



CITY OF CAPE TOWN
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FRAUD PREVENTION POLICY AND FRAUD RESPONSE PLAN

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1. DEFINITIONS AND ABBREVIATIONS

'APAC' means the City's Audit and Performance Audit Committee, a Committee established in terms of section 166 of the MFMA;

'City' means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), or any structure or employee of the City acting in terms of delegated authority;

'City Manager' means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998, (Act 117 of 1998) and 'Accounting Officer' shall have the same meaning;

'Code of Conduct for Councillors' means the Code of Conduct for Councillors as per Schedule 7 of the Local Government: Municipal Structures Amendment Act, 2021 (Act No. 3 of 2021);

'Code of Conduct for Municipal Staff Members' means the Code of Conduct for Staff Members of the City as per Schedule 2 of the Local Government: Municipal Systems, 2000 (Act No. 32 of 2000);

'Combined Assurance' means integrating and aligning assurance processes in the City to maximise risk and governance oversight and control efficiencies, thereby optimising overall assurance to Council, APAC, MPAC, Risk Management Committee (Riskco) and EMT (including the Accounting Officer) taking into account the City's risk acceptance level;

'Constitution' means the Constitution of the Republic of South Africa, 1996;

'Corporate Governance' means the structures and processes for the direction and control of the City. Corporate governance concerns the relationships

among the management, Council, Stakeholders and staff of the City. Good corporate governance contributes to sustainable economic development by enhancing the performance of the City and could increase access to outside capital;

'Corruption' means the direct or indirect giving or receiving of any gratification to, or from, another person in a way which amounts to the unlawful exercise of a duty;

'Council' means the Municipal Council of the City;

'Councillor' means a member of the Council;

'Criminal Action' means a legal proceeding in which the state prosecutes a person who is charged with an offence;

'Criminal conduct' Criminal conduct is any act or omission in violation of common or statute law which attracts a sanction by way of punishment or penalty;

'Delegation' in relation to a duty, includes an instruction or request to perform or to assist in performing such duty;

'EMT' means the Executive Management Team which consists of the City Manager and those City officials who serve together as the top management Committee of the City's administration;

'Forensic investigations' means investigations authorised into allegations of:

- (a) corporate crime, e.g. fraud, corruption and other related criminal conduct as well as maladministration by any employee, any municipal entity, agent, contractor, supplier or service provider to the City of Cape Town; and
- (b) financial irregularities where Councillors may be implicated;

'Forensic Services' an independent internal assurance provider which provides a proactive and reactive forensic service across the City and is led by the Chief: Forensic Services;

'Fraud' means the unlawful and intentional making of a misrepresentation which causes actual prejudice or which is potentially prejudicial to another;

'Internal Audit' means an independent internal assurance provider which is established in terms of section 165 of the MFMA;

'Internal Control' means the process that is effected by Council or EMT to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (a) Reliable and accurate information, including financial and non-financial reporting;
- (b) effectiveness and efficiency of operations;
- (c) compliance with applicable laws, regulations, policies and procedures;
- (d) meeting the strategic and operational objectives;
- (e) safeguarding of assets;
- (f) economic use of resources; and
- (g) optimal risk management.

'IDP' means the Integrated Development Plan of the City;

'Lifestyle Audits' is an accountability tool that can be used to detect possible fraud and corruption, and as such also acts as a preventative control. which is typically conducted when the visible lifestyle or standard of living of an individual appears to exceed their known income level. Note: Lifestyle Audit for the purposes of this policy, does not denote an audit as envisaged in the Internal Audit activities Charter;

'Line Management' means all staff members in reporting levels 1 to 4, and includes all City staff members that exercise a management or supervisory function;

'Mayoral Committee' means the Committee appointed by the Mayor in terms of section 60 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

'MFMA' means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

'MPAC' means the City's Municipal Public Accounts Committee, a Committee established in terms of section 79 of the Municipal Structures Act, to investigate the recoverability of any unauthorised, irregular or fruitless and wasteful expenditure in terms of section 32(2) of the MFMA, including relevant regulations, as instructed by Council and as guided by any adopted relevant leading practice;

'MSA' means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

'Office of the City Ombudsman' an independent internal assurance provider which derives its functions and powers from the City of Cape Town: City Ombudsman By-law 2015;

'Opinion' means a statement of advice by an expert on a professional matter;

'Policy' means the Fraud Prevention Policy read in conjunction with the Fraud Response Plan of the City;

'Protected Disclosure' means a protected disclosure as defined in the Protected Disclosures Act, 2000 (Act No. 26 of 2000));

'Risk, Ethics and Governance' an independent internal assurance which is established in terms of section 62(1)(c)(i) of the MFMA;

'SAPS' means the South African Police Service;

'SCM' means the Supply Chain Management Department of the City;

'SCM Policy' means the City's Supply Chain Management Policy as contemplated in the MFMA and the Municipal Supply Chain Management Regulations and as approved by Council;

'System of Delegations' means the City's System of Delegation as per section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) in terms of which a municipal council must develop a system of delegation that will maximise administrative and operational efficiency and provide adequate checks and balances and is approved and amended by Council from time to time;

'Staff' means the employees or workers of the City including the City Manager;

'Theft' means the unlawful and intentional appropriation of movable, corporeal property or money, which belongs to another, with the intention to permanently deprive the owner of his/her property; and

'Worker' means –

- (a) any person who works or worked for another person or for the State; or
- (b) any other person who in any manner assists or assisted in carrying on or conducts or conducted the business of an employer or client, as an independent contractor, consultant, agent; or
- (c) any person who renders services to a client while being employed by a temporary employment service.

2. PROBLEM STATEMENT

- 2.1. Fraud, corruption and other related criminal conduct as well as maladministration as an ever-present threat to public resources and the City of Cape Town, is a concern.
- 2.2. There is a continuing need to raise awareness among staff and workers relating to their responsibility in terms of safeguarding public resources against the risk of fraud, corruption and other related criminal conduct as well as maladministration. The overall purpose of this Fraud Prevention Policy is to detail responsibilities regarding the prevention and detection of fraud, corruption and other related criminal conduct as well as maladministration by City staff, municipal entities, agents, contractors, suppliers or service providers.
- 2.3. The procedures to be followed in the event of fraud, corruption and other related criminal conduct as well as maladministration being detected or suspected are detailed in the Fraud Response Plan attached to this Policy as Annexure A. Both documents relate to the negative impact of any alleged fraud, corruption and other related criminal conduct as well as maladministration by City staff, municipal entities, agents, contractors, suppliers or service providers.

3. DESIRED OUTCOMES

- 3.1. a) Fraud, corruption and other related criminal conduct as well as maladministration are effectively mitigated with preventative and detective measures within the City;
- b) The City encourages all staff and workers to act at all times with honesty and integrity, and to safeguard the public resources for which they are responsible. In this regard, an ethical and value-driven work culture and an environment with an appropriate tone from the top should exist, which encourages these outcomes;

- c) All staff should be aware of the processes at their disposal for reporting real or suspected instances of fraud, corruption and other related criminal conduct as well as maladministration within the City;
 - d) All complaints of fraud, corruption and other related criminal conduct as well as maladministration must be investigated and, where appropriate, reported to the SAPS;
 - e) The City does not tolerate any level of fraud, corruption and other related criminal conduct as well as maladministration (zero-tolerance); and
 - f) The City is committed to ensuring that opportunities for fraud, corruption and other related criminal conduct as well as maladministration are reduced to the lowest possible level of risk.
- 3.2. Appropriate action, including criminal action, must be taken against any person employed by the City that is involved in, or assists with, committing fraud, corruption and other related criminal conduct as well as maladministration. The City seeks legal recourse against all staff members (including temporary staff, independent contractors, worker of contracted service providers and applicable officials and business partners to the City's municipal entities) involved in such activities.

4. STRATEGIC INTENT

- 4.1 The City's Integrated Development Plan (IDP) focuses on six (6) priorities, namely, Economic Growth, Transport, Safety, Basic Services, Housing, Public Space, Environment and Amenities. These priorities rest on three (3) foundations which comprise of:
- a) A resilient City;
 - b) A more spatially integrated and inclusive City; and
 - c) A capable and collaborative City government.
- 4.2 The City is committed to the fight against fraud and corruption and this Policy aligns to Objective 16: "A *capable and collaborative City government*" and

Programme 16.1 "*Operational Sustainability Programme*", which ensures financial sustainability through good governance, zero tolerance for corruption, and managing public resources for the maximum benefit of all residents.

- 4.3 Forensic Services within the Office of the City Manager contributes to Objective 16: "*A capable and collaborative City government*" and is aligned to Programme 16.1 "*Operational Sustainability Programme*".

5 POLICY PARAMETERS

- 5.1 This Policy applies to all incidences of fraud, corruption and other related criminal conduct as well as maladministration and suspected irregularities of this nature involving, but not limited to, the following persons or entities:

- a) Staff members of the City;
- b) Councillors;
- c) Municipal entities; and
- d) Agents, contractors, suppliers or service providers to the City.

- 5.2 This Policy shall further be applied with due observance of the City's System of Delegations which refers to delegated powers, duties and functions between the Council, the Executive Mayor and Speaker, as well as between the Council and the City Manager, and between the City Manager and other responsible officials.

- 5.3 This Policy is applicable throughout the entire geographical area of the City.

- 5.4 Failure to comply with this Policy will result in consequence management action which includes, but not limited to, disciplinary and criminal action being instituted.

6. ROLE PLAYERS AND STAKEHOLDERS

- 6.1 The following are role players or stakeholders in respect of this policy:

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Second revision

- a) Council;
- b) Councillors;
- c) Audit and Performance Audit Committee (APAC);
- d) Municipal Public Accounts Committee (MPAC);
- e) City Manager;
- f) EMT;
- g) Executive Directors, Directors, Managers and Heads including all line managers who exercise a supervisory role;
- h) Financial Misconduct Board (FMB);
- i) All staff members of the City; and
- j) All consultants, agents, suppliers, contractors and other providers of goods and services on the City's vendor database.

7. REGULATORY CONTEXT

7.1 The following legislation, regulations and other documents affect, *inter alia*, the subject of this policy:

- a) The Constitution of the Republic of South Africa, 1996;
- b) Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), (MFMA) and regulations made under the Act;
- c) Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- d) Code of Conduct for Councillors as contemplated in Schedule 7 of the Municipal Structures Amendment Act, Act 3 of 2021;
- e) Code of Conduct for Municipal Staff Members as contemplated in Schedule 2 of the Municipal Systems Act;
- f) Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- g) Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);
- h) Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);
- i) Protected Disclosures Act, 2000 (Act No. 26 of 2000);
- j) Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

- k) Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) including the Preferential Procurement Regulations, 2017;
- l) City's System of Delegation;
- m) City's Forensic Services Charter;
- n) City's Supply Chain Management Policy and
- o) Any other applicable legislation, City by-law, City policy and City standard operating procedure.

7.2 The following legislation, policies and delegations play a pivotal role in ensuring the fight against fraud, corruption and other related criminal conduct as well as maladministration:

7.2.1 MFMA

Sections 32, 62, 78, 112, 115, 171 and 173 aids, *inter alia*, municipalities in taking all reasonable steps to prevent and investigate fraud, corruption, favouritism, unfair and irregular practices and where appropriate institute disciplinary proceedings and report criminal activities to the SAPS. The City is also obliged to take steps when unauthorised, irregular or fruitless and wasteful expenditure is incurred, including reporting certain instances to the SAPS, as appropriate.

7.2.2 Supply Chain Management Policy (SCM Policy)

Regulation 38 of the MFMA Municipal Supply Chain Management Regulations and paragraph 57 of the SCM Policy requires the accounting officer *inter alia* to:

- (a) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with the SCM Policy; and
- (b) report any alleged criminal conduct to the SAPS.

7.2.3 **Municipal Systems Act, No 32 of 2000 (MSA)**

Section 67 (1) requires municipalities to develop and adopt appropriate systems and procedures for, *inter alia*, the investigation of allegations of misconduct and complaints against staff.

7.2.4 **Prevention and Combating of Corrupt Activities Act, No 12 of 2004 (PRECCA)**

In terms of this legislation, any person who holds a position of authority (in the case of a municipality, the municipal manager), is required to report corruption or theft, fraud, extortion, forgery or uttering a forged document involving an amount of R100 000 or more to the SAPS.

7.2.5 **The City's System of Delegations** - as amended from time to time.

8. **POLICY DIRECTIVE DETAILS**

8.1 **The City's Responsibilities**

8.1.1 In accordance with Chapter 8 (sections 60 - 79) of the MFMA the City Manager is, *inter alia*, responsible for:

- a) the establishment and maintenance of a sound system of internal control that supports the achievement of City policies, aims and objectives, which is –
 - i) designed to respond to and manage the whole range of risks that the City faces; and
 - ii) based on an on-going process designed to identify the principal risks, to evaluate the nature and extent of those risks and to manage them effectively; and
- b) managing fraud risk which will be seen in the context of the management of this wider range of risks.

8.1.2 The overall accountability for managing fraud risk and managing incidents resides with the City Manager and Executive Directors. The responsibility at

operational level for fraud risk management and improving the control environment from incidents resides with line management.

8.1.3 With reference to 8.1.1 and 8.1.2 above the Chief: Forensic Services is required to:

- a) draft a fraud prevention policy and fraud response plan;
- b) provide fraud awareness training, communications and alerts;
- c) conduct forensic investigations with due regard to available resources;
- d) conduct Lifestyle Audits in instances where there is an authorised forensic investigation, or where the Speaker requests lifestyle audits during the Recruitment and Selection processes for the appointment of Councillors, or alternatively from a risk management perspective, aimed at preventing and detecting risks of fraud, corruption, maladministration and/or unethical conduct;
- e) make recommendations in forensic investigation reports for consideration by the City Manager which may include:
 - i. appropriate corrective and disciplinary action;
 - ii. reporting related criminal conduct to SAPS for investigation;
 - iii. legal action including recoveries, and also actions in terms of the City's Supply Chain Management prescripts;
 - iv. reporting to relevant regulatory authorities; and
 - v. remedial action to address control weaknesses identified in the investigation.
- f) establish appropriate mechanisms for:
 - i. reporting incidents of alleged fraud, corruption and other related criminal conduct as well as maladministration to the delegated authority; and
 - ii. reporting to the APAC in respect of forensic investigations.
- g) assist in providing assurance to Council, the APAC and other oversight/ advisory structures in a manner that is integrated and

aligned with other functions in the Combined Assurance and Governance office i.e. combined assurance.

The City Manager as the accounting officer, has a duty to investigate allegations of fraud, corruption and other related criminal conduct as well as maladministration.

8.1.4 The City is obliged to investigate plausible allegations of fraud and the furnishing of false information during the supply chain related processes. This is required as a result of the Constitutional Court judgment in Viking Pony Africa Pumps (Pty) Ltd vs Hydrotech-Tech Systems (Pty) Ltd & Another [2010] ZA (CC) 21.

8.2 Council's Responsibility

8.2.1 Council is accountable to the community and other stakeholders for the sound management of the City's resources.

8.2.2 Council's general oversight role includes the management of the risk to the City in respect of fraud, corruption and other related criminal conduct as well as maladministration.

8.3 The Executive Mayor, Responsibilities in consultation with the Mayoral Committee and the City Manager

8.3.1 In line with the requirements for good corporate governance outlined in the King IV Report and in recognition of the way in which the City is currently structured, the Executive Mayor, Executive Deputy Mayor, Speaker, the Mayoral Committee and the City Manager, are jointly accountable to Council, the community and other stakeholders, at a strategic level, for:

- a) managing the risk to the City in respect of fraud, corruption and other related criminal conduct as well as maladministration;

- b) preventing consequential loss to the City from any such alleged fraud, corruption and other related criminal conduct as well as maladministration;
- c) promoting, developing and sustaining a culture of integrity, service excellence, accountability, trust and accessibility which would facilitate an attitude of zero tolerance to fraud, corruption and other related criminal conduct as well as maladministration;
- d) developing and implementing appropriate strategies, policies and action plans to achieve the prevention, detection, investigation and prosecution of fraud, corruption and other related criminal conduct as well as maladministration; and
- e) evaluating the success of such strategies, policies and action plans in point (d) above.

8.3.2 In doing so, they will be guided by advice provided and recommendations made in this regard by the City's APAC.

8.4 Speaker's Responsibilities

8.4.1 In terms of the Speaker's delegations in the City's System of Delegations, the Speaker is delegated to:

- a) appoint an initiator to present a case against a Councillor for contravention of the Code of Conduct for Councillors at a disciplinary hearing and to undertake any investigation in connection therewith;
- b) authorise forensic investigations into financial irregularities where Councillors may be implicated, upon receipt of at least one written complaint to that effect; and
- c) lay criminal charges or authorise any official to lay criminal charges with the South African Police Services in respect of any criminal act perpetrated by a Councillor where such act impacts on the interests of the City.

8.4.2 Item 15 of Schedule 7 to the MSA (Code of Conduct for Councillors) provides that if the Speaker, on reasonable suspicion, is of the opinion that the provisions of this Code were breached, he/she must, *inter alia*, authorise an investigation of the facts and circumstances of the alleged breach.

8.5 Councillors' Responsibilities

8.5.1 Councillors must comply with the Code of Conduct for Councillors and actively promote this Policy.

8.5.2 Councillors must contribute to developing and sustaining a culture of zero tolerance of fraud, corruption and other related criminal conduct as well as maladministration in or against the City.

8.6 Line Manager's Responsibilities

8.6.1 Line management are first level assurance providers per the Assurance Governance Framework and are responsible for establishing, maintaining and ensuring proper governance, risk management and internal control processes.

8.6.2 Line management is required to take an active interest in Combined Assurance processes, co-ordinating their assurance providing efforts with those of other assurance providers to improve Combined Assurance efforts in the City.

8.6.3 Line managers must –

- a) promote and develop a culture of zero tolerance against any fraud, corruption and other related criminal conduct as well as maladministration in the City;
- b) lead by example (tone from the top);
- c) ensure that allegations of fraud, corruption and other criminal conduct as well as maladministration are reported promptly to the Chief: Forensic Services for assessment and investigation. The Chief:

Forensic Services is the first point of reference, thereafter the City Manager, provided circumstances justify not reporting to the Chief: Forensic Services; and

- d) must support and, when required by Forensic Services, actively assist in any forensic investigations undertaken by Forensic Services and those outsourced and co-sourced by Forensic Services.

8.6.4 Line managers are responsible for fraud prevention and detection, and the prevention of corruption and other related criminal conduct as well as maladministration. As such, line managers are responsible for ensuring that an effective and efficient system of internal control exists within their areas of responsibility and that controls operate as intended.

8.6.5 For optimal management of all the organisational business risks, line managers must identify fraud risks within the respective areas of operations, and record and effectively manage such on the appropriate risk register(s).

8.6.6 In terms of establishing and maintaining effective controls, it is generally desirable that:

- (a) staff, particularly those responsible for key business processes as identified by line management in their respective operations, must be rotated where possible and practicable;
- (b) there is a segregation of duties, where possible, so that control of key functions is not vested in one individual;
- (c) backlogs of work are not allowed; and
- (d) safeguards should be built in to detect and prevent internal and external fraud.

8.7 Staff Responsibilities

8.7.1 City staff and workers are bound by South African law (statutory, common law and case law), the terms and conditions of their employment and also the Code of Conduct for Municipal Staff Members, City policies, standard

operating procedures and instructions issued by management from time to time.

8.7.2 All staff has a duty to ensure that public funds are safeguarded. There is a possibility that unusual events or transactions are potential indicators of fraud, corruption and other related criminal conduct as well as maladministration and staff must alert their line managers where they believe the opportunity for such activities exists. Kindly refer to the following attachments for further information:

- i. Appendix I – Potential indicators, explaining the opportunities that could lead to fraud, corruption and other related criminal conduct as well as maladministration being committed;
- ii. Appendix II - Common methods of good management practices which may assist in combating fraud, corruption and other related criminal conduct as well as maladministration; and
- iii. Appendix III - Examples of good management practices which may assist in combating fraud, corruption and other related criminal conduct as well as maladministration.

8.7.3 It is the responsibility of all staff to report fraud, corruption and other related criminal conduct as well as maladministration immediately to their line manager and if the line manager is implicated to the Chief: Forensic Services. A City of Cape Town Whistle Blowing Policy is in place to safeguard whistle blowers against occupational detriment (intimidation and/or victimisation).

8.7.4 A fraud hotline facility is available to anyone, including staff, to report suspected fraud, corruption and other related criminal conduct as well as maladministration. The Fraud Hotline is independently operated by an external service provider. The Fraud Hotline operates 24/7 and 365 days a year and all information received is treated in the strictest of confidence. The Fraud Hotline can be accessed through the following channels:

Hotline:	0800 32 31 30 Operators are available 24 hours a day, 7 days a week, 365 days a year
External E-mail	hotline@kpmg.co.za
Post:	BNT 371 PO Box 14671 Sinoville 0129

8.7.5 The City has an electronic mail (email) inbox facility for anyone, including staff members, to report suspected fraud, corruption and other related criminal conduct as well as maladministration. The particulars thereof are as follows:

City E-mail	Fraud.hotline@capetown.gov.za
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8.7.6 The City's Forensic Services website contains a template under the 'How to Report' tab

<http://cityweb.capetown.gov.za/en/ForensicServices/Pages/Howtoreport.aspx>) to guide complainants through the process of reporting allegations and ensuring that all relevant data is captured.

8.7.7 Staff must assist, as and when required by Forensic Services, in investigations of fraud, corruption and other related criminal conduct as well as maladministration, by making available all relevant information, co-operating in interviews and where appropriate providing a witness statement.

8.7.8 As agents/overseers of public funds, staff and workers must have, and be seen to have, high standards of personal integrity.

8.7.9 The dishonest reporting of an incident to line management and/or the Chief: Forensic Services with the knowledge that such transmittal of information is false or with wilful disregard of the truth shall constitute misconduct, for which disciplinary measures may be imposed. It may also attract criminal liability.

8.8 Suppliers, Contractors, Consultants and the Community's Responsibilities

- 8.8.1 a) Suppliers, contractors and consultants are expected to act honestly and fairly in all their dealings with the City and to familiarise themselves with the applicable legislation, policies and contractual terms.
- b) Failure to do so may result in one or more of the following–
- i. the cancellation or suspension of any tenders or contracts awarded to them;
 - ii. being restricted and placed on the contract and tender defaulters list as per the Supply Chain Management Policy; and
 - iii. being reported to the SAPS.
- 8.8.2 The Supply Chain Management Policy deals specifically with the conditions of how to appoint service providers and award contracts to same.
- 8.8.3 The community, suppliers, contractors and consultants are encouraged to make use of the channels set out in paragraph 8.7.4 and 8.7.5 above to report fraud, corruption and other related criminal conduct as well as maladministration involving employees of the City and services providers to the City.

8.9 Internal Audit

- 8.9.1 Internal Audit must evaluate the potential for the occurrence of fraud, how the City manages fraud risk and the effectiveness of controls to prevent and detect fraud.
- 8.9.2 Internal Audit should consider fraud risk during the development of the risk-based strategic and operational audit plans and also on individual audit projects.

8.9.3 Internal Audit is not directly involved in the prevention, detection or investigation of fraud.

8.9.4 The Chief Audit Executive and Internal Audit staff must report suspected fraudulent activities within the City to Forensic Services, City Manager, including EMT, as well as the APAC.

8.9.5 The Chief Audit Executive must report periodically to EMT and the APAC on the Internal Audit activity's purpose, authority, responsibility, and performance relative to its plan. Reporting must include significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by EMT and APAC.

8.10 Risk, Ethics and Governance

8.10.1 Risk, Ethics and Governance (REG), *inter alia*, supports the City's Directorates in updating risk registers regularly and monitoring and reviewing the action plans documented in the risk registers (in terms of the annual workplan) to ensure that risks which might impact on the Directorates' and Departments' ability to achieve their IDP objectives, are managed to an acceptable level.

8.10.2 Risks and Controls are reviewed as a constituent part of each risk assignment to ensure that management have reviewed their risk exposures and, where appropriate, identified the possibility of fraud, corruption and other related criminal conduct as well as maladministration as a business risk.

8.11 Forensic Investigations

8.11.1 Line managers should be aware that fraud, corruption and other related criminal conduct as well as maladministration may be brought to light through –

- a) unusual events or transactions;

- b) specific management checks; and
- c) communication by a third party.

8.11.2 The City will consistently handle all suspected fraud, corruption and other related criminal conduct as well as maladministration cases regardless of the position held or length of service of implicated staff members.

8.11.3 Forensic Investigators shall have unrestricted access to all staff records, movable and immovable property, premises, including motor vehicles owned by, under the control of and/or managed by the City, have access to copy, and/or to seize any register, file, document, account, minutes and/or other records (physical or electronic) of the City and/or any such register, file, document and/or record which may be maintained by any employee during the performance of his/her official functions;

8.11.4 Irrespective of the source of the allegation, it is for the responsible line management to:

8.11.4.1 undertake an initial examination to ascertain the facts (normally the Head of Branch/Department) and to confirm or repudiate the suspicions, which have arisen so that further investigation may or may not be initiated;

8.11.4.2 ensure prompt action, after suspicion has been confirmed;

8.11.4.3 not prejudice subsequent investigation or corrupt evidence through their initial enquiries;; and

8.11.4.4 seek guidance from the Chief: Forensic Services where there is uncertainty with regard to any stage of an initial investigation.

8.11.5 If the initial examination confirms that fraud, corruption and other related criminal conduct as well as maladministration has been perpetrated or attempted, line management must promptly follow the procedures provided in the City's Fraud Response Plan (Annexure A), which forms part of this Policy.

8.11.6 Where there is uncertainty with regard to what should be reported, advice from the Chief: Forensics Services must be sought.

9. IMPLEMENTATION

9.1 This Policy will be effective once approved by Council.

10. REVIEW

10.1 This Policy will be reviewed as required by changes in the business or legislative environment, but at least once during every Council term. Any amendments will be submitted to Council for approval.

Appendix I

Potential indicators, explaining the opportunities that could lead to fraud, corruption and other related criminal conduct as well as maladministration being committed:

Note: These activities act merely as a guide, to conditions under which fraud, corruption and other related criminal conduct as well as maladministration may take place. The occurrence of such individual activities does not imply the prevalence of fraud, corruption and other related criminal conduct as well as maladministration.

Note: This is not an exhaustive list.

- Missing expenditure vouchers and unavailable official records;
- Crisis management coupled with a pressured business climate;
- Excessive variations to budgets or contracts;
- Refusals to produce files, minutes or other records;
- Increased employee absences;
- Borrowing from fellow employees;
- A person that is easily influenced by others;
- Covering up inefficiencies;
- Lack of management oversight;
- No supervision;
- Staff turnover is excessive;
- Figures, trends or results which do not accord with expectations;
- Bank reconciliations are not maintained or cannot be balanced;
- Excessive movement of cash funds;
- Multiple cash collection points;
- Remote locations;
- Unauthorised changes to systems or work practices;
- Employees with outside business interests or other jobs;
- Large outstanding bad debt;
- Employees suffering financial hardships;
- Employees apparently living beyond their means;

- Heavy gambling debts;
- Signs of drinking or drug abuse problems;
- Conflicts of interest;
- Managers bypassing subordinates;
- Subordinates bypassing managers;
- Excessive generosity;
- Large sums of unclaimed money;
- Lack of clear financial delegations;
- Secretiveness;
- Apparent personal problems;
- Marked character changes;
- Poor morale;
- Excessive control of all records by one staff member;
- Poor vetting processes during staff recruitment processes;
- Unusual working hours on a regular basis;
- Refusal to comply with normal rules and practices;
- Personal creditors appearing at the workplace;
- Non-taking of leave;
- Excessive overtime;
- Large backlogs in high risk areas;
- Lost assets;
- Absence of controls and audit trails;
- Socialising with service providers - meals, drinks, holidays;
- Seeking work for clients;
- Favourable treatment of certain service providers – e.g. allocation of work;
- Contract not completed to specification;
- Contractor paid for work not done; and
- Grants not used for specified purpose.

Appendix II

Common methods of poor management practices which may assist fraud, corruption and other related criminal conduct as well as maladministration:

- Payment for work not performed;
- Altering amounts and details on documents;
- Collusive tendering/bidding;
- Overcharging on services/goods delivered;
- Payment of invoices in advance before services/goods are delivered;
- Refund individuals/entities without proper vetting of the authenticity of the claim;
- Submitting fraudulent Tax Clearance Certificates;
- Submitting fraudulent BBBEE Certificates or claiming BBBEE points on outdated BBBEE credentials;
- Writing off recoverable assets or debts;
- Unauthorised transactions;
- Circumvention of processes;
- Selling information;
- Altering stock records;
- False persons on payroll;
- Unrecorded transactions;
- Transactions (expenditure/receipts/deposits) recorded for incorrect sums;
- Cash stolen;
- Supplies not recorded at all;
- False official identification used;
- Damaging/destroying documentation;
- Using copies of records and receipts;
- False EFT payments;
- False medical certificates;
- False qualifications and fraudulent curriculum vitae;
- Excessive mileage claims;

- Using imaging and desktop publishing technology to produce apparent original invoices;
- Charging incorrect amounts;
- Transferring amounts between accounts frequently;
- Delayed terminations from payroll;
- Misuse of city vehicles;
- Over claiming expenses;
- Skimming and rounding;
- Running a private business with official assets; and
- Using electronic signatures.

Appendix III**Examples of good management practices which may assist in combating fraud, corruption and other related criminal conduct as well as maladministration:**

- Creating awareness about the Fraud Hotline;
- All income is promptly entered in the accounting records;
- Regulations governing contracts and the supply of goods and services are properly enforced;
- Accounting records provide a reliable basis for the preparation of financial statements;
- Controls operate which ensure that errors and irregularities become apparent during the processing of accounting information;
- A strong Internal Audit presence;
- Management encourages sound working practices;
- All assets are properly recorded and provision is made known for expected losses;
- Accounting instructions and financial regulations are available to all staff and are kept up to date;
- Effective segregation of duties exists, particularly in financial accounting and cash/securities/inventory handling areas;
- Close relatives do not work together, particularly in financial, accounting and cash/securities/inventory handling areas;
- Promotion of ethical behaviour and healthy corporate culture;
- Act immediately on internal/external auditor's report to rectify control weaknesses;
- Review, where possible, the financial and criminal risks of employees;
- Issue accounts payable promptly and follow-up any non-payments;
- Set standards of conduct for suppliers and contractors;
- Maintain effective security of physical assets, accountable documents (such as order books), information, payment and purchasing systems;
- Review large and unusual payments;
- Perpetrators should, where appropriate, be suspended from duties pending investigation;

- Undertake verification and confirmation procedures and institute confirmation procedures;
- Maintain good physical security of all premises;
- Randomly change security locks and rotate shifts at times (if feasible and economical);
- Conduct regular staff appraisals;
- Review work practices open to collusion or manipulation;
- Develop and routinely review and reset data processing controls;
- Regularly review accounting and administrative controls;
- Set achievable targets and budgets, and stringently review results;
- Ensure staff take regular leave;
- Rotate staff in key risk areas;
- Ensure all expenditure is authorised;
- Conduct periodic analytical reviews to highlight variations to norms;
- Take swift and decisive action on all instances of fraud, corruption and other related criminal conduct as well as maladministration; and
- Ensure staff members are fully aware of their rights and obligations in all matters concerned with fraud, corruption and other related criminal conduct as well as maladministration.



Annexure A

FRAUD RESPONSE PLAN

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1. INTRODUCTION

- 1.1 This Fraud Response Plan is a procedural guide and provides a checklist of the required actions which must be followed in the event of fraud, corruption and other related criminal conduct, maladministration and/or negligence being suspected.
- 1.2 Adherence to this plan will enable timely and effective action is taken to mitigate risks (e.g. reputational), prevent further losses and/or maximise the recovery and/or minimise losses and the recurrence thereof. Also, to aid in identifying the perpetrators and enhancing the success of the required consequence management and/or remedial action, such as disciplinary/legal action instituted.
- 1.3 The overarching theme of this plan is **'IF IN DOUBT, ASK FOR ADVICE'**. This applies at any point in an investigation.
- 1.4 In the event of fraud, corruption and other related criminal conduct, maladministration and/or negligence being suspected, staff and workers must immediately report the matter to their line manager/supervisor. If there is a concern that line management may be involved, the matter should be reported to the next appropriate level and the Chief: Forensic Services should be informed, alternatively the matter can be reported *via* the Fraud Hotline.
- 1.5 Where confidentiality is sought, staff may report their suspicions directly to Forensic Services *via* the Fraud Hotline. The City's Fraud Hotline is available 24 hours a day on a daily basis and all information received is treated in the strictest of confidence. The

City’s Fraud Hotline is independently operated by an external service provider, and contact details are as follows:

Hotline:	0800 32 31 30 Operators are available 24 hours a day, 7 days a week, 365 days a year
External E-mail	hotline@kpmg.co.za
Post:	BNT 371 PO Box 14671 Sinoville 0129

1.6 The City also has an electronic mailbox (email) facility for anyone, including staff members, to report suspected fraud, corruption and other related criminal conduct, maladministration and/or negligence. The details are as follows:

City E-mail	Fraud.hotline@capetown.gov.za
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1.7 All disclosures and/or complaints will be treated in a confidential and sensitive manner. The identity of the complainant may be kept confidential provided this does not hinder or frustrate any investigation. However, there will be occasions where the identity of a complainant is required to be revealed. For example, where the individual is required to give evidence at a formal hearing or in a criminal matter, where allegations of misconduct or related criminal conduct are involved. Note: When disclosures are made, complainants must consult the City’s Whistle Blowing Policy in order to make a protected disclosure as per the Protected Disclosures Act.

- 1.8 In making a disclosure and/or lodging a complaint, the complainant should, as far as possible, ensure the accuracy of the information. Concerns which are found to have been raised frivolously, mischievously or maliciously or for personal gain may result in action being taken against the informant/complainant.
- 1.9 As per section 8.11.4 of the Fraud Prevention Policy, taking into account the complexities of the matter reported, line management must undertake an initial fact-finding exercise and conclude within 30 days.
- 1.10 The purpose of the initial fact-finding exercise is to determine whether the factors that gave rise to suspicion is warranted, and whether there is *prima facie* evidence substantiating a referral of the matter to Forensic Services. Note that such enquiries by line management should not corrupt evidence or prejudice subsequent investigations. **IF IN DOUBT, ASK FOR ADVICE.** The Chief: Forensic Services can be contacted for advice on the most optimal way forward.
- 1.11 Should the fact-finding exercise reveal that a referral of the matter to Forensic Services is not warranted but that internal controls are deficient, management should review their control systems to ensure that such controls are adequate, effective and efficient. The relevant Risks and Controls should be updated. Internal Audit is available to offer advice and assistance on matters relating to internal controls, if required. The Chief Audit Executive is to be consulted in this regard.

2. FORMAL REPORTING STAGE

- 2.1. If there is a suspicion that fraud, corruption and other related criminal conduct, maladministration and/or negligence has been attempted or perpetrated, line management must ensure that all original documentation is preserved for further investigation. Appropriate evidence is essential for the investigation and will support any disciplinary/ legal action as deemed appropriate. The facts of the initial fact-finding exercise should be reported immediately to the Chief: Forensic Services. Where there is a risk of financial loss to the City, line management must notify the Executive Director: Finance.
- 2.2. To minimise any threat of further fraud, corruption and other related criminal conduct, maladministration and/or negligence, line management should immediately enhance the internal controls, where warranted.
- 2.3. The Chief: Forensic Services will recommend to the relevant delegated authority the appropriate course of action, which may include a full forensic investigation, Line Management, Ethics, Speaker and Council referral. The scope of the investigation will be determined by Forensic Services as per the delegated authority. Should Forensic Services advise that further expertise is required, for example Attorneys, Forensic Accountants or Forensic Investigators, the Chief: Forensic Services will engage the appropriate assistance together with the project management of the above.

3. RESPONDING EFFECTIVELY TO FRAUD, CORRUPTION AND OTHER RELATED CRIMINAL CONDUCT, MALADMINISTRATION AND/OR NEGLIGENCE WHEN IT OCCURS

- 3.1. All forensic investigations initiated and authorised must comply with the Council's System of Delegations.
- 3.2. Any allegations and/or complaints against a senior manager are dealt with in accordance with the Local Government: Disciplinary Regulations for Senior Managers of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).
- 3.3. Allegations of financial misconduct and offences are reported in terms of the procedure as set out in The Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings made in terms of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
- 3.4. Any allegations and/or complaints against a councillor and/or breaches of the Code of Conduct are dealt with by the delegated authority and powers of the Speaker.
- 3.5. Depending on the significance of the reported fraud, corruption and other related criminal conduct, maladministration and/or negligence, the forensic investigation process involves some or all of the following:

- 3.5.1. The Chief: Forensic Services provides the direction for forensic investigations, this includes decisions to

conduct a forensic investigation whether in-house or on a co-sourced or outsourced basis.

- 3.5.2. Establishing terms of reference for forensic investigations.
- 3.5.3. Assigning Forensic Services staff members to project manage the investigation.
- 3.5.4. Managing the project so that investigative objectives are met.
- 3.5.5. Ensuring that forensic investigations are conducted in a fair and unbiased manner.
- 3.5.6. Implementing a mechanism to report on progress of investigations to appropriate senior levels of management, as and when required to do so.
- 3.5.7. Reports on the findings and recommendations must be submitted to the relevant delegated authority.

4. POST EVENT ACTION

- 4.1. The recommendations per the forensic report, referred to the accountable Executive Directors by the City Manager, must be attended to and reported on as detailed in the instructions from the City Manager to the respective Executive Directors.

- 4.2. Forensic Services must record the recommendations and responses received from line management in this regard and report on the remedial action taken to oversight and governance structures as and when required.
- 4.3. Where fraud, corruption and other related criminal conduct, maladministration and/or negligence was attempted or has occurred, line management must make the necessary changes to systems and procedures to ensure that similar activities or attempted activities will not reoccur.
- 4.4. Internal Audit is available to offer advice and assistance on matters relating to internal control, if considered appropriate.

5. REPORTING ARRANGEMENTS

- 5.1. The City's Audit and Performance Audit Committee (APAC) and Executive Management (EMT) should be kept informed by the Chief: Forensic Services as provided for in the Forensic Services Charter which includes: highlighted investigations, progress and control-related aspects of completed investigations, statistics and the status of implementation of recommendations/agreed management actions as well as emerging trends and risks.

6. REVIEW AND UPDATING OF THE PLAN

- 6.1. The Fraud Response Plan will be reviewed when necessary.

7. CONCLUSION

- 7.1. Any queries regarding this fraud response plan should be directed to the Chief: Forensic Services.
- 7.2. Advice and assistance on internal control issues can be sought from the Chief Audit Executive.
- 7.3. Advice and assistance on matters relating to risk management can be sought from the Chief: Risk, Ethics and Governance.