

**TSANTSABANE LOCAL
MUNICIPALITY**

**FRAUD AND ANTI-
CORRUPTION
POLICY**



Subject: Fraud and anti-corruption policy

Date: 23 June 2020

Council Resolution: ITEM SCM 11/2020

CONTENTS

1.	INTRODUCTION	03
2.	DEFINITIONS	04
3.	POLICY	05
4.	ENVIROMENT AND CULTURE	08
5.	PROCEDURES FOR REPORTING FRAUDULENT AND OR CORRUPTION ACTIVITIES	08
6.	INVESTIGATION OF COMPLAINTS	09
7.	PROTECTION OF WHISTLE-BLOWERS	09
8.	CONFIDENTIALITY AND DISCRETION	10
9.	STAFF DEVELOPMENT AND TRAINING	10
10.	RESOLUTION OF REPORTED INCIDENTS	11
11.	IMPLEMENTATION OF THE POLICY	12
12.	CONSEQUENCES FOR BREACHING THE PROVISIONS OF ANTI-FRAUD AND ANTI-CORRUPTION POLICY	13
13.	PUBLICATION OF SANCTION	13
14.	CONCLUSION	13
15.	APPROVAL AND EFFECTIVE DATE OF THE POLICY	14

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)

1. INTRODUCTION

- 1.1 The purpose of this document is to set out the responsibilities of the employees and members of the public, with regard to Anti-Fraud and Corruption Policy as well as Fraud and Corruption Prevention Plan and the action that will be taken by Tsantsabane Municipality in the event of any contravention.
- 1.2 The Anti-Fraud and Corruption Policy is about changing organisational features that allow the events to occur and possibly go unnoticed or unreported. The strategies incorporated in the Fraud and Corruption Prevention Plan should address issues such as accountability, transparency, efficiency, effective and clean administration. Further these strategies should focus on improving systems and procedures, changing the attitudes of the staff and members of the public and improving the overall integrity and performance of or as we are attempting here, to incorporate it in several – such as the Anti Fraud and Corruption Policy, Fraud Corruption Prevention Plan, Codes of Ethics/Conduct etc.
- 1.3 The Anti-Fraud and Corruption Policy covers the prevention, detection and management of fraud and corruption and for fair dealing in matters pertaining to fraud and corruption. It aims to raise the awareness of fraud and corruption and its prevention in the Tsantsabane Municipality environment and to give guidance to both the reporting of suspected fraud and corruption and how the investigations of that report will proceed.
- 1.4 The Tsantsabane Municipality has a duty to protect the public funds under its control against fraud and corruption both from within the Municipality and from external sources. This Anti-Fraud and Corruption Policy is part of the Municipality's commitment to sound corporate governance.
- 1.5 The Tsantsabane Municipality expects all employees at all levels to lead by example in the achievement of probity and accountability by ensuring adherence to legal requirements, regulations, rules, procedures, policies and practices.
- 1.6 The Tsantsabane Municipality also expects that individuals and organizations (e.g suppliers, contractors and partners, etc) with whom it comes into contract, will act with integrity and without intent or actions to commit fraud or corruption or any other dishonest activities of a similar nature against the Municipality
- 1.7 This policy is intended to set down the stance of Tsantsabane Municipality to fraud and corruption as well as to reinforce existing system, policies, procedures, rules and regulations of the Municipality aimed at deterring, prevention, reaction to and reducing the impact of fraud and corruption.

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)

1.8 The Tsantsabane Municipality recognizes the fact that acts of fraud and corruption by its employees and external stakeholders affect the quality and quantity of service delivery because of limited resources, thus resulting in the Municipality not meeting its objectives.

1.9 Fraud and corruption is an ever-present threat to these resources and hence must be a concern to all employees and persons employed in a similar capacity. Fraud and corruption may occur internally or externally and may be perpetrated by anybody including employees, members of the public, councilors, consultants, suppliers, contractors or development partner, individually or in collusion with others

2. DEFINITION OF FRAUD AND CORRUPTION

2.1 FRAUD

Fraud is defined as unlawful and intentional making of a misrepresentation which causes actual prejudice or which is potentially prejudicial to another. The attempted fraud is treated as seriously as accomplished fraud. The term is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts, collusion etc.

2.2 Corruption

Corruption in terms of section 3 of the prevention and Combating of Corrupt Activities Act, Act 12 of 2004 is committed by any person who directly or indirectly –

- (a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefits of himself or herself or for the benefit of another person: or
- (b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner –
 - (i) that amounts to the –
 - (aa) illegal, dishonest, unauthorized, incomplete, or biased; or
 - (bb) misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation:

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)

- (ii) that amounts to-
 - (aa) the abuse of a position of authority;
 - (bb) a breach of a position of authority
 - (cc) the violation of a legal duty or a set of rules;
- (iii) designed to achieve an unjustified result; or
- (iv) that amounts to any other unauthorised or improper inducement to do or not to do anything.

3 POLICY

3.1 Policy statement

3.1.1 The Tsantsabane Municipality has measures for the prevention, detection and management of fraud and corruption or any other dishonest activities of a similar nature and for fair dealing in matters pertaining to such.

3.1.2 The Tsantsabane Municipality commits itself clearly that it is firmly committed to dealing with fraud and corruption or any other dishonest activities of a similar nature and deal equally with officials from inside and outside the Council. In addition there will be no distinction made in investigation and action between allegations of financial misconduct and other allegations of impropriety.

3.1.3 The policy statement, however, will not compromise the Council's Equal Opportunities Policy or any obligations as an employer under the Code of Ethics/Conduct for Local Government Employees.

3.2 Policy Objectives

- To develop an anti fraud and corruption free culture amongst staff and residents of Tsantsabane Municipality.
- To operate policies and systems which minimise fraud and corruption or any other dishonest activities of a similar nature.
- To develop partnership with other agencies and bodies in the fight against fraud and corruption or any other dishonest activities of a similar nature.
- To develop a highly-skilled anti-fraud profession.

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)

- To ensure that Tsantsabane Municipality's management is aware of its responsibilities for identifying exposures to fraudulent and corrupt activities or any other dishonest activities of a similar nature and for establishing controls and preventing such fraudulent and or corrupt activity and/or detecting such fraudulent and corrupt activity when it occurs;
- To provide guidance to employees and members of the public as to what action should be taken where they suspect any fraudulent and corrupt activity;
- To provide a clear statement to staff or any other persons having business with Tsantsabane Municipality, forbidding any illegal activity;
- To provide clear guidance as to responsibilities for detecting and reporting investigations into fraudulent and/or corrupt activities;
- To provide assurances that any reasonable suspicion of fraudulent and or corrupt activity will be fully investigated;
- Provide for a swift investigation of fraudulent and corrupt activities;
- To provide adequate protection and guidance as to appropriate action to employees in circumstances where they are victimized as a consequence of reporting, of being a witness to, fraudulent and/or corrupt activities;
- To provide a suitable environment for employees to report matters that they suspect may concern corruption conduct, criminal conduct, criminal involvement or serious improper conduct.

3.3 Scope of the policy

3.3.1 This Policy applies to all Municipal employees and prohibits all acts of fraud and corruption or any other dishonest activities of a similar nature impacting or having a potential prejudice to the Municipality or members of the public.

3.3.2 Any investigation required will be conducted without regard to the suspected wrongdoer's length of services, position/title, seniority or relationship to the Tsantsabane Municipality.

3.3.3 Actions constituting fraud and corruption are as outlined below, but not limited to:

- Accepting cash to avoid issuing traffic fine ticket
- Any breach of Municipal Finance Management Act
- Computer fraud or illegal usage
- Conflict of interest
- Creation of fictitious vendors

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)

- Deliberate omitting to report any such acts of dishonesty
- Deliberate withholding of any information which could assist in investigating any irregularity
- Disclosing confidential or proprietary information to outside parties for financial gain or other reason
- Disclosing to other person security measures or activities engaged in or contemplated by the Tsantsabane Municipality
- Double salary payments
- Duplicate payments from the same invoice
- Extortion involving municipal employees in the performance of their duties
- Failure to put into place internal controls thus causing financial loss to Tsantsabane Municipality
- False/inflated invoices
- False sick leave, overtime or qualifications
- Forgery or alteration of any document or account including cheque, bank draft, stock records or any other financial document relating to transactions with Tsantsabane Municipality
- Ghost employees
- Housing subsidy fraud
- Improper usage of property
- Illegal allocation of low cost houses
- Irregular destruction, removal or inappropriate use of records, documents, furniture, fixtures, material and equipment
- Issuing of false business licenses
- Misappropriation or theft of funds, securities, suppliers or other assets
- Procurement fraud
- Purchase for personal use
- Requesting or accepting or seeking anything of material value to the Tsantsabane Municipality
- Any dishonest, fraudulent or corrupt act or other similar or related inappropriate conduct

4. ENVIROMENT AND CULTURE

4.1 The management must create an environment and culture in which employees believe that dishonest acts will be detected and investigated. To this end, they must:

- participate in in-house training programs covering fraud and corruption detection, fraud and corruption prevention and training on the code of ethics;

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)

- ensure that staff understand that the internal controls are designed and intended to prevent and detect fraud and corruption or any other dishonest activities of a similar nature;
 - encourage staff to report suspected fraud and corruption directly to those responsible for investigation without fear of disclosure or retribution; and
 - require vendors and contractors to agree in writing as a part of the contract process, to abide by the Tsantsabane Municipality policies and procedures, and thereby avoid any conflict of interest.
- 4.2 Measures to prevent fraud and corruption should be continually monitored, reviewed and developed particularly as new system, programs, contracting or arrangements are introduced or modified.

5. PROCEDURES FOR REPORTING FRAUDULENT AND OR CORRUPTIVE ACTIVITIES

- 5.1 Consistent with the Auditor General's guidelines, line managers are responsible for daily operations and for the internal control systems within their organizational responsibility. Where managers do not have the expertise to evaluate internal controls they should call upon the support from Internal Audit.
- 5.2 It is the responsibility of members of the public and employees (including line managers) to report all incidents of fraud, corruption or any other dishonest activities of a similar nature to the office of the Municipal Manager.
- 5.3 All complaints implicating the Municipal Manager should be reported to the Mayor.

6. INVESTIGATION OF COMPLAINTS

- 6.1 The Office of the Municipal Manager will investigate all complaints of fraud and corruption with the assistance of different Units/Departments and individuals.

7. PROTECTION OF WHISTLE-BLOWERS

<p>Subject: Fraud and anti-corruption policy (Reviewed) Date: May 2018 Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)</p>
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7.1 The Protection Disclosures Act, Act 26 of 2000 makes provision for procedures in terms of which employees may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers without fear of victimization.

A person shall therefore not:

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

7.2 All whistle-blowers' identities will remain confidential or anonymous to prevent victimization.

7.3 Action to cover up to the wrongdoing and or to retaliate against, or victimize witnesses is strictly forbidden, and such actions constitute a conduct within the jurisdiction of the Tsantsabane Municipality, which is punishable.

8 CONFIDENTIALITY AND DISCRETION

8.1 The Office of the Municipal Manager will treat all information that it collects or receives in confidence except as is necessary for a thorough investigation and resolution of the complaint and/or as required by or a standard of ethical conduct.

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)

- 8.2 People will be made aware of the issue and the investigation, only on a limited need-to-know basis.
- 8.3 In order to avoid damaging the reputations of innocent persons initially suspected of wrongful conduct, the results of investigations will not be disclosed or discussed by anyone other than those who have a legitimate need to know.

9. STAFF DEVELOPMENT AND TRAINING

- 9.1 It is established that in each year Municipalities are losing Millions of Rands as a result of fraud and corruption committed not only by individuals defrauding the system, but also from organized gangs operating within and outside these Municipalities. In order to deal with these challenges, continuous learning, development and the sharing of good practice will result in highly skilled Anti-Fraud Officers working in a professional framework to the highest standards of performance and integrity.
- 9.2 Courses/Workshops on the topic of fraud corruption detection and prevention, will in each year be co-ordinated by the Office of the Municipal Manager to empower the Anti-Fraud Officers to be able to combat fraud and corruption
- 9.3 The training on the Code of Ethics as a preventive measure on fraud and corruption will be rolled out to the Management and employees by the Office of the Municipal Manager in conjunction with the Human Resources Unit.

10. RESOLUTION OF REPORTED INCIDENTS

- 10.1 Allegations of fraud and corruption or any other dishonest activities of a similar nature that are reported by members of the public or employees will be investigated by the Office of the Municipal Manager and/or referred to the relevant agencies, depending on the nature of the incident.
- 10.2 Members of the Forensic Investigation Department shall have free and unrestricted access to all Municipality records and premises, whether owned or rented; and the authority to examine, copy and/or remove all or any portion of the content of files, desks, cabinets, computers and other

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)

storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items when it is within the scope of their investigations.

10.3 All employees must promptly co-operate and comply with requests from the Office of the Municipal Manager with regards to information required to assist investigation.

10.4 Where an investigation has revealed that an employee has committed fraud, corruption or any other related incidents, the following may be recommended by the Office of the Municipal Manager:

- Taking disciplinary action;
- Instituting recovery of financial losses;
- Initiating criminal investigation process by reporting the matter to the appropriate law enforcement agencies;
- Identifying internal controls to be improved;
- Any other appropriate action available.

10.5 The Head of the Unit/Department, upon receiving the report from the Office of the Municipal Manager, shall acknowledge such and inform the Office of the Municipal Manager of their intentions with respect to the recommendations of the report within 21 days.

10.6 In respect of all reported incidents of fraud, corruption or any other related incidents, the managers of respective Units/Department must review and improve the effectiveness of internal controls which have been breached within a reasonable period in order to prevent similar irregularities from occurring in the future.

10.7 The Heads of Units/Department and their respective managers must ensure that losses or damages suffered by Tsantsabane Municipality as a result of all reported acts of fraud or corruption or any other dishonest activities of a similar nature committed by an employee or any other person in their own units/departments, are recovered from such an employee or other person if he/she is found to be liable.

11. IMPLEMENTATION OF THE POLICY

11.1 It is the responsibility of all Heads of Units/Department (including managers at all levels) to ensure that all employees are made aware of and receive appropriate education and training on Anti-Fraud and Corruption Plan and Code of Ethics/Conducts and that such has been cascaded.

11.2 All Heads of Units/Department shall submit a compliance certificate to the Office of the Municipal Manager stating that the Anti-Fraud and Corruption Policy and Fraud Plan as well as training on the Code of

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)

ethics have been cascaded to all employees within their Units within a reasonable period after adoption by Council or otherwise.

- 11.3 The Office of the Municipal Manager, with the assistance of the Communications Units, shall be responsible for communicating the relevant sections of this policy and plan thereto to the members of the public and other external stakeholders.
- 11.4 Once the Anti-Fraud and Corruption policy and Fraud plan are in place, a "Fraud Prevention Committee" will be established by the Accounting Officer, which will be responsible for the ongoing maintenance and review of fraud plan/strategy. The scope of the committee should include, but not limited to;
- 11.4.1 Evaluating reports of fraud and corruption and highlights arrears of risk within Tsantsbane Municipality
 - 11.4.2 Considering fraud and corruption threats to the Tsantsabane Municipality and make recommendations to the appropriate structure;
 - 11.4.3 Monitoring action taken to implement recommendations relating to incidents for fraud and corruption or other similar or related inappropriate conduct;
 - 11.4.4 Keep Integrity Personnel Data for all disciplined employees and External Stakeholders;
 - 11.4.5 Reviewing and making appropriate amendments to the anti-fraud and corruption policy and fraud plan should they be required; and
 - 11.4.6 Ensuring that ongoing implementation strategies are developed and carried out.

12. CONSEQUENCES FOR BREACHING THE PROVISION OF ANTI-FRAUD AND ANTI-CORRUPTION POLICY

- 12.1 Breach of any provisions of this policy by any Tsantsbane Municipality employee or any person having dealings with Tsantsabane Municipality shall amount to misconduct and shall lead to disciplinary action and laying of criminal charges with dismissal consequences.

13. PUBLICATION OF SANCTION

- 13.1 A brief and anonymised summary of the circumstances will be published in order to send a deterrent message to other employees but the Accounting Officer will decide whether it is just for any information relating to corrective actions taken or sanctions imposed regarding incidences of fraud, corruption or any other dishonest activities of a

<p>Subject: Fraud and anti-corruption policy (Reviewed) Date: May 2018 Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)</p>
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similar nature, should be brought to the direct attention of any person or made public through any means.

- 13.2 All Anti-Fraud and Corruption activities, including the adoption of this policy, will be publicized to make employees and the public aware of the Council's commitment to taking action on fraud and corruption, when it occurs.

14. CONCLUSION

- 14.1 The Tsantsabane Municipality has a clear commitment to minimizing the possibility of fraud, corruption or any other dishonest activities of a similar nature. It pledges not only to prevent fraud and corruption or any other dishonest activities of a similar nature but to take all action necessary to identify such and pursue the recovery of losses and the punishment of those responsible.

- 14.2 The Tsantsabane Municipality's employees are expected to have the highest standards of conduct and to be vigilant in combating fraud and corruption or any other dishonest activities of a similar nature in all its guises.

- 14.3 The Tsantsabane Municipality has embarked on implementing a clear network of systems and procedures to assist in the fight against fraud and corruption or any other dishonest activities of a similar nature. The Anti Fraud and Corruption Prevention Plan and awareness campaigns will keep pace with any future developments, in both preventative and detection techniques regarding fraudulent or corruption activities or any other dishonest activities of a similar nature that may affect its operations.

15. APPROVAL AND EFFECTIVE DATE OF THE POLICY

- 15.1 The Anti-Fraud and Corruption Policy and Fraud Plan shall come into effect immediately upon approval by the Executive Council of Tsantsabane Municipality

ANNEXURE A: COMPLIANCE CERTIFICATE

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)

Subject: Fraud and anti-corruption policy (Reviewed)

Date: May 2018

Council Resolution: ITEM CM/2018 (FRAUD AND ANTI-CORRUPTION POLICY)