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Fraud Prevention Policy: Drakenstein  
Municipality

DRAKENSTEIN

MUNISIPALITEIT • MUNICIPALITY • UMASIPALE WASE

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## 1. DEFINITIONS

In this policy, unless the context indicates otherwise, a word or expression, to which a meaning has been assigned in the Municipal Finance Management Act has the same meaning.

In interpreting the under-mentioned definitions, cognizance must also be taken of the definitions as encapsulated in applicable enabling legislation.

*“Fraud”* means an unlawful and intentional making of a misrepresentation, which is potentially prejudicial to another. The term is used to describe such acts as deception, bribery, forgery, extortion, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts, collusion etc.

*“Corruption”* means the giving or offering, receiving or agreeing to receive, obtaining or attempting to obtain any benefit which is not legally due to or by a person who has been charged with a duty or power by virtue of any employment, to do any act or omit to do any act in relation to that power or duty; and

*“Theft”* means the unlawful and intentional misappropriation of another’s property or property which is in his / her lawful possession, with the intention to deprive the owner of its rights permanently;

## 2. INTRODUCTION

- 2.1 Prevention of fraud is about understanding risks, external and internal, and in recognizing that the working environment created by an organization is the most significant factor that determines how much of a target for fraud that organization will be.
- 2.2 This policy is intended to set out the attitude of the Municipality to fraud and to reinforce existing policies and procedures of the Municipality aimed at preventing, reacting to, and reducing the impact of fraud;
- 2.3 The goal of fraud and corruption prevention within the Municipality is to manage the susceptibility to risk with a view to reducing it and to raise the level of fraud awareness amongst employees and other stakeholders;
- 2.4 Furthermore, the purpose of the policy is to communicate that the Municipality is committed to eliminate fraud and that the Municipality supports and fosters a culture of zero tolerance to fraud and all its activities. Through this policy, the Municipality undertakes to combat all forms of fraud and corruption as well as to remain pro-active in the fight against fraud.

### **3. APPLICATION OF POLICY**

This policy shall apply to all Councilors, officials, service providers, authorized agents and nominees of the Municipality, or any other person who is involved or deals with the Municipality, directly, indirectly or otherwise.

### **4. GENERAL**

4.1 The Municipality's policy to fraud is zero tolerance.

4.2 All fraud, corruption, theft, maladministration or any other dishonest activities of a similar nature will be investigated and followed up by applying the appropriate remedies and the full extent of the law. Appropriate prevention and detection controls must be developed and enforced. These include the existing financial and other controls and checking mechanisms as prescribed.

4.3 This policy applies to all allegations, attempts and incidents of fraud impacting or having the potential to impact on the Municipality.

4.4 The attempted fraud is treated as seriously as the accomplished fraud.

### **5. PROCEDURES FOR REPORTING FRAUDULENT AND OR CORRUPTION ACTIVITIES**

5.1 The Municipality and the Municipal Council expects employees, stakeholders, service providers and ratepayers to report any reasonable suspicions, allegations and incidents of fraud of whatever value, to the Municipality.

5.2 The Municipality encourages members of the public or providers of goods and/or services who suspect fraud to contact the Accounting Officer, any other member of management within the Municipality or any Council member.

5.3 Every employee who becomes aware of fraud or acts of dishonesty must report this to his/her immediate supervisor. If the immediate supervisor is a party to the fraud, the next level of management must be informed. In addition to this the Office of the Accounting Officer and the Head of Internal Audit (Directorate Strategic Services) must be informed.

- 5.4 A reporting channel (National Hotline on 0800 701 701) through which employees, suppliers, contractors and other third parties can report irregular activities, free from victimization or repercussions, is implemented by the Municipality. The primary means of detecting fraud will and should always remain a sound system of internal control and regular internal audits. These measures should be supplemented with a fraud-reporting channel where information regarding fraud, theft and corruption is collected, and decisive corrective and protective steps are taken to limit the Municipality's exposure to further or future loss. Vital to this function is the assurance of anonymity, commitment to investigate all irregularities, protection of the whistleblower and consistent application of the fraud policy, regardless of the seniority of the alleged offender.
- 5.5 For issues raised by employees, members of the public and service providers, the action taken by Municipality will depend on the nature of the concern. The matters raised may be:
- a) Investigated internally; or
  - b) Referred to the South African Police Service (SAPS) or other law enforcement agency.
- 5.6 Any alleged fraud committed by an employee or any other person will be pursued by thorough investigation (set out in section 6 below), and to the full extent of the law, including (where appropriate) consideration of:
- a) In case of employees, taking disciplinary action within a reasonable period of time after the incident;
  - b) Instituting civil action to recover losses;
  - c) Initiating criminal prosecution by reporting the matter to SAPS or any other relevant law enforcement agency; and
  - d) Any other appropriate and legal remedy available.
- 5.7 Managers are required to ensure that losses or damages suffered by the Municipality as a result of all reported acts committed or omitted by an employee or any other person are recovered from such an employee or other person if he or she is found to be liable.
- 5.8 The responsible manager with the assistance of other relevant managers, will also ensure that the following steps are taken with regard to financial misconduct in line with the provisions of the MFMA and Municipal Systems Act:

- a) Ensuring that disciplinary proceedings are carried out in accordance with the relevant prescripts;
- b) Ensuring that disciplinary proceedings are instituted within 30 days;
- c) Annually submitting to the Auditor-General a schedule of:
  - i. The outcome of any disciplinary hearings and/or criminal charges;
  - ii. The names and ranks of officials involved; and
  - iii. The sanctions and any further actions taken against these officials;
- d) In terms of section 62(1)(e) of the MFMA, the Accounting Officer, must ensure that disciplinary or, when appropriate, criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct or an offence.
- e) Take the following into account when determining the appropriateness of disciplinary steps against an official:
  - i. The circumstances of the transgression;
  - ii. The extent of the expenditure involved;
  - iii. The nature and seriousness of the transgression; and
  - iv. Reporting losses to the SAPS, the Accounting Officer and the Chief Financial Officer.

## **6. RESPONSIBILITY TO CONDUCT INVESTIGATIONS INTO CASES OF FRAUD**

6.1 The responsibility to initiate investigations in cases of alleged fraud resides with the Accounting Officer.

6.2 The Accounting Officer will report to the South African Police Services all cases of alleged:

- a) Irregular expenditure that constitute a criminal offence; and
- b) Theft and fraud that occurred in the municipality.

6.3 The Accounting Officer is responsible for supplying appropriate feedback on the progress of investigations to all relevant parties on a "need to know basis."

## **7. PROTECTION OF WHISTLE-BLOWERS**

7.1 No employee will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud.

7.2 Every employer has a responsibility to take all necessary steps to ensure that employees who disclose such information are protected from any reprisals as a result of such disclosure.

7.3 All managers should discourage employees or other parties from making allegations that are false or malicious. Where such allegations are discovered, the person who made the allegations must be subjected to firm disciplinary action or, in the case of external parties, other appropriate action.

7.4 The Protection Disclosures Act, Act 26 of 2000 makes provision for procedures in terms of which employees may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers without fear of victimization. A person shall therefore not:

- a) prejudice, or threaten to prejudice, the safety or career of; or
- b) intimidate or harass, or threaten to intimidate or harass; or
- c) do any act that is, or is likely to be, to the detriment of another person because the other person: -
  - (i) has assisted, is assisting or will or may in the future assist the Municipality with the investigation;
  - (ii) has furnished, is furnishing or will or may in the future furnish information to the Municipality; or
  - (iii) has been or is, or has been or is employed by, or acting on behalf of, an independent agency or appropriate authority to whom or which and allegation has been referred; or
  - (iv) has exercised a power, or performed a duty, conferred imposed on the other person or is exercising or performing, or will or may in the future exercise or perform, any such power or duty.

7.5 All whistle-blowers' identities must remain confidential or anonymous to prevent victimization.

7.6 Action to cover up to the wrongdoing and or to retaliate against, or victimize witnesses is strictly forbidden, and such action constitutes a conduct within the jurisdiction of the Municipality, which is punishable.

## **8. PRO – ACTIVE APPROACH**

8.1 Being pro-active is an essential principle in combating crime. The procedures set out below will assist in identifying risk areas and preventing crime.

8.2 The Municipality must:

8.2.1 Actively and continuously searches for evidence of fraud and corruption through appropriate prevention and detection mechanisms.

8.2.2 Perform a data interrogation exercise periodically on payroll records and procurement transactions with the intention to identify patterns of potentially fraudulent behavior internal control implementation weaknesses and possible conflict of interest situations.

8.2.3 Ascertain the frequency with which the interrogation should be carried out on an ongoing basis and plan for this, including establishing an expenditure budget.

8.2.4 Ensure that more comprehensive background checking is carried out on prospective employees, including at least verification of previous employment details, academic qualifications, citizenship and criminal records. The municipality must obtain the necessary legal advice on what is acceptable.

8.2.5 Ensure that more comprehensive background checking is carried out on potential service providers.

8.2.6 Ensure awareness of all legislative obligations placed and that these are properly communicated to all appropriate levels throughout the Municipality.

## **9. PREVENTION MEASURES**

9.1 The management must create an environment and culture in which employees believe that dishonest acts will be detected and investigated;

9.2 They must:

9.2.1 Participate in in-house training programs covering fraud and corruption prevention and training on the code of ethics;

9.2.2 Ensure that staff understands that the internal controls are designed and intended to prevent and detect fraud and corruption or any other dishonest activities of a similar nature;

- 9.2.3 Encourage staff to report suspected fraud and corruption directly to those responsible for investigation without fear of disclosure or retribution; and
- 9.2.4 Require vendors and contractors to agree in writing as a part of the contract process, to abide by the Municipality policies and procedures, and thereby avoid any conflict of interest.
- 9.3 Measures to prevent fraud and corruption should be continually monitored, reviewed and developed particularly as new systems, programs, contracting or arrangements are introduced or modified.

## **10. CONFIDENTIALITY**

- 10.1 All reports of fraud must be treated confidentially. The progress of investigations will not be disclosed or discussed with any person(s) other than those who have a legitimate right to such information in order to avoid compromising the reputations of suspected persons who are subsequently exonerate of any wrongful conduct.
- 10.2 No employee is authorized to supply any information with regard to reports of fraud, covered within this policy, to the media, or any other party, without the permission of the Accounting Officer.
- 10.3 In order to avoid damaging the reputations of innocent persons initially suspected of wrongful conduct, the results of investigations will not be disclosed or discussed by anyone other than those who have a legitimate need to know.
- 10.4 The Municipal Council will decide whether any information relating to corrective actions taken or sanctions imposed regarding incidents of fraud should be brought to the attention of other employees or made public through any other means.

## **11. FRAUD PREVENTION PLAN**

The Municipality must develop a Fraud Prevention Plan setting the preventing strategy and objectives.

## **12. POLICY APPROVAL**

This policy has been considered and approved by the Council of Drakenstein Municipality on the 22<sup>nd</sup> of September 2009.