



BA-PHALABORWA MUNICIPALITY

ANTI-FRAUD AND CORRUPTION STRATEGY

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1. INTRODUCTION

1.1. Purpose.

The primary objective of this strategy is to prevent fraudulent conduct before it occurs by encouraging a culture within the Municipality where all employees, members of the public and other stakeholders continuously behave with and promote integrity in their dealings with, or on behalf of municipality.

To encouraging all employees and other stakeholders to strive toward the promotion of integrity and the prevention and detection of unethical conduct, fraud and corruption impacting or having the potential to impact on the Municipality.

To improving accountability, efficiency and effective administration within municipality, including decision-making and management conduct which promotes integrity.

1.2. Principles of the strategy

The **main principles** upon which the strategy is based are the following:

- a) Creating a culture within municipality which is intolerant to unethical conduct, fraud and corruption;
- b) Strengthening community participation in the fight against corruption in municipality;
- c) Strengthening relationships with key stakeholders, e.g. SALGA, SAPS Employee representative unions and Communities, that are necessary to support the actions required to fight corruption in municipality;
- d) Deterrence of unethical conduct, fraud and corruption;
- e) Preventing unethical conduct, fraud and corruption which cannot be deterred;
- f) Detection of unethical conduct, fraud and corruption;
- g) Investigating detected unethical conduct, fraud and corruption;
- h) Taking appropriate action in the event of such irregularities, e.g. disciplinary action, recovery of losses, prosecution, etc; and
- i) Applying sanctions, which include redress in respect of financial losses.
- j) Improving the application of systems, policies, procedures and regulations;
- k) Changing processes of the Municipality that facilitate corruption/fraud and allow it to go unnoticed or unreported.

All aspects of the strategy will be:

- Supported by comprehensive education, training and awareness campaigns;
- Coordinated with other the spheres of government and community;
- Subjected to continuous fraud risk assessments; and
- Expressed in terms of measurable and time-bound implementation plans.

1.3. Statement of attitude to fraud

Fraud represents a significant potential risk to the Municipality ,s assets, service delivery efficiency and reputation. The Institution will not tolerate corrupt or fraudulent activities, whether internal or external to the Institution, and will vigorously pursue and prosecute any parties, by all legal means available, which engage in such practices or attempt to do so.

2. Regulatory legislation.

2.1 The Public Service Anti-Corruption Strategy.

During 1997, Government initiated a national anti-corruption campaign. This campaign progressed to a National Anti-corruption Summit held in April 1999 at which all sectors of society (public and private) committed themselves to establishing sectoral anti-corruption strategies. At the same time, they also committed to the co-responsibility for fighting corruption through the coordination of these sectoral strategies.

2.2 The Local Government Anti-Corruption Strategy.

Local Government developed the Local Government Anti-Corruption Strategy (LGACS), which is modelled around the Public Service Anti-Corruption Strategy.

2.3 Prevention and Combating of Corrupt Activities Act, 12 of 2004 (PRECCA)

Aimed at the strengthening of measurement to prevent and combat corrupt activities.

2.4 Prevent of Organized Crime Act 121 of 1998 (POCA)

As amended contained provisions that are aimed at combating of organized crime, money laundering and criminal gang activities .

2.5 Protection Disclosure Act 20 of 2000 (PDA)

The act was promulgated to facilitate reporting by employees (whistle blowers) of fraud, corrupt or other unlawful or irregular action by other employers(s) or co-employers without fear of any discrimination or reprisal by their employers or co-employees.

2.6 Municipal Finance Management Act (MFMA)

The act was promulgated to facilitate the formal management of municipal finances and associated activities. Certain aspects of the Act refer specially to activities which might be regarded as being corrupt or fraudulent in nature e.g. Unauthorized, irregular and fruitless and wasteful expenditure.

2.7 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 municipalities. The Act also stipulates procedures to be adopted with regard to certain aspects related to misconduct and investigation thereof.

2.8 Ba-Phalaborwa municipality anti-fraud and corruption strategy.

This Anti-Corruption Strategy has been developed as a result of the expressed commitment of Government to fight corruption. It is also an important contribution to the National Anti-Corruption Strategy of the country and supplements both the Public Service Anti-Corruption Strategy and the Local Government Anti-Corruption Strategy.

3. Definition of fraud and corruption

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

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

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

- a) The illegal or unauthorised performance of such other person’s powers, duties or functions;
- b) An abuse of authority, a breach of trust, or the violation of a legal duty or a set of rules;
- c) The achievement of an unjustified result; or
- d) Any other unauthorised or improper inducement to do or not to do anything is guilty of the offence of Corruption.

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 person where the purpose is to act dishonestly or illegally. Such behaviour also includes the misuse of material or information, abuse of a position of authority or a breach of trust or violation of duty.

3.1. Forms of corruption

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

3.1.1. Bribery

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

3.1.2. Embezzlement

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

3.1.3. Fraud

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

3.1.4. 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.

3.1.5. 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).

3.1.6. Conflict of interest

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

3.1.7. Abuse of privileged information

This involves 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 person or entity to obtain a benefit.

3.1.8. Favouritism

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

3.1.9. Nepotism

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

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

4. Policy on fraud and corruption

4.1. Background

This policy is established to facilitate the development of controls which will assist in the prevention and detection of fraud and corruption, as well as provide guidelines as to how to respond should instances of fraud and corruption be identified. This policy is also established to give effect to the various legislative instruments as described in the previous section.

4.2. Scope of the policy

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

4.3. Policy

It is the policy of the 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 the municipality of 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. It is the responsibility of all employees to report all incidents of fraud and corruption that may come to his / her attention to his / her supervisor. Alternatively, such reports can be made by way of submitting a report through the prescribed whistle blowing mechanism.

All reports received will be treated with the requisite confidentiality and will not be disclosed or discussed with parties other than those charged with investigation into such reports.

All Managers are responsible for the detection, prevention and investigation of fraud and corruption, within their areas of responsibility.

4.4. Actions constituting fraud and corruption

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

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

5. Fraud and corruption control strategy

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

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

5.1. Structural Strategies

Structural Strategies represent the actions to be undertaken in order to address fraud and corruption at the Structural level. The following section outlines the fraud and corruption responsibilities associated with different roles within the Municipality.

5.1.1. Municipal Manager

The municipal Manager bears the ultimate responsibility for fraud and corruption risk management within the Institution. This includes the coordination of risk assessments, overseeing the investigation of suspected fraud and corruption, and facilitation for the reporting of such instances.

5.1.2. Risk Management Committee

Ba-Phalaborwa's Risk Management Committee will oversee the Municipality's approach to fraud prevention, fraud detection strategies and response to fraud and corruption incidents reported by employees or other external parties.

The Risk Management Committee shall meet at least once a quarter as per the Risk Management Committee Charter discuss the following issues:

- Progress made in respect of implementing the Anti-Fraud and Corruption Strategies;
- Reports received by the Institution regarding fraud and corruption incidents with the view to making any recommendations to the Accounting Officer and Chairman of the Audit Committee;
- Reports on all investigations initiated and concluded; and
- All allegations received via the hotline.

5.1.3. An ethical culture

The Municipality is required to conduct itself in an ethical and moral way. Ethics are concerned with human character and conduct and deal with questions of right and wrong, appropriate and inappropriate behaviour and what constitutes good or evil. Ethical conduct is based on a set of principles referred to as values or norms. The collective ethical conduct of all the individual employees of a Institution reflects the Municipal 's ethical conduct. In this regard, the highest standards of ethics are required by employees when fulfilling their duties.

Good governance indicates that municipality should develop codes of conduct (ethics) as part of their corporate governance frameworks. All employees are expected to abide by the Code of Conduct for the Municipality. The code of conduct for Municipal staff is in **appendix A. and Appendix B** Code of conduct for counsellors.

5.1.4. Senior management commitment.

Senior management is to be committed to eradicating fraud and corruption and ensuring that the Institution 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 Institution'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.

5.1.5. Assessment of fraud and corruption risk.

The Municipality, under the guidance of the Municipal Manager , will conduct annual fraud and corruption risk assessments to identify potential fraud and corruption risk exposures to the Institution. This process will ensure that actions to address the identified fraud and corruption risk exposures will be implemented to mitigate these exposures.

The above will be formulated into “Fraud Risk Assessment” and which will provide an indication of how fraud and corruption risks are manifested and, a “Fraud and Corruption Risk Register” which will prioritise the fraud and corruption risks and indicate actions to mitigate these risks.

The fraud and corruption risk assessment shall me done as per the process as set out in the Municipal Risk Management Strategy.

5.1.6. Employee awareness

The main purpose of fraud and corruption awareness workshops / training is to assist in the prevention, detection and reporting of fraud and corruption by raising the level of awareness as to how fraud and corruption is manifested in the workplace. In this regard, all employees will receive training on the following:

- Anti-Fraud and Corruption strategy;
- Code of Conduct for employees;
- Whistle blowing policy;
- How to respond to fraud and corruption; and
- Manifestations of fraud and corruption in the workplace.
- The Institution has identified the individual that would be responsible for employee awareness and that will arrange and schedule awareness sessions throughout the year.

5.2. Operational structures

5.2.1. 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-Fraud and Corruption 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);
- Analysis of data;
- Monthly and annual financial statements;
- Reconciliation of bank statements, monthly; and
- Reconciliation of vote accounts, monthly.
- Procurement process

The Internal Audit will be responsible for implementing an internal audit program which will incorporate steps to evaluate adherence to internal controls.

5.2.2. Prevention strategies

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

a) Employee awareness

Employee awareness of the Municipal's Anti-Fraud and Corruption Strategy, Code of Conduct, Whistle blowing policy 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.

b) Pre-employment screening

Pre-employment screening will be carried out for all appointments, and evidence of such screening will be maintained by the HR Department. Consideration should be given to the following pre-employment screening:

- i. Verification of identity.
- ii. Police criminal history.
- iii. Reference checks with the two most recent employers – this will normally require telephone contact.
- iv. A consideration of any gaps in employment history and the reasons for those gaps.
- v. Verification of formal qualifications claimed.

The screening will be performed by a person / people nominated by the Human Resources Department 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)
 - i. Verification of claimed educational qualifications;

- ii. An independent reference check directly with two referees nominated by the applicant or previous employers; and
 - iii. Criminal history checks (after authorisation has been obtained from the prospective employee).
- Level 2 – All Managers and above, IT and Finance staff
 - i. All Level 1 checks;
 - ii. Employment history checks;
 - iii. Directorship and membership searches; and
 - iv. Insolvency/credit search.

c) Recruitment process

Recruitment will be conducted in accordance with the Municipal 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 Department and withdraw from any further procedures.

d) Risk assessment

Risk assessment should be conducted at a strategic level and in all operation business level as fraud and corruption and irregularities and be prevented by mitigating the risk of fraud and corruption in the Municipality.

Fraud and Corruption Risk Assessment shall be done in line with the guidelines as set in Ba-Phalaborwa Risk Management Strategy.

e) Internal Audit

The Internal Audit Annual Plan will be based on the results of risk assessment which will prioritise high risk areas including high Fraud and Corruption risks.

f) Disclosure of interest

All Senior Managers, Assistant Directors , Managers and Counsellors of the Municipality will be required to disclose their business interests on an annual basis. This register will be kept with the Manager: Risk Management.

5.2.3. Detection strategies

Detection of fraud and corruption may occur through:

- Vigilance on the part of employees, including line management;
- The Internal Audit function;
- Ad hoc management reviews;

- Anonymous reports; and
- The application of detection techniques.

Manager: Risk Management will be responsible for developing detection strategies, and will work closely with line management and the Internal Audit function for this purpose. The Institution will embark on a number of initiatives to detect fraud and corruption in the workplace.

a) Internal Audit

As part of the prevention strategy, internal audit will examine and evaluate the adequacy and effectiveness of the system of internal control according to the plan, commensurate with the extent of the potential exposure/risk in the various segments of the Municipality's operations. In carrying out these responsibilities, internal audit will determine whether:

- i. The organisational environment fosters control consciousness
- ii. Realistic organisational goals and objectives are set
- iii. Written policies (e.g. Code of conduct) exist that describe prohibited activities and the action required whenever violations are discovered
- iv. Appropriate authorisation policies for transactions are established and maintained
- v. Policies, practices, procedures, reports, and other mechanisms are developed to monitor activities and safeguard assets, particularly in high-risk areas
- vi. Communication channels provide management with adequate and reliable information.
- vii. Recommendations need to be made for the establishment or enhancement of cost effective controls to help deter fraud.

b) External Audit

The Municipality recognises that the external audit function is an important control in the detection of fraud. The Chief Finance 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 a Financial Statement*".

5.2.4. Response strategy

a) Reporting fraud and corruption – a Whistle blowing policy

One of the key obstacles to fighting fraud and corruption is the fear by employees of being intimidated to identify or "blow the whistle" on fraudulent, corrupt or unethical practices witnessed in the work place. Those who often do "blow the

whistle” end up being victimised and intimidated. For this reason, the Municipality will adopt a Whistle Blowing Policy setting out the detailed procedure which must be followed in order to report any incidents of fraud and / or corruption. This policy will be designed to comply with the provisions of the Protected Disclosures Act.

Any suspicion of fraud and corruption will be treated seriously and will be reviewed, analysed, and if warranted, investigated. If an employee becomes aware of a suspected fraud, corruption or any irregularity or unethical behaviour, such issues should be reported in terms of a Whistle Blowing Policy.

b) 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 the Manager: Risk Management or any appropriately qualified and experienced persons who are independent of the department / section where investigations are required. This may be a senior manager within the Institution itself, an external consultant or a law enforcement agency.

All investigations performed and evidence obtained will be in accordance with acceptable practices and legal requirements. Independence and objectivity of investigations are paramount.

Any investigation initiated must be concluded by the 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:

- i. Interviewing of relevant witnesses, internal and external, including obtaining statements where appropriate;
- ii. Reviewing and collating documentary evidence;
- iii. Forensic examination of computer systems;
- iv. Examination of telephone records;

- v. Enquiries from banks and other financial institutions (subject to the granting of appropriate approval/Court orders);
- vi. Enquiries with other third parties;
- vii. Data search and seizure;
- viii. Expert witness and specialist testimony;
- ix. Tracing funds / assets / goods;
- x. Liaison with the police or other law enforcement or regulatory agencies;
- xi. Interviewing persons suspected of involvement in fraud and corruption; and
- xii. 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 all applicable acts. 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, Line Management will reassess the adequacy of the current internal control environment (particularly those controls directly impacting on the fraud incident) to consider the need for improvements.

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 Line Management of the department / section concerned.

5.3. Maintenance strategies

5.3.1. Review of the effectiveness of the Anti-Fraud and Corruption strategy.

The Municipality will conduct a review of the Anti-Fraud and Corruption Strategy and Prevention 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.

5.3.2. Review and updating the Anti-Fraud and Corruption strategy.

The Manager: Risk Management is the central part of fraud and corruption control programme and should involve an ongoing review of fraud and corruption risk exposures. Fraud and Corruption risk assessments will also be conducted annually at the same time as the review of the Anti-Fraud and Corruption Strategy and Prevention Plan. As with the review, the Municipal Manager is ultimately accountable for this and may delegate a person to take responsibility.

The strategy will be reviewed on an annual basis to incorporate changes in the legislative framework within Local Government.

6. Procedure for investigation.

The Municipality has adopted a policy of investigating 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 Institution 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 Municipality within his / her delegated authority, will have the discretion to determine the appropriate external consultants and / or the Municipal personnel to conduct investigations.

6.1. Handling a fraud allegation

Should a Line Manager 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 / Section in which the alleged fraud or corruption has been identified) to conduct or co-ordinate an investigation into the allegations. The manager appointed to conduct or co-ordinate the investigation of an allegation of fraud may consult the Chairman of the Risk Management Committee on technical aspects of the investigation.

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.

6.2. Documentation of the results of the investigation

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

6.3. Other matters

The Municipal Manager, 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.

6.4. Reporting fraud to police and / or external parties

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

- a) An employee/volunteer of the Municipality;
- b) A client of the Municipality;
- c) A research grant recipient of the Municipality; or

- d) A supplier to the Municipality.

Reporting fraud to the police for investigation will be subject to the requirements as set out in all applicable acts.

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.

6.5. Recovery and other remedies

The Municipality has adopted a policy wherein it 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 Institution from such action.

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

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

7. Fraud and Corruption Prevention plan.

Fraud and corruption Risk assessment shall be conducted in four identified focus area. Those focus are:

- a) Human Recourses employment practices.
- b) Supply Chain process
- c) Citizens Complains Resolution
- d) Financial Systems and Controls.

The outcome of the Fraud and Corruption Risk Assessment shall consist of the following:

- Components of Risk under each focus area as well as manifestations (materialization) of frauds/corruption of each component; and
- The fraud and corruption risk register containing all the risk manifestations and the recommendation to address each manifestations.

As indicated under the section dealing with Maintenance Strategies, Fraud and Corruption Risk Assessments need to be conducted on at least an annual basis and Fraud and Corruption Prevention Plan updated.

Approvals

JOB DESIGNATION	NAME	SIGNATURE	DATE
Municipal Manager			
Council resolution number			

APPENDIX A

INVESTIGATION PROCEDURE

SUSPECTED FRAUD, CORRUPTION OR IRREGULARITY INVESTIGATION PROCURERS

This procedure is based on and is intended to be guided by, the principles of promptness, fairness and consistency.

1. The Municipal Manager will appoint a manager to conduct or co-ordinate an investigation into the alleged fraudulent conduct. External consultants maybe used for this purpose.
2. The Manager assigned responsibility for conducting or coordinating the investigation is to submit a written report, containing details of the circumstance and recommendations to the Municipal Manager, Chair Person of the Audit Committee, and the relevant line Manager within 30days, if the investigation is not concluded within 30days a preliminary investigation report should be submitted.
3. Once an investigation has began, consideration needs to be to whether it would be appropriate in the circumstances to suspend the subject on full pay until the issue is resolved. Advise should be sought from the Municipal Human Resource and the Legal Advisor.
4. After consideration by the Municipal Manager, if so resolved, the investigator or the Municipal Manager (or his/her delegate) will refer the matter to the nearest Police Station for further investigation.
5. The Manager Risk Management shall maintain a register o all fraud, theft, and irregular losses reported.
6. The Chief Financial Officer (in consultation with the Municipal Manager) will be responsible for recovering any funds owed to the Municipality as a results of court orders or private treaties with persons found to have been involved in fraudulent or corrupt conduct or negotiated settlements.
7. An officer appointed by the Municipal Manger will maintain files of al reported and working papers relating to investigation of fraud, corruption or irregular practices.
8. A report prepared by the Chair person of the Risk Management Committee is to be submitted to the Committee outlining details of any fraud or suspected fraud in the past period.

APPENDIX B

FRAUD AND CORRUPTION RISK MANAGEMENT RESPONSIBILITY MATRIX

N O	RESPONSIBILITY	RESPONSIBLE OFFICER	COMPLETION TINE FRAME
1.	Overall responsibility for ensuring implementation of the Anti-Fraud and Corruption Strategy and communication of this to staff.	Municipal Manager. Manager Risk Management. All Heads of Departments.	On-going
2.	Report on the coordination of fraud prevention, detection strategies and response to fraud incidents to the Municipal Manager and Chair Person of the Audit Committee	Manager: Risk Management/ Chairperson of the Risk Management Committee	Monthly
3.	Engagement of external expertise to assist in conducting investigation	Municipal Manager/ Chairperson of the Audit Committee/ Chairperson of the Municipal Councils	As required.
4.	Remain vigilant to any suspected fraudulent or corrupt behaviour and report all instances of fraud or potential fraud to line management or through such alternative channels that maybe provided.	All employees	On-going
5.	Comply with the requirements of the Anti-Fraud and Corruption Strategy	All employees	On-going
6.	Understand and monitor adherence with allocated responsibilities under this Responsibility Matrix	Manager Risk Management. Risk Management Committee	On-going
7.	Conduct a review of the Anti-Fraud and Corruption Strategy	Manager Risk Management assisted by line managers. Oversight by Risk Management Committee	Annually
8.	Ensure there is regular communication promoting compliance with the Anti-Fraud and Corruption Strategy and adherence thereto by all employees.	Manager Risk Management. Oversight by Risk Management Committee	Within six months of implementation of the this Strategy
9.	Co-ordination of training including Fraud Awareness Training	Training coordinator assisted Manager Risk Management.	As deemed appropriate
10.	Ensuring Fraud Risk Assessments are conducted.	Manager Risk Management. Oversight by Risk Management Committee	As deemed appropriate

11.	Coordinate the follow-up of the Fraud Risk Assessments by ensuring that all timetable strategies are appropriately implemented.	Manager :Risk Management assisted by line managers. Oversight by Risk Management Committee	As appropriate following each Fraud Risk Assessment
12.	Assign responsibility for pre-employment screening and background checks on all candidates offered positions within the Municipality.	Human Resources/Municipal Manager	On-going
13.	Development of fraud detection systems (including retrospective view of transactions, computer strategies and management accounting report analysis)with reference to most recent Fraud Risk Assessments.	Manager :Risk Management assisted by line managers. Oversight by Risk Management	As required
14.	Maintaining an appropriate recording, reporting and analysis system to ensure that all instances of suspected fraud are satisfactorily resolved.	Manager Risk Management Oversight by Risk Management Committee	On-going
15.	Ensuring external auditors give adequate consideration to ISA 240 ("The Auditor' s responsibility to consider in the audit of the financial statements")	Chief Finance Officer	On-going
16.	Ensuring that the Municipal Manager is briefed on allegations of suspected fraud.	Manager: Risk Management	As required
17.	Ensuring the MEC for local Government, Auditor General and other requisite persons in terms of the Municipal System Act and Municipal Finance Management Act are briefed on any allegation of suspected fraud.	Municipal Manager/Chairpersons of Municipal Councils	As required
18.	Preservation of evidence and containment of loss in an investigation.	Manager: Risk Management	As required
19.	Compilation of a written report to the Municipal Manager outlining circumstances and recommended remedial action following the investigation.	Manager: Risk Management/ Investigator	As required
20.	Providing details of the fraud or possible fraud to the Audit Committee.	Municipal Manager/	As required
21.	Determination of whether incidents of fraud will be reported to police.	Municipal Manager/Chairman of the Audit Committee	As required
22.	Inform the Audit Committee of any decision not to report the incident to the police.	Municipal Manager	As required
23.	Determining who will be the complainant when an incident is reported to the police.	Municipal Manager in conjunction with the investigator	As required

24.	Determining the appropriate course of remedial action.	Municipal Manager in conjunction with Line Management	As required
25.	Conducting exit interviews and ensuring compliance with the exit checklist of procedures.	Human Resources.	As required
26.	Procuring the services of a Hotline Service Provider.	Municipal Manager	2 months after implementation
27.	Appointment of a spokesperson to handle media enquiries, should a fraud be detected.	Municipal Manager	As required

APPENDIX C

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

Schedule 2 of the Municipal Systems Act, (Act 32 of 2000) provides for the Code of Conduct in respect of Municipal Staff Members

1. Definitions

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

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, purpose 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 favour or prejudice.

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.

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.

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.

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) declare to be privileged, confidential or secret in terms of any law
- (3) This item does not derogate from a person’s rights of access to information in terms of national legislation.

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 councilor, 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.

8. Rewards, gifts and favours

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

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.

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.

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.

12. Sexual harassment

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

13. Reporting duty 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.

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.

APPENDIX D

CODE OF CONDUCT FOR COUNCILLORS

Preamble

Councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainable within the means of the municipality.

In fulfilling this role councillors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the municipality in terms of established indicators. In order to ensure that councillors fulfill their obligations to their communities, and support the achievement by the municipality of its objectives set out section 19 of the Act, the following Code of Conduct is established.

Definitions

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

General conduct of councillors

2. A councillor must –
 - a. perform the functions of the office in good faith, honestly and a transparent manner, and
 - b. at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

Attendance at meetings

3. A Councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when-
 - a. leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or
 - b. that councillor is required in terms of this Code to withdraw from the meeting.

Sanctions for non-attendance of meetings

4. (1) A municipal council may impose a fine as determined by the standing rules

and orders of the municipal council on a councillor for:

- (a) not attending a meeting which that councillor is required to attend in terms of item 3; or
 - (b) failing to remain in attendance at such a meeting.
- (2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor.
- (3) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purpose of this item. The uniform standing procedure must comply with the rules of natural justice.

Disclosure of interests

5. (1) A councillor must-
- (a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that Councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and
 - (b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.
- (2) A councillor 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 full particulars of the benefits of which the councillor is aware at the first meeting of the municipal council at which it is possible for the councillor to make the disclosure.
- (3) This section does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

Personal gain

6. (1) A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.
 - (2) Except with the prior consent of the municipal council, a councillor may not-
 - (a) be a party to or beneficiary under a contract for
 - (i) the provision of goods or services to the municipality; or
 - (ii) the performance of any work otherwise than as a councillor for the municipality;
 - (b) obtain a financial interest in any business of the municipality; or
 - (c) for a fee or other consideration appears on behalf any other person before the council or a committee.
 - (3) If more than one quarter of the councillors objects to consent being given to a councillor in terms of subitem (2), such consent may only be given to the councillor with the approval of the MEC for local government in the province.
7. (1) When elected or appointed, a councilor must within 60 days declare in writing to the municipal manager the following financial interests held to the councilor:
 - (a) share and securities in any company;
 - (b) membership of nay close corporation;
 - (c) interest in any trust;
 - (d) directorships; (e) partnerships;
 - (f) other financial interests in any business undertaking;
 - (g) employment and remuneration;
 - (h) interest in property
 - (i) pension; and
 - (j) subsidies, grants and sponsorships by any organization.
- (2) Any change in the nature or details of the financial interest of a councilor must be declared in writing to the municipal manager annually.
- (3) Gifts received by a councilor above a prescribed amount must also be declared in accordance with subitem (1).

- (4) The municipal council must determine which of the financial interests referred in subitem (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

Full-time councillors

8. A councillor who is a full-time councillor may not undertake any other paid work. Except with the consent of a municipal council which consent shall not unreasonable be withheld.

Rewards, gifts and favours

9. A councillor may not request, solicit or accept any reward, gift or favour for-
- (a) voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member;
 - (b) persuading the council or any committee in regard to the exercise of any power, function or duty;
 - (c) making a representation to the council or any committee of the council; or
 - (d) disclosing privileged or confidential information.

Unauthorised disclosure of information

10. (1) A councillor may not without the permission of the municipal council or a committee discloses any privileged or confidential information of the council or committee to any unauthorised person.
- (2) For the purpose of this item "privileged or confidential information" includes any information-
- (a) determined by the municipal council or committee to be privileged or confidential;
 - (b) discussed in closed session by the council or committee;
 - (c) disclosure of which would violate a person's right to privacy; or
 - (d) declare to be privileged, confidential or secret in terms of law.

- (3) This item does not derogate from the right of any person to access to information in terms of national legislation.

Intervention in administration

11. A Councillor may not, except as provided by law-
- (a) interfere in the management or administration of any department of the municipal council unless mandated by council;
 - (b) give or purport to give any instruction to any employee of the council except when authorized to do so;
 - (c) obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or
 - (d) encourage or participate in any conduct which would cause or contribute to maladministration in the council.

Council property

12. A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has no right.

Duty of chairpersons of municipal councils

13. (1) If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must-
- (a) authorize 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 after paragraphs (a) and (b) have been complied with.
- (2) A report in terms of subitem (1)(c) is open to the public.
- (3) The chairperson must report the outcome of the investigation to the MEC for local government in the province concerned.

- (4) The chairperson must ensure that each councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets.

Breaches of Code

14. (1) A municipal council may –

(a) investigate and make a finding on any alleged breach of a provision of this Code; or

(b) establish a special committee-

- (i) to investigate and make a finding on any alleged breach of this Code; and
- (ii) to make appropriate recommendations to the council.

(2) If the council or a special committee finds that a councillor has breached provision of this Code, the council may-

- (a) issue a formal warning to the councillor; (b) reprimand the councillor;
- (c) request the MEC for local government in the province to suspend the councillor for a period;

(d) fine the councillor; and

(e) request the MEC to remove the councillor from office.

(3) (a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of subitem (2) may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reason on which the appeal is based.

(b) A copy of the appeal must be provided to the council.

(c) The council may within 14 days of receipt of the appeal referred to in paragraph

(d) make any representation pertaining to the appeal to the MEC for local government in writing.

(e) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.

(4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the councillor should be suspended or removed from office.

- (5) The Commission Act, 1947 (Act No. 8 of 1947) may be applied to an investigation in terms of subitem (3).
- (6) If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may-
- (a) suspend the councillor for a period and on conditions determined by the MEC; or
 - (b) remove the councillor from office.
- (7) Any investigation in terms of this item must be in accordance with the rules of natural justice.

Application of Code to traditional leaders

15. (1) Items 1, 2, 5, 6, 9 (b) to (d), 10, 11, 12, 13 and 14 (1) apply to a traditional leader who participates or has participated in the proceeding of a municipal council in terms of section 81.
- (2) These items must be applied to the traditional leader in the same way they apply to councillors.
- (3) If a municipal council or a special committee in terms of item 14 (1) finds that a traditional leader has breached a provision of this Code, the council may-
- (a) issue a formal warning to the traditional leader; or
 - (b) request the MEC for local government in the province to suspend or cancel the traditional leader's right to participate in the proceedings of the council.
- (4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the right of the traditional leader to participate in the proceedings of the municipal council should be suspended or cancelled.
- (5) The Commissions Act, 1947, may be applied to an investigation in terms of subitem (4).
- (6) If the MEC is of the opinion that the traditional leader has breached a provision of this Code, and that such breach warrants a suspension or cancellation of the traditional leader's right to participate in the council's proceedings, the MEC may
- (a) suspend that right for a period and on conditions determined by the MEC; or

(b) cancel that right

(7) Any investigation in terms of this item must be in accordance with the rules of natural justice.

(8) The suspension or cancellation of a traditional leader's right to participate in the proceedings of a council does not affect that traditional leader's right to

APPENDIX E

ACTS OF MISCONDUCT

An employee will be guilty of misconduct if she or he, among other things (this list is not exhaustive):

- Fails to comply with, or contravenes an Act, regulation or legal obligation.
- Wilfully or negligently mismanages the finances of the State.
- Without permission possesses or wrongfully uses the property of the State, another employees and/or a visitor.
- Wilfully, intentionally or negligently damages and or causes loss of state property.
- Endangers the lives of self or others by disregarding safety rules or regulations.
- Prejudices the administration, discipline or efficiency of a department, office or institution of the State.
- Misuses his or her position in the public service to promote or to prejudice the interest of any political party.
- Steals, bribes or commits fraud.
- Accepts any compensation in cash or otherwise from a member of the public or another employee for performing her or his duties without written approval from the department.
- Fails to carry out a lawful order or routine instruction without just or reasonable cause.
- Absents or repeatedly absents him/herself from work without reason or permission.
- Commits an act of sexual harassment.
- Discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution.
- Performs poorly or inadequately for reasons other than incapacity.
- Without written approval from her or his department, performs work for compensation in a private capacity for another person or organisation either during or outside working hours.
- Without authorisation, sleeps on duty.
- While on duty, is under the influence of an intoxicating, illegal, unauthorised, habit-forming and/or stupefying drug, including alcohol.
- While on duty, conducts herself or himself in an improper, disgraceful and unacceptable manner.
- Contravenes any prescribed Code of Conduct for the public service.
- Assaults, or attempts or threatens to assault, another employee or person while on duty.
- Incites other personnel to unprocedural and unlawful conduct.
- Displays disrespect towards others in the workplace or demonstrates abusive or insolent behaviour.
- Intimidates or victimises fellow employees.
- Prevents other employees from belonging to any trade union or body.
- Operates any money lending scheme for employees for own benefit during working hours or from the premises of the public service.
- Carries or keeps firearms or other dangerous weapons on state premises, without the written authorisation of the employer.
- Refuses to obey security regulations.
- Gives false statements or evidence in the execution of his or her duties.
- Falsifies records or any other documentation.
- Participates in unprocedural, unprotected and/or unlawful industrial action.
- Commits a common law or statutory offence while on state premises.

APPENDIX F



DISCLOSURE OF INTEREST FORM

Full Names: _____

ID number:

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Position: _____

Description of the nature of Interest:

I hereby certify that the above information is complete and correct to the best of my knowledge.

Signature

Date

APPENDIX G



REMUNERATION WORK OUTSIDE THE PUBLIC SERVICE

Full Names: _____

ID number:

--	--	--	--	--	--	--	--	--	--	--	--	--

Position: _____

I hereby apply to work remunerative work outside the council details as follows:

Name of Employer: _____

Type of Work: _____

Days and time when work is done: _____

Amount of remuneration: _____

I hereby certify that the above information is complete and correct to the best of my knowledge and that the above work will not in any case affect my commitment and my performance in the council.

Signature (Applicant)

Date

Approved by Council	Not approved
---------------------	--------------

Council resolution

Date of Council
