



UTHUKELA DISTRICT MUNICIPALITY

ANTI – FRAUD AND CORRUPTION POLICY AND RESPONSE PLAN

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1. INTRODUCTION OF ANTI FRAUD AND ANTI CORRUPTION POLICY AND RESPONSE PLAN

The policy of Anti-fraud and Anti-Corruption explains everything on its own. The Simple Meaning of the word “Anti” means a policy of Prevention or Protection or just Doing Away of/with Fraud and Corruption in Uthukela District Municipality. An Anti-Fraud and Anti-Corruption strategy consists of reforms in the internal management of public resources and administration to reduce opportunities and incentives for fraud and corruption as well as to provide public accountability of the Council's stakeholders.

The mere commitment of Uthukela District Municipality regarding this policy is the protection of the public funds it administers and will also aim to achieve a reputation for maintaining good systems of internal control, that are determined to prevent, and detect all forms of internal and external fraud and corruption committed against the Council. This policy is actually intended to set down the stance of Uthukela District Municipality to “Fraud and Corruption” as well as to reinforce existing systems, policies, procedures, rules and regulations of the Municipality aimed at preventing, deterring, detecting, reacting to, and reducing the impact of fraud and corruption, where such dishonest activities exist.

The harmful effects of corruption are especially severe on the poor, who are hardest hit by economic decline (rescission), are most reliant on the provision of public services and are least capable of paying the extra costs associated with fraud, bribery and the misappropriation of economic privileges. Furthermore the purpose of this policy is to confirm that Uthukela District Municipality supports and fosters a culture of **Zero Tolerance** to Fraud and Corruption in all its activities and stakeholders.

2. DEFINITIONS

Council – Uthukela District Municipality

Fraud – The unlawful and intentional making of a misrepresentation which causes actual and or potential or potential prejudice to another.

Corruption – The conduct or behaviour where a person accepts, agrees or offers any gratification for him/her or for another person where the purpose is to act dishonestly or illegally. Such behaviour also includes the misuse of material information, abuse of a position of Authority or breach of trust or violation of duty. Other definitions of Fraud and Corruption that takes place in Ladysmith Public and Society.

Embezzlement – this involves theft of resources by person who control such resources.

Bribery – Involves the promise, offering or giving of a benefit that improperly affects actions or decisions of public servants. e.g. An official conducting disconnections accepts a cash payment in order not to be disconnected.

Abuse of Power – The use by public servant of his/her vested authority to improperly benefit or discriminate against another public servant, person or entity or himself. e.g. During a tender process but before actual selection of a successful contractor, the Manager of the Department states his/her desire to see the contract awarded to a specific person or company.

Conflict of interest – it actually involves a public servant acting or failing to act on a matter where the public servant has an interest or another person or entity that stands in a relationship with the public servant has an interest. e.g. Manager of the Department considers tenders for a contract and awards the tender to a company of which his/her brother, cousin, friend etc... is the owner.

Extortion – Coercion of a person or entity to provide a benefit to a public servant, another person or an entity, in exchange for acting (or failing to act) in a particular manner. e.g. A public health official threatens to close a restaurant on the basis of untrue health offences unless the owner provides the official with the regular meals.

Theft – The unlawful and intentional making of a 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.

Nepotism – A public servant ensuring that family members are appointed to public service positions or that family members receive contracts from the municipality is regarded as nepotism. Example: Manager of the Department appoints his/her sister's child to a position even when more suitable candidates have applied for the position.

Favouritism – The provision of services or resources according to personal affiliation for example cultural of a public servant. e.g. The Manager of the Department ensures that only persons from his/her home Township (Ezakheni or Steadville) are successful in tenders for the supply of foods.

Abuse of Privileged Information – This involves the use, by public servant of privileged information and knowledge that a public servant possesses as a result of his/her office to provide unfair advantage to another person or entity to obtain a benefit. e.g. An official has, as a result of his/her position knowledge of residential areas that are to be rezoned as business areas. He / She informs friends and family to purchase properties so that it can be sold at a higher amount.

3. SCOPE AND ADOPTION BY COUNCIL

This policy applies to all attempts and incidents of alleged/suspected fraud and corruption impacting or having the potential to impact Uthukela District Municipality. It actually covers any matter which may be constructed as attempted or actual fraud or corruption affecting the Municipality, both from internal or external sources i.e.

- The award of any contract to or by the Council;
- Improper influence over the choice of a candidate for any appointment;
- The misappropriation or misuse of Municipal property, goods or money;
- The disposal of any land, building, property or Council service;
- Destruction or removal of records to cover up unethical conduct;
- Misrepresentation of facts by falsifying or alteration of any document;
- Any other aspect of Uthukela District Municipal business.

4. LEGISLATION

- Prevention and Combating of Corrupt Activities, Act No. 12 of 2004;
- Municipal Finance Management Act No, 56 of 2003;
- The Constitution of the Republic of South Africa, Act No. 108 of 1996;
- Municipal Systems Act, No. 32 of 2000;
- Prevention of Organized Crime Act, No. 121 of 1998 (POCA);
- Protected Disclosures Act, 26 of 2000;
- Financial Intelligence Centre Act, 38 of 2001 (FICA).

4.1 ADDITIONAL LAW ENFORCEMENT AUTHORITIES

- Public Protector;
- South African Police Service;
- The National Prosecuting Authority;
- Asset Forfeiture unit;
- Directorate for Priority Crime Investigations (DPCI);
- South African Revenue Services;
- National Intelligence Unit;
- Independent Complaints Directorate.

5. THE POLICY

The Anti-Fraud and Anti-Corruption outlines the Uthukela District Municipality's commitment to creating and maintaining a high standard in factors like: ***Administration, Conducting of its affairs, its employees, and all those that are associated with the Municipality itself.*** The Uthukela District Municipal Council employs a number of staff and spends a larger percentage of its budget on assets, interests and transactions running into thousands of rands.

Uthukela District Municipality's policy is truly **Zero Tolerant** to Fraud and Corruption. In addition all the alleged/suspected fraud and corruption will be investigated and followed up by the application of all remedies available within the full extent of the law as well as the application of appropriate prevention and detection controls.

These prevention controls include the existing financial and other controls and checking mechanisms as prescribed in the systems, policies, procedures, rules and regulations of the Council. The prime objective of the Uthukela District Municipality is to implement the internal rules and regulations to guard its assets and interests against loss or damage as a result of Fraud and Corruption. As well as to provide community leadership and quality services to the society that it serves.

Uthukela District Municipal Council has set against Fraud and Corruption, whether it is attempted from the inside (Members and Employees) or the outside (the public, clients or

contractors) and is committed to an effective Anti-Fraud and Anti-Corruption principled plan which:

- Encourages and strengthening community participation in the fight against corruption in Municipality;
- Promotes detection and investigation of unethical conduct, fraud and corruption;
- Aspire deterring and prevention of an unethical conduct, fraud and corruption;
- Creating a culture within Uthukela District Municipality, which is intolerant to unethical conduct, fraud and corruption;
- Strengthening relationships, with key stakeholders, that are necessary to support the actions required to fight in the Municipality i.e. South African Local Government Association (SALGA), Employee Representative Unions, and Communities;
- Applying sanctions, which include redress in respect of financial losses;
- Taking an appropriate action in the event of irregularities e.g. disciplinary action, prosecution, recovery of losses etc.

5.1 COMPLIANCE AND REVIEW

This Municipality regards **compliance** as a prerequisite in the Anti-Fraud and Anti-Corruption strategy. In order to remain effective these rules will be regularly reviewed and updated where necessary. The activities to be undertaken by Uthukela District Municipality to ensure that proper arrangements exist for prevention and detection of theft, fraud and corruption are as follows:

- The regular review of the content and application of the Financial Regulations;
- The circulation of this framework;
- The issuing of the comprehensive Codes of Conduct to all employees and Members of the Council and, where appropriate, to contractors employed by or on behalf of the Municipality;
- The provision of theft and corruption training to Officers and Members where appropriate;
- The provision of an adequate and effective internal audit service to carry out an on-going review of financial and other systems in use and to test those systems for weaknesses in internal controls;
- The adherence of fraud prevention strategy and related reporting procedures so that proper arrangements exist to ensure that there is no obstacle to reporting theft, fraud and corruption;
- The maintenance of a theft, fraud and corruption response plan to ensure that, if any allegation is made regarding theft, fraud and corruption, appropriate investigations takes place and appropriate steps are taken, if appropriate to recover any loss incurred;

- The prosecution of offenders where this is considered to be in interest Uthukela District Municipality;
- Full co-operation with any work undertaken or information requested by the Auditor General (AG) relating to matters of theft, fraud and corruption;
- Appointment of Compliance Officer for anti-fraud, anti-theft, anti-corruption issues to ensure that there is a clear point of contact for everyone wishing to report theft, fraud or corruption.

6. ETHICAL CONDUCT AND ACCOUNTABILITY

6.1 UTHUKELA DISTRICT MUNICIPALITY AND COUNCIL

This Municipality expects all people and organizations associated with it to be honest and fair in their dealings with the municipality as a whole, its clients and its customers. All members of the Council are required to operate within the requirements of the rules and regulations set out in the Municipal Structures Act No, 117 of 1998. The Council members and staff at all levels will lead by example in ensuring the adherence to legal requirements, rules, procedures and practices, that individuals and organizations e.g. Contractors and service providers, Suppliers, with whom it deals with act with integrity and without thought or actions involving fraud and corruption. All Uthukela District Municipality members have a duty to act only in the best interest of the public, uphold the law and do whatever they can to ensure that the Council uses its resources in accordance with the law. This is only achieved through members operating within this policy and the Municipal Ethical Code of Conduct.

Uthukela District Municipality has a Corporate Governance Policy, which places an obligation on employees to act in accordance with best practices when dealing with municipal affairs. This includes transparency and the declaration at meetings of the potential areas of conflict between Municipal duties and responsibilities and other areas of personal and professional lives. In the complementary of the Corporate Governance Policy, this Municipality has also adopted the principles of King II Report on corporate governance (Refer to Risk Policy Legislation), Similarly, the employees are to ensure that they are familiar with the:

- Financial Regulations;
- Procedural Manuals relevant to their duties;
- King II and III Report on Corporate Governance;
- Municipal Code of Conduct.

Managers at all levels are responsible for communication and implementation of this strategy in their departments/sections, it is manager's responsibility again to ensure that employees are aware and complying with policies in their everyday business activities. Managers are expected to create an environment in which their staffs feel able to approach them with any concerns that they may have concerning suspected irregularities.

Senior Management is to be committed to eradicating fraud and corruption and ensuring that Municipality strives to be perceived as ethical in all its dealings with the public and other interested parties. In this regard, senior management, under the guidance of the Accounting Officer, will ensure that it does not become complacent in dealing with fraud and corruption and that it will ensure the municipal's overall fraud and corruption plan is reviewed and

updated regularly. Furthermore, senior management will ensure that all employees and stakeholders are made aware of its overall anti-fraud and corruption strategies through various initiatives of awareness and training.

Employees will be appointed in accordance with the recruitment and selection policy procedures. Written references will be obtained and include information regarding the honesty and integrity of potential staff. Actual evidence of key qualifications claimed by prospective employees and work permits (where appropriate) will also be obtained and checked. The recruitment of temporary and permanent employees will be treated in a similar manner. The Code of Conduct should form part of each employee's contract of employment. The key measure in the prevention of fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees in terms of their propriety and integrity. Written references will be sought regarding honesty and integrity of potential employees and independent confirmation of professional qualifications should be obtained before offers of employment are made.

Uthukela District Municipality employees are responsible for ensuring that they follow the instructions given to them by management, particularly in relation to the safekeeping of the assets of the municipality. All officials employed by Uthukela District Municipality are required to submit a written declaration of any pecuniary interests and or in a contract, such as membership of a contracting business that has been, or are proposed to be entered into with the Municipality. Annually the officials are not to accept significant personal gifts or hospitality. Any gifts or hospitality accepted or declined must be recorded in the Register that is held by the Internal Audit Unit. Failure to disclose an interest or the acceptance of an inappropriate reward/gift may result in disciplinary action or criminal liability.

It is the responsibility of all staff in Uthukela District Municipality to ensure that any password issued to them for use on any computer system is kept secured and confidential. The relevant systems administrator's (ICT Section) responsibility is to ensure that:

- Passwords are set to relevant level for the person involved;
- Passwords and access is withdrawn for staff no longer in the employment of the Municipality; and
- Access to users is limited so that confidentiality can be preserved and maintained.

Where employees of Uthukela District Municipality are members of professional bodies/committee, they will be expected to comply with the standards of conduct relevant to that committee. The Municipality of Uthukela District Municipality truly values its employees and considers that they have an important role to play. They will be encouraged to report any concerns and provide information if they suspect any fraud or irregularities. Managers are expected to ensure that all employees have access to the Municipal rules and regulations and to ensure that they receive suitable training. If anyone breaks these rules and regulations, the Municipality shall take formal action against them.

All Managers must ensure that suitable levels of internal check are present in working procedures especially financial procedures. It is so crucial that duties are organized so that no one can carry out a complete transaction without some form of checking process being built into the system. The community participation is broadly encouraged for them to raise any concerns they may have on any activity as stakeholders. This policy provides the means by which such concerns can be raised, irrespective of seniority, rank, status, or salary level. The public members are also encouraged to report concerns through the procedure i.e.

- Any injustice;
- Improper use of public or other funds;
- Criminal offences;
- Endangering health and safety;
- Any failure to comply with statutory or legal obligation;
- Misadministration, Misconduct or Malpractice;
- Damage to the environment; and
- Deliberate concealment of any of the above.

6.2 INTERNAL AUDIT AND RISK MANAGEMENT UNITS IN FIGHTING AGAINST FRAUD AND CORRUPTION IN UTHUKELA DISTRICT MUNICIPALITY

The Internal Audit and Risk Management Units play a key role in the prevention of fraud and corruption by its systematic examination and assessment of the municipal systems and procedures, to achieve municipal business objectives and strong systems of internal control.

The decision on whether to proceed with an audit investigation will be dependent on a variety of factors, i.e. the extent of the irregularity. It may be sufficient for internal audit to review the adequacy of the management actions rather than conducting separate investigations.

All suspected fraud and corruption investigations will be investigated, coordinated or reviewed by Internal Audit to achieve a consistent approach to investigations and provide assurance that allegations of fraud and corruption are being taken seriously. The scope of the Internal Audit review incorporates fraud awareness. Audit checks are performed in between systems review to test the integrity of arrangements. Internal Audit / Risk Management is actively involved in identifying and reducing the municipality's exposure to fraud and is always available to provide advice regarding anti-fraud and corruption initiatives. The primary intent of the Fraud and Corruption Policy is so positive, just to promote and encourage an ethical and moral environment. No person is authorized to supply any information with regard to allegations or incidents of fraud or corruption to the media or any unauthorized person without the express permission of the Uthukela District Municipal Manager. The Municipal Manager in consultation with Senior Management will decide whether any information relating to corrective actions taken or sanctions imposed, regarding incidents of fraud and corruption should be brought to the direct attention of any person or made public through any other means.

6.3 UTHUKELA DISTRICT MUNICIPALITY'S AUDIT COMMITTEE

According to the terms of Section 166 of the Municipal Finance Management Act, the municipality has an Audit Committee, which is regarded as an independent advisory body. Its primary functions are to carry out such investigations into the financial affairs of the Uthukela District Municipality as the council may request; and to advise the Uthukela District Municipal Council, political office bearers, accounting officer and management on matters relating to:

- Internal Financial Control;
- Risk Management;
- Internal Audit;
- Effective Governance

7. WHISTLE BLOWING AND ITS PROTECTION

Uthukela District Municipality's chief intention about Whistle Blowing Policy is to encourage employees and members of the public to raise serious concerns relating to specific issues including fraud and corruption without any fear or victimization. Remember that members of the public and employees may be the first to spot something that is seriously wrong in connection with the Uthukela District Municipality and its objectives. These concerns may be done using Whistle Blowing facilities i.e. The Office of the Municipal Manager, The Head of Internal Audit Unit and The National Hotline (080 0701 701).

Alternatively, Uthukela District Municipality should formulate and implement a form document to report Fraud and Corruption made available in the municipality and other public stations, as another Fraud & Corruption instrumental strategy. All concerns reported shall be treated in confidence and every effort will be made not to reveal the identity of the individual if they wish so. No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud or corruption.

The Municipality is committed to being open, honest and accountable and therefore wishes to be appraised to any problems at the earliest opportunity enabling the Council to take action, as appropriate to:

- Where crime or something suspicious has taken place, to instigate an investigation;
- Anticipate crime or other wrong doings, where possible;
- Minimize and contain any adverse impact;
- Bring to account the perpetrators; and
- Take corrective action to eliminate or significantly reduce the scope for repeat occurrences.

Activities to be reported by Whistle Blowers:

- Theft;
- Corruption;
- Fraud e.g. unauthorized use of money;
- An unlawful act;
- Any danger to Health and Safety;
- Mistreatment of clients, particularly children and vulnerable adults in our care;
- A person abusing their position in connection with unauthorized activity for personal gain;

- Damage being caused to the environment e.g. Pollution.
- Misuse of Municipal Property e.g. misuse of municipal fleet.

Let's Bear In Mind that Your action could be crucial in assisting Uthukela District Municipality to prevent or stop crime and abuse within the Municipality and society at large.

The Management as a whole 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 allegations must be subjected to firm disciplinary, or other appropriate action. Any disclosed concern must have the following aspects highlighted:

- The background and history of the concern i.e. giving relevant dates for concern;
- The reason why you are particularly concerned about situation;
- Indicate reasonable grounds for concerns.

8. CREATION OF AWARENESS

Any suspicion of fraud or other unlawful activity will be treated seriously and will be reviewed and analysed in accordance with the relevant legislation quoted at the beginning of the Policy. Any serious concerns about any aspect of service provision or the conduct of officers or members of the municipality or others acting on behalf of the municipality can be reported. In the interest of Uthukela District Municipality, its employees, any persons who subject to such allegations, as well as the person making the disclosure it is essential that:

- Disclosures can be done without any fear of victimization and in terms of Protected Disclosures Act, subsequent discrimination or being disadvantaged;
- Disclosures of illegal behaviour or irregularity are dealt with properly, quickly, discreetly and in a confidential manner;
- This procedure applies to all members of the public, employees, building contractors and those contractors working for Uthukela District Municipality, i.e. contract staff, cleaners and caterers, including supplies, and other services.
- All concerns will be treated in confidence and every effort will be made not to reveal the identity if they wish so. At the appropriate time, however one may need to come forward as a witness;
- The residents of Uthukela District Municipality feel confident in raising serious concerns and questions.

It is the responsibility of every citizen within this country to fight against fraud and corruption, but under the protocol of Municipalities, Managers of the Council are expected to take the lead in instilling a **Zero Tolerant Culture against Fraud and Corruption**, as well as to ensure that employees are made aware and receive appropriate training and education with regard to this policy of anti-fraud and anti-corruption. The Council will ensure that all allegations received including anonymous letters or phone calls will be dealt with.

Members of the public, employees and contractors are all warmly welcome to raise their concerns orally on the National Fraud Hotline, or in writing, by letter or email, just to fight this syndrome of Fraud and Corruption in our Society of Uthukela District Council.

9. APPROVAL

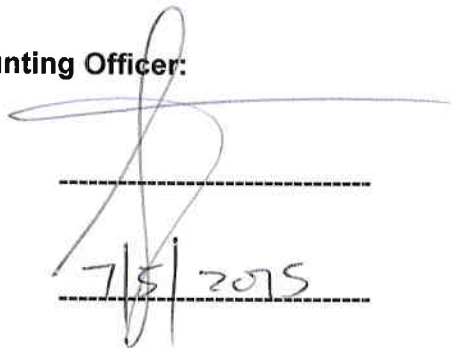
Recommended for approval by Council:

Resolution: *ITEM A17/04/15 – 30/04/2015*

"The Anti-Fraud and Corruption Policy and Prevention Plan be adopted in principle".

Approved by the Accounting Officer:

Signature:

A handwritten signature in blue ink, consisting of a large, stylized 'A' followed by a horizontal line.

Date:

7/5/2015

WHISTLE BLOWING FORM

Before completing this form, please consider the following carefully:

- Could the person(s) you suspect be acting legitimately?
- Do you genuinely believe someone is committing fraud or other wrongdoing?
- If you do, then please supply as much information as possible.
- Any information that you provide will be treated in the strictest of confidence.
- You do not have to supply your contact details – but this will make any investigation more difficult.
- If you feel able to supply your contact details, it will help us ensure that a full investigation is undertaken.
- If you do leave your contact details, then this information will be treated in the strictest confidence.
- We may contact you, however in order to clarify certain points or to ask further information.

PERSONAL DETAILS

Name	
Email address	
Contact Number	
Department / Section	
Other (please specify)	
Details of your concern Please provide details of what you have witnessed and or heard (include where possible dates, times place and people involved)	
THIS FORM CAN BE SENT TO: MANAGER - INTERNAL AUDIT UNIT <div style="text-align: center;"> 36 LYELL STREET LADYSMITH 3370 </div>	