

ULUNDI LOCAL MUNICIPALITY
FRAUD PREVENTION STRATEGY

“ The City of Heritage ”



Contents

1	Introduction	1
1.1	Statement of attitude to fraud	1
1.2	Definition of Fraud and Corruption	1
1.2.1	Forms of corruption	1-2
1.3	ULUNDI Local Municipality’s Anti-Corruption Policy and Fraud Prevention Strategy	3
2	Regulatory Framework	4
2.1	Summary of statutory offences relating to dishonesty	4
2.1.1	Prevention and Combating of Corrupt Activities Act, 12 of 2004	4
2.1.2	Prevention of Organised Crime Act, 121 of 1998 (POCA)	5
2.1.3	Financial Intelligence Centre Act, 38 of 2001 (FICA)	6
2.1.4	Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 33 of 2004 ("POCDATARA")	7
2.2	Statutes combating fraud and corruption	8
2.2.1	Protected Disclosures Act, 26 of 2000	8
2.2.2	Municipal Finance Management Act, 56 of 2003 (“MFMA”)	9
2.2.3	Municipal Systems Act, 32 of 2000 (“MSA”)	12
3	Fraud and Corruption Control Strategies	14
3.1	Structural Strategies	14
3.1.1	Senior Management commitment	15
3.1.2	An ethical culture	15
3.2	Operational Strategies	15
3.2.1	Internal Controls	15
3.2.2	Prevention strategies	16
3.2.3	Detection strategies	18
3.2.4	Response strategies	19
3.3	Maintenance Strategies	21
3.3.1	Review of the effectiveness of the Anti-Corruption Policy and Fraud Prevention Strategy	21
3.3.2	Review and updating the Anti-Corruption Policy and Fraud Prevention Strategy	21
4	Procedures for investigations	23
4.1.1	Handling a fraud allegation	23
4.1.2	Documentation of the results of the investigation	24
4.1.3	Other matters	24
4.2	Reporting fraud to police and / or external parties	24
4.3	Recovery and other remedies	25
5	Fraud Prevention Strategy	26

1 Introduction

1.1 Statement of attitude to fraud

Fraud and corruption represent significant potential risks to the ULUNDI Local Municipality's assets and reputation. The Municipality is committed to protecting its funds and other assets from the effects of fraud, corruption and any other irregularity. ULUNDI Local Municipality (the Municipality) has adopted a zero tolerance attitude with regard to fraud, corruption or any other irregularity, whether perpetrated by internal or external parties, and will vigorously pursue and prosecute any parties, which engage in such practices or attempt to do so, by all legal means available.

1.2 Definition of Fraud and Corruption

In South Africa, the common law offence of **fraud** is defined as “*a deception deliberately practiced in order to secure unfair or unlawful gain*¹”. The term “*fraud*” is also used in a wider sense by the general public to refer to various irregularities which do not necessarily fall within the strict definition. In this regard, the term is similarly used in this document, that is to say, in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty.

Corruption 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 party where the purpose of such gratification is for that person 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.

1.2.1 Forms of corruption

Corruption takes various forms in the public service. The following are examples of activities included under the heading of corruption.

¹ <http://www.thefreedictionary.com/fraud>
Ulundi Municipality
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1.2.1.1 Bribery

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

1.2.1.2 Embezzlement

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

1.2.1.3 Fraud

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

1.2.1.4 Extortion

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

1.2.1.5 Abuse of power

The use by a 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).

1.2.1.6 Conflict of interest

The failure by a public servant to disclose or to consciously fail to disclose his/her interest in any matter where the public servant has a direct interest or another party or entity that has some form of relationship with the public servant has a direct interest.

1.2.1.7 Abuse of privileged information

The use, by a 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 party or entity to obtain a benefit.

1.2.1.8 Favouritism

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

1.2.1.9 Nepotism

The process by which a public servant ensures that family members are appointed to public service positions or that family members receive contracts from the state.

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

1.3 ULUNDI Local Municipality's Anti-Corruption Policy and Fraud Prevention Strategy

The Municipality's Anti-Corruption Policy and Fraud Prevention Strategy has been developed in accordance with the expressed commitment of Government to fight corruption.

2 Regulatory Framework

2.1 Summary of statutory offences relating to dishonesty

2.1.1 Prevention and Combating of Corrupt Activities Act, 12 of 2004

The Prevention and Combating of Corrupt Activities Act (generally referred to as “PRECCA”) is aimed at the strengthening of measures to prevent and combat corrupt activities.

2.1.1.1 Offences under the Act

The Act refers to a wide range of offences relating to corrupt activities. The offences defined by the Act relate to the giving or receiving of a “*gratification*”. The term *gratification* is defined in the Act and includes *a wide variety of tangible and intangible* benefits such as money, gifts, status, employment, release of obligations, granting of rights or privileges and the granting of any valuable consideration such as discounts etc.

A general definition of corruption is contained in Section 3 of the 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 illegal or unauthorised performance of such other person’s powers, duties or functions;
- An abuse of authority, a breach of trust, or the violation of a legal duty or a set of 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.

The Act also stipulates that the following must be in place:

- The provision of investigative resources;
- The establishment of a register relating to persons convicted of corrupt activities; and
- Placing a duty on persons in a “*position of authority*” to report certain corrupt transactions.

2.1.1.2 Positions of authority

Section 34 of the Act places a duty on *any person* in a position of authority to report suspected corrupt or illegal activities to a police official. These activities include offences of corruption as defined under the Act, as well as fraud, theft, extortion and forgery, where the amount involved exceeds R100 000. Failure to report such suspicions constitutes an offence.

2.1.1.3 Penalties

Offences under the Act are subject to penalties including imprisonment for life and fines of up to R250 000. In addition, a fine amounting to five times the value of the gratification involved in the offence may be imposed.

2.1.1.4 Conflicts of interest

Section 17 of the Act provides that a public officer who acquires or holds a private interest in any contract, agreement or investment connected with the public body in which he/she is employed, is guilty of an offence unless:

- The interest consists of shareholding in a listed company;
- The public officer's conditions of employment do not prohibit him/her from acquiring such interests; or
- In the case of a tender process, the said officer's conditions of employment do not prohibit him/her from acquiring such interests as long as the interests are acquired through an independent tender process.

2.1.2 Prevention of Organised Crime Act, 121 of 1998 (POCA)

The Prevention of Organised Crime Act, as amended, (generally referred to as "POCA") contains provisions that are aimed at achieving, *inter alia*, the following objectives:

- The combating of organised crime, money laundering and criminal gang activities;
- The criminalisation of conduct referred to as "*racketeering*";
- The provision of mechanisms for the confiscation and forfeiture of the proceeds of crime;
- The creation of mechanisms for the National Director of Public Prosecutions to obtain certain information required for purposes of an investigation; and

- The creation of mechanisms for co-operation between investigators and the South African Revenue Services (SARS).

Section 4 of the Act defines the “*general*” offence of money laundering and provides that a person who knows, or ought reasonably to have known, that property is, or forms part of the proceeds of unlawful activities, commits an offence if he commits an act in connection with that property which has the effect or is likely to have the effect of concealing the nature and source thereof.

Section 5 of the Act stipulates that it is an offence if a person knows or ought reasonably to have known that another person has obtained the proceeds of unlawful activities and provides assistance to such other person regarding the use or retention of such proceeds.

Section 6 of the Act stipulates that it is an offence if a person knows or ought reasonably to have known that property is or forms part of the proceeds of unlawful activities and acquires, uses or possesses such property.

The above offences are regarded as serious and the Act contains harsh penalties relating to these offences. A person convicted of one of the above offences is liable to a maximum fine of R100 million or to imprisonment for a period not exceeding 30 years.

2.1.3 Financial Intelligence Centre Act, 38 of 2001 (FICA)

The Financial Intelligence Centre Act, as amended, (generally referred to as “FICA”) was signed by the President in November 2001. Its provisions were implemented over time, commencing during January 2002.

The Act (FICA) establishes a Financial Intelligence Centre (FIC) and a Money Laundering Advisory Council. The purpose of these entities is to combat money laundering activities.

FICA imposes certain reporting duties and compliance obligations.

The Act imposes compliance obligations on so-called “*accountable institutions*” (a Municipality being one of them) which are defined in Schedule 1 to the Act. These obligations include:

- A duty to identify clients;
- A duty to retain records of certain business transactions;
- A duty to report suspicious and unusual transactions; and

- The adoption of measures to ensure compliance, namely, the implementation of so-called “*internal rules*”, provision of training etc.

2.1.3.1 Suspicious transactions

With regard to the reporting of suspicious transactions, FICA makes provision for a duty to report “*suspicious or unusual transactions*”. In this regard it provides that any person who carries on a business or who is in charge of or is employed by a business and who knows or suspects certain facts, has a duty to report his/her knowledge or suspicion to the FIC within a prescribed period. Matters that require reporting include knowledge or suspicion of the following:

- The receipt of proceeds of unlawful activities;
- Transactions which are likely to facilitate the transfer of proceeds of unlawful activities;
- Transactions conducted to avoid giving rise to a reporting duty under FICA;
- Transactions that have no apparent business or lawful purpose;
- Transactions relevant to the investigation of tax evasion; or
- The use of a business entity for money laundering purposes.

A person who fails to make a report as required commits an offence and is liable to a fine not exceeding R10 million or imprisonment not exceeding 15 years.

2.1.4 Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 33 of 2004 ("POCDATARA")

On May 20, 2005, the Protection of Constitutional Democracy Against Terrorist and Related Activities Act (POCDATARA) came into effect criminalizing terrorist activity and terrorist financing and gave the government investigative and asset seizure powers in cases of suspected terrorist activity.

2.2 Statutes combating fraud and corruption

2.2.1 Protected Disclosures Act, 26 of 2000

The Protected Disclosures Act was promulgated to facilitate reporting by employees (whistle blowers) of fraud, corruption or other unlawful or irregular actions by their employer(s) or co-employees without fear of any discrimination or reprisal by their employer(s) or co-employees.

Any employee who has information of fraud, corruption or other unlawful or irregular action(s) by his/her employer(s) or co-employees can report such actions, provided that he/she has evidence that:

- A crime has been, is being, or is likely to be committed by the employer or employee(s);
- The employer or employees has/have failed to comply with an obligation imposed by law;
- A miscarriage of justice has or is likely to occur because of the employer's or employee(s) actions;
- The health or safety of an individual has been, is being, or is likely to be endangered;
- The environment has been, is being or is likely to be endangered;
- Unfair discrimination has been or is being practiced; or
- Any of the above has been, is being, or is likely to be concealed.

As long as the disclosure is made in terms of the Act, the employer is prohibited from:

- Dismissing, suspending, demoting, harassing or intimidating the employee;
- Subjecting the employee to disciplinary action;
- Transferring the employee against his or her will;
- Refusing due transfer or promotion;
- Altering the employment conditions of the employee unilaterally;
- Refusing the employee a reference or providing him/her with an adverse reference;
- Denying appointment;
- Threatening the employee with any of the above; or

- Otherwise affecting the employee negatively.

2.2.2 Municipal Finance Management Act, 56 of 2003 (“MFMA”)

The MFMA was promulgated to facilitate the formal management of municipal finances and associated activities. The controls and administrative systems implemented by any Municipality are very relevant to the content of the Act. Certain aspects of the Act refer specifically to activities which might be regarded as being corrupt or fraudulent in nature. Some relevant aspects are as follows:

2.2.2.1 Unauthorised, irregular or fruitless and wasteful expenditure

Section 32 of the Act indicates that, without limiting liability at common law or other legislation, the following office bearers in a Municipality are mandated with certain responsibilities, as follows:

- (a) A political office bearer (the Mayor) of a Municipality is liable for unauthorised expenditure if that office bearer knowingly instructed an official of the Municipality to incur expenditure, which was likely to be considered unauthorised expenditure;
- (b) The accounting officer (the Municipal Manager) is liable for unauthorised expenditure deliberately or negligently incurred by him/her, unless the expenditure was incurred following a decision by the mayor or executive committee of the Municipality, resulting in fruitless or wasteful expenditure, provided that the accounting officer has notified the council, the mayor or the executive committee, in writing, that the expenditure is likely to be considered unauthorised, irregular or fruitless and wasteful;
- (c) Any political office bearer or official of a Municipality who deliberately or negligently committed, made or authorised an irregular expenditure, is personally liable for that expenditure;
- (d) Any political office bearer or official of a Municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is personally liable for that expenditure.

Furthermore, in the event of such unauthorised, irregular or wasteful expenditure, the Municipality is required to recover the expenditure from the person liable for the expenditure, unless the council retrospectively authorises/condones the expenditure on the grounds that it represented an authorised adjustment, or that it is deemed irrecoverable and written off by the council.

The writing off of the expenditure by the council, however, is no defence in criminal or disciplinary proceedings and the writing off of the expenditure does not signify a condoning of the expenditure.

In the event of unauthorised expenditure, the accounting officer is obliged to advise promptly in writing, the mayor, the MEC for local government in the province and the Auditor General, providing details as to:

- (a) The fruitless or wasteful expenditure;
- (b) Whether any person is responsible or is under investigation with regard to the expenditure;
and
- (c) The steps taken to recover or rectify such expenditure.

Where irregular expenditure constitutes a criminal offence, or theft or fraud, the accounting officer must report all such cases to the South African Police. In the event that the accounting officer is the person responsible for the unauthorised expenditure, then the council must take all reasonable steps to ensure that the police are advised accordingly.

2.2.2.2 Funds transferred to organisations and bodies outside government

Section 67 of the Act refers to the transfer of funds and stipulates, *inter alia*, that no funds will be transferred from the Municipality unless the accounting officer is satisfied that the organisation or body implements effective, efficient and transparent financial management and internal control systems **to guard against fraud, theft and financial mismanagement.**

2.2.2.3 Supply chain management policy to comply with prescribed framework

Section 112 stipulates that the supply chain management policy of the a Municipality must be fair, equitable, transparent, competitive and cost effective and comply with prescribed regulatory framework for municipal supply chain management, which must cover, *inter alia*, measures for:

- (a) Combating fraud, corruption, favouritism and unfair and irregular practices in municipal supply chain management; and
- (b) Promoting ethics of officials and other role players involved in municipal supply chain management.

2.2.2.4 Implementation of supply chain system

Aligned with the supply chain management policy is section 115, which stipulates that the accounting officer of a Municipality must take all reasonable steps to ensure that proper mechanisms and separation of duties relating to the supply chain management system are in place to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practices.

2.2.2.5 Audit Committees

Section 116 of the Act stipulates the procedures aligned to Audit Committees. Each Municipality must have an Audit Committee, which is regarded as an independent advisory body which must:

- (a) Advise the municipal council, political office bearers, the accounting officer and management staff on matters relating to, *inter alia*:
 - i. Internal financial control and internal audits.
 - ii. Risk management.
 - iii. Effective governance.
- (b) Carry out such investigations into the financial affairs of the Municipality as the council may request.

2.2.2.6 Financial misconduct by municipal officials

Section 171 sets out the stipulations relating to disciplinary proceedings to be adopted in the event of financial misconduct by municipal officials.

The accounting officer commits financial misconduct if he/she deliberately or negligently:

- (a) Contravenes the provisions of the Act;
- (b) Fails to comply with a duty imposed by a provision of the Act on the accounting officer of a Municipality;
- (c) Permits or instructs another official of the Municipality to make an unauthorised, irregular or fruitless and wasteful expenditure;
- (d) Provides incorrect or misleading information in any document which, in terms of the Act, must be submitted to the mayor, council, Auditor General, National Treasury or other organ of state, or made public.

The chief financial officer of a Municipality commits an act of financial misconduct if he/she fails to carry out delegated duties in terms of the Act. In addition financial misconduct is committed if he/she permits or instructs another official to make unauthorised or fruitless and wasteful expenditure, or provides incorrect or misleading information to the accounting officer.

The Act stipulates further, under this paragraph, that a Municipality must:

- (a) Investigate allegations of financial misconduct against the accounting officer, the chief financial officer, senior manager or other official of the Municipality unless those allegations are frivolous; and
- (b) If the investigation warrants it, institute disciplinary proceedings against the accounting officer, chief financial officer or any other official in accordance with stipulations set out in the Municipal Systems Act.

2.2.3 Municipal Systems Act, 32 of 2000 (“MSA”)

The MSA sets out procedures to be adopted by municipal management with regard to a number of aspects affecting the management of a Municipality. The Act also stipulates procedures to be adopted with regard to certain aspects related to misconduct and the investigation thereof.

2.2.3.1 Allegations against Municipal employees

In section 67, the Act stipulates that a Municipality, in accordance with the Employment Equity Act, 1998, must develop and adopt appropriate systems and procedures to ensure, *inter alia*, the investigation of allegations of misconduct and complaints against staff.

2.2.3.2 Code of conduct

Sections 69 and 70 of the Act deal with the Code of Conduct, details of which appear in Schedule 2 of the Act. The Code of Conduct is to be provided to staff members and communicated to the local community. The municipal manager of a Municipality must:

- (a) Provide a copy of the Code of Conduct to every member of the municipal staff;
- (b) Provide every member of staff with any amendments to the Code;
- (c) Ensure that the purpose, contents and consequences of the Code of Conduct are explained to staff members who cannot read; and

- (d) Communicate sections of the Code of Conduct that affect the public, to the local community.

2.2.3.3 Rewards, gifts and favours

Under section 9 of the Act, it is stipulated that a councillor may not request, solicit or accept any reward, gift or favour for:

- (a) Voting in a particular manner;
- (b) Persuading the council or any committee in regard to the exercise of any power, function or duty;
- (c) Making representation to the council; or
- (d) Disclosing privileged or confidential information.

2.2.3.4 Duty of chairpersons of municipal councils with regard to council property

A councillor may not use, take or acquire or benefit from any property or asset owned, controlled or managed by the council. In the event that the chairperson of a council, on reasonable suspicion, is of the opinion that a provision of this stipulation has been breached, then the chairperson is obliged to:

- (a) Authorise an investigation of the facts and circumstances of the alleged breach;
- (b) Give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and
- (c) Report the matter to a meeting of the municipal council

The chairperson must furthermore, report the matter to the MEC for local government in the province concerned.

2.2.3.5 Competitive bidding

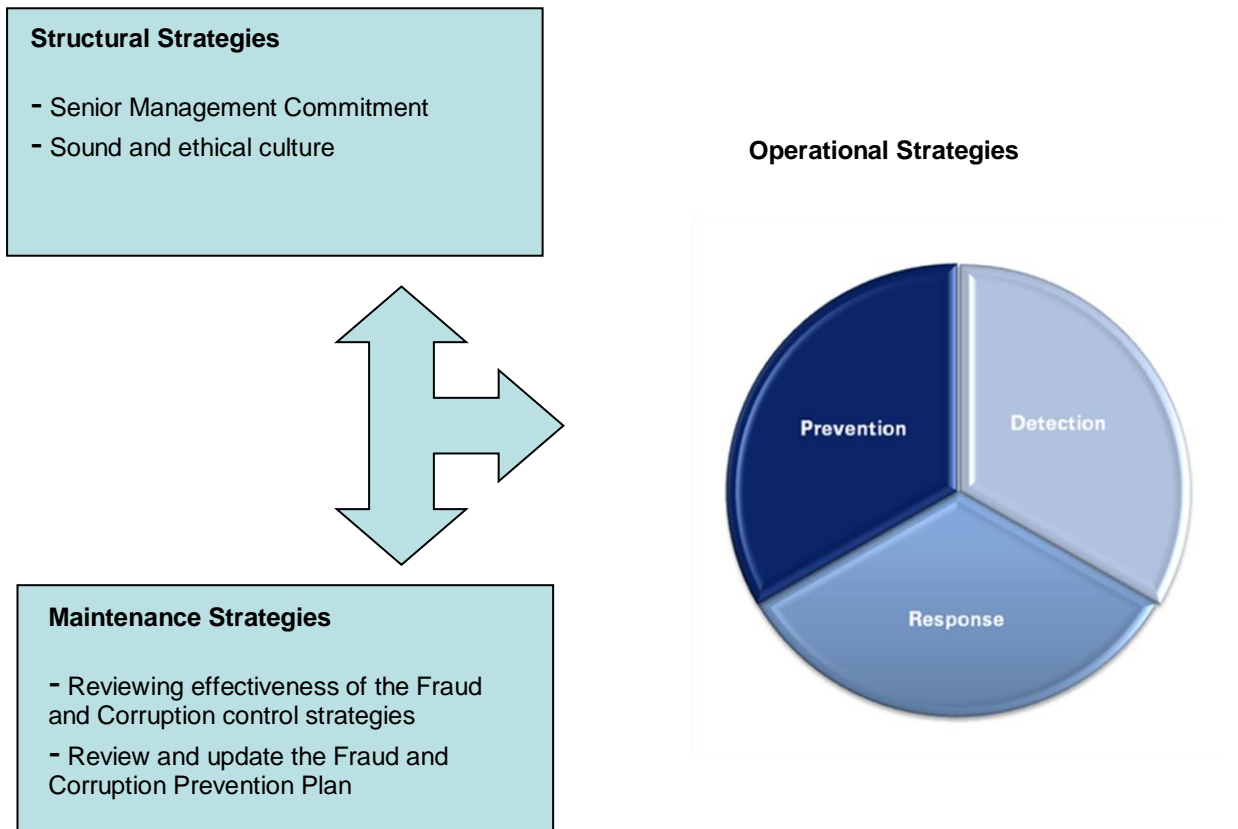
In the event that a Municipality decides to provide a municipal service through a service delivery agreement, the service provider must be selected by such process that , *inter alia*, minimises the possibility of fraud and corruption.

3 Fraud and Corruption Control Strategies

The approach in controlling fraud and corruption is focused into 3 areas, namely:

- Structural Strategies;
- Operational Strategies; and
- Maintenance Strategies.

Fraud and Corruption Control Framework



Structural Strategies

Structural Strategies represent the actions to be undertaken in order to address fraud and corruption at the Structural level. A summary of the fraud and corruption risk management responsibilities associated with different roles within the Municipality can be found in Appendix

A.

3.1.1 Senior Management commitment

Senior Management is to be committed to eradicating fraud and corruption and ensuring that the Municipality strives to be perceived as ethical in all its dealings with the public and other interested parties. In this regard, senior management, under the guidance of the Municipal Manager, will ensure that it does not become complacent in dealing with fraud and corruption and that it will ensure the Municipality's overall fraud and corruption strategy is reviewed and updated regularly. Furthermore, senior management will ensure that all employees and stakeholders are made aware of its overall anti-fraud and corruption strategies through various initiatives of awareness and training.

3.1.2 An ethical culture

The Municipality is required to conduct itself in an ethical and moral way. In this regard, the Municipal Systems Act, 32 of 2000 (as amended) prescribes a Code of Conduct for Councillors (Schedule 1 to the Act) and a Code of Conduct for Municipal Employees (Schedule 2 to the Act). These Codes of Conduct are appended to this document as Appendix B (The Code of Conduct for Municipal Employees and Appendix C (The Code of Conduct for Councillors) respectively.

3.2 Operational Strategies

3.2.1 Internal Controls

Internal controls are the first line of defence against fraud and corruption. While internal controls may not fully protect the Municipality against fraud and corruption, they are essential elements in the overall Anti-Corruption Policy and Fraud Prevention Strategy.

All areas of operations require internal controls, for example:

- Physical controls (securing of assets);
- Authorisation controls (approval of expenditure);
- Supervisory controls (supervising day-to-day issues);
- Reconciliation of bank statements, monthly; and
- Reconciliation of ledger accounts, monthly.

The Internal Audit Unit will be responsible for implementing an internal audit programme which will incorporate steps to ensure adherence to internal controls.

3.2.2 Prevention strategies

A number of combined initiatives results in an overall preventative environment in respect of fraud and corruption. These include the following:

3.2.2.1 Employee awareness

Employee awareness of the Municipality's Anti-Corruption Policy (Including Whistle Blowing) and Fraud Prevention Strategy, Code of Conduct, and the manifestation of fraud and corruption in the workplace all assist in the creation of an environment which may be considered to be hostile to a would-be transgressor.

3.2.2.2 Pre-employment screening

Pre-employment screening/ vetting will be carried out for all appointments, and evidence of such screening will be maintained by the HR Division.

The Municipality's policy of pre-employment screening will cover all new and promoted employees including those with administrative responsibilities or computer access. The screening will be performed by the Human Resources Division in conjunction with the Municipal Manager to ensure that screening is consistent and appropriately resourced throughout all Departments. Screening will be conducted in accordance with the classification of the employee or the levels of screening outlined below.

Where an employee is promoted into a management position and has not been screened during the course of the previous three years, the applicant will be re-screened. The levels of screening include:

Level 1 – All employees (including those with administrative functions or computer access)

- Verification of claimed educational qualifications;
- An independent reference check directly with two referees nominated by the applicant or previous employers; and

- Criminal history checks (after authorisation has been obtained from the prospective employee).

Level 2 – All Directors and above, Information Technology and Snr Management Finance and Licensing – DLTC staff , Meter Auditors, Electricians)

- All Level 1 checks;
- Employment history checks;
- Directorship and membership searches; and
- Insolvency/credit search

3.2.2.3 Recruitment procedures

Recruitment will be conducted in accordance with the requisite recruitment procedure. It will be a transparent process and all appointments will be confirmed only after due recommendation. Any person, involved in any decision-making process, who may have a conflict of interest, must declare such a conflict in writing to the HR Division and withdraw from any further procedures.

3.2.2.4 Internal audit programme

A robust Internal Audit programme, which focuses on the prevalent high Fraud and Corruption risks, serves as an effective preventative measure. The Internal Audit Division will compile such a programme on an annual basis, and such a programme will also include “*surprise audits*”.

3.2.2.5 Fraud Risk Register

Appendix D of this document sets out the Municipality’s Fraud Risk Register. The actions set out in this plan are all focused at mitigating the risk of fraud and corruption in the Municipality.

3.2.2.6 Disclosure of interests

All Municipal employees and full-time Councillors of the Municipality will be required to disclose their specific personal assets and business interests on an annual basis. Such a disclosure form can be found under Appendix E. This register will be kept with the Municipal Manager.

3.2.3 Detection strategies

Detection of fraud and corruption may occur through:

- Vigilance on the part of employees, including departmental management;
- The Internal Audit function;
- Ad hoc Management Reviews;
- Anonymous reports; and
- The application of detection techniques.

The Municipal Manager, Heads of Departments, *Internal Auditors* and Audit Committee will be responsible for developing detection strategies.

3.2.3.1 *Internal Audit*

Similar to the prevention strategies, a robust Internal Audit programme which focuses on the prevalent high Fraud and Corruption risks also serves as an effective detection measure. As part of the detection strategy, the Internal Audit programme will cover the following:

- Surprise audits: Unplanned audits conducted on specific business processes throughout the year;
- Post-transaction reviews: A review of transactions after they have been processed and completed can be effective in identifying fraudulent or corrupt activity. In addition to the possibility of detecting fraudulent transactions, such a strategy can also have a significant fraud prevention effect as the threat of detection may be enough to deter a staff member who would otherwise be motivated to engage in fraud and corruption;
- Forensic data analysis: The Municipality's computer system is an important source of information on fraudulent and sometimes corrupt conduct. Software applications will be used during internal audits, surprise audits and post-transaction reviews to assist in detecting any possible fraud and corruption; and
- Management accounting reporting review: Using relatively straightforward techniques in analysing the Municipality's management accounting reports, trends can be examined and investigated which may be indicative of fraudulent conduct. Some examples of the types of management accounting reports that can be utilised on a compare and contrast basis are:
 - Budget reports for each division; and

- Reports highlighting unusual trends in bad or doubtful debts.

The Municipality will implement a strategy to ensure appropriate management accounting report reviews are conducted.

3.2.3.2 External Audit

The Municipality recognises that the external audit function is an important control in the detection of fraud. The Accounting Officer will need to hold discussions with all engaged external auditors to ensure that due consideration is given, by the auditors, to ISA 240 “*The Auditors’ Responsibility to Consider Fraud in the Audit of Financial Statements*”.

3.2.4 Response strategies

3.2.4.1 Investigating fraud and corruption

Dealing with suspected fraud and corruption

In the event that fraud or corruption is detected or suspected, investigations will be initiated, and if warranted, disciplinary proceedings, prosecution or action aimed at the recovery of losses will be initiated.

Investigations

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 section/unit where investigations are required. This may be a senior manager within the Municipality 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 issue of a report by the person/s appointed to conduct such investigations. Such reports will only be 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 police 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 Municipality will be subject to an appropriate level of supervision by a responsible committee, having regard to the seriousness of the matter under investigation.

Disciplinary proceedings

The ultimate outcome of disciplinary proceedings may involve a person/s receiving written warnings or the termination of their services. All disciplinary proceedings will take place in accordance with the procedures as set out in the disciplinary procedures.

Prosecution

Should investigations uncover evidence of fraud or corruption in respect of an allegation or series of allegations, the Municipality 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 the Municipal Finance Management Act and the Municipal Systems Act. The Municipality will give its full co-operation to any such law enforcement agency including the provision of reports compiled in respect of investigations conducted.

Recovery action

Where there is clear evidence of fraud or corruption and there has been a financial loss to the Municipality, recovery action, criminal, civil or administrative, will be instituted to recover any such losses. In respect of civil recoveries, costs involved will be determined to ensure that the cost of recovery is financially beneficial.

Internal control review after discovery of fraud

In each instance where fraud is detected, the Director of the Department concerned 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.

The responsibility for ensuring that the internal control environment is re-assessed and for ensuring that the recommendations arising out of this assessment are implemented will lie with the Director of the Department concerned.

3.3 Maintenance Strategies

3.3.1 Review of the effectiveness of the Anti-Corruption Policy and Fraud Prevention Strategy

The Municipality will conduct a review of the Anti-Corruption Policy and Fraud Prevention Strategy annually to determine the effectiveness thereof. The Municipal Manager is ultimately accountable for this review and may appoint a person to take responsibility for this.

3.3.2 Review and updating the Anti-Corruption Policy and Fraud Prevention Strategy

A central part of any fraud and corruption control programme should involve an ongoing review of fraud and corruption risk exposures. Fraud Risk Assessments will also be conducted annually at the same time as the review of the Anti-Corruption Policy and Fraud Prevention Strategy. As

with the review, the Municipal Manager is ultimately accountable for this and may delegate a person to take responsibility.

4 Procedures for investigations

The Municipality has adopted the Disciplinary Hearing Policy which allows the municipality to investigate all reports of fraud and corruption, or other improper conduct. The investigation of fraud and corruption can be a complex and, at times, technical process and employees should be aware of the consequences of a poorly conducted investigation, including:

- Denial of natural justice;
- Defamation;
- Action against an employer for wrongful dismissal;
- Inadmissible or poor control over the collection of evidence; and
- Destruction of physical evidence.

To ensure that there is reasonable assurance that investigations are performed and reported properly, and recognising the limited resources within the Municipality, external consultants (e.g. external auditors or forensic accountants) may be used to provide assistance to the Municipality when a fraud is reported. The external consultant may be assisted by experienced personnel within the Municipality who are sufficiently independent of the area or the matter under investigation. The Municipal Manager, within his/her delegated authority, will have the discretion to determine the appropriate external consultants and / or the Municipality personnel to conduct investigations.

4.1.1 Handling a fraud allegation

Should the Head of Department receive an allegation of fraudulent or corrupt activity, he or she will ensure that the Municipal Manager is advised at the earliest opportunity.

The Municipal Manager will appoint an appropriate manager (usually within the Department in which the alleged fraud or corruption has been identified) to conduct or co-ordinate an investigation into the allegations.

Upon receipt of an allegation of a suspected fraud, the immediate concern of the manager or investigating officer should be the preservation of evidence and the containment of loss.

The investigative procedures to be followed on receipt of an allegation of fraud or corruption are included as Appendix F.

4.1.2 Documentation of the results of the investigation

The appointed internal auditor is to submit a written report to the Municipal Manager detailing the circumstances and recommending appropriate remedial action following the investigation.

4.1.3 Other matters

The Municipal Manager, in conjunction with Internal Audit, will provide the details of fraud/corruption or possible fraud/corruption to the Audit Committee.

In each instance where fraud is detected, the Municipality will reassess the adequacy of the internal control environment (particularly those controls directly impacting on the fraud incident) and consider the need for improvements. Where improvements are required, they should be implemented as soon as practicable.

4.2 Reporting fraud to police and / or external parties

The Municipal Manager or *his representative* will be responsible for reporting to the police, in circumstances in which there is evidence of fraud relating to:

- An employee / volunteer of the Municipality;
- A client of the Municipality;
- The Municipal Infrastructure grant recipient of the Municipality; or
- A supplier to the Municipality.

Reporting fraud to the police for investigation will be subject to the requirements as set out in PRECCA, Municipal Finance Management Act and the Municipal Systems Act. Any decision not to refer an allegation of fraud to the police for investigation (where there is sufficient evidence to justify making such a report) will be referred to the Audit Committee, together with the reasons for the decision.

Responsibility for complainant statements lodged with Police will be assigned on a case by case basis by the Municipal Manager in consultation with the investigator.

4.3 Recovery and other remedies

The Municipality in terms of section 32 of the Municipal Finance Management Act, will actively pursue the recovery of any money or property lost through fraud, provided there is a strong prospect of a net benefit to the Municipality from such action.

Where it is considered appropriate that the matter not be reported to the police, the Municipality reserves its right to pursue a range of other remedies including appropriate disciplinary action. Any disciplinary action pursued will be undertaken in accordance with the Disciplinary procedures.

Exit interviews and exit checklist procedures will be performed in the event of dismissal from the Municipality for misconduct or fraud. This is necessary to ensure that factors contributing to misconduct and fraudulent activity by municipal employees can be managed as a process to mitigate fraud risk.

5 Fraud Prevention Strategy

Fraud Risk Assessments were conducted. The assessments were performed by way of interviews with senior members of the Municipal staff, including the Municipal Manager, following the interviews, by way of a workshop with delegates chosen by the Municipality, from various levels within the Municipality.

The purpose behind the interviews was to establish how the Municipality functioned, the duties and responsibilities of the interviewed personnel and the elements of fraud that each interviewee perceived the Municipality to be exposed to. Discussions also included controls currently in place to counter the exposures and the effectiveness of those controls.

The purpose behind the workshop process was to enable the delegates representing a cross section of Municipal employees, an opportunity to discuss the exposures raised by their senior managers and also to raise any other elements of fraud that the Municipality is exposed to, the controls, if any, in place and the effectiveness of those controls.

During the course of the workshop, all fraud exposures identified were discussed. Each risk was discussed under the following headings:

- Likelihood
- Overall impact
- Internal control effectiveness, and
- Residual risk.

Once all ratings, which vary from High to Low, were completed, a fraud risk register was produced which is a diagrammatic representation of the categorised fraud risks that have been subject to consideration.

The outcomes of the Fraud Risk Assessment are contained in the Fraud Risk Register which can be found under Appendix D.