FRAUD MANAGEMENT POLICY

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1. BACKGROUND

1.1. Purpose and Application

The purpose of this Fraud Prevention Policy is to ensure that Moqhaka Local municipality communicate its stance with regard to anti-fraud and anti – corruption activities and develop appropriate strategies and procedures to prevent, detect and corrective measures

This policy applies to all corruption, fraud, theft and maladministration or suspected irregularities of this nature involving, but not limited to, the following persons or entities:

1.1.1 All full time, part-time and temporary employees of the Municipality;
1.1.2 Political Office Bearers;
1.1.3 Councilors;
1.1.4 Consultants, suppliers, contractors and other providers of goods and services to the Municipality

This policy shall be applied with due observance of the Municipality's policy with regard to delegated powers. Such delegations refer to delegations between the Municipal Manager and other responsible officials; the Council and the Executive Mayor as well as between the Council and the Municipal Manager.

1.2 POLICY OBJECTIVES

1.2.1. To explain Municipality's approach to fraud management and ensure that it has a consistent and effective approach to fraud management;
1.2.2. To ensure that the Municipality's culture and processes encourage the prevention measures and where it may be incurring / incurred, a culture of detection and corrective measures of fraud;
1.2.3. To explain key aspects of fraud management;
1.2.4. To clearly indicate the anti-fraud and anti-corruption reporting procedures;
1.2.5. To hold executive, management and officials accountable for the implementation of fraud prevention strategy in their areas of responsibility;
1.2.6. To create an enabling environment where all the Municipality's employees take responsibility for managing anti-fraud and anti-corruption activities;
1.2.7. To improve corporate governance and compliance with relevant legislation;
1.2.8. The implementation of this policy will provide the Municipality with a basis and a framework for:

2.8.1 More confident and rigorous decision-making and planning;
2.8.2 Better identification of opportunities and threats;
2.8.3 Pro-active rather re-active management;
2.8.4 Improved management and reduction in loss and cost of fraud risk;
2.8.5 Improved stakeholder confidence and trust;
2.8.6 A clear understanding by all staff of their roles, responsibilities and authorities for managing fraud risk.

1.3 Legal framework

This policy has been compiled in accordance with: -

1.3.1 The Constitution of the Republic of South Africa, (Act No. 108 of 1996) (hereafter referred to as the Constitution);
1.3.2 Protected Disclosure Act, (Act No. 26 of 2000);
1.3.3 Prevention and Combating of Corrupt Activities (Act, No 12 of 2004);
1.3.4 The Municipal Finance Management Act, (Act No. 56 of 2003);
1.3.5 Local Government: Municipal Systems Act, (No. 32 of 2000);
1.3.6 Local Government: Municipal Structures Act, (No. 117 of 1998);
1.3.7 Local Government: Municipal Supply Chain Management Regulations, (Act No 27636 of 2005);
1.3.8 Local Government: Municipal Finance Management Act (No. 56 of 2003): Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, (Gazette No 37699 of 2014); and
1.3.9 National Treasury Regulations

1.4 Policy Statement

It is the policy of Moqhaka Local Municipality that fraud, corruption, maladministration or any other dishonest activities of a similar nature will not be tolerated. Such activities will be investigated and actions instituted against those found responsible. Such actions may include the laying of criminal charges, civil and administrative actions and recoveries where applicable. Prevention, detection, response and investigative strategies will be designed and implemented. These will include any existing controls (system controls and manual internal controls) and those currently prescribed in existing policies, procedures and other relevant prescripts to the activities of the municipality. Risk assessments, monitoring and control will play a central role in this regard.

1.5 Implementation Plan

Moqhaka Local Municipality strives towards a preventative approach in dealing with anti - fraud and anti - corruption by eliminating the opportunities for the perpetrators to commit fraud. Therefore, the Municipality will follow several steps to reduce the chances of fraud and corruption from taking place within the Municipality. These steps include but not limited to these:

1.5.1 Pre-screen of potential employees;
1.5.2 Fraud Awareness through sessions, intranet and flyers, (Marketing of Fraud Response Plan and Whistle Blowing Policy); Communicate with employees the consequences of committing fraud and corruption;
1.5.3 Expose the perpetuated fraud activity and the consequences,
1.5.4 Promote compliance to the Municipality's values during the orientations;
1.5.5 Periodic Fraud Risk Assessment and reviews of the risks identified and monitoring as well;
1.5.6 Ensure that top management sets the tone from the top, example by following the rules; and

1.5.7 Establishing a sound internal control system.

The above mentioned steps will be performed in line with the Risk Management Implementation Plan after been review by RMC Committee.

1.6 Definition of Fraud

Fraud is the unlawful and intentional making of a misrepresentation which causes actual prejudice or which is potentially prejudicial to another. ("a course of an action by deceit or other dishonest conduct, involving acts or omissions of the making of false statements, orally or in writing, with the object of obtaining money or other benefit from, or of evading a liability for personal gain or to damage with the knowledge that the deception could result in some unauthorized benefit to himself or some other person.") The term fraud is used to describe offences such as but not limited to the following:

1.6.1 Bribery

Any person who, directly or indirectly-

(a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or

(b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, in order to act personally or by influencing another person to act illegally, dishonestly, unauthorized, or biased.

1.6.1. Embezzlement

This involves theft of resources by persons entrusted with the authority and control of such resources. This involves coercing a person or entity to provide a benefit to an employee, Councilor or another person or an entity in exchange for acting (or failing to act) in a particular manner.

1.6.2. Abuse of power

This involves an employee or Councilor using his or her vested authority to improperly benefit another employee or Councilors, person or entity or using vested authority to improperly discriminate against an employee or Councilor, another person or entity.

1.6.3. Conflict of interest

This involves an employee or Councilor acting or failing to act on a matter where the employee or Councilor has an interest or another person or entity that stands in a relationship with the employee or Councilor has an interest.

1.6.4. Abuse of privileged information

This involves the use of privileged information and knowledge that an employee or Councilor possesses as a result of his or her office to provide unfair advantage to another person or entity to obtain a benefit, or to accrue a benefit to him or herself. This

may also involve the misuse of confidential information of the Municipality by people in positions of trust, for example through the misuse of computer access controls.

1.6.5.The word fraud can further be extended to the following:

1.6.5.1. Any dishonest, fraudulent or corrupt act;
1.6.5.2. Theft of funds, supplies, or other assets;
1.6.5.3. Maladministration or financial misconduct in handling or reporting of money or financial transactions;
1.6.5.4. Making a profit from insider knowledge;
1.6.5.5. Disclosing confidential or proprietary information to outside parties;
1.6.5.6. Deliberately and dishonestly altering documents, records or vouchers for financial gain; creating false invoices or credit notes; creating fictitious supplier accounts; creating false purchase invoices or destroying supplier credit notes; purchasing items for private use on the municipality's accounts; submitting false claims for remuneration of expenses; or buying goods on credit with the full knowledge that Council does not have the means to pay for them; approving unauthorized deliveries and/or creating fictitious employees on the Municipality's payroll.
1.6.5.7. Irregularly accepting or requesting anything of a material value from contractors, suppliers, or other persons providing services/goods to the Municipality;
1.6.5.8. Irregularly offering or giving anything of a material value to contractors, suppliers, or other persons providing services/goods to the Municipality; and/or special favours or concessions to clients/suppliers or contractors or other parties in exchange for remuneration in the form of cash or other benefits.
1.6.5.9. Destruction, removal, or abuse of records, furniture, and equipment;
1.6.5.10. Deliberately omitting to report or act upon reports of any such irregular or dishonest conduct;
1.6.5.11. Acts of financial misconduct contemplated in terms of sections 171 to 173 of the MFMA;
1.6.5.12. Incidents of unauthorized, irregular or fruitless and wasteful expenditure as defined in section 32 of the MFMA; and
1.6.5.13. Any similar or related irregularity as prescribed by the Prevention and Combating of Corrupt Activities Act, the MFMA and other applicable legislation.

2. FRAUD RESPONSE

2.1 Reporting Responsibility

Every employee within the Municipality has the responsibility as well as obligation to report any reasonably suspected fraud and corruption activities. Employees must be discouraged from making allegations frivolously, in bad faith, maliciously, for personal gain, or for revenge. Such behavior will be dealt with accordingly.

2.2. False allegations

Employees or councilors must understand the implications (resources and costs) of undertaking investigations and should therefore guard against making allegations, which are false and made with malicious intent. If in the course of the investigation it should be found that the allegations were made with malicious intent, such allegations shall be treated in a very serious light. The employee concerned must be subjected to a disciplinary enquiry. Should a Councilor be involved, the Code of Conduct for Councilors is applied?

2.3. Confidentiality

All information must be forwarded to the Managers: Security Services and Legal Advisor regarding suspected fraud must be treated confidentially.

2.4. Reporting Process

Employees must report the suspected fraud and corruption activities through one of the following:

2.4.1. Non-Anonymous Reporting

2.4.1.1. Report in writing, verbally or telephonically to the line Manager;
2.4.1.2. Report in writing, verbally or telephonically to the Chief Security; and
2.4.1.3. Report in writing to the Municipal Manager.
2.4.1.4. Reporting on means of complaint boxes

2.4.2. Anonymous Reporting

2.4.2.1. The confidential National Fraud Hotline: **0800 701 701.**
2.4.2.2. Anonymous Letter to the Manager: Security Services.
2.4.2.3. Report on means of complaint boxes

2.5 Fraud Investigation responsibilities

Manager: Security Services will maintain a register for the reported fraud incidents and disclose such information to the Municipal Manager. The Municipal Manager will, in consultation with the Legal Advisor and Senior Executive Manager: Corporate Services determine a course of action appropriate, based on the seriousness of the alleged offence, to be instituted against the person(s) suspected of fraud, while investigation is being conducted. The Municipal Manager will determine, as advised by the Legal Advisor and the Manager: Security Services, whether the case can be dealt with internally or whether it requires the involvement of external third parties.
Internal investigations will be conducted by disciplinary board that will be established in terms of Section 4 of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings and where applicable, this activity may be outsourced. All investigations procedures must be structured and documented as much as possible. The Senior Manager of the affected section will immediately review controls with the

assistance of Chief Audit Executive in order to curb re-occurrence of the incident and secure original documentation to be used for investigation. A report detailing the findings and conclusions must be issued for every concluded investigation.

2.6 Disciplinary Action

Where the Investigator's report reveals that a Municipal employee has committed possible fraud / corruption, the Municipal Manager in consultation with the Legal advisor and Director Corporate Services must pursue disciplinary or legal action.

2.7 Recovering Assets

Where the Municipality has suffered loss, efforts will be made to seek restitution from the fraudster or individual(s) responsible for fraud.

2.8 Follow-up Action

Following a case of fraud, the Municipal Manager will ensure that all managers and employees in the affected area are debriefed on the outcome of the fraud investigation. There must be a follow-up with the individual(s) who reported the initial suspicion of fraud, to provide assurance that their claims have been taken seriously.
The Chief Risk Officer will meet Quarterly with Security Services on reported fraud cases and in turn the Chief Risk Officer must report quarterly to the Risk Management Committee and the Audit Committee on the finalization of fraud cases recorded in the Fraud Register.

3. POLICY ADMINISTRATION

3.1 Policy Review

The custodian of this Policy is the Moqhaka Municipal Risk Management unit. The policy will be reviewed annually and submitted for approval to the council.

3.2 Approval

As approved/ adopted by means of council resolution in an **ordinary**/**special** council, held at on the **.**