited to, removing the records and placing them in a secure location, limiting access to the location where the records currently exist, and preventing the individual suspected of committing the fraud from having access to the records.
- III. All original documents relating to the investigation shall remain in safe custody, unmarked. All notes relating to the investigation shall be made on copies of such documentation.
- IV. Where computer records may be required as evidence, the computer shall be stored in a safe locality until a decision is taken regarding how the data will be extracted from the computer.

2.7.6. Confidentiality

- I. All participants in a fraud investigation shall keep the details and results of the investigation confidential.
- II. The Manager may discuss particulars of the investigation with witnesses if such disclosure will further the investigation, but due care is advised, if it is likely that other parties may be involved in the fraud or irregularity or if it could compromise the investigation.
- III. The Municipality will do its best to protect an individual's identity when he or she raises a concern and does not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence.

2.7.7. Anonymous Allegations

- I. This strategy encourages officials and members of the public to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Municipality. In exercising this discretion, the factors to be taken into account will include:
 - the seriousness of the issues raised;
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.

2.7.8. Personnel Actions

- I. If a suspicion of fraud is substantiated by preliminary investigation, disciplinary action shall be taken by management in accordance with the Disciplinary Code.
- II. This may entail suspension of the employee in certain cases.

2.7.9. Whistle-Blower Protection

- I. The Council or any person acting on behalf of the Council shall not dismiss or threaten to dismiss an employee, discipline or suspend, or threaten to discipline or suspend an employee, impose any penalty upon an employee, or intimidate or coerce an employee simply because the employee has acted in good faith in accordance with the requirements of this policy.
- II. The provisions of the Protected Disclosures Act No 26 of 2000 are considered to be applicable here provided the official has acted in good faith and has made a

disclosure to one of the officials mentioned in this policy / procedures document.³ If, however, the official has committed an offence in relation to the matter reported then disciplinary action will still be taken against the official who may also be suspended.

- III. If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, individuals make malicious or vexatious allegations, action may be considered against the individual making the allegation.

2.7.10. Media Issues

- I. Fraud investigations shall not be discussed with the media or with any unauthorized party.
- II. The release of information relating to a case shall only take place on finalization of the disciplinary hearing. [Note that an employee is innocent until proven guilty and the premature release of untested information has the potential for damages.]
- III. Only information relating to the incident may be disclosed, not the fraud methods adopted or the method of investigation.
- IV. Information will be released by the Communications Manager after consultation with the Director concerned, the General Manager: Human Resources and the Head Legal services.

2.7.11. Documentation

- I. On conclusion of a major investigation, the Head: legal Services and Chief Risk officer shall document the results in a confidential report to the Municipal Manager, Risk management Committee and the Audit committee.

2.7.12. Completion of Investigation

- I. Upon completion of the investigation, including legal and personnel actions, records, documents and other evidence will be returned to the appropriate Directorate / Department unless required for Court action.
- II. Note that the Courts will insist on original documentation. [A file copy of a letter issued represents an original.]

2.7.13. Annual Report

- I. The Chief Risk officer will report to the Municipal Manager and the Risk Management Committee on an annual basis information related to fraud incidents and investigations conducted during the year.

BUFFALO CITY METROPOLITAN MUNICIPALITY



3. 2 CORRUPTION MITIGATION FRAMEWORK

FRAUD AND MITIGATION PLAN

3.1 Introduction

Corruption mitigation is about changing features that allow corruption to occur and go unnoticed or unreported. Strategies in this corruption mitigation plan address issues such as accountability, efficiency and effective administration. It focuses on improving systems and procedures, changing the attitudes of staff, and improving the overall integrity and performance of the Municipality.

3.2 Corruption Mitigation Framework

3.2.1 Planning process

Management tools such as documented policies and procedures, clearly defined and understood roles and responsibilities, supervisory and accountability structures, and efficient decision-making systems are all elements of the internal control framework of Buffalo City Metropolitan Municipality and serve to create an environment where opportunities for fraud, corruption and mal-administration are minimised.

Important factors in this corruption mitigation framework include:

- management commitment,
- staff commitment,
- resources, and
- networking.

3.2.2 Management commitment

All the Head of departments are required to be aware of the importance of fraud mitigation and be committed to it. Managerial attitude plays a significant role in shaping the ethical culture of the Municipality.

All the Head of departments are required to act, and be seen to act, with integrity.

3.2.3 Staff commitment

If staff feel that a corruption mitigation strategy is simply another mechanism imposed on them which gives them more work and responsibility, they are unlikely to be committed to it. This plan can only be effective if staff have been part of the process, see the benefits for themselves (and the organization) and understand that management is serious about preventing corruption.

With this mind, Buffalo City Metropolitan Municipality is committed to interaction with staff and to keeping them informed on fraud matters.

3.2.4 Resources

Without commitment from the top and adequate resources, the plan cannot be successfully implemented. The resources required are more than financial. It is important that a person with the time, skills and influence plays a leadership role. This person must have influence and be able to motivate others to fulfill their responsibilities.

The identified official for this purpose is the Chief Risk Officer: who will be assisted by the Head: Legal Services

3.2.5 Networking

Corruption is not a static target.

As fast as strategies are established to deal with corruption, just as fast the process of corruption moves. It is important to establish networks to assist with the definition of new processes to deal with corruption. If this is not done, the plan will soon become less effective.

With this in mind, Buffalo City Metropolitan Municipality commits to supporting and participating in National and Provincial as well as local anti- fraud initiatives.

3.3 Assessment of the nature and level of corruption risks

Before informed decisions about corruption mitigation actions can be taken, information about corruption risks must be gathered.

To this end, the performance of specific Fraud Risk Assessments is an important management tool in the fight against corruption. The major functional activities of the Municipality and the extent of risk in each area will be established and assessed through Fraud Risk Assessments. The Fraud Risk Assessment process is intended to set the Head of department to think about possible corruption mitigation strategies.

The Municipality accordingly commits itself to regular [specific] Fraud Risk Assessments.

3.4 Corruption mitigation strategies to meet identified risks

Corruption mitigation strategies should not just be control-based. While introducing additional rules, improving administrative systems and tightening security arrangements are all valid strategies they should not however be the only responses. It is also important to look at the culture and the attitudes of the people who make up the Municipality.

To this end, training on the importance of fraud prevention, the consequences for the community, as well as potential consequences for staff, will be conducted. Corruption mitigation messages will be incorporated into staff training sessions.

3.5 Implementing corruption mitigation strategies

The time frame for implementation of the overall strategy will depend on the available resources and the status of current mitigation measures such as internal control processes. Implementation is not a once-off event. There is a need to review mitigation strategies continually to make sure they are effective and introduce further initiatives to meet the changing needs of the Municipality.

To this end the Buffalo City Metropolitan Municipality commits itself to regular reviews of the mitigating measures derived from the Fraud Risk Assessments.

3.6 Awareness programs

Staff need to know the standards of behavior expected of them, the consequences if they do not comply with these standards, their responsibilities to report corrupt conduct and the procedures for doing so. Staff know better than anyone else where there are gaps, weaknesses and failings in the Municipality's internal control systems. Without their cooperation, corruption will not be detected.

Initiatives such as training, awareness campaigns and staff newsletters are effective ways of promoting the Municipality's commitment to corruption mitigation, and these avenues will be used by Buffalo City Metropolitan Municipality. Regular reviews of guidance material will also be performed.

3.7 Promote awareness in the community

Annual Reports should include a clear statement of the Council's stance on corruption. This shows that the Council has an honest, ethical and businesslike approach to its work, and is serious about preventing corruption. An effective reporting system that encourages the public to come forward when they suspect corrupt conduct is a necessary mechanism. The public need to know that their complaints about the Municipality, its staff or its service provision will be taken seriously and that their complaints and concerns will be dealt with appropriately.

To this end, selected matters relating to matters investigated will be included in the Annual Report.

3.8 Expertise and appropriate policies and procedures for handling and investigating corruption

It is important to ensure that reports of suspected corrupt conduct are handled and investigated competently. It is important to have good investigative procedures so as not to compromise or destroy evidence or prejudice further investigations. Investigating corruption or fraud is not a simple task. The corruption mitigation plan includes strategies for developing and improving the skills of the staff who have to conduct investigations.

To this end, the Buffalo City Metropolitan Municipality commits itself to regular training sessions for investigation officials.

3.9 Records

There is little point in having an internal reporting system and the capacity to investigate if there are no consequences for staff found to have behaved corruptly. The corruption mitigation plan provides that thorough and consistent investigations and disciplinary procedures will be followed. Staff and the community therefore have the clear understanding that those who engage in corrupt conduct will suffer the consequences.

To this end, Buffalo City Metropolitan Municipality commits itself to the diligent investigation of instances of fraud, the application of consistent discipline and where activities meet the requirement, the prosecution of offenders.

3.10 Code of conduct and communication of ethical and behavioral standards of the Municipality

It is important to ensure that staff are aware of the Fraud Mitigation Strategy and of the standards of conduct expected of them. They also need to be aware of what could constitute potential fraud [or a related irregularity] and the consequences of such acts.

To this end, the Codes of Conduct [ex the Local Government: Municipal Systems Act as well as for procurement activities] and the content of the Fraud Mitigation Strategy will be clearly and effectively communicated to every member of staff with regular reminders.

3.11 Regular reviews and evaluation of corruption mitigation plans and strategies

Corruption is not a static target. As fast as strategies are established to deal with corruption, just as fast the process of corruption moves. It is important to review the effectiveness of the various strategies adopted to deal with corruption on a regular basis

less they become outdated. If this is not done, the strategies will soon become less effective.

To this end, Buffalo City Metropolitan Municipality commits itself to review the strategy and mitigation plans as when necessary, however after every 3years from the date of approval.

4 FRAUD MITIGATION PLAN

4.1 Introduction

It is important that all Head of the department be aware that fraud is an ever-present danger. Head of the departments who do not accept or believe that fraud can occur in their work environment are unlikely to recognize it when it occurs. The truth is that fraud [and related activities] are part of the work environment worldwide. Being aware of the possibility that fraud can occur does not imply mistrust of employees.

What is Fraud?

Fraud encompasses an array of irregularities and illegal acts characterized by intentional deception. The legal elements of fraud are:

- Misrepresentation regarding a material fact
- Which is false, and
- Which is made intentionally, knowingly, or recklessly

In terms of law it is not necessary that the misrepresentation be believed, acted upon or that the misrepresentation causes prejudice. The fact that no prejudice arose is not a defense nor is the notion that the misrepresentation should not have been believed.

The phases of fraud are illustrated by *The Fraud Triangle* below. Employees who commit fraud generally can do so because there is **opportunity, pressure, and a rationalization.**

Opportunity is generally provided through weaknesses in the internal controls. Some examples include inadequate or no

- Supervision and review
- Segregation of duties
- Management approval
- System controls

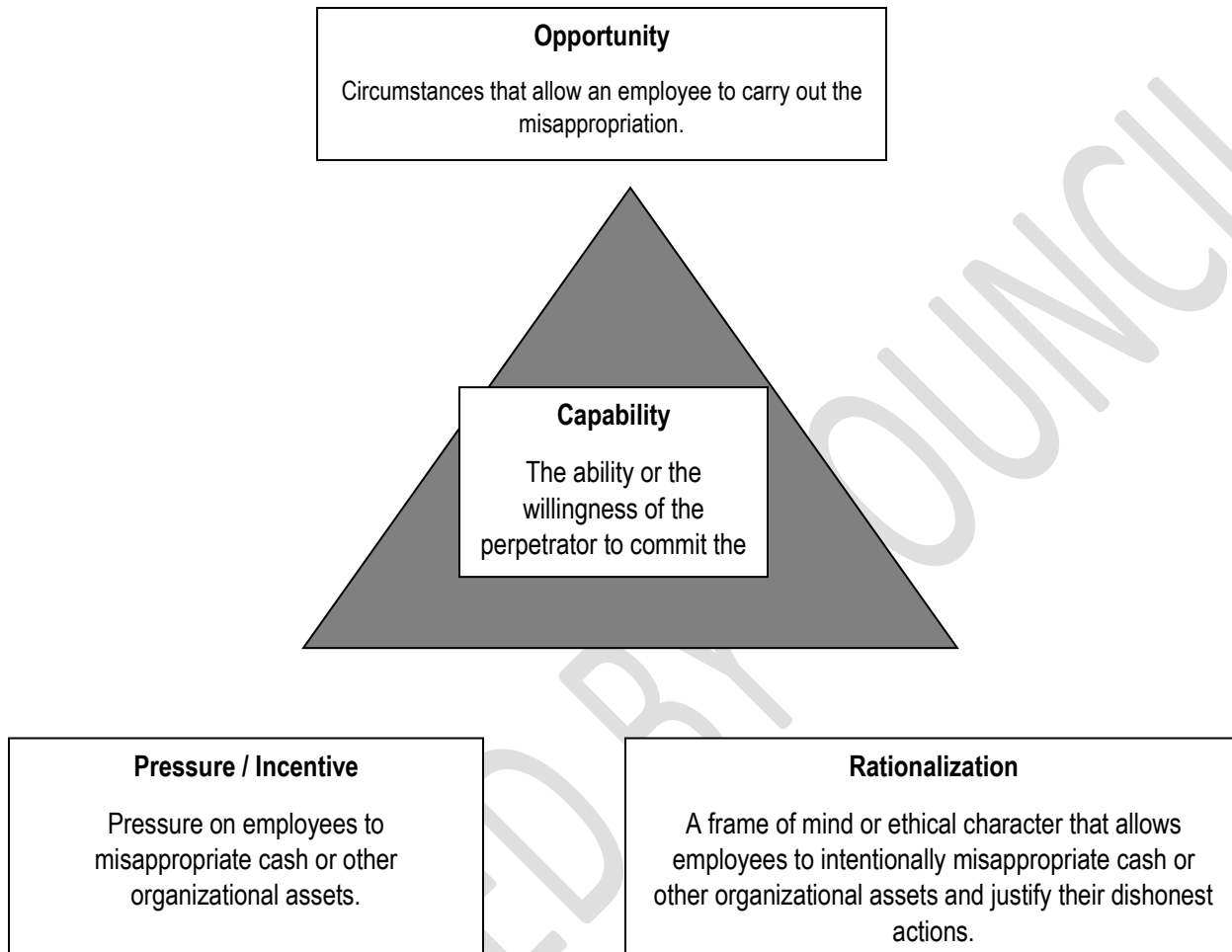
Pressure can be imposed due to

- Personal financial problems
- Personal vices such as gambling, drugs, extensive debt, etc.
- Unrealistic deadlines and performance goals

Rationalization occurs when the individual develops a justification for their fraudulent activities. The rationalization varies by case and individual.

Capability relates to the abilities of the perpetrator and their willingness to assume the risks associated with the fraud.

The Fraud Triangle



Fraud is often seen as an indirect form of theft. Perpetrators rationalize that it is victimless and therefore "acceptable", that they are not really stealing or that they are not fairly paid and fraud is just a way of compensating themselves. Others rationalize that "management doesn't really care and everyone else is doing it any way". Fraudulent activities usually include concealment, deception and potential prejudice. They are not intended to be uncovered.

But why do people perpetrate fraud?

motive – often caused by personal pressures, but more often, simply greed.

opportunity – usually caused by poor internal controls. A poor system of internal control creates an environment where fraudulent activities are more likely.

How is fraud deterred and who is responsible for fraud mitigation activities?

The principal mechanism for deterring and detecting fraud is strong internal controls. Deterrence consists of actions taken to discourage fraud and limit financial losses if it does occur. Line management is accordingly responsible for all fraud mitigation activities. The Internal Audit Unit will evaluate the adequacy and the effectiveness of actions taken by management to fulfill this obligation.

The next section of this chapter will deal with fraud indicators followed by measures which shall be implemented to reduce the likelihood of fraud or to detect it at the earliest possible moment.

4.2 Red Flags of Fraud

While fraudulent activities are intended to be hidden, often small signs emerge to give an indication that matters are not quite as they should be. The so-called Red Flags of fraud are set out in this section of the strategy. If these warning signals exist, the potential for fraud is increased. Each manager should be aware of red flags and, where possible, seek to eliminate the causes. The current economic climate of down-sizing, decreased job security, and high unemployment all increase pressure on employees.

It must be remembered that these are only signals of potential fraud and should not be acted on rashly. They do not indicate the sure existence of fraud.

The following are some of the so-called "Red Flags".

Indicators of Potential Fraud – Personnel

Economic Stress	Life Style
family illness divorce	Living beyond one's means
family unemployment	possible alcohol or drug problems
Unusually high personal debts	Excessive gambling habits

Involvement in speculative investments	Vices
Poor credit rating	Bragging about significant new purchases
Severe personal financial losses	Carrying unusually large sums of money
Defendant in a civil suit other than divorce	
"pressures of the world"	
Lack of personal stability such as frequent residence changes, etc.	
Undue family or peer pressure to succeed	
Overwhelming desire for personal gain	
Borrowing money from co-workers	
Creditors or collectors appearing at the workplace	
Work Habits	Attitude
excess overtime	Dissatisfaction or frustration with job
no vacations	Feeling of being underpaid
excessive sick or vacation leave taken	Feeling of insufficient recognition for job performance
Not taking vacation of more than two or three days	greed
avoids or is too friendly to employees	Intellectual challenge to beat the system
secretiveness or defensiveness	domineering personality
turning down promotions or transfers	Continuous threats to quit
avoidance by other employees	Belief that job is in jeopardy
manager's pressure to show good results	Consistent rationalization for poor performance
job cutbacks or down-sizing	Wheeler-dealer attitude
Unreliable communications and reports	Inadequate staffing

Easily annoyed at reasonable questioning	
Providing unreasonable responses to questions	
Rewriting records under the guise of neatness in presentation	
No supporting documentation for adjusting entries	
Incomplete or untimely bank reconciliations	
Opportunity	
close association with suppliers/customers	
loose oversight to authorizations	
Write-offs of inventory shortages with no attempt to determine the cause	
lack of controls	
independent review	
too much trust/independence given employees	
key personnel becoming employees of vendors or suppliers	
common addresses	
High personnel turnover	
Low employee morale	

Indicators of Potential Fraud - Business

Unusual transactions	Large number of accounts receivable
Missing documentation	Numerous adjustments or exceptions
Single vendors	Asset shortages
Unclosed but obsolete contracts	Lack of cross-training or rotation of duties
Strong vendor relationships	Policies not being followed
Dependence on outside services	Overdue expense advances
Financially weak contractors	Inadequate personnel screening policies
Delays in receiving documentation	Increased customer complaints
Lack of bidding	Unrealistic performance expectations
Organization is vendor's only customer	Rumors of conflicts of interest
Non-purchase agents buying good/services	
Too much flexibility in pricing	
Cheques sent to requestor	
Concentration of power/processing in one individual	
Outside business interests	
Rising departmental expenses	

All Managers are expected to be aware of the indicators of potential fraud as set out above. Managers are, however, cautioned that the existence of one or more of the indicators is not, of itself, an indication that the person has or is committing a fraudulent activity.

4.4 Common Forms of Fraud

The following are some of the forms which fraud can take.

- I. Falsifying timesheets for a higher amount of pay
- II. Pilfering stamps
- III. Stealing of any kind (e.g., cash, petty cash, supplies, equipment, tools, data, etc.)
- IV. Forgery
- V. Lapping collections on customers' accounts [Rolling of cash]
- VI. Pocketing payments on customers' accounts, issuing receipts on self-designed receipt books
- VII. Not depositing all cash receipts
- VIII. Creating fictitious employees and collecting the pay cheques
- IX. Failing to end personnel assignments for terminated employees and collecting the paychecks
- X. Paying for personal expenses with Municipal funds
- XI. Increasing supplier invoices through collusion
- XII. Billing for services not rendered and collecting the cash
- XIII. Collecting checks payable to suppliers
- XIV. Recording fictitious transactions in the books to cover up theft
- XV. Using duplicate invoices to pay vendors
- XVI. Bribery,
- XVII. Consumer fraud,
- XVIII. Conflicts of interest,
- XIX. Seeking or accepting anything of value from a supplier, consultant or contractor in violation of the Gifts and Benefits policy,
- XX. Alterations to cheques, documents, etc.
- XXI. Any activity involving the alteration, destruction, forgery or manipulation of data for ulterior purposes,
- XXII. Irregularities in the processing or reporting of financial transactions,
- XXIII. Claims for expenses that were not incurred bona fide for the benefit of the Council,
- XXIV. Misappropriation of funds, supplies or other assets including furniture, fixtures and equipment,

XXV. Unauthorized use or misuse of Council property, equipment, materials or records,

4.5 Contributors to Opportunities for fraud

The following are contributory factors i.e. they create the “opportunity window” for those bent on fraud and corruption.

A department that lacks competent personnel	No separation of custody of assets from the accounting for those assets
A department that does not enforce clear lines of authority and responsibility	No separation of authorization of transactions from the custody of related assets
A department that does not enforce proper procedures for authorizations of transactions	No separation of duties between the accounting functions
A department that lacks adequate documents and records	Not recording transactions resulting in lack of accountability
A department that is not frequently reviewed by internal auditors	Unrestricted access to assets or sensitive data (e.g., cash, personnel records, etc.)
Lack of independent checks other than internal auditor	Inadequate physical security
Failure to discipline violators of organizational policies	Not reconciling assets with the appropriate records
Not adequately informing employees about rules of discipline or codes of conduct within the organization	Unimplemented controls because of the lack of or unqualified personnel
Inadequate disclosures of personal investments and incomes	No explicit and uniform personnel policies
Operating on a crisis basis	Failure to maintain accurate personnel records of disciplinary actions

Not requiring employees to complete conflict of interest questionnaires	Inadequate attention to details
Not adequately checking backgrounds before hiring employees	Not operating under a budget
Collusion among employees over whom there is little to no supervision	Lack of budget review or justification
High personnel turnover	Placing too much trust in key employees
Low employee morale	Unrealistic productivity expectations
	Pay levels not commensurate with the level of responsibility assigned

4.6 Ways to detect fraud.

I. Unusual Behavior

The fraudster may not take a day of vacation leave or sick leave for fear of being caught. He or she may not delegate work even when is clearly overloaded. Other symptoms may be changes in behaviour such as increased drinking, smoking, defensiveness, and unusual irritability and suspiciousness.

II. Complaints

Tips or complaints received often indicate that a fraudulent activity is taking place. Complaints are one of the best sources of fraud knowledge and should be taken seriously. Although all too often, the motives of the complainant may be suspect, the allegations usually have merit that warrant further investigation.

III. Stale Items in Reconciliations

Outstanding items in reconciliations are often an indication of a problem. As example, in bank reconciliations, deposits or checks not included in the reconciliation could be indicative of fraud. Missing deposits could mean the fraudster misappropriated funds; unrepresented cheques could indicate payments made to a bogus payee. Items in any reconciliation not cleared within a maximum of two [2] months are a clear indication of a problem

IV. Excessive Voids

While certain receipts will be voided due to errors, consistent or excessive voided [cancelled] receipts or sales slips could indicate that payments are being diverted. All voided receipts should be scrutinized carefully.

V. Missing Documents

Although it is expected that some documents will be misplaced, missing or misplaced documents can be a fraud flag.

VI. Excessive Credit Journals

Similar in nature to excessive voids, this technique can be used to cover the theft of cash. All credit journals should be carefully scrutinized.

VII. Common Names and Addresses for Refunds

Where refunds or credits are recorded against a common name and / or address the possibility is that the refunds relate to a bogus refund to a customer. The address shown for the refund is often that of an employee or that of a friend or co-worker.

VIII. Increasing Reconciling Items

As with stale items in a reconciliation misappropriated deposit, or bogus checks, are frequently not cleared from the reconciliation. Over a period, the reconciling items increase. Increasing reconciling entries in a reconciliation are therefore an indication of the possibility of fraud.

IX. General Ledger Out-of-Balance

General ledger constitutes the prime record and where the subsidiary accounts do not balance to the general ledger the possibility of fraud should be considered and investigated.

X. Excessive Purchases

While excessive purchases could arise from pure wastage, excessive purchases can also be an indication of fraud. Firstly, fictitious payees can be used to convert funds, or the payments may arise from payoffs to the supplier [e.g. in return for a kick back] and secondly, [and more likely] goods may be appropriated for own use.

XI. Duplicate Payments

Duplicate payments can arise from error. However, the possibility that a duplicate payment amounts to fraud should not be discounted.

XII. Ghost Employees

Missing or otherwise unaccounted for employees could indicate the existence of a ghost employee scheme. Uncollected wages are often the first indication of a ghost employee scheme.

XIII. Employee Expense Accounts

Employees can conceal fraud in their individual expense account reimbursements. These reimbursements should be scrutinized for reasonableness and trends, especially in the area of cash transactions on the expense account.

XIV. Inventory Shortages

Shortages in inventory will occur for a number of operational reasons. The level over a period can be computed through analysis. Excessive shrinkage could, however, be an indication of fraudulent activity, from embezzlement to theft of inventory.

XV. Increased Scrap

In most operations, scrap is generated. Scrap is a favorite target because it is usually subject to less scrutiny than regular inventory. Increasing levels of scrap could indicate schemes to steal and resell this material.

XVI. Employee Overtime

Overtime work is a normal part of business operations. However, high levels of overtime are usually an indication of a problem. The problem could be operational in nature or it could arise from employees claiming and being paid for overtime hours not worked.

XVII. Write-off of Accounts Receivable

In any business operation there will always be unpaid accounts. Comparing the write-off of receivables by customers may lead to information indicating that an employee has colluded with a customer regarding payment for services.

4.7 Practical fraud prevention

At the outset, it is important to distinguish between Internal Audit's role and that of management. Many believe that fraud is the concern of Internal Audit. This is not so. Management is responsible for maintaining a system of internal control. Internal control is the most effective method of preventing or detecting fraudulent activities.

It is important to understand that as an employee, you assume responsibility for assets or resources in your Department. This means that you are responsible for ensuring assets are safeguarded from loss and resources are prudently and effectively utilized.

It is important to understand that fraud is possible in your Department. If you do not believe fraud is possible, you will not identify it even if it is clear. Very often fraud symptoms are viewed as administrative errors.

The table set out hereunder highlights control measures which could reduce potential exposure to fraud and related activities. The schedule is not exhaustive, nor are the control measures listed. The actual control measures will vary depending on the Department and the potential for loss.

Area	Sample Prevention mechanism
1. Cash and Bank	
1.1 Bank	
1.1.1 Cheque fraud	Safe Custody of unused Cheques. Monitoring usage of cheques. Bank informed of changes of signatories timeously.
1.1.2 Petty Cash Theft Document recreation	Safe custody of cash. Payment on original documentation.
1.1.3 Payments	Reconciliations to detect payments not recorded in cashbook. Proper controls to ensure Management of EFT Payments.
1.1.4 Receipts	Stationery controls. Storage of unused receipt books. Restricted access. Segregation of duties –Cash handling versus cash book.
1.1.5 Investments Interest due/realised not credited	Reconciliations Reasonability tests
2. Salaries and Wages	
2.1 Fictitious employees	Head counts during wage pay-out.
2.2 Salary payments not <i>bona fide</i> conduct of work	Time management system.
2.3 Contractors paid through financial system and salary system	Authorised signatories and payment certificates.
2.4 Payment of salaries not due	Monthly analytical review
3. Income	

3.1 Fictitious income recognition	Monthly reconciliations. Supervisory oversight
4. Accounts Payable	
4.1 Fictitious vendors	Policy on vendor selection.
4.2 Over payment to supplies	Preferred Supplier policy and monitoring of volumes and value of transaction. De-registration of vendors not in use for a reasonably long time. Payment through Supply Chain Management System Monthly Creditors' reconciliations.
5. Assets	
5.1 Acquisition	Recording in books of accounts. Annual verification. Normal accounts payable cycle. Insurance.
5.2 Negligent Loss	Policy requiring compensation for negligent loss. Education regarding ownership.
5.3 Theft	Physical access controls to premises of buildings.
6. External Fraud Risks	
6.1 Medical Aid 6.2 Pension Fund	Reconciliation of Medical Aid payments to the administrator's records. Reconciliation of Pension Fund payment to Pension Fund Records.

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5 FRAUD RESPONSE PLAN

5.1 Procedures

This document sets out the action plan to respond to an instance of fraud immediately it is detected.

5.2 Introduction

- I. For minor issues, employees should normally raise the concerns with their immediate Supervisor. In general, however, the whistle blowing procedure is expected to be used for potentially more serious and sensitive issues (e.g. fraud and corruption).
- II. The first step will be for the employee to approach his/her immediate supervisor/Head unless the Senior management is the subject of the complaint, in which case the Head: Legal Services should be informed. Should the complaint be found by the line manager to be substantiated, he/she will consult with the Head legal services, on whether the matter should be investigated internally or referred to the appropriate external body (e.g. the SAPS).
- III. Employees who knowingly make false allegations may be subject to disciplinary action

5.3 Notification of suspected fraud

General Rules

- I. The primary responsibility for the investigation of irregularities rests with the Directorate concerned. A Directorate may, however, request advice from the General Manager: Human Resources Head: Legal Services, Chief Risk Officer, Head Internal Audit & Governance or another Directorate where applicable. Before approaching another Directorate for assistance, the Legal Service Unit should liaise with the General Manager: Human Resources, Chief Risk Officer and the Head Internal Audit & Governance.
- II. Upon the receipt of the complaint or allegation the legal service Unit will notify the Municipal Manager, Internal Audit Committee and the Risk Management Committee of any action /investigation to be undertaken. The action that will be taken will depend on the nature of the concern. The possible actions may, amongst others be to investigate by line Management, investigate by legal Service Unit, Disciplinary board investigation or refer to the SAPS or other relevant law enforcement agency.
- III. In all circumstances, where there are reasonable grounds to indicate that a fraud may have occurred, the Directorate concerned shall advise the Head: Legal Service thereof in writing. The Chief Risk officer: Risk Management shall be kept informed of progress and any further developments as the investigation proceeds.
- IV. Upon conclusion of an investigation, the results shall be communicated to the Chief Risk officer for report purposes and to ensure that there is a reasonable assurance that investigation are performed and ensure that that the fraud risk register is updated properly.

- V. The investigation method may include appointing an outside party to conduct the investigation. The prior approval of the Municipal Manager is required before an outside service provider is appointed.
- VI. Where an outside service provider [other than State authorities such as the South African Police Service] is used, the service provider shall be procured strictly in accordance with the Council's Supply Chain Management Policy.
- VII. Permission is granted to the responsible Manager to proceed with an investigation of minor fraud or other irregular activity without consulting with the parties mentioned above.
- VIII. The Manager shall, however, immediately inform Head of Department and Head legal services of the incident and the investigation. The Manager shall also inform the Head: Internal Audit as well as the General Manager: Human Resources of the suspected fraud and that it is being investigated.
- IX. The Head Legal Service as well as the General Manager: Human Resources may call for details of the incident, the official appointed to conduct the investigation and regular progress reports.

5.3.1 Head: Legal Services

- I. Upon notification or discovery of a suspected major fraud, the Head: Legal Services shall assist with advice regarding the investigation.

- II. The Head: Legal Services shall not investigate such major fraud unless circumstances exist, which in his opinion require his intervention. Such intervention shall first be approved by the Municipal Manager.

5.3.2 Actions of General Manager: Human Resources⁴.

- I. Upon notification or discovery of a suspected fraud, the General Manager: Human Resources shall assist with advice regarding possible suspension and such other matters as may be appropriate.
- II. All letters of suspension shall be affected by the General Manager: Human Resources after approval by the Municipal Manager.
- III. Any suspension shall be conducted in accordance with the Councils' Conditions of Service.

5.3.3 Fraud allegations

- I. When an allegation of fraud is received, the process of determining its validity may involve several stakeholders. All allegations received shall receive appropriate attention which shall entail
 - An assessment of the nature of the incident
 - If other corroborating evidence [or suspicions] exist which lend credibility to the allegation
- II. Throughout the process, confidentiality shall be maintained, and the individuals' rights respected.

- III. Appropriate documentation recording details of the allegations and the processes followed to determine if a full investigation is required shall be securely stored.

Evidence

5.3.4 Security of Evidence

- I. Upon discovery of any fraud [but particularly a potential major fraud], the Head of department concerned shall take action to prevent the theft, alteration, or destruction of relevant records.
- II. Such action may include, but is not necessarily limited to, removing the records and placing them in a secure location, limiting access to the location where the records currently exist, and preventing the individual suspected of committing the fraud from having access to the records.
- III. All original documents relating to the investigation shall remain in safe custody, unmarked. All notes relating to the investigation shall be made on copies of such documentation.
- IV. Where computer records may be required as evidence, the computer shall be stored in a safe locality until a decision is taken regarding how the data will be extracted from the computer. [The computer should not so much as be turned on or off as this has potential to invalidate evidence.]

5.3.5 Investigation

Responsibility for investigation

- I. The Head legal services can recommend to the City Manager to appoint an official to be responsible for the conduct of the investigation. A team may also

be appointed to conduct the investigation and in such case a team leader shall be officially appointed by the Head: legal services with the approval of City Manager.

- I. The Head: legal services shall ensure that the investigator [or the team] has the required expertise to conduct the investigation.
- II. The Head: legal services shall make available to the investigator [or team] such resources as may reasonably be required to conduct the investigation and require that all parties questioned, or original documentation required is made available to the investigator or team.
- III. It is an offence in terms of the Municipality's Disciplinary Code to hinder or cooperate with the investigator or team, to fail to disclose all reasonably known facts relating directly to the matter, to misrepresent information or withhold documentation or information.

5.3.6 Confidentiality.

- I. All participants in a fraud investigation [including those providing documentation or information] shall keep the details and results of the investigation confidential.
- II. The Manager may discuss of the investigation with witnesses if such disclosure may further the investigation, but due care is advised, if it is likely that other parties may be involved in the fraud or irregularity.

5.3.7 Documentation

- I. The appointed investigator shall ensure that all documentation handed in or collected in the course of the investigation is photocopied. No marks whatsoever shall be made on the original documentation which shall be stored in a safe locality

in case it is needed for a Disciplinary tribunal or by the South African Police Services.

- II. Appropriate records shall be maintained of all documentation used in the investigation, the analysis of the documentation, as well as details of the time, place and details of discussion with potential witnesses. Ideally witnesses should be required to provide a written statement relating to their knowledge of the incident. The investigator is entitled to insist on a written statement. A failure to provide a written statement may constitute an offence.
- III. All documentation is confidential and shall be accessible to only authorized officials.

5.3.8 Disciplinary and other action.

Internal Disciplinary action

- I. If a suspicion of fraud is substantiated by investigation, disciplinary action shall be taken by management [in consultation with the General Manager: Human Resources] in accordance with the Disciplinary Code.
- II. This may entail suspension of the employee in certain cases.

Criminal Prosecution.

- I. If the irregular action constitutes an offence in terms of law [which will in most instances be the case] the matter shall be reported to the South African Police Services. The responsibility to lodge the report with the South African Police Services rests with the Director concerned.

- II. The Department concerned shall after reporting the matter to the South African Police Services maintain regular contact to ensure [in so far as is possible] that the case is duly prosecuted.

5.3.9 Media Issues.

Release of information

- I. Fraud investigations shall not be discussed with the media or with any unauthorized party.
- II. The release of information relating to a case shall only take place on finalization of the disciplinary hearing. [Note that an employee is innocent until proven guilty and the premature release of untested information has the potential for damages.]
- III. Only information relating to the incident may be disclosed, not the fraud methods adopted by the perpetrator, how the incident was uncovered or the method of investigation.
- IV. Information will be released by the Communications Manager after consultation with the Director concerned, the General Manager: Human Resources and the Legal Service Unit.

5.3.10 Protection of informants and witnesses

Whistle-Blower Protection

- I. The Council or any person acting on behalf of the Council shall not dismiss or threaten to dismiss an employee, discipline or suspend, or threaten to discipline or suspend an employee, impose any penalty upon an employee, or intimidate or

coerce an employee in any way simply because the employee acted in good faith in accordance with the requirements of this policy.

- II. The provisions of the Protected Disclosures Act No 26 of 2000 are considered to be applicable here provided the official has acted in good faith and has made a disclosure to one of the officials mentioned in this policy / procedures document.⁵

Protection of witnesses

- I. The Council or any person acting on behalf of the Council shall not dismiss or threaten to dismiss an employee, discipline or suspend, or threaten to discipline or suspend an employee, impose any penalty upon an employee, or intimidate or coerce an employee in any way simply because the employee gave witness in a fraud or related irregularity case.
- II. Details of instances where an employee has given witness in a fraud or related activity case shall be recorded in the employees file.

5.3.11 Completion of Investigation.

5.3.12 Documentation

- I. Upon completion of the investigation, including legal and personnel actions, records, documents and other evidence will be returned to the appropriate Directorate / Department unless required for Court action.
- II. Note that the Courts will insist on original documentation. [A file copy of a letter issued represents an original.

5.3.13 Analysis of fraud incident

- I. On conclusion of an investigation, the investigation report [and such other documentation as may be called for], including a transcript of the Disciplinary case shall be made available to the Legal Services for further analysis.
- II. The Head legal services shall document the results in a confidential report to the Municipal Manager, Risk and the Audit Committee.
- III. The Head: Legal Services may in such report make such recommendations as may be deemed necessary to assist in the prevention of future similar occurrences. The decision whether to implement the recommendations rests with the Director concerned, but in all cases where it is decided not to implement the recommendations the decision shall be communicated by the Head Legal Services to the Risk Committee and Audit Committee.
- IV. Where deemed appropriate, the head: legal Services may make recommendations regarding possible action [including disciplinary action] against other parties whose negligence or failure to perform their duties in an appropriate manner may have contributed to the instance of fraud.
- V. The final decision to take action based on such recommendation shall be that of the Director concerned in consultation with the General Manager: Human Resources

5.3.14 Annual Report

- I. The Chief Risk officer will report to the Municipal Manager, Risk Management Committee and the Audit Committee on an annual basis information related to fraud incidents and investigations conducted during the year.

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6. FRAUD SUSCEPTIBILITY ASSESSMENT

6.1 Fraud Risk Management

The risk of fraud needs to be actively managed. This involves identifying the potential for fraud and developing appropriate strategies to minimize the risk of it occurring. Whilst internal and external auditors consider fraud risk, it is only one element in their audit assessment model, and it competes with other issues for attention. In addition, fraud detection and prevention are not their primary reasons for conducting audits. Therefore, management should not rely solely on audits as a mechanism for managing the risk of fraud.

It is therefore necessary that a dedicated risk assessment should be periodically undertaken; preferably every two or three years or when significant system changes have occurred. There are various methods available for conducting such risk assessments. The approach is set out in this document.

6.2 Identifying Activities

Analyzing the potential for fraud first requires an analysis of the Directorate / Departments functional areas. The activities within each functional area should also be analyzed. The analysis focuses on the inputs, processes and outputs of the Directorate / Department.

The potential for fraud occurs at all functional areas. Revenue collection will be taken as a simple illustration. Directors will obviously be more interested in the higher-level risks

associated with revenue collection [macro and output level]; General Managers and Programme Managers will have a different focus, namely, to concentrate on the fraud potential in each of the activities performed to both receive and account for revenue [micro and input / process level].

Outputs could include:

- Service level satisfaction.
- Revenue collection levels.

Inputs / processes could include:

- Reading of meters
- Data input
- Verification
- Billing,
- Receipting

6.3 Identifying fraud opportunities

Potential for fraud exists in all activities without exception. As indicated above Head of departments will be more interested in the higher-level risks associated with revenue collection [macro and output level]; General Managers and Programme Managers will concentrate on the fraud potential in each of the activities performed [micro and input / process level].

This phase is used to identify the fraud specific risks within the activity areas. In the first instance, the activities need to be examined in terms of susceptibility to forms of fraud risk, such as theft, misappropriation of funds and falsifying records. The more 'popular' forms of fraud may be useful starting points, but it is important to bear in mind that those bent on irregular activities do not conform to conventional standards and a wide approach is therefore necessary.

A list of the fraud risk exposures requiring action should emerge from this analysis according to severity of exposure. Determining the exposure levels where the priority changes from high to medium and medium to low, is subjective and relies on management experience.

The level of analysis will depend on the risk-exposure criteria. The criteria may require that current controls be reviewed. Alternatively, the criteria may require superficial assessment of controls. The design of the risk exposure criteria will need to consider a number of factors including the complexity of the processes, skills of the assessment team as well as resource and time budgets.

The risks need to be documented.

6.4 Assessing the risks

The risks identified for each of the activities need to be rated according to the potential exposure to fraud. This will provide an initial profile of the activities and forms of fraud. The criteria used to rate the risks identified exposure has two dimensions: likelihood and consequence.

Likelihood

The first dimension, likelihood, involves determining vulnerability to fraud. Assessing the level of vulnerability includes examining if:

- I. The area has been subjected to recent growth or significant change;
- II. Staff and management attitudes and values are appropriate;
- III. The area is operationally complex;
- IV. The activity has a history of fraud [in the department or in other organizations];
- V. Line and executive managers have any concerns; and
- VI. If management is aware of possible fraud indicators, such as staff's reaction to impending changes, etc. [Refer to the "Red Flags.]

If the activity is vulnerable to fraud, the adequacy of the internal controls need to be determined, which includes identifying:

- I. When the controls were last reviewed by management;
- II. Whether major changes have occurred that may affect the validity of the controls;
- III. Whether the controls are being adhered to and taken seriously by staff;
- IV. Whether internal and external auditors have passed comment on the controls; and
- V. If managers have any concerns or if there are indicators of fraud present.\

Consequence

The second dimension of risk exposure, consequence, is the severity of the potential fraud and may be measured in terms of materiality and sensitivity.

Materiality relates to the importance of the fraud were it to occur; this could be financial or numeric .

Sensitivity refers to non-financial consequences, such as the effect on public confidence or the morale of staff.

6.5 Managing the Risks

Appropriate control measures or action plans should be developed to manage the fraud risk areas identified in each activity. This does imply that every risk in an activity will be subject to an internal control measure. Rather than having a string of controls which in turn create further opportunities for irregular activities, key controls should be implemented to control the activity as a whole.

Action plans should detail:

- What action is to be taken.
- When the action to be completed; and
- Who is responsible for the completion of the action?

The Head of Departments should endorse the internal control measures or action plans to be adopted. An action plan may form part of another broader plan, such as the risk management plan, provided that this does not reduce the emphasis or importance placed on fraud prevention.

There is a temptation to address fraud risks by implementing more controls. Though this may seem a quick and easy solution, it is not the best option. Additional controls can reduce efficiency through increased workload and lead times. Rather than having more controls, the emphasis should be on having effective controls at key points in an activity. This may mean that the internal controls relating to an activity should be reviewed. It must be borne in mind however that internal controls on their own will not prevent or detect all fraud. For instance, internal controls may not necessarily detect collusion between employees and between employees and suppliers or clients. Other strategies, such as job rotation, may be required to address specific exposures.

The internal audit unit can assist by reviewing current work practices and controls to:

- Identify any weaknesses and redundant controls
- Recommend changes to controls and management practices to reduce the risk of fraud and unintentional errors
- Recommend changes to improve the quality of management information.

6.6 Monitoring Progress

It is necessary to monitor the progress in relation to action plans. The nature of the monitoring process will depend on the complexity of the action plan being undertaken. Progress reports should ideally be incorporated into an appropriate existing reporting process.

LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT NO 32 OF 2000

Schedule 2

7. CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

7.1 Definitions

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

7.2 General conduct

A staff member of a municipality must at all times:

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

7.3 Commitment to serving the public interest

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

- (a) implement the provisions of section 50 (2);
- (b) foster a culture of commitment to serving the public and a collective sense of responsibility for performance in terms of standards and targets;

(c) promote and seek to implement the basic values and principles of public administration described in section 195 (1) of the Constitution;

(d) obtain copies of or information about the municipality's integrated development plan, and as far as possible within the ambit of the staff member's job description, seek to implement the objectives set out in the integrated development plan, and achieve the performance targets set for each performance indicator;

(e) participate in the overall performance management system for the municipality, as well as the staff member's individual performance appraisal and reward system, if such exists, in order to maximize the ability of the municipality as a whole to achieve its objectives and improve the quality of life of its residents.

7.4 Personal gain

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

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

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

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

(a) be a party to a contract for-

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

(ii) the performance of any work for the municipality otherwise than as a staff member;

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

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

7.5 Disclosure of benefits

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

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

7.6 Unauthorized disclosure of information

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

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

- (a) determined by the municipal council or any structure or functionary of the municipality to be privileged or confidential;
- (b) discussed in closed session by the council or a committee of the council;
- (c) disclosure of which would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of any law.

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

7.7 Undue influence

A staff member of a municipality may not-

- (a) unduly influence or attempt to influence the council of the municipality, or a structure or functionary of the council, or a councillor, with a view to obtaining any appointment, promotion, privilege, advantage or benefit, or for a family member, friend or associate;
- (b) mislead or attempt to mislead the council, or a structure or functionary of the council, in its consideration of any matter; or
- (c) be involved in a business venture with a councilor without the prior written consent of the council of the municipality.

7.8 Rewards, gifts and favors

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

- (a) persuading the council of the municipality, or any structure or functionary of the council, with regard to the exercise of any power or the performance of any duty;
- (b) making a representation to the council, or any structure or functionary of the council.
- (c) disclosing any privileged or confidential information; or
- (d) doing or not doing anything within that staff member's powers or duties.

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

7.9 Council property

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

7.10 Payment of arrears

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

7.11 Participation in elections

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

7.12 Sexual harassment

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

7.13 Reporting duty of staff members

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

7.14 Breaches of Code

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

7.14.1 Disciplinary steps

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

(2) Such other disciplinary steps may include-

- (a) suspension without pay for no longer than three months.
- (b) demotion.
- (c) transfer to another post;
- (d) reduction in salary, allowances or other benefits; or
- (e) an appropriate fine.