West Coast District Municipality

Anti - Fraud and Corruption Strategy and Policy

2020/2021

CONTENTS   **PAGE**

1   Purpose

    1.1   The purpose of this Policy is to articulate the West Coast District Municipality (WCDM)'s philosophy on fraud prevention.

    1.2   The WCDM is committed to fighting fraud and corruption in order to ensure that it protects itself and any related parties from unwanted exposure that could have a detrimental impact on the achievement of the municipality's objectives.

    1.3   This policy is intended to assist in the prevention, detection and investigation of fraud and corruption.

2   Background

2.1   This policy supports the municipal core values which are as follows:

- Integrity- accountability and ethics to the citizens
- Transparency - to be transparent and open in our business
- Loyalty - putting the organisation first
- Respect - will treat public and colleagues with fairness, respect and consideration
- Quality - achieving or exceeding measurable standards
- Ownership
- Teamwork

2.2   The provision of section 62. (1) (c) of the Municipal Finance and Management Act stipulates that "the accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure—

(c) that the municipality has and maintains effective, efficient and transparent systems—

(i) of financial and risk management and internal control…"

2.3   The municipality adopts this policy which is aligned to the principles of the Code of Conduct (Schedule 1 & 2 of the LG: Municipal Systems Act no. 32 of 2000), as well as relevant legislation which includes the:

- Constitution of the Republic of South Africa (Act No.108 of 1996)
- Municipal Finance Management Act (Act No. 56 of 2003)
- Prevention and Combating of Corrupt Activities Act (Act No. 12 of 2004)
- Protected Disclosures Act (Act No. 26 of 2000)
- Public Service Act (Proclamation 103 of 1994)

3   Scope of Policy

3.1   This policy applies to any irregularity, or suspected irregularity that has an impact or potential impact on the objectives of the WCDM and is applicable to all councillors and municipal staff as well as third parties acting on behalf of/contracted to the municipality.

3.2   It is the duty of every employee to report all suspected or alleged instances of fraud, corruption and theft via the prescribed reporting channels.

4   Policy Statement

4.1   Fraud represents a significant potential risk to the municipality's assets, service delivery efficiency and reputation. The municipality will not tolerate fraudulent or corrupt activities, whether internal or external to the municipality, and will vigorously pursue and prosecute any parties, by all legal means available, whoich engage in such practices or attempt to do so. Allegations of fraud, corruption and theft will be duly assessed, available remedies applied and appropriate preventative and detective controls implemented.

4.2   The municipality has adopted a zero tolerance to fraud and corruption.

5   The Concept of Fraud Prevention

5.1   Fraud prevention is a process that is adopted by the municipality, in putting mechanisms in place, to manage the municipality's vulnerability to fraud. Such mechanisms are designed to prevent, deter and detect fraud.

5.2   As per ~~of~~ the Enterprise Risk Management (ERM), it is the responsibility of the Municipal Manager to establish structures to address the threat of fraud.

6   Prevention and Detection

6.1   Codes of Conduct for Municipal Employees and Councillors

6.1.1   Schedule 1 of the Systems Act contains the Code of Conduct for Councillors with specific standards for good conduct.

6.1.2   A note which refers to the Code of Conduct for Councillors is included in each standing committee agenda.

6.1.2   Schedule 2 of the Systems Act contains the Code of Conduct for Municipal Employees with specific conduct standards.

6.1.3   The Code of Conduct for Municipal Employees:

- is available on the municipality's website for ease of reference;
- is annually attached to employees payslips; and
- reference thereto, will be included in the monthly newsletter which serves as a reminder to employees.

6.1.4   A gifts policy and gifts register has been implemented <u>by</u>~~at~~ the municipality in order to ensure that both the acceptance and offering of business courtesies, including gifts, by all employees of the municipality occurs only within the standards as prescribed in the MFMA. Internal audit will review the gifts register on a quarterly basis.

6.1.5   A declaration of interest and a private work policy as well as a process for the declaration of private business interests and actual or potential conflicts of interest by all employees and the maintenance of a centralised record thereof has been developed and implemented. Applications are submitted to management for

approval and approved private work is reported to the Audit Committee on a quarterly basis.

6.2   Systems, Policies and Procedures

6.2.1   All employees and other stakeholders are expected to comply with the applicable policies and procedures. A fundamental risk in this area is the lack of knowledge, awareness, effective communication and training relating to prevailing systems, policies and procedures.

6.2.2   All employees are made aware of the Municipality's systems, policies and procedures through on-the-job training, education and on-going awareness by their direct supervisors and other levels of management. Annually, a policy register with all the policies and procedures is circulated before the end of March to all employees. The policies and procedures are also available on the website and intranet.

6.2.3   Where formal training on systems, policies and procedures are offered, attendance will be encouraged and registers will be maintained as evidence of attendance.

6.2.4   The municipality will ensure that there are sufficient processes in place to monitor compliance with policies and procedures.

6.3   Internal Control

6.3.1   All employees are required to acquaint themselves in the application of the controls related to their day-to-day activities. This is to ensure the effectiveness of these controls to prevent and detect fraud, corruption and theft.

6.3.2   The municipality's systems, policies and procedures prescribe various controls which (if implemented effectively) would limit the risk of fraud, corruption and theft. These controls may be categorized as either preventative controls of detective and corrective controls.

6.3.3   Where an incident of fraud, corruption and theft is reported, management must immediately review the effectiveness of the controls which failed to prevent the

incident and make the necessary improvements to ensure that the controls are effective going forward.

6.4 Physical and Information Security

6.4.1 All employees are required to acquaint themselves with the municipality's physical and information security policies. Particular emphasis should be placed on email and internet usage, as well as the importance of password security.

6.4.2 Employees should be cognisant to the fraud risks associated with information security, the utilisation of computer resources and access controls which provide for information security.

6.5 Fraud Perception Surveys

6.5.1 The municipality will conduct regular fraud perception surveys among employees at all levels in order to gauge the perception of fraud in the municipality. These surveys will be benchmarked against data available from other municipalities as well as over time, which will provide insight into the improvements made or areas where specific proactive measures may be required.

6.6 Fraud Risk Assessments and Risk Registers

6.6.1 Fraud risk assessments will be conducted annually by the risk service provider to ensure that fraud risks are identified, assessed and that the mitigating controls and further actions to reduce the risks are identified.

6.6.2 The output of a fraud risk assessment is a fraud risk register which sets out the identified risks which have been assessed inherently and residually in terms of the likelihood of occurrence and the impact of the risk should be realised.

6.6.3 The municipality has a zero tolerance for fraud risks and this will be applied when assessing fraud risks.

6.7   Awareness and Training

6.7.1   The municipality will ensure that employees are made aware of and receive appropriate training on matters regarding fraud, corruption and theft by:

- the training officer including the applicable training areas in the work place skills plan of employees; and
- fraud awareness be created through communications on the intranet and monthly newsletters.

6.8   Internal Audit

6.8.1   Investigating fraud, corruption and other irregularities is not the primary focus of an internal audit assignment. Internal audit will however, consider the controls preventing and detecting fraud where necessary on an individual assignment level. Should suspicions of fraud, theft and corruption be identified these will be brought to the attention of the Municipal Manager.

7   Reporting and Investigating Procedures

In order to ensure uniformity in the reporting and investigation of incidents of fraud and corruption, the following high-level process will be followed:

(i)   reporting of possible fraud and corruption;

(ii)   preliminary investigation of incidents reported;

(iii)   full investigation process and procedures;

(iv)   procedure in taking resolutions; and

(v)   reporting and recovery of loss.

7.1   Reporting Procedures

(a)   Employees

7.1.1   Staff members who have knowledge of an occurrence of fraud or corruption, or who have good reason to suspect that a fraudulent or corrupt act has occurred,

have a duty to promptly report any reasonable suspicions to their immediate line manager.

7.1.2 Should employees be concerned that their immediate line manager may be implicated or should employees wish to report allegations of fraud and corruption anonymously, they may contact ~~either~~ :

(i) the Municipal Manager;

(ii) the Internal Audit Manager;

(iii) the Chairperson of the Audit and Performance Audit Committee;

(iv) the outsourced risk service provider; or

(v) directly report the matter to the National Fraud Hotline.

7.1.3 All managers are responsible for the detection, prevention and investigation of fraud and corruption and must accordingly report all incidents, suspicions and allegations of fraud and corruption.

(b)   The Public

7.1.4 Should a member of the public suspect or become aware of fraud and corruption, they are encouraged to contact any of the parties listed in 7.1.2 above.

7.2   Investigation Procedures

7.2.1 The course of action undertaken will depend on the nature of the reported matter. Depending on to whom the matter has been reported, a process will be undertaken to conduct a preliminary investigation of the reported matter and initiate a full investigation into the matter as appropriate. The investigation may be undertaken internally or by utilising an independent external service provider.

7.2.2 The report on conclusion of the investigation will be issued, depending on the level on the incident occurring and when considered necessary and on a 'need to know basis" to ~~either~~:

(i)   The Municipal Manager,

(ii) The Fraud and Risk Committee,

(iii) The Audit and Performance Audit Committee,

(iv) Council,

(v)   General public.

7.2.3 Any fraud and corruption committed by an employee or any other person will be pursued by thorough investigation and to the full extent of the law, including (where appropriate) consideration of:

(i)   in the case of employees, taking disciplinary action within a reasonable period of time after the incident;

(ii) instituting civil action to recover losses;

(iii) initiating criminal prosecution by reporting the matter to the SAPS or any other relevant law enforcement agency; and

(iv) any other appropriate and legal remedy available.

7.2.4 Managers are required to ensure that losses or damages suffered by the municipality as a result of all founded acts of fraud and/or corruption are recovered from the applicable person if he or she is found to be liable for such losses.

7.2.5 The person reporting suspected fraud will remain anonymous unless clearly expressed in writing to the Municipal Manager or when required by law. The identity of persons reporting allegations of fraud and/or corruption will be protected and no person will suffer any penalty or retribution for good faith reporting. Managers should discourage employees or other parties from making allegations which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations will be subjected to firm disciplinary or other appropriate actions.

7.2.6 The Municipal Manager will, where possible, write to the person lodging the allegation of fraud and/or corruption in order to acknowledge that the concern was received, to communicate the process to deal with the matter, to provide an estimate of how long the process will take to conclude and to inform them of whether any further investigations will be taking place.

8 Role players

WCDM has taken a stance that management of fraud and corruption threat like any other risks is the responsibility of everyone in the municipality.

The Municipal Manager has delegated the ownership and communication of fraud risk management to the Directors / Line managers / Division managers / Employees in specific areas of the municipality.

8.1 Risk Management Oversight

8.1.1 Council

Council takes an interest in fraud risk management to the extent necessary to obtain comfort that properly established and functioning systems of risk management are in place to protect the municipality against significant fraud risks.

8.1.2 Audit and Audit Performance Committee

The Audit and Audit Performance Committee is an independent committee responsible for the oversight of the municipality's control, governance and risk management. The responsibilities of the Committee with regard to fraud risk management are formally defined in its charter. The Committee provides an independent and objective view of the department's fraud risk management effectiveness.

8.1.3 Fraud and Risk Committee

The Fraud and Risk Committee is appointed by the Municipal Manager to assist the Municipal Manager to discharge his/her responsibilities for fraud risk management. The Committee's role is to review the fraud risk management progress of the municipality, the effectiveness of fraud risk management activities, the key fraud risks facing the municipality, and the responses to address these key fraud risks.

8.2 Risk Management Implementers

8.2.1 Municipal Manager

The Municipal Manager is accountable for the municipality's overall governance of fraud risk. By setting the tone at the top, the Municipal Manager promotes accountability, integrity and other factors that will create a positive control environment.

8.2.2 Management

Management is responsible for executing their responsibilities outlined in the fraud strategies of the municipality and for integrating risk management into their operational routines.

8.2.3 Other Officials

Other officials are responsible for integrating fraud risk management into their day-to-day activities. They must ensure that their delegated risk management responsibilities are executed and continuously report on progress.

8.3 Risk Management Support

8.3.1 Chief Risk Officer (Outsourced Risk Service Provider)

The Chief Risk Officer is the custodian of the fraud strategies, and coordinator of the fraud risk management activities throughout the municipality. The primary responsibility of the Chief Risk Officer is to bring to bear his/her specialist expertise to assist the municipality to embed risk management and leverage its benefits to enhance performance.

8.3.2 Risk Champion

The Risk Champion's responsibility involves intervening in instances where the fraud risk management efforts are being hampered, for example, by the lack of co-operation by Management and other officials and the lack of skills and expertise.

8.4 Risk Management Assurance Providers

8.4.1 Internal Audit

The role of Internal Audit in fraud risk management is to provide an independent, objective assurance on the effectiveness of the municipality's system of fraud risk management. Internal Audit must evaluate the effectiveness of the entire system of fraud risk management and provide recommendations for improvement where necessary.

8.4.2 External Audit

The external auditor (Auditor-General) provides an independent opinion on the effectiveness of fraud risk management.

9 Confidentiality

9.1 All information relating to fraud allegations will be treated confidentially as this is important to avoid potential harm to the suspect's integrity who subsequently could be found innocent.

9.2 The identity of the person reporting the allegation will remain anonymous unless this is required by law or the person expresses in writing otherwise.

9.3 The HR policy of the municipality regulates the supply of information to the media.

10 Monitoring

10.1 The fraud and corruption register administered by Internal Audit, will be used to monitor fraud and corruption matters at the municipality by:

(i)   serving as a record of all allegations;

(ii)   tracking progress with the management of allegations;

(iii)   facilitating the early identification of weaknesses and recurring risks as well as inform managers and employees of systemic weaknesses/risks; and

(iv)   serving as a point of reference to provide feedback to employees and other whistle blowers on the management of allegations.

11 Policy Review

11.1 This policy will be reviewed annually to reflect the current stance on risk management. Changes to the policy will be recommended to the Audit and Audit Performance Committee for approval by Council.

12 Approval

Recommended by the Fraud and Risk Committee:

Signature: _____

Name in Print: _____

Date: _____

Position: Chairperson

Recommended by the Audit and Performance Audit Committee:

Signature: _____

Name in Print: _____

Date: _____
Position: Chairperson

Approved by the Municipal Manager

Signature: _____

Name in Print: _____

Date: _____
Position: Municipal Manager

Approved by Council Resolution
Resolution No.: _____
Date: _____

Glossary

- ***Corruption*** – 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. More specifically, it is the abuse of power for illegitimate or illegal gain or profit.

  Corruption should be distinguished from maladministration, but is closely related to it, since in the absence of properly functioning systems and controls, corruption is permitted to thrive.

- ***Fraud*** – in terms of common law: A false representation of a matter of fact—whether by words or by conduct, by false or misleading allegations, or by concealment of what should have been disclosed—that deceives and is intended to deceive another so that the individual will act upon it to her or his **legal** injury.

- ***Maladministration*** – actions or inactions of serious nature that are contrary to the law, unreasonable, unjust, oppressive or improperly discriminatory, or based wholly or partly on improper motives.

- **Theft** - the unlawful, intentional appropriation of property (moveable or intangible assets) which belongs to or is in the care of the municipality with the intention to permanently deprive the rightful owner of such property.