

# **BA-PHALABORWA MUNICIPALITY**



## **INVESTIGATION POLICY**

**2022/23**

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## INVESTIGATION POLICY

### 1 PURPOSE

The purpose of the document is to provide guidance to enable **Ba-Phalaborwa Municipality** to properly manage investigations.

### 2 BACKGROUND

The investigation policy is established to provide guidelines as to how to respond should instances of fraud and corruption be identified. The policy guidelines focus on the reporting, investigation and prosecution of fraudulent and corrupt activities.

### 3 POLICY STATEMENT

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

### 4 INVESTIGATION PROCEDURE

In the event that fraud or corruption is detected or suspected, an investigation will be initiated, and if warranted, disciplinary proceedings, prosecution or action aimed at the recovery of losses will be initiated. The following procedure has been adopted by **Ba-Phalaborwa Municipality** as a process to be followed in the investigation of fraud and related incidents.

#### 4.1 REPORTING OF SUSPICIOUS ACTIVITIES

It is the responsibility of every employee to report all incidents of fraud and corruption that may come to his / her attention, the incident must be reported to the supervisor, manager or senior Manager of the relevant department. Alternatively, such reports can be made by way of submitting a report through the prescribed whistle blowing mechanism.

The conditions leading to reporting crime may differ from one instance to another, but employees are encouraged to use the internal channels. When offences are reported, the requirements of the MFMA should be taken into account.

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.

#### **4.2 PRELIMINARY INVESTIGATION**

All Managers are responsible for the detection, prevention and investigation of fraud and corruption, within their areas of responsibility. All suspected fraudulent activities should be reported to Accounting Officer, who will assess the incident and allocate it to the line manager for preliminary investigation or refer it Risk Management Unit or any other designated Unit for full investigation. *(Consider conflict of interest, transparency and potential suppression of incidents reported when deciding on the above process, other Institutions charge the Internal Investigation full investigation*

#### **4.3 FULL INVESTIGATION**

The nature of reports of incidents of fraud and / or corruption will determine action to be taken. Other incidents will warrant a preliminary investigation, as mentioned in par 4.2 above, before any decision to implement full blown independent investigation is taken.

Appropriately qualified and experienced person within the municipality / section will undertake investigations where investigations are required. This may be a senior manager within the Institution itself, an internal investigator, 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.

**Ba-Phalaborwa Municipality** employees are encouraged to assist and co-operate in the investigation process as may be required. 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.

#### 4.4 RESOLUTION

**Ba-Phalaborwa Municipality** will perform the following activities after the discovery of fraudulent or corrupt activities:

##### 4.4.1 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.

##### 4.4.2 Prosecution

Should investigations uncover evidence of fraud or corruption in respect of an allegation or series of allegations, the investigator 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 **Ba-Phalaborwa Municipality** will give its full co-operation to any such law enforcement agency including the provision of reports compiled in respect of investigations conducted.

##### 4.4.3 Recovery action

Where there is clear evidence of fraud or corruption and there has been a financial loss to the **Ba-Phalaborwa 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. (Requirements of the MFMA should be taken into account).

##### 4.4.4 Internal control review after discovery of fraud

In each instance where fraud is detected, Line Management will re-assess the adequacy of the current internal control systems (particularly those controls directly impacting on the fraud incident) to consider

the need for improvements. The responsibility for ensuring that the internal control systems are re-assessed and for ensuring that the recommendations arising out of this assessment are implemented will lie with Line Management of the Institution / section concerned.

## 5 LEGAL FRAMEWORK

The policy is developed in line with the Constitution of the country and has taken into consideration, among other, the provisions of the following legislations:

- Criminal Procedure Act;
- Law of Evidence;
- Prevention and Combating of Corrupt Activities Act;
- Labour Relations Act;
- Promotion of Access to Information Act;
- Promotion of Administrative Justice Act;
- Public Finance Management Act;
- Municipal Finance Management Act;
- Municipal Systems Act;
- Municipal Systems Act: Code of Conduct for Councillors; and
- Municipal Systems Act: Code of Conduct for Municipal officials (also applicable to municipal entities).

## 6 APPLICATION

This policy is applicable to all employees of the **Ba-Phalaborwa Municipality**. Suspicious activities referred to in the investigation policy / procedure include acts of external parties, i.e. suppliers, contractors, consultants, etc. Contravention of the provisions of the policy will be dealt with as per disciplinary procedures set out in par 4.4. The person charged with the ownership of this policy / procedures is expected to fairly communicate and ensure that all employees are aware of its existence and application. The policy cannot be applied, under any circumstance, in contravention of any of the legislations of the country or in a manner that constitute abuse of human rights.

**7 OWNERSHIP**

**Ba-Phalaborwa Municipality;** Accounting Officer / Authority are charged with the ultimate ownership of the policy. *(The ownership can be delegated to an appropriate unit)*

**8 REVISION**

The policy will be reviewed as follows:

- Annually so to align to the Fraud Prevention Strategy review;
- Any time to reflect any material changes in the Fraud Prevention Policy;
- Any time to reflect any material changes in the Investigation Policy / Procedure resulting from incidents investigated; and
- Any time to reflect relevant changes in the legislation of the country.

**9 APPROVAL**



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**Municipal Manager**

Council Resolution: 196/22.

Council Resolution Date: 26/05/2022.