

## **POLICY 010/2015 RAADSBELEID**

**ONDERWERP:** RISK MANAGEMENT IMPLEMENTATION PLAN

**VERWYSING:** 5.14.B

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### **1. SUMMARY**

Fraud and corruption is a global phenomenon and as such require concerted efforts from both the public and private sector. //Khara Hais Municipality recognises four components i.e. prevention, detection, investigation and resolution, which plays an integral part in the fight against fraud and corruption.

The primary objective of this strategy is to prevent fraudulent conduct before it occurs. The fundamental advantage of prevention of fraudulent conduct advances two main purpose of criminal law: deterring future criminal conduct and protecting the public from dangerous offenders. The characteristic of successful fraud enforcement is its effectiveness not only in apprehending those who have already violated the law, but also in preventing others from committing acts of fraud. In South Africa, Common Law defines fraud as “*the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another*”.

The term “*fraud*” is also used in a wider sense by the general public. In this regard, the term is used in this document in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty. In other words, fraud can be described as any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

The general offence of corruption is contained in Section 3 of The Prevention and Combating of Corrupt Activities Act. This section provides that any person who gives or accepts or agrees or offers to accept / receive any gratification from another person in order to influence such other person in a manner that amounts to:

- The illegal or unauthorised performance of such other person’s powers, duties or functions;
- An abuse of authority, a breach of trust, or the violation of a legal duty or a set of rules;
- The achievement of an unjustified result; or
- Any other unauthorised or improper inducement to do or not to do anything is guilty of the offence of Corruption.

Corruption in its wider meaning, and as referred to in this document, includes any 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 or information, abuse of a position of authority or a breach of trust or violation of duty.

## **1.1 Linkage with other National Anti-Corruption Strategies**

### **1.1.1 The Public Service Anti-Corruption Strategy**

During 1997, Government initiated a National Anti-Corruption campaign. This campaign progressed to a National Anti-Corruption Summit held in April 1999 at which all sectors of society (public and private) committed themselves to establishing sectorial anti-corruption strategies. At the same time, they also committed to the co-responsibility for fighting corruption through the coordination of these sectorial strategies.

A range of other resolutions emanated from this Summit and all the sectors committed to implementing these.

The Department of Public Service and Administration (DPSA) was instructed to forge various initiatives across the public service into a coherent strategy with the support of other Departments. A Public Service Task Team (PSTT) consisting of key Departments was convened for this task and representation from local government and public entities were included in order to establish a platform for the roll-out of the strategy to the whole of the Public Sector (Public Service, Local Government and Public Entities).

### **1.1.2 The Local Government Anti-Corruption Strategy**

Local Government developed the Local Government Anti-Corruption Strategy (LGACS), which is modelled around the Public Service Anti-Corruption Strategy. The main principles upon which the LGACS is based are the following:

- Creating a culture within municipalities, that is intolerant to unethical conduct, fraud and corruption;
- Strengthening community participation in the fight against corruption in municipalities;
- Strengthening relationships, with key stakeholders, that are necessary to support the actions required to fight corruption in municipalities, for example, South African Local Government Association (SALGA), Employee Representative Unions, and Communities;
- Deterring and preventing of unethical conduct, fraud and corruption;
- Detecting and investigating unethical conduct, fraud and corruption;
- Taking appropriate action in the event of irregularities, for example, disciplinary action, recovery of losses, prosecution, etc; and
- Applying sanctions, which include redress in respect of financial losses.

## **1.2 Components of the plan**

The main principles of the Fraud Prevention are the following –

- Creating a culture which is intolerable to corruption / fraud
- Deterrence of corruption and fraud
- Preventing corruption/fraud which cannot be deterred
- Detection of corruption/fraud

- Fraud prevention plan/strategy
- Investigating detected corruption/fraud
- Taking appropriate action against fraudsters. e.g. prosecution, disciplinary action
- Applying sanctions, which include redress in respect of financial losses

## 2. OBJECTIVE

Encourage a culture within //Khara Hais Municipality where all employees, the public and other stakeholders continuously behave ethically in their dealings with, or on behalf of //Khara Hais Municipality improving accountability, efficiency and effective administration within //Khara Hais Municipality. Improving the application of systems, policies, procedures and regulations, changing processes of the Municipality that facilitate corruption/fraud and allow it to go unnoticed or unreported.

## 3. LEGISLATIVE REQUIREMENTS

### 3.1 Municipal Finance Management Act no. 56 of 2003

#### Section 62 of the MFMA

*“Accounting authority of the municipality must ensure that it has and maintains effective, efficient and transparent systems of financial management, internal control and risk management.”*

**Treasury Regulation 27.2.1** extends the above requirement with emphasis on Risk Assessment, Risk Management Strategy and Fraud Prevention Plan summarized as follows:

- I. The Accounting Authority must ensure that a risk assessment is conducted regularly to identify emerging risk of the institution.*
- II. A risk management strategy, which must include a fraud prevention plan, must be used to direct internal audit effort and priority and to determine the skills required of managers and staff to improve controls and to manage these risks.*
- III. The strategy must be clearly communicated to all officials to ensure that the risk management strategy is incorporated into the language and culture of the institution.”*

### 3.2 Protected disclosure Act. No 26 of 2000

Protects employees who disclose information on fraudulent activities against victimization.

### 3.3 The King III Report

Code of Governance reflects on integrated reporting as an increase in the organisation’s business opportunities and an improvement in risk management. The principles outlined on the code of governance requires that:- the risk tolerance level should be determined by top management; the risk or audit committee to assist management on carrying out the risk responsibilities; management to design, implement and monitor the risk management plan; risk assessment to be conducted on a continuous basis; framework and methodologies are implemented to increase the profitability of anticipating unpredictable risks; management considers and implements appropriate risk responses; there is continuous risk monitoring by

management; assurance given to management regarding the effectiveness of risk management process.

### 3.4 Other related legislative requirements;

- The Constitution of the Republic of South Africa, (Act No. 108 of 1996)
- Local Government: Municipal Systems Act, (No. 32 of 2000)
- Local Government: Municipal Structures Act, (No. 117 of 1998)
- Local Government: Municipal Supply Chain Management Regulations, (Act No 27636 of 2005)
- Prevention of Organised Crime Act 121 of 1998
- The Prevention and Combating of Corrupt Activities Act 12 of 2004
- Public Service Act, 1994
- The National Prosecuting Authority Amendment Act,2000
- National Strategic Intelligence Act, 1994
- Strategic Intelligence Amendment Act, 2002 (67 of 2002)
- Fraud prevention plan/strategy

## 4. SCOPE

This strategy, plan and policy applies to all corruption, fraud, theft and maladministration or suspected irregularities of this nature involving, but not limited to, the following persons or entities:

- a) Employees of the Municipality;
- b) Political Office Bearers;
- c) Councillors;
- d) Consultants, suppliers, contractors and other providers of goods and services to the Municipality.

## 5. STRATEGY STATEMENT

This Anti-Corruption Strategy and Fraud Prevention Plan are being developed as a result of the expressed commitment of Government to fight corruption. It is also an important contribution to the National Anti-Corruption Strategy of the country and supplements both the Public Service Anti-Corruption Strategy and the Local Government Anti-Corruption Strategy as outlined in paragraph 1.4 below. The Strategy aims to emphasise a structured approach to the effective management of fraud and corruption within the Municipality. Fraud represents a significant potential risk to the Department's assets, service delivery and reputation. Fraud prevention and detection strategies will be designed and implemented. These will include any existing controls (systems & manual internal controls) and those currently prescribed in existing policies, procedures and other relevant prescripts to the activities of **//Khara Hais Municipality. The Municipality** will not tolerate any corrupt or fraudulent activities, whether internal or external, and will strongly pursue and initiate the prosecution of any parties which are involved/ engaged in such practices or attempt to do so.

## **6. Fraud and corruption control Strategies**

The approach in controlling fraud and corruption is focused on 3 areas, namely:

- Structural strategies (Oversight Structures)
- Operational Strategies
- Maintenance Strategies

### **6.1 Structural Strategies**

Represents the actions to be undertaken in order to address Fraud and Corruption at the structural level.

#### **6.1.1. Management accountability**

The Municipal Manager as the Accounting Officer bears the ultimate responsibility for fraud and corruption risk management within the Municipality. This includes the coordination of risk assessments, overseeing the investigation of suspected fraud and corruption, and facilitation for the reporting of such instances.

Managers and supervisors have oversight responsibility for internal controls within their units. The implementation of controls should/could be included in performance agreements of managers at all levels. The latter will lead to increased focus in mitigating risks and teach a risk management culture. The day to day responsibilities for the prevention and detection of fraud rest with line managers who are responsible for identifying the risks to which systems, operations and procedures are exposed

Developing and maintaining effective controls to prevent and detect fraud and ensuring that controls are being complied with. Failure to take remedial measures to correct an irregularity in the systems or internal control will lead to the Municipality taking disciplinary measures against the responsible manager in the unit concerned. The Internal Audit and Risk Management Unit have no primary responsibility for establishing or maintaining internal controls. However, the effectiveness of the internal controls are enhanced through the reviews performed and recommendations made by both sections. Managers should ensure that recommendations made by Internal Audit and any other assurance providers are fully implemented within a specified time.

#### **6.1.2. Ethical Culture**

Ethics are concerned with human character and conduct and deal with questions of right and wrong, appropriate and inappropriate behaviour and what constitute good or evil. The ethical principles contained in the Code of Conduct for the Public Service are applicable to all employees of the Municipality. Therefore, the Code of Conduct for the Public Service as set out by the Public Service Commission will be customised accordingly towards the core business operations of the Municipality. All employees are expected to abide by the code of conduct. The municipality is required to conduct itself in an ethical and moral way.

Senior management of //Khara Hais Municipality are committed to eradicating fraud and corruption and ensuring that the 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 Municipal Manager will ensure that fraud and corruption will be dealt with effectively and that the fraud and corruption strategy is reviewed and updated annually. All employees and stakeholders will be made aware of anti - fraud and corruption strategies through awareness campaigns and training.

Ethical conduct is based on a set of principles referred to as values or norms. The collective ethical conduct of all Councillors and employees reflects the organisational ethical conduct. In this regard, the highest standards of ethics are required by Councillors and employees when fulfilling their duties and to the municipal code of conduct.

The Municipality subscribes to the eight Batho Pele Principles which are:

- Consultation
- Service Standards
- Access
- Courtesy
- Information
- Openness and Transparency
- Redress
- Value for Money

## **6.2. Operational Strategies**

### **6.2.1 Prevention strategy**

Fraud and corruption can be prosecuted after the fact, but, first and foremost, it requires prevention. The Municipality acknowledges the importance of utilizing its resources in the most effective and efficient manner and as such recognises “prevention” as the fundamental component of anti-corruption strategy. The prevention efforts should focus on identifying controls to mitigate all three conditions;

- Opportunity
- Rationalization, and
- Pressure

The component of prevention encompasses, creation of anti-fraud culture/behaviour, training and awareness, policies and procedures, physical and information security, employee vetting and risk management.

### **6.2.2. Fraud and Corruption risk assessment**

The municipality, under the guidance of the Municipal Manager working together with MPAC and the Audit Committee, as well as Provincial Treasury will ensure that fraud and corruption risk assessments are conducted to identify potential fraud and corruption risk exposures. The risk of fraud needs to be actively managed. This involves identifying the potential for fraud and corruption and developing appropriate strategies to minimise the risk of it occurring. The Municipality will conduct on annual basis fraud and corruption risk assessments to identify potential fraud and corruption risk exposures to

the institution. This process will ensure that actions to address the identified fraud and corruption risk exposures will be implemented to mitigate these exposures.

The above will be formulated into “Fraud Risk Assessment” and which will provide an indication of how fraud and corruption manifested. A Fraud and Corruption Risk Register for the prioritised risks will be developed as well as actions to mitigate these risks. Whilst internal and external auditors may consider fraud risk, it is only one element in their audit assessment model and it competes with other issues for attention. In addition, fraud detection and prevention are not their primary reasons for conducting audits. Therefore, management should not rely solely on audits as a mechanism for managing the risk of fraud.

### **6.2.3. Employee awareness**

The primary function of training new and existing employees on the fraud strategy is a fundamental process that inculcates the Municipality’s culture and philosophy of zero tolerance on fraud and corruption to all employees. The Municipality will arrange workshops to both internal and external stakeholders to create awareness of fraud and corruption, the manifestations thereof and the plan in general. A further objective of this training is to reinforce the expectations of the Municipality and administration of employees of the Municipality with regard to their conduct and behaving ethically and with integrity. Processes and mechanisms to manage professional ethics are fundamental to the fight against fraud and corruption. In line with the principles contained in the Public Sector Anti-Corruption Strategy, the Municipality will pursue the following additional steps to communicate the principles contained in the Code:

- A copy of the Code will be circulated to all employees and included in the induction packs for new employees.
- Include relevant aspects of the Code in further awareness presentations, training sessions and communication programmes to create awareness thereof amongst employees and other stakeholders

Further objectives of this training will be the following:

- Helping employees to understand the meaning of unethical behaviour (including harassment in any form) in line with expectations of the Municipality.
- Helping employees to understand issues involved in making ethical judgments; and communicating the implications of unethical behaviour and its impact for individuals, the workplace, professional relationships, the Municipality as whole and external stakeholders including the public. The development and constant review of the gift policy to ensure that it adequately addresses both acceptance and offering of business courtesies including gifts, by all employees of the Municipality.
- The development of a more robust system for the declaration of private business interests and actual or potential conflicts of interest by all employees and keeping of a centralised record thereof will be considered

#### **6.2.4 Municipality's systems, policies, procedures, rules and regulations**

The Municipality has a number of systems, policies, procedures, rules and regulations designed to ensure compliance with government legislation. //Khara Hais Municipality has identified a fraud and corruption risk in this area as being the lack of application, knowledge, awareness, effective communication and training with regard to its prevailing prescripts. The Municipality will develop clearly defined communication and training strategies to create awareness of existing and new policies and procedures in order to ensure that all employees are made aware of, and adequately trained in the implementation of policies and procedures relevant to their duties and responsibilities, including -

The keeping of adequate records serving as proof that employees have been made aware of the policies and procedures relevant to their duties; and

The development and distribution of a regular communiqué outlining the importance of complying with policies and procedures and the implications for employees, for example–

- The taking of corrective action against offenders not complying with policies and procedures
- The keeping of all policies and procedures accessible all the time to employees.
- Policies and procedures to be updated continuously and made available to users.

//Khara Hais Municipality is committed to developing human resources systems, policies and procedures, which will incorporate the fraud and corruption prevention practices detailed below –

- The development of a system for transparent and merit-based hiring and promotion practices with objective standards in order to reduce the risk of nepotism and favouritism, both of which are damaging forms of fraud and corruption
- The Municipality applies the resolutions of the Public Sector Collective Bargaining Council, which enables employees who have been unfairly or falsely accused to seek recourse. This is based on the recognition that aggrieved employees may become malicious, thus increasing the risks of them committing fraud and corruption; and
- The Municipality recognises that, despite on-going organisational and policy changes, for example employment equity policies, matching of competence to the job is extremely important.
- As part of its approach to the management of human capital, the Municipality will continue to pursue steps to ensure that competent people are being appointed
- Management must be held accountable for complying with, and implementing, the Municipality's systems, policies, procedures, rules and regulations and for preventing fraud and corruption. This will be

addressed in job descriptions, agreed work plans and performance contracts.

- The Municipality will also develop a system with clear guidelines for the placing of prohibitions on individuals and restriction of entities found guilty of fraud and corruption against it.

#### **6.2.5. Physical and information security**

Physical restrictions are the most important type of protective measures for safeguarding the //Khara Hais Municipality's assets, processes and data. Physical access to confidential records and secured area should be properly controlled. Documentation and record retention is to provide reasonable assurance that all information and transactions of value are accurately recorded and retained. Records are to be maintained and controlled in accordance with the Security Policy of the Municipality

The Municipality will conduct regular reviews of physical security in order to understand its specific shortcomings in this area and ensure that, where necessary, security of offices is upgraded in order to comply with the MISS Policy as developed by the National Intelligent Agency (NIA).

Supplementary steps will be established to control access to archives, files, computer and data systems. A comprehensive security policy should be developed and should among other things cover control of; information computer systems, securing of official documents, access control, physical search, contingency plan and key control.

#### **6.2.6 Pre-employment screening (employee vetting)**

Pre-employment screening will be carried for all appointments, with the involvement of Security Management Unit, although the whole process is maintained by Human Resources. Consideration should be given to the following areas;

- Confirmation of ID and Addresses
- Criminal records
- Reference checks with pre employers (most recent)
- Verification of formal qualification
- Insolvency/ credit checks

#### **6.2.7 Security Clearance (Vetting)**

Security screening/ vetting is required when a person is promoted, transferred or performs general official duties that will give them access to classified information. The degree of security clearance given to a person is determined by the content of and/or access to classified information entailed by the post already occupied or to be occupied by a person.

Vetting will be carried out from the lowest level up to Senior Management for all staff members and any stakeholders who should have access to classified information. The security clearance period of validity ranges from 5 to 10 years; the categories that an individual is analysed on in terms of security clearance level are as follows:

- Top Secret
- Secret, and
- Confidential

#### **6.2.8 Recruitment procedures**

Recruitment will be conducted in accordance with Council recruitment policy. It will be a transparent process and all appointments will be confirmed only after due recommendation. Any person, involved in any decision-making process, who may have a conflict of interest, must declare such a conflict in writing to the Municipal Manager and withdraw from any further procedures.

#### **6.2.9 Declaration of Secrecy**

A declaration of secrecy form should be completed by anyone who applied for a municipal position before he/she is appointed or during the appointment process.

#### **6.2.10 Fraud and corruption prevention plan**

For effective implementation of the Fraud and Corruption Strategy, a plan will be developed with detailed procedures on how to implement the strategy. The actions/outputs set on the plan are focused at mitigating the risk of fraud and corruption in the Municipality. The plan will encompass at most the following;

- Fraud Risk Assessment
- Monitoring Process
- Awareness

#### **6.2.11 Internal controls**

Internal controls are an integral part of the Municipality's financial and non-financial policies and procedures. An internal control consists of all the measures taken by the Municipality for the purpose of –

- a) Protecting its resources against waste, fraud, and inefficiency
- b) Ensuring accuracy and reliability in accounting and operating data
- c) Ensuring the efficiency of the Municipality's processes and systems
- d) Securing compliance with the policies of Municipality; and
- e) Evaluating the level of performance in all units of Municipality

Hereto are some of the internal controls that are crucial in execution of the activities.

##### **(a) Segregation of duties**

There are four general categories of duties or responsibilities which are examined when segregation of duties is discussed: authorization, custody, record keeping and reconciliation. In an ideal system, different employees would perform each of these four fraud prevention plan/strategy major functions. In other words, no one person should have control of two or more of these responsibilities. The more negotiable the asset, the greater the need for proper segregation of duties, especially when dealing with cash and inventories. In instances where duties cannot

be fully segregated, mitigating or compensating controls must be established.

Mitigating or compensating controls are additional procedures designed to reduce the risk of errors or irregularities. For instance, if the record keeper also performs a reconciliation process, a detailed review of the reconciliation could be performed and documented by a supervisor to provide additional control over the assignment of incompatible functions. Segregation of duties is more difficult to achieve in a centralized, computerized environment. Compensating controls in that arena should include passwords, inquiry only access, logs, dual authorization requirements, and documented reviews of input /output.

**(b) Audit trail**

The //Khara Hais Municipality will assign a competent team of its staff to look into the aspect of audit trail on a regular basis. The task will comprise of looking into all functions starting from capturing of information, updating of records of the Municipalities clients on the database, capturing of any information that may lead to fraud and corrupt activities and up to the payment stage. Not only should audit trail be limited to payments processing but all areas across the Municipality.

**(c) Monitoring**

Internal control systems need to be monitored as a process that assesses the quality of the system's performance over time. On-going monitoring occurs in the ordinary course of operations, and includes regular management and supervisory activities, and other actions personnel take in performing their duties that assess the quality of internal control system performance.

The scope and frequency of separate evaluations depend primarily on an assessment of risks and the effectiveness of on-going monitoring procedures. Internal control deficiencies should be reported upstream, with serious matters reported immediately to management.

**(d) Components of the control activity**

Internal controls rely on the principle of checks and balances in the workplace. The following components focus on the control activity - Personnel need to be competent and trustworthy, with clearly established lines of authority and responsibility documented in written job descriptions and procedures manuals.

Authorization procedures need to include a thorough review of supporting information to verify the propriety and validity of transactions. Approval authority is to be commensurate with the nature and significance of the transactions and in compliance with relevant regulations and legislation.

Segregation of duties reduces the likelihood of errors and irregularities. An individual is not to have responsibility for more than one of the three transaction components: authorization, custody, and record keeping. When the work of one employee is checked by another, and when the responsibility for custody for assets is separate from the responsibility for maintaining the records relating to those assets, there is appropriate segregation of duties. This helps detect errors in a timely manner and deter improper activities; and at the same time, it should be devised to prompt operational efficiency and allow for effective communications.

### **6.3. Detection Strategies**

The //Khara Hais Municipality has dedicated itself in detecting fraudulent and corrupt actions that could harm the organization. It is within this premise that appropriate channels and measures should be enhanced to ensure that detection of fraud is action based and appropriate controls should be implemented. The Municipality is equally committed to ensuring that appropriate measures are in place and taking all possible action so that any fraud or fraudulent behaviour is detected at an early stage, is exposed and is subjected to appropriate disciplinary and / or judicial action. A comprehensive and a detailed fraud detection plan should be attached to this strategy in which it outlines the techniques the //Khara Hais Municipality will use to detect most prevalent events of fraud and corruption.

The individual identified at the Institution will be responsible for developing detection strategies, and will work closely with line management and the Internal Audit function for this purpose. The Institution will embark on a number of initiatives to detect fraud and corruption in the workplace.

#### **6.3.1 Whistle blowing, reporting mechanisms and policies**

//Khara Hais Municipality acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal from those responsible for the irregularity. Those who often do “blow the whistle” end up being victimised and intimidated. The Municipality will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. Any act of harassment or victimisation should be reported to the Head of Department. This does not mean that if a staff member is already subject of disciplinary or other actions will be halted as a result of their whistle blowing. For this reason, the Municipality will adopt a Whistle Blowing Policy setting out the detailed procedure which must be followed in order to report any incidents of fraud and / or corruption. This policy will be designed to comply with the provisions of the Protected Disclosures Act.

Any suspicion of fraud and corruption will be treated seriously and will be reviewed, analysed, and if warranted, investigated. If an employee becomes aware of a suspected fraud, corruption or any irregularity or unethical behaviour, such issues should be reported in terms of a Whistle Blowing Policy.

The fundamental objective of the Protected Disclosure Act, No 26 of 2000 is to protect workers from detrimental treatment or victimisation from their employer if in the public interest; they blow the whistle on wrongdoing. An employee who reports suspected fraud and corruption may remain anonymous should he / she so desire. Information received as a protected disclosure is strictly confidential, and includes the identity of the person making the disclosure, nature of the disclosure and also the identity of the person or persons against whom the disclosure has been made. No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and corruption which occurred within the Municipality.

All managers should discourage employees or other persons from making allegations, which are false and made with malicious intentions. Where such allegations are discovered, a person who made the allegations must be subjected to firm disciplinary, or other appropriate action.

### **6.3.2 Reporting mechanism**

Any employee who has knowledge of an occurrence of irregular conduct, or has reason to suspect that a case of fraud or corruption has occurred has to immediately notify his / her supervisor, any senior manager, Should employees wish to report allegations of fraud and corruption anonymously, the following reporting mechanisms are available:

- National Anti-Corruption Hotline number 0800 701 701
- Presidential Hotline number 17737
- //Khara Hais Municipality 054 - 3387000

The employee shall not discuss the matter with anyone other than his/her supervisor, any senior management member. Employees who knowingly make false allegations will be subject to discipline or legal proceedings depending on the seriousness of allegations. All managers are also responsible for reporting all incidents and allegations of fraud and corruption to the Municipal Manager. The Municipal Manager will initiate an investigation into the matter.

The Municipal Manager is required to ensure that losses or damages suffered by the Municipality as a result of all reported acts committed or omitted by an employee or any other person are recovered from such an employee or other person if he or she is found to be liable for such losses.

### **6.3.3 Immediate action on crime being discovered or suspected**

The recommended sequence of events on the discovery of a crime or suspected crime should be:

- a) An immediate report should be made to the specific Head of Department, who should in turn notify the Municipal Manager and Human Resources.
- b) Human Resources should take immediate steps to preserve all possible evidence and secure assets at risk.
- c) Appointment of an investigation officer by the Municipal Manager.

- d) The case investigator will need to decide on the immediate subsequent action. Irrespective of the nature and seriousness of the crime this action may include depending the nature of the suspected crime: -
- Notifying the South African Police Services;
  - Notifying the Office of the Auditor-General;
  - Take the necessary steps to secure the assets at risk;
  - The removal of the suspect from a position of authority and the withdrawal of signing powers, revoking of the staff members access to the municipality's computer systems;
  - Securing the contents of the suspects office, personal computer, diary and files, including all personal documents on the premises;
  - Changing passwords and access codes as well as securing accounting and other records;

Doing a preliminary assessment of the following issues:-

- a) The possible need for civil recovery in terms of section 300 of the Criminal Procedure Act (Act 51 of 1977);
- b) The possible requirement for a sequestration or anti-dissipation interdict order from the courts;
- c) The registration of a likely insurance claim;
- d) The specialist investigative resources which may be required;
- e) And a recovery in terms of Section 37D of the Pensions Act.

#### **6.3.4 Investigation within the Municipality**

The investigation officer as appointed by the Municipal Manager will conduct a preliminary investigation before the Municipal Manager will decides to report the matter to the South African Police Service, depending on the seriousness, impact on the organization and nature of crime.

#### **6.3.5 Specialists**

If needed and approved by the Council or Municipal Manager, the assistance of specialists will often be required during the course of investigations due to certain expertise required or a lack of capacity within the municipality. The specialist's primary function will be to assist the investigation team. Some examples of experts include: -

- **Computer Expert**  
These experts should be prepared to secure the computer evidence (either on a network or a PC), in such a manner that it will be acceptable in a court of law. The computer expert should:
  - Have a real understanding of the roles that computers can play in the commission of a crime;
  - Be able to provide clear simple testimony of what they can prove to be a fact;
  - Have a high professional reputation as well as a professional approach;
  - Be trustworthy and able to work as part of a team;

- Be articulate, in terms of being able to explain technical computer matters to laymen;

The expert must be an articulate and credible witness who will be able to establish the accuracy of the data processing evidence being presented in a disciplinary hearing or a court of law.

- **Legal Expert**

This person should be trained and know what is required for both civil legal recoveries and criminal prosecution. The legal expert will also be required to assist in supplying the investigating team with guidance as to where to focus the investigation, drafting of charge sheets and the preparation of witnesses.

- **Industrial Relations Consultant**

This person should be warned that he/she would have to (on occasions) initiate such actions as suspension, internal disciplinary hearings and provide advice on the organization's approach to the recovery of money under the auspices of the appropriate section of the Basic Conditions of Employment Act as well as on the Pension Funds Act No. 24 of 19.

### 6.3.6 Anonymous Allegations

//Khara Hais Municipality encourages staff to put their names to allegations. Concerns expressed anonymously are difficult to investigate; nevertheless they will be followed up at the discretion of //Khara Hais Municipality. This discretion will be applied by taking into account the following:

- Seriousness of the issue raised;
- Credibility of the concern; and
- Likelihood of confirming the allegation.

## 6.4. Internal control reviews and data analysis

Reviewing controls on a regular basis could be a fundamental detection mechanism and also perform random assessment of transactions and processes. The Security Management Unit should constantly review the internal controls and analyse and interrogate data to determine unfamiliar trends and investigate further. This could be a very useful approach of detecting fraudulent actions. Internal controls are the first line of defence against fraud and corruption. While internal controls may not fully protect the municipality against fraud and corruption, they are essential elements in the overall Anti-Fraud and Corruption Strategy. The Internal Audit function will be responsible for implementing an internal audit program which will incorporate steps to evaluate adherence to internal controls. All areas of operations require internal controls, for example:

- Physical controls (security of assets);
- Authorisation controls (approval of expenditure in terms of supply chain management delegations);
- Supervisory controls (supervising issues on a daily basis);
- Analysis of data;
- Annual financial statements;
- Reconciliation of bank statements.

#### **6.4.1 Internal Audit**

Internal Audit must report directly to the Accounting Officer and Audit Committee. The function must be independent of activities that are audited, with no limitation on its access to information. Although the primary responsibilities of the Internal Audit activity are not to detect fraud, internal audit to be mindful of fraud and assist management in detecting fraud through their audit process. Internal audit will audit the case management on an annual basis.

A robust Internal Audit plan, which focuses on the prevalent high fraud and corruption risks, serves as an effective preventative measure. The Internal Audit function will compile such a plan on an annual basis.

### **7. RESPONSE STRATEGIES**

#### **7.1. Investigating fraud and corruption**

As a public service institution, the Municipality is committed to ensuring the highest possible standards in the conduct of its affairs. The //Khara Hais Municipality is equally committed to ensuring that appropriate measures are in place and taking all possible action so that any fraud or fraudulent behaviour is detected at an early stage, is exposed and is subjected to appropriate disciplinary and / or judicial action.

##### **7.1.2. Members of the public**

The Council, management and staff members of //Khara Hais Municipality encourages that members of the public or providers of goods and/or services who suspect fraud and corruption to contact any member of management, the Municipal Manager, the Mayor or/and telephone numbers stated in paragraph if they wish to remain anonymous.

##### **7.1.3 Reporting procedures and resolution of reported incidents**

It is the responsibility of all employees within //Khara Hais Municipality to report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to his / her manager.

It is the responsibility of all employees to immediately report all allegations or incidents of fraud and corruption to their immediate manager. Should an employee be concerned that the manager is involved; the report can be made to any other member of management, the Municipal Manager and/or the Chairperson of the Audit Committee.

Suspected cases of any fraud, corruption or maladministration should be reported immediately after the discovery of such an incident or within 24 hours of the discovery of such an incident.

##### **7.1.4. Confidentiality**

In accordance with Protected Disclosures Act No.26, of 2000, no employee may be subjected to an occupational detriment by his/her employer on account or partly on account, of having made a protected disclosure.

All information relating to fraud and corruption that is received and investigated will be treated confidentially. The progression of investigations will be handled in a confidential manner and will not be disclosed or discussed with any person(s) other than those who have a legitimate right to such information.

This is important in order to avoid harming the reputations of suspected persons who are subsequently found innocent of wrongful conduct. No person is authorized to supply any information with regard to allegations or incidents of fraud and corruption to the media without the express permission of the Director General.

#### **7.1.5. Legal recourse for anyone affected under protected disclosure**

Any employee who has been adversely affected by the disclosure of protected information may:

- Approach any court having jurisdiction, including the Labour Court established by Section 115 of the Labour Relations Act, 1995 (Act No. 66 of 1995), for appropriate relief
- Pursue any other process allowed or prescribed by law

#### **7.1.6 Publication of sanctions**

The Municipal Manager will decide, in consultation with appropriate senior managers, 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.

## **8. MAINTENANCE STRATEGIES**

### **8.1 Review of the effectiveness and updating of the fraud and corruption strategy and plan**

The detailed procedures on the document should be monitored and reviewed by responsible parties as follows; review to be done:

- At least on an annual basis or
- When legislation, systems or procedures have changed to such an extent that a review and amendments to this document will be necessary
- Monitoring to be done throughout the year.
- Updated and accurate control matrix maintained

## **9. RESOLUTIONS**

### **9.1 Disciplinary codes and procedures**

The //Khara Hais Municipality recognizes the fact that the consistent and efficient application of disciplinary measures is an integral component of effective fraud and corruption prevention. The disciplinary code and procedures prescribes appropriate steps to be taken to resolve disciplinary matters. The Directorate: Human Resource Management supports the //Khara Hais Municipality in instituting and completing disciplinary action for cases of fraud and corruption where an official is party to the crime.

The responsible manager, with the assistance of Human Resources Division must also ensure that the following steps are taken with regard to financial misconduct in line with the provisions of the Treasury Regulations and MFMA:

- a) Ensuring that disciplinary proceedings are carried out in accordance with the relevant prescripts
- b) Ensuring that disciplinary proceedings are instituted within 30 days
- c) Advising the executive authority, the Department of Public Service and Administration and the Public Service Commission on the outcome of disciplinary proceedings
- d) Annually submitting to the National Treasury and Auditor-General a schedule of:
  - I. The outcome of any disciplinary hearings and/or criminal charges.
  - II. The names and ranks of officials involved; and
  - III. The sanctions and any further actions taken against these officials.

## **9.2 Referring cases to other agencies**

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

- Initiating criminal prosecution by reporting the matter to the SAPS or any other relevant law enforcement agency
- Any other appropriate and legal remedy available

## **9.3. Reporting cases to the Department of Public Service Administration (DPSA)**

//Khara Hais Municipality will provide the DPSA with the following minimum information at the end of each financial year Number of allegations of corruption received and corruption cases detected per defined categories as defined in the Prevention and Combating of Corrupt Activities Act, 2004 and service delivery area

- a) Number of allegations and cases referred:
  - I. Handled in terms of disciplinary procedure
  - II. Referred to law enforcement agency or other body
  - III. Not investigated for disciplinary purposes or not referred
  - IV. Description of corruption risk areas
- b) Report on the performance of its minimum anti-corruption capacity as part of its annual report

## **9.4. Improving controls and prevention measures**

In the event of fraud or corruption been exposed, it is essential that internal controls and other prevention measures must be appraised in order to determine whether a specific internal control factor has contributed to the incident of fraud or corruption occurring.

If weaknesses in terms of internal controls or prevention measures are discovered during investigation, then such findings should be duly reported and recommendations forwarded to the Risk Management Committee through the appropriate channels.

Senior or line function managers should identify and report any loopholes or shortcomings in their area of operation.

#### **10. OVERSIGHT STRUCTURES**

All oversight structures should play their role in ensuring that the Fraud Prevention Plan is implemented and monitored.

#### **11. FRAUD AND CORRUPTION CASE DATABASE**

The purpose of the fraud and corruption database is to collate information from participating jurisdictions to allow the Municipality to be a step ahead of the fraudsters. Fraud investigators will be kept up to date on emerging trends and new techniques in all areas.

The Municipality through the Risk Management Unit must establish a central database to track criminal activity within the Municipality's operations. //Khara Hais Municipality should establish links with participating jurisdictions that are involved in fighting fraud and corruption.

#### **12. APPLICATION OF THE PREVENTION CONTROLS AND DETECTIVE MECHANISM**

In all instances where incidents of fraud, corruption, theft, maladministration and other similar irregularities of this nature take place, all Managers are required to immediately review the controls which have been breached in order to prevent similar irregularities from taking place in future, within a period of 48 hours after the occurrence of the initial incident. The Head of the Internal Audit Unit may be contacted for assistance in this regard.

In compliance with the MFMA, Fraud prevention Plans (FPP) will be developed and implemented by all heads of department.

#### **13. MONITORING, OVERSIGHT AND REVIEW**

The parties responsible for the monitoring of the detailed procedures in this document are:

- Risk Management Committee
- Risk Management Function
- Department of Cooperative Governance, Human Settlement and Traditional Affairs (COGHSTA) - Fraud Unit

The above mentioned parties must monitor and oversee the detailed policy and procedure on this document on:

- At least on an annual basis or
- When legislation, system or procedure have changed to such an extent that a review and amendments to this document will be necessary.

**14. SPECIFIC PROVISIONS**

- This policy document should always be updated should there be any changes or amendments
- Formal communication of any changes in the policy, procedures and processes is required.
- Training will be required where there are major changes in responsibility, skills, procedures or system

**15. ADMINISTRATION**

- The custodian of this policy is the Accounting Officer who supported in its implementation by all Heads of Department.
- The Accounting Officer is responsible for the administration, revision, interpretation and application of this policy.

**RECOMMENDED BY:**

.....  
**CHAIRPERSON OF RMC**

.....  
**DATE**

**APPROVED BY**

.....  
**ACCOUNTING OFFICER**

.....  
**DATE**

## 16. GLOSSARY OF TERMS FORMS OF CORRUPTION

Corruption takes various forms in the public service and elsewhere in society. The following are examples of different types of corruption.

### **BRIBERY:**

Involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of public servants.

### **EMBEZZLEMENT:**

This involves theft of resources by persons who control such resources.

### **FRAUD:**

Any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

### **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.

### **ABUSE OF POWER:**

The use by a public servant of his or her vested authority to improperly benefit another public servant, person or entity (or using vested authority to improperly discriminate against another public servant, person or entity).

### **CONFLICT OF INTEREST:**

The failure by a public servant to act or to consciously fail to act on a matter where the public servant has an interest or another person or entity that has some form of relationship with the public servant has an interest.

### **ABUSE OF PRIVILEGED INFORMATION:**

This involves the use, by a 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.

### **FAVOURITISM:**

The provision of services or resources according to personal affiliation (for example cultural or religious) of a public servant.

### **NEPOTISM:**

A public servant ensuring that family members are appointed to public service positions or that family members receive contracts from the state is regarded as nepotism.

### **TENDERPRENEUR:**

Individuals who enrich themselves through corrupting the awarding of government tender contracts, mostly based on personal connections and corrupt relationships - although outright bribery might also take place - This is often accompanied by overcharging and shoddy workmanship.

### **FRONTING:**

Abuse of the rules governing Black Economic Empowerment (BEE), where qualifying persons are given a seat on the Board of Directors of a company while having no decision-making power in the company, in order to qualify the company for government contracts in terms of BEE.

### **INFLUENCE – PEDDLING:**

A person selling his/her influence over the decision making process to benefit a third party.

**PATRONAGE:**

Favoring supporters, for example with government employment. This may be legitimate, as when a newly elected government changes the top officials in the administration in order to effectively implement its policy. It can be seen as corruption if this means that incompetent persons, as a payment for supporting the regime, are selected before more able ones.

**CRONYISM:**

Benefiting of personal friends of an official as a form of illegitimate private gain.

**KICKBACK:**

An official's share of misappropriated funds allocated from his or her organization to an organization involved in corrupt bidding

**UNHOLY ALLIANCE:**

A coalition among seemingly antagonistic groups for ad hoc or hidden gain

**These manifestations are by no means exhaustive as corruption appears in many forms and it is virtually impossible to list all of these.**

**GLOSSARY INTERPRETATION****BATHO PELE PRINCIPLES:**

Means an initiative from the DPSA to get public servants to be service orientated, to strive for excellence in service delivery and to commit to continuous service delivery improvement. It is a simple and transparent mechanism, which allows citizens to hold public servants accountable for the level of services they deliver

**CODE OF CONDUCT:**

Means a set of rules outlining the responsibilities of or proper practices for an individual or organization

**FRAUD PREVENTION PLAN:**

Means a plan that all organisation's should have in place that integrates the processes, policies and resources of the business to minimise the risks inherent to fraud and economic crime

**MUNICIPAL FINANCE MANAGEMENT ACT – MFMA:**

Means an Act that was established to regulate financial management in the local government; to ensure that all revenue, expenditure, assets and liabilities of that government are managed efficiently and effectively; to provide for the responsibilities of persons entrusted with financial management in that government and to provide for matters connected therewith.

**PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT OF 2004:**

Means an Act which provides for the strengthening of measure to prevent and combat corruption and corrupt activities, to provide for the offence of corruption and offences relating to corrupt activities, to provide for investigative measures in respect of corruption and related activities, to provide for the establishment and endorsement of a Register to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts, to place a duty on certain persons holding a position of authority to report certain corrupt transactions, to provide for extraterritorial jurisdiction in respect of the offences of corruption and offences relating to corrupt activities

**PROTECTED DISCLOSURES ACT NO 26 OF 2000:**

Means an Act which makes provision for procedures in terms of which employees in both the private and public sector may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers, to provide for the protection of employees who make a disclosure which is protected in terms of the Act and to provide for matters connected therewith

**PUBLIC SECTOR ANTICORRUPTION STRATEGY:**

Means an anti-corruption strategy which had been developed for the Public Service to give effect to the expressed commitment of Government to fight corruption in the Public Service. In accordance with the resolution of the National Anti-Corruption Summit the strategy represents a further step toward Government's contribution towards establishing a National Anti-Corruption Strategy for South Africa.

**EMPLOYEE:**

Means a person in the service of the //Khara Hais Municipality under any contract or hire, express or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed.

**RISK MANAGEMENT UNIT:**

Means a Unit within the Internal Audit and Risk Management Division of //Khara Hais Municipality to ensure that its risk management needs and activities are developed, implemented and monitored for on-going effectiveness and efficiency.

**WHISTLE BLOWING:**

Means an employee or external person who has inside knowledge of illegal / corrupt activities occurring within the organization and reports these to an authoritative person / public.

**CORRUPTION in its wider meaning**, and as referred to in this document, includes any 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 or information, abuse of a position of authority or a breach of trust or violation of duty.

## 17. ADDENDUM

### Summary of Fraud Prevention Plan

Outcome/Output	Activity	Indicator	Responsibility	Due date
The municipality knows the level of risk	Conduct a Fraud Risk Assessment for the //Khara Hais Municipality	Fraud risk register	Risk Management Unit	30 June 2015 Quarterly
Establish the main risks within the municipality	Risk Monitoring-monitoring of the implementation (fraud risks)	Quarterly progress reports	Risk Management Unit	Quarterly
Reduced fraud accounts. implementation of recommendations by HRM	Monitoring of subsequent processes of Fraud recoveries on Fraud accounts	Risk monitoring report	Risk Management Unit HRM	On -going
Regular arrangement and facilitation of awareness workshops to external and internal stakeholders Regular communiqué and training outlining the importance of complying with policies and procedures	Conduct Fraud and corruption awareness workshops  Circulate manuals and publications Communication and training on existing and new policies and procedures	Improved compliance to policies and procedures  Communication and training compliance report on policies and procedures	Risk Management Unit  Communication, Training and Development All sections	Annually  Annually
Fraud risk appetite & tolerance level set and aligned to the strategic objectives of the municipality	Engage management to set the fraud risk appetite and tolerance levels	Risk appetite table	Risk Management Unit	Quarterly
Employees with Private businesses declare	Declaration of private business interests Centralised record keeping of declarations	Register for Private Business Interests	Human Resource Management Supply Chain Management	On going
Reduce nepotism, favouritism and comply with Recruitment and selection policy	Development of transparent system for selection and recruitment	Recruitment and selection report.	Human Resource Management	On going
Management accountability of compliance	Development of job descriptions, performance contracts and work plans	Performance Management	Human Resource Management Managers & PMS	On going
Records/ documents secured confidential as per the security policy.	Access control to confidential records Regular reviews of physical security	Records management and physical security report.	Security Management , IT & Archives	On going
Positive results of employment screening on all appointments Screening of Consultants	Conduct pre-employment screening to all appointments	Register of all screening results	Human Resource Management  SCM	On-going

Personnel security competence	Conduct Security clearance/ vetting for all personnel from the lowest level up to Senior Management with access to confidential Information	Security clearances / vetting results	Human Resource Management Security Section IT Archives	On-going
Protection of classified information and/or interest of the Municipality	Declaration of secrecy forms completed by all personnel with access to confidential Information	Access register of all personnel with access to confidential information	Human Resource Management Security Section IT Archives	On-going
Segregation of duties	Categories of duties or responsibilities separated amongst employees	Good control	All business units	On-going independent review by Internal Audit
Improvement of controls on identified as red flags	Monitoring of audit trail on regular basis	Audit trail monitoring report		On-going
Internal control systems monitoring	Develop monitoring processes to assess quality of systems performance over a period of time Constant internal control reviews and random assessments of transactions and process	Quality Systems assessment and monitoring registers	Risk Management Internal Audit	On-going
Safe and responsible reporting of fraud and corruption	Reporting of suspected fraud and corruption activity or irregular conduct, through the fraud hotline and email	Management hotline reports	Internal and external stakeholders Risk Management Unit	On-going
Disclosure of cases to DPSA	Submission of information on cases at the end of each financial year	Annually reports accurately reflecting cases	Human Resource Management	On-going
Updated database of criminal activities within the Municipality	Establish central database on fraud and corruption activities	Fraud and corruption trend analysis	Risk Management unit	On-going