

PORTFOLIO COMMITTEE :

MANAGEMENT SERVICES

Chairperson :

Cllr A Komani

Committee Members :

**Ald M Sapepa, Ald N Botha-Guthrie,
Cllrs M Opperman & N Nqinata**

PORTEFEULJEKOMITEE :

BESTUURSDIENSTE

Voorsitter :

Rdl A Komani

Komiteelede :

**Rdh M Sapepa, Rdh N Botha-Guthrie,
Rdle M Opperman & N Nqinata**

MANAGEMENT SERVICES PORTFOLIO COMMITTEE

BESTUURSDIENSTE PORTEFEULJEKOMITEE

23 October 2018

I N D E X

ITEM

**PAGE
NUMBER**

APPLICATIONS FOR LEAVE OF ABSENCE

**STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE
CHAIRPERSON**

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**AGENDA of the
Portfolio Committee : Management Services
23 October 2018
(Also the agenda for the Mayoral Committee Meeting : 31 October 2018)**

**1.
FRAUD PREVENTION AND ANTI-CORRUPTION STRATEGY, POLICY AND PLAN
2018/2019**

2/B

A Riddles

(028) 313 5044

Corporate Head Office

26 September 2018

1. Executive Summary

To obtain Council's approval for the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan, that has been reviewed by the Risk Management Committee.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Management Services
Risk Management Unit

3. Compliance with Strategic Priority

The provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Constitution of the Republic of South Africa (No. 108 of 1996)
- Local Government: Municipal Finance Management Act (No. 56 of 2003)
- Local Government: Municipal Systems Act (No. 32 of 2000)
- Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (No. 430 of 2014)
- Code of Conduct for Councillors in terms of Schedule 1 of the Municipal Structures Act (No. 32 of 2000)
- Code of Conduct for Municipal Staff Members in terms of Schedule 2 of the Municipal Structures Act (No. 32 of 2000)
- Overstrand Municipality Code of Ethics for Municipal Staff
- Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)
- Protected Disclosures Act (No. 26 of 2000)
- Labour Relations Act (No. 66 of 1995)

**AGENDA of the
Portfolio Committee : Management Services
23 October 2018
(Also the agenda for the Mayoral Committee Meeting : 31 October 2018)**

6. Background

Fraud and corruption is a serious scourge in South African society. It has resulted in the collapse of municipalities and eroded the public's trust in local government.

Section 62(2)(c) of the Local Government: Municipal Systems Act states that the administration of a municipality must take measures to prevent corruption. The Local Government: Municipal Finance Management Act assigns responsibilities for the combatting of fraudulent and corrupt activities to the Accounting Officer while the Prevention and Combating of Corrupt Activities Act compels the Accounting Officer to report certain cases of corruption, fraud and theft to the South African Police Service. The Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings stipulate the procedures for the reporting, investigation and sanction of financial misconduct, which include fraud and corruption.

In addition to the legal requirements, various frameworks and best practices for preventing, detecting and responding to corrupt and fraudulent incidents have been issued by national and provincial government departments and professional associations, most notably the Local Government Anti-Corruption Strategy and Public Sector Risk Management Framework.

Fraud and corruption risk management is also an integral part of the Municipality's enterprise risk management processes.

In order to give effect to the Acts, frameworks and best practices as well as to the responsibilities of the Accounting Officer and Council, the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan must be approved annually by Council to implement systems for the prevention, detection and correction of fraudulent and corrupt incidents.

7. Financial Implications

None; fraud prevention and anti-corruption measures will be funded from department's current operational budgets.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

An opinion was obtained from Legal Services on Section 9 of the Policy, in particular the application of the Municipal Regulations on Financial Misconduct

**AGENDA of the
Portfolio Committee : Management Services
23 October 2018
(Also the agenda for the Mayoral Committee Meeting : 31 October 2018)**

Procedures and Criminal Proceedings (No. 430 of 2014). Changes and additions were made accordingly.

Senior Manager: Legal Services – Lionel Wallace 028 313 5031

10. Annexures

Annexure A: Overstrand Municipality Fraud Prevention and Anti-Corruption Strategy 2018-2019

Annexure B: Overstrand Municipality Fraud Prevention and Anti-Corruption Policy 2018-2019

Annexure C: Overstrand Municipality Fraud Prevention and Anti-Corruption Plan 2018-2019

RECOMMENDATION TO THE COUNCIL:

1. that the Fraud Prevention and Anti-Corruption Strategy **be approved**;
2. that the Fraud Prevention and Anti-Corruption Policy **be approved**; and
3. that the Fraud Prevention and Anti-Corruption Plan **be approved**.

RESPONSIBLE OFFICIAL :

A RIDDLES

TARGET DATE FOR IMPLEMENTATION :

1 NOVEMBER 2018

**AGENDA of the
Portfolio Committee : Management Services
23 October 2018
(Also the agenda for the Mayoral Committee Meeting : 31 October 2018)**

**1.
FRAUD PREVENTION AND ANTI-CORRUPTION STRATEGY, POLICY AND PLAN
2018/2019**

**2/B
A Riddles (028) 313 5044 Corporate Head Office
26 September 2018**

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
23 OCTOBER 2018, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

1. that the Fraud Prevention and Anti-Corruption Strategy **be approved**;
2. that the Fraud Prevention and Anti-Corruption Policy **be approved**; and
3. that the Fraud Prevention and Anti-Corruption Plan **be approved**.

RESPONSIBLE OFFICIAL : A RIDDLES

TARGET DATE FOR IMPLEMENTATION : 1 NOVEMBER 2018

OVERSTRAND MUNICIPALITY



FRAUD PREVENTION AND ANTI-CORRUPTION STRATEGY 2018-2019

GENERAL EXPLANATORY NOTE :

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

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1. INTRODUCTION

Overstrand Municipality subscribes to the principles of good corporate governance, which requires conducting business in an honest, ethical and transparent manner.

Consequently Overstrand Municipality is committed to fighting corrupt and fraudulent behaviour at all levels within the Municipality.

In addition to promoting ethical conduct within the Municipality, the strategy is also intended to assist in preventing, detecting, investigating and sanctioning fraud and corruption.

2. MISSION OF FRAUD PREVENTION AND ANTI-CORRUPTION

To ensure that the strategic objectives are achieved and without compromising our stakeholders' trust and quality of our service, an effective approach to combatting fraud and corruption must be taken to minimise losses and to prevent, detect, investigate and sanction fraud and corruption.

3. OBJECTIVES OF FRAUD PREVENTION AND ANTI-CORRUPTION

The objectives of a fraud prevention and anti-corruption framework are to:

- Align strategic objectives with fraud prevention and anti-corruption activities.
- Drive specific fraud prevention and anti-corruption processes to respond to the potential threats;
- Embed instinctive and consistent consideration of fraud and corruption in the day-to-day planning and achievement of objectives;
- Provide clarity on the Municipality's stance on fraud and corruption;
- Develop fraud prevention and anti-corruption capacity within the Municipality;
- Improve the application of systems, policies, procedures, rules and regulations dealing with fraud and corruption;
- Deter, prevent and detect unethical conduct, fraud and corruption;
- Investigate incidents of unethical conduct, fraud and corruption;
- Take appropriate action and apply sanctions in cases of unethical conduct, fraud and corruption.

4. PRINCIPLES OF FRAUD PREVENTION AND ANTI-CORRUPTION

- Encouraging a culture within the Municipality where all municipal officials, members of the public and other stakeholders continuously behave with and promote integrity in their dealings with or on behalf of the Municipality;

- Creating a culture within the Municipality which is intolerant of unethical conduct, fraud and corruption;
- Strengthening community participation in the fight against fraud and corruption in the Municipality;
- Strengthening relationships with key stakeholders that are necessary to support the actions required to combat fraud and corruption in the Municipality;

5. FRAUD AND CORRUPTION AWARE CULTURE

The Municipality's no tolerance stance on fraud and corruption must be clear. The values of integrity, honesty and objectivity must be institutionalised throughout the Municipality.

Municipal officials must be aware of their duty to report incidents of fraud and/or corruption and willing to report. Fraud prevention and anti-corruption responsibilities must be assigned throughout the Municipality. It should support accountability, performance measurement and reward the minimising of fraud and corruption at all levels.

6. FRAUD AND CORRUPTION RISK MANAGEMENT

The management of fraud and corruption risks form part of the enterprise risk management of the Municipality. Fraud and corruption risk identification, assessments, management, monitoring, reporting and oversight take place during the course of enterprise risk management activities.

This strategy should therefore be read in conjunction with the Risk Management Strategy.

7. ETHICS IN FRAUD PREVENTION AND ANTI-CORRUPTION

Fraud and corruption occur due to a lack of ethics. Effectively managing ethics can prevent fraud and corruption and increase the reporting of corrupt and/or fraudulent activities due to the ethical behaviour of the Municipality's staff.

8. [APPROACH TO FRAUD PREVENTION AND ANTI-CORRUPTION]

[Overstrand Municipality's approach to fraud prevention and anti-corruption is explained in the Fraud Prevention and Anti-Corruption Policy and consist of the following components:

- **Internal Focus**
 - **Systems, policies, procedures and internal controls**
 - **Councillors**

- **Staff**
- **Finance**
- **Information**
- **Physical Assets**
- **Risk Management**
- **Internal Audit**
- **External Focus**
 - **External Audit**
 - **Community / Public**
 - **Suppliers**
- **Implementation**
 - **Commitment**
 - **Awareness**
 - **Training**
 - **Execute**
 - **Monitoring**
- **Enforcement**
 - **Reporting**
 - **Investigation**
 - **Disciplinary/Legal action]**

9. CONFIDENTIALITY

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

Although there should be transparency in dealing with fraud and corruption, confidentiality during investigations is essential in order to:

- avoid harming the reputations of accused persons who are subsequently found not guilty;
- prevent implicated persons from having knowledge of the investigation and the investigator's plans, to prevent them from destroying or altering evidence before the investigator is able to obtain it;

- prevent implicated persons from gaining access to evidence against them, to prevent them from preparing versions to suit the evidence before they are questioned by the investigator;
- protect the identity of the source who reported the fraud and/or corruption;
- protect the identity of people who co-operate with the investigator to prevent witness tampering or victimisation.

10. PROTECTION OF WHISTLE BLOWERS

No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and corruption involving the Municipality.

Overstrand Municipality will not tolerate harassment or victimisation of whistle blowers and will take action to protect whistle blowers when they raise a concern in good faith. This does not mean that if the person is already the subject of disciplinary or legal proceedings, those proceedings will be halted as a result of their whistle blowing.

A person who reports suspected fraud and/or corruption may remain anonymous should he/she so desire. The Municipality will do all that is reasonable under the prevailing circumstances to protect the person's identity when he/she raises a concern and chooses to remain anonymous. It must be kept in mind though that the investigation might reveal the source of the information.

11. ROLES AND RESPONSIBILITIES

Various statutes, regulations, by-laws, policies and contracts regulate the roles and responsibilities of the role players involved in fraud prevention and anti-corruption.

11.1. MUNICIPAL COUNCIL

11.1.1. Legal Mandate

The following Schedule provides the legal basis for the Municipal Council's responsibility for fraud prevention and anti-corruption:

- **Schedule 1 of the Municipal Systems Act No. 32 of 2000: Code of Conduct for Councillors**

11.1.2. Role and Responsibilities

The Municipal Council is responsible for oversight of the municipal administration, which includes holding the Municipal Manager accountable for instituting fraud prevention and anti-corruption measures.

The main responsibilities of the Municipal Council with regard to fraud prevention and anti-corruption are:

- Provide oversight and direction to the Municipal Manager on the fraud prevention and anti-corruption strategy and related policies;
- Having knowledge of the extent to which the Municipal Manager and management have established effective fraud prevention and anti-corruption measures in their respective departments;
- Hold the Municipal Manager accountable for fraud prevention and anti-corruption within the Municipality;
- Insist that the Municipal Manager, Directors and Management institute disciplinary proceedings against municipal officials involved in fraud and/or corruption and institute legal proceedings to recover damages suffered by the Municipality as a result of the corrupt and/or fraudulent acts.
- Comply with the Code of Conduct for Councillors.
- Deal with allegations against Councillors in accordance with the *Procedure for investigation regarding any allegation of misconduct against a member of a Municipal Council*.

11.2. MUNICIPAL MANAGER

11.2.1. Legal Mandate

The following statutory provisions describe the legal basis for the Municipal Manager's responsibility for fraud prevention and anti-corruption:

- **Sections 61 and 62(1)(a),(b),(c),(d), and (e) of the Municipal Finance Management Act No. 56 of 2003**
- **Sections 55 (1)(g) and (2) of the Municipal Systems Act No. 32 of 2000**
- **Schedule 2 of the Municipal Systems Act: Code of Conduct for Municipal Staff Members**
- **Sections 34(1); 34(4)(b) and (j) of the Prevention and Combating of Corrupt Activities Act No. 12 of 2004**

11.2.2. Role and Responsibilities

The Municipal Manager is ultimately accountable for the fraud prevention and anti-corruption within the Municipality. The Municipal Manager must set an example at the top and promote ethical behaviour within Municipality.

The main responsibilities of the Municipal Manger with regard to fraud prevention and anti-corruption are:

- Set an example at the top by acting with integrity;
- Establish the necessary structures and reporting lines within the Municipality to support whistleblowing;
- Endorsing the Code of Conduct and Code of Ethics for Municipal Staff Members and holding officials accountable for non-adherence;
- Comply with Section 34 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004);
- Hold the Directors accountable for fraud prevention and anti-corruption in their directorates;
- Leverage the Joint Audit and Performance Audit Committee, Fraud and Risk Management Committee, Internal Audit Services and other appropriate structures for assurance on the effectiveness of fraud and corruption risk management;
- Consider and act on recommendations made by the Joint Audit and Performance Audit Committee, Internal Audit Services, Fraud and Risk Management Committee and other appropriate structures regarding weaknesses in the control environment or identified incidents of fraud and/or corruption;
- Institute disciplinary proceedings against Directors implicated in fraud and/or corruption and institute legal proceedings for the recovery of damages suffered by the Municipality as a result of the corrupt and/or fraudulent act;
- Comply with the Code of Conduct and Code of Ethics for Municipal Staff Members.

11.3. DIRECTORS AND MANAGEMENT

11.3.1. Legal Mandate

The following statutory provision describes the legal basis for Directors' and Management's responsibility for fraud prevention and anti-corruption:

- **Section 78 of the Municipal Finance Management Act No. 56 of 2003**

11.3.2. Role and Responsibilities

Directors and Management are accountable to the Municipal Manager for designing, implementing and monitoring fraud prevention and anti-corruption controls and integrating it into the day-to-day activities of the Municipality.

The main responsibilities of Directors and Management with regard to fraud prevention and anti-corruption are:

- Design, implement and monitor fraud prevention and anti-corruption controls;
- Comply with the policies and procedures of the Municipality;
- Institute disciplinary proceedings against staff implicated in fraud and/or corruption and institute legal proceedings to recover damages suffered by the Municipality as a result of the corrupt and/or fraudulent act;
- Report corrupt and/or fraudulent activities and incidents to their respective Directors, in the case of Management, or the Municipal Manager, in the case of Directors;
- Comply with the Code of Conduct and Code of Ethics for Municipal Staff Members.

11.4. OTHER MUNICIPAL OFFICIALS

11.4.1. Legal Mandate

The following statutory provision describes the legal basis for other municipal officials' responsibility for fraud prevention and anti-corruption:

- **Section 78 of the Municipal Finance Management Act No. 56 of 2003**

11.4.2. Role and Responsibilities

Other municipal officials are accountable to their respective managers for adherence to and monitoring the process of fraud prevention and anti-corruption measures and integrating it into their day-to-day activities.

The main responsibilities of other municipal officials with regard to fraud prevention and anti-corruption are:

- Familiarity with the fraud prevention and anti-corruption strategy, policy and plan and acting accordingly;
- Comply with the policies and procedures applicable to their areas of operation;
- Maintain the functioning of the control environment and monitoring systems within their delegated responsibility;
- Report incidents of fraud and/or corruption to Management;
- Comply with the Code of Conduct and Code of Ethics for Municipal Staff Members.

11.5. RISK MANAGEMENT UNIT

Overstrand Municipality has implemented a risk management unit jointly with other municipalities as it is not cost effective to establish a sole risk management unit. The joint risk management unit took the form of a Shared Services Centre (SSC). The SSC acts as Overstrand Municipality's risk management unit.

11.5.1. Legal Mandate

The following contract and statutory provision describe the legal basis for the Risk Management Unit's responsibility for fraud prevention and anti-corruption:

- **Overberg District Municipalities Shared Services: Service Level Agreement**
- **Section 78 of the Municipal Finance Management Act No. 56 of 2003**

11.5.2. Role and Responsibilities

The primary role of the Risk Management Unit is to include fraud and corruption risks in its risk management planning and processes.

The main responsibilities of the Risk Management Unit with regard to fraud prevention and anti-corruption are:

- Develop, together with other role players, the fraud prevention and anti-corruption strategy, policy and plan;
- Include a focus on fraud and corruption risks during risk identification and assessments;
- Assist management in developing responses for fraud and corruption risks;
- Assist with investigations through fraud, corruption and ethics risk assessments to identify process deficiencies / weaknesses and assist management to develop controls to prevent re-occurrence;
- Report incidents of fraud and/or corruption to the immediate supervisor and the Fraud and Risk Management Committee.

11.6. INTERNAL AUDIT SERVICES

11.6.1. Legal Mandate

The following statutory provision establishes the legal basis for Internal Audit Services' responsibility for fraud prevention and anti-corruption:

- **Section 165(2) of the Municipal Finance Management Act No. 56 of 2003**

11.6.2. Role and Responsibilities

Internal Audit Services acts as an assurance provider for the Municipality regarding fraud prevention and anti-corruption measures.

The main responsibilities of Internal Audit Services with regard to fraud prevention and anti-corruption are:

- Provide independent assurance over the design and functioning of the control environment, information and communication systems and the monitoring systems;
- Provide independent assurance over the Municipality's fraud and corruption risk identification and assessment processes;
- Provide independent assurance as to whether the fraud prevention and anti-corruption strategy, policy and plan have been effectively implemented within the Municipality;
- Report incidents of fraud and/or corruption to the Municipal Manager;

11.7. JOINT AUDIT AND PERFORMANCE AUDIT COMMITTEE

11.7.1. Legal Mandate

The following statutory provisions establish the legal basis for the Joint Audit and Performance Audit Committee's responsibility for fraud prevention and anti-corruption:

- **Sections 166(2)(a)(i),(ii),(iv),(vi),(vii),(b) and (d) of the Municipal Finance Management Act No. 56 of 2003**

11.7.2. Role and Responsibilities

The Joint Audit and Performance Audit Committee is responsible for providing the Municipal Manager and Council with independent counsel, advice and direction in respect of fraud prevention and anti-corruption measures.

The main responsibilities of the Joint Audit and Performance Audit Committee with regard to fraud prevention and anti-corruption are:

- Gain a thorough understanding of the fraud prevention and anti-corruption strategy, policy and plan of the Municipality to enable the Committee to add value to the fraud prevention and anti-corruption process when making recommendations for improvement of the process;
- Review the report of the Fraud and Risk Management Committee on the progress made with the implementation of the fraud prevention and anti-corruption strategy of the Municipality;

- Report incidents of fraud and/or corruption to the Municipal Manager.

11.8. FRAUD AND RISK MANAGEMENT COMMITTEE

11.8.1. Legal Mandate

The following document approved by the Overstrand Municipal Council establishes the legal basis for the Fraud and Risk Management Committee's responsibility for fraud prevention and anti-corruption:

- **Fraud and Risk Management Committee Terms of Reference**

11.8.2. Role and Responsibilities

The Fraud and Risk Management Committee is responsible for assisting the Municipal Manager with his/her oversight responsibilities and evaluating and monitoring the Municipality's performance with regards to fraud and corruption risk management.

The main responsibilities of the Fraud and Risk Management Committee with regard to fraud prevention and anti-corruption are:

- Review the fraud prevention and anti-corruption strategy, policy and plan and recommend for approval by Council;
- Review the progress made with the implementation of the fraud prevention and anti-corruption strategy of the Municipality;
- Review the Municipality's risk identification and assessment methodologies in order to obtain reasonable assurance that all possible fraud and corruption risks have been identified during the risk assessment process, including an awareness of emerging risks;
- Review the effectiveness of the preventative, detective and corrective controls pertaining to fraud, corruption and unethical behaviour implemented by management;
- Review the effectiveness of the Municipality's fraud, corruption and unethical behaviour reporting mechanisms;
- Ensure that appropriate actions (investigations, disciplinary procedures, loss recovery, reporting to authorities, etc.) are implemented to address instances of fraud, corruption and unethical behaviour, i.e. consequence management;
- Report any identified incidents of fraud and/or corruption to the Municipal Manager.

12. OVERSIGHT

Progress with the implementation by management of the fraud prevention and anti-corruption strategy, policy and plan must be communicated to the Risk Management Unit, Directors, Municipal Manager, Joint Audit and Performance Audit Committee and Fraud and Risk Management Committee.

Progress with the implementation of action plans to mitigate fraud and corruption risks will be reported on as part of the progress reports on risk actions.

13. REVIEW

The Fraud Prevention and Anti-Corruption Strategy must be reviewed and approved by the Municipal Council on an annual basis.

Review history:

| | |
|---------------------|----------------------|
| Policy Section | Risk Management Unit |
| Current update | |
| Approved by Council | 28 March 2018 |

OVERSTRAND MUNICIPALITY



FRAUD PREVENTION AND ANTI-CORRUPTION POLICY 2018-2019

GENERAL EXPLANATORY NOTE :

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

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1. INTRODUCTION

Fraud and corruption undermine the public's confidence in local government. It is a serious risk to the successful delivery of services and the sustainability of any municipality. The Constitution, Municipal Finance Management Act (MFMA) and Municipal Systems Act make it clear that public money must be spend prudently for the benefit of the citizens and municipal officials may not enrich themselves at the cost of the municipality.

Overstrand Municipality will not tolerate any fraud and corruption. Municipal officials found guilty of fraud and/or corruption will be sanctioned and legal proceedings for the recovery of losses will be instituted against perpetrators to recover losses suffered by the Municipality due to fraud and/or corruption.

2. DEFINITIONS

Unless stated otherwise in this policy, the terms listed below have the following meaning:

| | |
|-----------------------|--|
| Chief Audit Executive | The internal auditor in charge of Internal Audit Services. The head of Overstrand Municipality's internal audit department. |
| corruption | <p>(1) A municipal official or Councillor directly or indirectly accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person;</p> <p>(2) A person directly or indirectly gives or agrees or offers to give any gratification to a public officer, whether for the benefit of that public officer or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner that –</p> <p>(a) is designed to achieve an unjustified result; or</p> <p>(b) amounts to the –</p> <p>(i) illegal, dishonest, unauthorised, incomplete, or biased conduct;</p> <p>(ii) 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; or</p> <p>(iii) the abuse of a position of authority;</p> <p>(iv) a breach of trust;</p> <p>(v) violation of a legal duty or a set of rules;</p> <p>(vi) any other unauthorised or improper inducement to do or not to do anything;</p> |
| ethical behaviour | One does not merely consider what is good for oneself, but also consider what is good for others. |

| | |
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| fiduciary | <p>An individual in whom another person has placed the utmost trust and confidence to manage and protect property or money.</p> <p>The relationship wherein one person (the fiduciary) has an obligation to act for another's benefit (the beneficiary) without considering any self-interests.</p> |
| financial misconduct | <p>Any act of financial misconduct referred to in section 171 and 172 of the Municipal Finance Management Act.</p> <p>Financial misconduct includes corruption, fraud, irregular expenditure, unauthorised expenditure and fruitless and wasteful expenditure.</p> |
| fraud | Unlawful and intentional making of a misrepresentation / deceit resulting in actual or potential prejudice to the Municipality. |
| fruitless and wasteful expenditure | Expenditure that was made in vain and would have been avoided had reasonable care been exercised. |
| irregular expenditure | <p>(a) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Financial Management Act, and which has not been condoned in terms of section 170 of that Act; or</p> <p>(b) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act; or</p> <p>(c) Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998 (Act No. 20 of 1998); or</p> <p>(d) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of "unauthorised expenditure."</p> |
| JAPAC | Joint Audit and Performance Audit Committee, the audit committee of Overstrand Municipality established in terms of Section 166 of the Municipal Finance Management Act. |
| maladministration | <p>Inefficient or dishonest administration, in other words mismanagement or dishonest conduct.</p> <p>Maladministration may be criminal and/or delictual, depending on whether the law was contravened as a result of the mismanagement.</p> |
| Municipal Manager | The Accounting Officer of Overstrand Municipality. Also includes the Acting Municipal Manager. |

| | |
|--------------------------------------|---|
| municipal official / municipal staff | Municipal officials/staff include: (a) an employee of the municipality; (b) a person seconded to the municipality to work as a member of the staff of the municipality; or (c) a person contracted by the municipality to work as a member of the staff of the municipality otherwise than as an employee. |
| prejudice | harm or loss that results or may result from some action or judgment |
| prima facie | A fact presumed to be true unless it is disproved. |
| professional ethics | Implied and/or expected ethical standards and behaviour of the profession relevant to a specific staff member. |
| theft | Unlawful and intentional appropriation of movable corporeal Municipal property with the intention to permanently deprive the Municipality of the benefits of its ownership. |
| unauthorised expenditure | Any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11(3) of the Municipal Finance Management Act and includes – (a) overspending of the total amount appropriated in the municipality's approved budget; (b) overspending of the total amount appropriated for a vote in the approved budget; (c) expenditure from a vote unrelated to the department or functional area covered by the vote; (d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose; (e) spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of "allocation" otherwise than in accordance with any conditions of the allocation; or (f) a grant by the municipality otherwise than in accordance with the Municipal Finance Management Act; |
| unauthorised gratification | (a) Any person who is party to an employment relationship and who, directly or indirectly, accepts or agrees or offers to accept from any other person any unauthorised gratification, whether for the benefit of that person or for the benefit of another person; or (b) Any person who, directly or indirectly, gives or agrees or offers to give to any person who is party to an employment relationship any unauthorised gratification, whether for the benefit of that party or for the benefit of another person in respect of that party doing any act in relation to the exercise, carrying out or performance of that party's powers, duties or functions within the scope of that party's employment relationship. |

3. ETHICS

All fraud and corruption risks arise due to a lack of ethics. Many of the controls implemented to prevent fraud and corruption requires human involvement and can be circumvented by two or more persons colluding. People without a strong ethical character will not report corrupt and/or fraudulent acts which they are aware of.

Fraud prevention and anti-corruption measures will thus only succeed in an environment of ethical behaviour, not only due to the need to prevent fraudulent and corrupt acts, but also to detect fraud and corruption when it does occur.

4. APPLICABLE LEGISLATION

The following legislation is applicable to Overstrand Municipality in its dealings with fraud and corruption:

- Constitution of the Republic of South Africa (No. 108 of 1996)
- Local Government: Municipal Finance Management Act (No. 56 of 2003)
- Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (No. 430 of 2014)
- Local Government: Municipal Structures Act (No. 32 of 2000)
- Code of Conduct for Councillors in terms of Schedule 1 of the Municipal Structures Act (No. 32 of 2000)
- Code of Conduct for Municipal Staff Members in terms of Schedule 2 of the Municipal Structures Act (No. 32 of 2000)
- Overstrand Municipality Code of Ethics for Municipal Staff
- Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)
- Protected Disclosures Act (No. 26 of 2000)
- Labour Relations Act (No. 66 of 1995)

5. ROLE-PLAYERS IN FRAUD PREVENTION AND ANTI-CORRUPTION*

5.1. OVERSIGHT

5.1.1. MUNICIPAL COUNCIL

The Municipal Council must hold the Municipal Manager accountable to ensure that properly established and functioning systems of fraud prevention and anti-corruption are in place to protect Overstrand Municipality against losses, comply with legislation and discipline offenders.

* Detailed responsibilities can be found in the Fraud Prevention and Anti-Corruption Strategy.

5.1.2. JOINT AUDIT AND PERFORMANCE AUDIT COMMITTEE (JAPAC)

The JAPAC is responsible for providing the Municipal Manager and Council with independent counsel, advice and direction in respect of fraud prevention and anti-corruption.

The JAPAC will include a specific focus on fraud risks when advising on internal financial control, the accuracy and reliability of the financial statements, governance and compliance with legislation.

5.1.3. FRAUD AND RISK MANAGEMENT COMMITTEE (FARMCO)

The FARMCO is appointed by the Accounting Officer to assist him in the discharge of his risk management responsibilities, including fraud and corruption risk management.

The FARMCO's role, as part of its risk management oversight, is to review the effectiveness of fraud and corruption risk management activities, the key fraud and corruption risks facing the Municipality and the responses to address these key risks. The FARMCO must also monitor the implementation of the Municipality's Fraud Prevention and Anti-Corruption Strategy and Policy.

5.2. IMPLEMENTERS

5.2.1. MUNICIPAL MANAGER / ACCOUNTING OFFICER

The Municipal Manager is ultimately accountable for fraud prevention and anti-corruption within the Municipality. The Municipal Manager must set the example from the top and promote ethical behaviour within the Municipality.

5.2.2. DIRECTORS

Directors support the Municipality's fraud prevention and anti-corruption philosophy, integrates it into the operational routines of the Municipality and monitors the fraud prevention and anti-corruption activities within their respective areas of responsibility.

The Directors are ultimately accountable to the Municipal Manager and Council for the fraud prevention and anti-corruption measures in their respective directorates.

5.2.3. MANAGEMENT

Management is responsible for designing, implementing and monitoring fraud prevention and anti-corruption controls and integrating it into the day-to-day activities of the Municipality.

Management are also risk action owners and must formulate appropriate action plans to combat fraud and corruption if such risks were identified during risk identification and assessment.

Accountability of management in relation to their decision-making and responsibilities is stipulated in Council's Delegation of Powers and Duties Policy.

5.2.4. OTHER MUNICIPAL OFFICIALS

Other municipal officials are responsible for adhering to the process of fraud prevention and anti-corruption and integrating it into their day-to-day activities.

5.3. SUPPORT

5.3.1. RISK MANAGEMENT UNIT

The Risk Management Unit's coordination function enables, through risk identification and assessments, the inclusion of fraud and corruption related risks in the Municipality's risk register. Throughout the Risk Management Unit's monitoring activities, special focus is given to ensure that appropriate action plans are formulated by management to mitigate fraud and corruption related risks and sufficient reporting is effected to the relevant oversight structures.

5.3.2. INTERNAL AUDIT SERVICES (IAS)

As part of IAS's consulting services, they may make recommendations for the improvement of fraud prevention and anti-corruption measures in order to prevent and/or detect specific incidents of fraud or corruption.

5.4. ASSURANCE PROVIDERS

5.4.1. INTERNAL AUDIT SERVICES (IAS)

In addition to recommendations, IAS also provides assurance on the Municipality's fraud prevention and anti-corruption measures.

Due to the independence requirements of Standard 1130.A1 of the International Standards for the Professional Practice of Internal Auditing, IAS may only provide assurance on fraud prevention and anti-corruption activities they were not involved with.

5.4.2. EXTERNAL AUDIT / AUDITOR GENERAL (AG)

The AG provides an independent opinion on the effectiveness of the Municipality's fraud prevention and anti-corruption measures.

In providing an opinion the AG:

- determines whether the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan are in place and appropriate;
- assesses the implementation of the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan;
- reviews the fraud and corruption risk assessment process to determine whether it is sufficiently robust to facilitate timeous and accurate risk rating and prioritisation;
- determines whether management's action plans to mitigate the key fraud and corruption risks are appropriate and being implemented effectively.

Findings and recommendations from an external audit may be utilised in the evaluation and improvement of fraud prevention and anti-corruption measures.

6. INTERNAL FOCUS

6.1. SYSTEMS, POLICIES, PROCEDURES AND INTERNAL CONTROLS

Fraud prevention and anti-corruption measures must form part of all the systems of the Municipality. It can be embedded with policies and procedures which must be complied with by municipal officials and external stakeholders.

Internal controls prevent and detect fraud and corruption. Internal controls are an integral component of fraud prevention and anti-corruption.

6.2. COUNCILLORS

Councillors act in a fiduciary capacity on behalf of the public, ensuring that public funds are well spent and no wasteful practices take place.

Councillors must abide by the Code of Conduct for Councillors, must not engage in corrupt and/or fraudulent activities and must monitor the manner in which the administration of the Municipality deals with fraud and corruption.

6.3. STAFF

Key ambassadors for the successful implementation of the Fraud Prevention and Anti-Corruption Strategy for Overstrand Municipality are its officials. Overstrand Municipality's officials must demonstrate behaviour that is beyond reproach in the execution of their duties as per the approved policies of the Municipality.

Fraud prevention and anti-corruption principles and techniques must form part of the human resources practices and policies of the Municipality.

6.4. FINANCE

Council must approve an annual budget for the Municipality before the start of the financial year. Overstrand Municipality may only incur expenditure in terms of the approved budget and within the limits of the amounts appropriated for the different votes in the approved budget.

Municipal officials must use municipal resources effectively, efficiently and economically and avoid irregular, unauthorised or fruitless and wasteful expenditure.

6.5. INFORMATION

Confidentiality must be maintained for sensitive information received, stored, processed and furnished by the Municipality.

Information obtained from the Municipality which is not public may not be used for personal gain by municipal officials, councillors or external parties.

The disclosure and processing of information in possession of the Municipality is subject to the provisions of applicable legislation. No information that must legally be disclosed may be withheld from the public or other organs of state.

The relevant acts applicable to Overstrand Municipality are the Protection of Personal Information Act (No. 4 of 2013) and Promotion of Access to Information Act (No. 2 of 2000). These acts have also been included in the Overstrand Municipality Code of Ethics. However, various other laws, legislation and policies are in force that may impact on how information must or must not be used, processed and disclosed.

6.6. PHYSICAL ASSETS

Policies regulating physical assets must assign responsibility for assets to a person or department and include provisions for the recovery of losses resulting from lost or damaged assets.

The significant policies of Overstrand Municipality regulating physical assets are the Asset Management Policy, Administration of Immovable Property Policy and Fleet Management Policy.

7. EXTERNAL FOCUS

7.1. COMMUNITY / PUBLIC

Structures and processes must be created and maintained to encourage and enable the public to effortlessly communicate corrupt and/or fraudulent activities involving the Municipality to the Municipality.

Continuous drive of these structures and processes must be advocated during public participation engagements and by means of Ward Committee structures.

7.2. SUPPLIERS

Fraud prevention and anti-corruption measures must be stipulated in Overstrand Municipality's supply chain policies with regard to the procurement of goods and/or services and supplier performance/contract management.

8. IMPLEMENTATION

8.1. COMMITMENT

The Fraud Prevention and Anti-Corruption Strategy, Policy and Plan must be accepted and embraced by the stakeholders of the Municipality for it to be properly implemented and adhered to.

8.2. AWARENESS

The stakeholders of Overstrand Municipality must be aware of the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan and have knowledge of its contents.

8.3. TRAINING

Municipal officials must receive training on how to comply with the Fraud Prevention and Anti-Corruption Strategy, Policy and applicable legislation, to ensure they understand and know how to execute their responsibilities regarding fraud prevention and anti-corruption and for there to be no excuses when they are held accountable for non-compliance.

8.4. EXECUTE

The provisions contained in the Fraud Prevention and Anti-Corruption Strategy and Policy must be carried out. Municipal officials must be held accountable for implementation of its provisions.

8.5. MONITOR

The fraud prevention and anti-corruption activities must be monitored continuously for effectiveness and progress with the execution of the Fraud Prevention and Anti-Corruption Strategy and Policy.

9. ENFORCEMENT

9.1. REPORTING

Before any corrupt and/or fraudulent activity can be addressed, the Municipality must be informed of its occurrence.

9.1.1. FINANCIAL MISCONDUCT REGULATIONS

In accordance with the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, allegations of financial misconduct (which includes corruption, fraud and theft) must be reported to the following people / institutions:

| Allegations against | Report to |
|--|---|
| Accounting Officer (Municipal Manager) Chief Financial Officer (Director: Finance) Senior Manager (Director) | Council; and Provincial Treasury; and National Treasury |
| Other municipal officials | Accounting Officer (Municipal Manager) |

9.1.2. MUNICIPAL OFFICIALS

9.1.2.1. Obligation to report

Section 13 of the Code of Conduct for Municipal Staff Members states that a municipal official must report transgressions of the Code, which include fraud and corruption, to his/her superior.

It is thus a breach of the Code of Conduct for Municipal Staff Members and misconduct if a municipal official does not report fraud and/or corruption he/she is aware of.

9.1.2.2. Reporting lines

A municipal official must report incidents of alleged fraud and/or corruption to his/her immediate senior.

Should it appear that the immediate senior may also be implicated in the alleged fraud and/or corruption or the official has valid concerns that reporting to the immediate senior might jeopardise an investigation or expose himself/herself to victimisation, the official may report to someone on the next level of seniority, up to and including the Municipal Manager.



The person receiving the report must escalate the matter to the attention of the Municipal Manager for further action in the following manner:

- verbally, within one working day after discovery or receiving a report of the incident in question; and
- a detailed written report within five working days after the discovery or reporting of such an incident.

Only if the Municipal Manager is implicated in the alleged fraud and/or corruption, may a municipal official bypass the above reporting line and report to the Executive Mayor.

9.1.2.3. Reporting responsibilities of Municipal Manager

It is the responsibility of the Municipal Manager to report all allegations of corruption, fraud, theft and other acts of financial misconduct to Provincial Treasury. **[This reporting must take place as follows:**

- **telephonically within one working day of discovering or receiving the report on the incident; and**
- **a detailed written report submitted within five working days after discovering or receiving the report on the incident.]**

In addition **[to the above]**, the Municipal Manager must comply with the reporting requirements of Section 34 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004) and Section 10 of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (No. 37699), that stipulates which cases of corruption, fraud, theft and other financial offences must be reported to the South African Police Service.

When allegations are made against Councillors, the Municipal Manager must report the allegations to the Speaker and if the Speaker is implicated, the Municipal Manager must report the allegations to the Executive Mayor.

9.1.2.4. Reporting to the FARMCO and JAPAC

The relevant Director must report allegations of fraud or corruption to the Chairperson of the FARMCO.

The Municipal Manager must report allegations of fraud or corruption to the Chairperson of the JAPAC.

9.1.2.5. Other reporting lines

If a municipal official is also subject to other legislation or is a member of a South African accredited professional association/institution/board that obligates the official

to report in a different manner, the official may follow those reporting requirements as well but must also follow the reporting requirements of Overstrand Municipality.

9.1.3. COUNCILLORS

A Councillor must report alleged incidents of fraud and/or corruption involving Councillors to the Speaker and alleged incidents of fraud and/or corruption involving municipal officials to the Municipal Manager.

When an allegation of corruption, fraud or other financial misconduct is made against the Municipal Manager or the Municipal Manager fails to report an allegation/incident of corruption, fraud or other financial misconduct to Provincial Treasury, the Executive Mayor must report the allegation/incident to Provincial Treasury.

9.1.4. PUBLIC

Members of the public must report alleged corrupt or fraudulent acts by municipal officials or Councillors in the following manner:

| Allegations against | Report to |
|--|-----------------------------|
| Municipal Manager Chief Financial Officer (Director: Finance) Director | Speaker / Municipal Council |
| Other municipal officials | Municipal Manager |
| Councillor (excluding Speaker) | Speaker |
| Speaker | Executive Mayor |

The public may report alleged corrupt or fraudulent acts perpetrated against the Municipality by external parties to any municipal official in a managerial position, Director, Municipal Manager or Councillor, who then has the responsibility to escalate the matter to the appropriate person and/or authority.

9.2. INVESTIGATION

Allegations of corrupt and/or fraudulent activities must be investigated. Investigations can be distinguished between an informal, initial investigation to determine whether the allegations have any basis and a formal, full scale investigation to collect all evidence and make a finding.

The relevant authority will determine the scope of the investigation and whether to make use of the Risk Management Unit, Internal Audit Services and/or an external investigator.

All municipal officials and Councillors must cooperate with authorised investigators and provide them access to the Municipality's property, personnel and information required to conduct their investigations.

9.2.1. MUNICIPAL OFFICIALS

Allegations of fraud and/or corruption against municipal officials will be escalated to the Municipal Manager who, if there is reasonable cause to believe that an act of fraud or corruption has been committed, must refer the matter within seven calendar days to the disciplinary board established in accordance with the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (No. 37699) for a preliminary investigation.

[The Executive Mayor has the delegated authority, by way of a Council resolution dated 23 July 2014, to establish a disciplinary board in accordance with the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (No. 37699) for cases of corruption, fraud and other financial misconduct involving municipal officials.]

The disciplinary board must conduct a preliminary investigation to determine whether or not the allegation has any merit and make a recommendation to Council as to whether sufficient grounds exists to warrant a full investigation into the allegation.

If the disciplinary board determines that the allegation has merit and Council approves the recommendation, a full investigation must be conducted by the disciplinary board.

When the investigation has been finalised, the Municipal Manager, Executive Mayor or Speaker must table the report of the investigation to Council at the first upcoming Council meeting.

9.2.2. COUNCILLORS

The Speaker, or Executive Mayor if the Speaker is implicated, must deal with allegations of corruption, fraud and other misconduct against Councillors in accordance with the *Procedure for investigation regarding any allegation of misconduct against a member of a Municipal Council*, approved by Council on 12 August 2016.

The Speaker will conduct a preliminary investigation and determine whether there is a prima facie case to answer.

If the Speaker is satisfied that there is a prima facie case to answer, the Speaker will call a meeting of the committee selected by Council, either in general or specifically for that purpose, to consider the matter.

9.3. DISCIPLINARY AND LEGAL ACTION

Investigations that conclude that fraud and/or corruption was committed or attempted must be followed by disciplinary proceedings if the perpetrators are municipal officials or Councillors.

If the Municipality suffered a loss due to the fraud and/or corruption, the viability of claims for damages must be assessed and if found to be viable, instituted against the perpetrators (internal and external) for the recovery of the loss.

All cases of fraud and corruption must be assessed against relevant statutes, regulations and the common law to determine whether the fraud and/or corruption must be reported to the South African Police Service (SAPS). The Municipality has the right [As part of the Municipality's no tolerance stance on fraud and corruption,] to report all cases of fraud and corruption [may be reported] to the SAPS even if there is no legal requirement to do so.

The disciplinary board must recommend appropriate disciplinary and legal action, against municipal officials **[found guilty]**implicated in **[of]** corruption, fraud or other financial misconduct, where after the responsible manager must institute disciplinary procedures against the official in accordance with the South African Local Government Bargaining Council (SALGBC) Disciplinary Procedure Collective Agreement with the assistance of the Human Resources Department and legal action, if applicable, with the assistance of Legal Services.

The committee of Council established in terms of the *Procedure for investigation regarding any allegation of misconduct against a member of a Municipal Council*, as approved by Council on 12 August 2016, must recommend to the full Council appropriate sanctions against Councillors **[found guilty of]**implicated in corruption, fraud or other misconduct. After receiving the report, the full Council must vote on the sanctions against the implicated Councillors.

10. CONFIDENTIALITY

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

11. PROTECTION OF WHISTLE BLOWERS

A process for the protection of whistle blowers has been developed. Please refer to annexure A of this policy.

12. REVIEW

The Fraud Prevention and Anti-Corruption Policy will be reviewed and approved by the Municipal Council on an annual basis.

Review history:

| | |
|---------------------|----------------------|
| Policy Section | Risk Management Unit |
| Current update | |
| Approved by Council | 28 March 2018 |

Annexure A**PROTECTION OF WHISTLE BLOWERS****1. INTRODUCTION**

No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of illegal activity or maladministration involving Overstrand Municipality.

Overstrand Municipality will not tolerate the victimisation of whistle blowers and will take action to protect whistle blowers when they raise a concern in good faith. This does not mean that if the person is already the subject of disciplinary or legal action, that action will be halted as a result of their whistle blowing.

2. SCOPE

These provisions are applicable to all whistle blowers, internal and external, who report transgressions involving Overstrand Municipality to the Municipality.

Transgressions include any contravention of the law, policy of the Municipality, Code of Conduct for Municipal Staff, Code of Conduct for Councillors, Code of Ethics for Municipal Staff, deviations from approved standard operating procedures or any other act of maladministration.

3. PROTECTION OFFERED TO WHISTLE BLOWERS**3.1 ANONYMITY**

A person who reports suspected illegal conduct or maladministration may remain anonymous should he/she so desire. The Municipality will do its best to protect the person's identity when he/she raises a concern and wants to remain anonymous. It must be kept in mind though that the investigation could reveal the source of the information.

All whistle blowers who report to someone at the Municipality without concealing their identity, but wish to remain anonymous in subsequent investigations, will have their demand for anonymity respected. The employee or Councillor, to whom the report was made, may not disclose the identity of the whistle blower and may not be ordered by the Municipal Administration or Council to disclose the identity. If the employee or Councillor becomes a target for not disclosing the identity of the whistle blower, they will be entitled to the same protection as whistle blowers.

3.2 PHYSICAL SAFETY

The Municipality is aware that sometimes whistle blowers suffer or are threatened with physical harm. Therefore the Municipality's protection goes beyond the usual protection against reprisals that have financial or emotional consequences (e.g. loss

of job, intimidation, refusal of service, etc.) and includes the physical security of whistle blowers as well.

Threats to whistle blowers' lives will be treated seriously and investigated. Overstrand Municipality has a law enforcement unit that may be assigned to protect whistle blowers within the boundaries of the Municipality. The Municipality will also work closely with the SAPS to protect whistle blowers and arrest perpetrators.

When employees or Councillors are threatened for blowing the whistle, the person responsible for workplace security, together with the **[Head] Assistant Chief: [of] Law Enforcement and Task Team**, must arrange security measures to protect the whistle blower at his/her place of work.

3.3 PROTECTED DISCLOSURES ACT

The Protected Disclosures Act (PDA), No. 26 of 2000, provides protection to employees from occupational detriment for certain disclosures made without malice and in good faith to certain persons within or outside the Municipality.

The following disclosures are covered by the PDA:

- A criminal offence has been committed, is being committed or is likely to be committed;
- A person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
- A miscarriage of justice has occurred, is occurring or is likely to occur;
- The health or safety of an individual has been, is being or is likely to be endangered;
- The environment has been, is being or is likely to be damaged;
- Unfair discrimination;
- Any of the above mentioned matters has been, is being or is likely to be deliberately concealed.

The PDA provides legal protection to employees from occupational detriment for disclosures made:

- in terms of Section 9.1.2 of the Overstrand Municipality Fraud Prevention and Anti-Corruption Policy;
- in terms of Section 13 of the Overstrand Municipality Code of Conduct for Municipal Staff;
- in terms of Section 10 of the Overstrand Municipality Code of Ethics for Municipal Staff;
- to a legal adviser;
- to the Public Protector
- to the Auditor-General;

- to a Cabinet member or member of a provincial Executive, or a body which is appointed by such members, and the disclosed impropriety falls within any description of matters which in the ordinary course are dealt with by the person or body concerned (e.g. reporting fraud with MFMA grants to the minister of finance);
- in terms of Section 8 and 9 of the PDA;
- in terms of any other policy or prescribed procedure of Overstrand Municipality regarding the reporting of transgressions.

“Occupational detriment” in relation to the working environment of an employee, means being:

- subjected to any disciplinary action;
- dismissed, suspended, demoted, harassed or intimidated;
- transferred against his or her will;
- refused transfer or promotion;
- subjected to a term or condition of employment or retirement, which is altered or kept altered to his or her disadvantage;
- refused a reference or being provided with an adverse reference, from his or her employer;
- denied appointment to any employment, profession or office;
- threatened with any of the actions referred to above;
- otherwise adversely affected in respect of his or her employment, profession or office, including employment opportunities and work security.

In other words, the Municipality is legally forbidden from doing any of the above to an employee who blew the whistle in accordance with the PDA. The forbidden actions are only related to punishment for whistleblowing and do not forbid the Municipality from disciplining a whistle blower who is guilty of the offence(s) he/she disclosed in terms of the PDA.

3.4 PROTECTION FROM EMPLOYEES AND COUNCILLORS

Any employee or Councillor who victimise a person for whistleblowing will be disciplined and sanctioned, in addition to any other sanctions that may result from an investigation due to the whistleblowing.

It is the responsibility of the manager, Director or Municipal Manager, whoever is the immediate senior, to institute disciplinary proceedings against employees who victimise whistle blowers. The Municipal Council must institute disciplinary proceedings against Councillors or the Municipal Manager who victimise whistle blowers.

Where a whistle blower’s career advancement in the Municipality is in the hands of a person that victimised him/her for whistle blowing or who, as a result of the

investigation that followed, was reprimanded, the interview and judgement of the whistle blower for the position will be conducted by a more senior person who was not involved in the victimisation or negatively affected by the investigation.

3.5 PROTECTION OF EMPLOYEES AND COUNCILLORS FROM EXTERNAL VICTIMISATION

Municipal corruption almost always involves an outside party. Thus there will be people from outside the Municipality who will be compromised when corruption is exposed, stopped and remedial action instituted and they may become hostile towards the whistle blower.

Overstrand Municipality will not tolerate victimisation by external people against its employees and Councillors.

Any external person who victimises an employee or Councillor of Overstrand Municipality will be barred from the Municipality's premises and the law enforcement unit will be instructed to arrest them for trespassing.

The Municipality will assist the whistle blower in laying criminal charges for victimisation that occurs outside his/her workplace.

3.6 PROTECTION OF EXTERNAL WHISTLE BLOWERS FROM EXTERNAL VICTIMISATION

External whistle blowers could be employees of suppliers contracted by the Municipality, employees/representatives of other suppliers, people from NGOs, members of rate payers associations and other members of the public.

Overstrand Municipality will do all that is reasonable under the prevailing circumstances to protect external whistle blowers from external victimisation, given the fact that the Municipality has no control over the whistle blower or the victimisers.

External whistle blowers exposed to external victimisation should contact the Municipality and request assistance to deal with the victimisation.

4. REPORTING WHISTLE BLOWER VICTIMISATION TO THE MUNICIPALITY

4.1 EMPLOYEES

Employees should report any victimisation they are exposed to as a result of their whistleblowing to their immediate senior not involved with the victimisation, up to and including the Municipal Manager. It is the responsibility of the senior to escalate the matter further in order to protect the employee and eliminate the victimisation.

If all the employee's seniors are involved in the victimisation, the employee should report the victimisation to the Executive Mayor or Speaker.

4.2 COUNCILLORS

Councillors should report any victimisation they are exposed to as a result of their whistleblowing to the Speaker. If the victimisation is perpetrated by an Overstrand Municipality employee, the Speaker must report the victimisation to the Municipal Manager, who must report it to the employee's senior in order to institute disciplinary proceedings against the employee.

The Speaker may forward cases of Councillor victimisation to the Municipal Manager if the Municipal Administration can assist with the protection of the Councillor and/or eradication of the victimisation.

4.3 EXTERNAL WHISTLE BLOWERS

External whistle blowers should report victimisation they are exposed to as a result of their whistleblowing to a Director, the Municipal Manager, Executive Mayor or other Councillor. It is the responsibility of the person receiving the report to forward the information to the relevant municipal or external officials who may be able to assist the whistle blower.

5. INELIGIBILITY FOR PROTECTION

The protection of whistle blower provisions will not apply to a person who reports allegations knowing that they are false or for reports that have no substance to support the allegations.

OVERSTRAND MUNICIPALITY



FRAUD PREVENTION AND ANTI-CORRUPTION PLAN

2018-2019

GENERAL EXPLANATORY NOTE :

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

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1. INTRODUCTION

Overstrand Municipality's Fraud Prevention and Anti-Corruption Plan is the culmination of its Fraud Prevention and Anti-Corruption Strategy and Policy. The Fraud Prevention and Anti-Corruption Plan details the steps which have been and will continually be taken by the Municipality to promote ethical conduct and address fraud and corruption.

2. INTERNAL FOCUS

2.1. SYSTEMS, POLICIES, PROCEDURES AND INTERNAL CONTROLS

Fraud prevention and anti-corruption measures, including internal controls, are to a smaller or larger degree part of nearly all of Overstrand Municipality's policies. All stakeholders of the Municipality are expected to comply with the policies and procedures.

All Overstrand Municipality's policies are available on the intranet for internal stakeholders and on the Municipality's website for external stakeholders. It is the responsibility of all stakeholders to acquaint themselves with the various policies applicable to them.

In addition to the policies of the Municipality, procedures and internal controls are created by management to mitigate fraud and corruption risks. These procedures are communicated by email and by [line managers]supervisors to municipal officials without email access. All municipal officials are expected to comply with the procedures.

2.2. COUNCILLORS

All policies, which will include fraud prevention and anti-corruption measures, must be approved by Council, enabling Councillors to gain insight and provide input into the control environment of the Municipality.

A report containing all approved deviations in terms of the Supply Chain Management Policy must be submitted to every ordinary Council meeting.

Councillors should inform the Municipal Manager of allegations made by their constituents of fraud and/or corruption involving the Municipality.

It is the responsibility of Council to initiate investigations into allegations of fraud and/or corruption against Councillors and, depending on the outcome of the investigation, to institute disciplinary action against the implicated Councillors in accordance with the Local Government: Municipal Systems Act (No. 32 of 2000) and the Municipality's policies.

2.3. STAFF

2.3.1. EMPLOYMENT PRACTICES

Overstrand Municipality is committed to developing human resources systems, policies and procedures that incorporate fraud prevention and anti-corruption practices.

Employee focussed fraud prevention and anti-corruption measures should be emphasised from the point of advertising a vacant position, recruitment, specific employment conditions, performance management and even exit procedures upon resignation or retirement. The approaches included in the policies of the Municipality are described below:

- Advertising for vacant positions

Specific provisions are included when advertising positions to indicate to applicants that only people with the highest levels of integrity will be considered and that submission to appropriate pre-employment screening processes are obligatory for consideration in any position.

- Pre-employment screening and probity

Pre-employment screening procedures are applicable to all employees, regardless of level, including employees acting in specific positions, seconded employees and temporary and contract workers. Relevant probity will be included in all employee screening processes. Verified qualifications, experience and previous or pending disciplinary action will also be used as evaluation criteria.

- On-going financial disclosure and lifestyle audits

The Municipal Manager and managers appointed in terms of Section 56 of the Municipal Systems Act (No. 32 of 2000), will be obliged to declare specific personal assets and private business interests.

- Declaration of private work by officials

Employees who perform private work will, in accordance with Schedule 2, Section 4 (2)(c) of the Municipal Systems Act (No. 32 of 2000), be obliged to declare in full a description and nature of the work, hours of work, name of business for whom they work or name of own business, that there is no conflict of interest with their job content as officials and that the nature of the work does not compromise their judgement and integrity as an official of the Municipality.

- Employee induction programmes

Employee induction is an opportunity to introduce employees to the culture and ethos of the Municipality. Efforts must be made to ensure that organisational strategy, **[business]professional** ethics and conduct standards are included in employee induction. Steps will be developed to include seconded employees, interns, temporary and contract workers in relevant aspects of induction programmes.

- Obligatory leave periods

To limit the risk of over-worked employees who might become lackadaisical leading to non-compliance with internal controls and the risk of unethical individuals monopolising specific tasks, all employees are compelled to take annual leave in terms of paragraphs 8.1.3 and 8.1.4 of the South African Local Government Bargaining Council (SALGBC) Main Collective Agreement.

Directors/Managers must ensure that appropriate controls are put in place when employees are unable to take leave for extended periods of time due to work commitments.

- Exit procedures

The exit procedures for employees leaving Overstrand Municipality consist of the return of assets and an exit interview.

Exit interviews include the assessment of the perceptions of the ethics and conduct standards within the Municipality. This will assist in identifying areas for improvement.

2.3.2. DISCIPLINE

Overstrand Municipality will deal with instances of actual or attempted fraud and/or corruption by its employees in accordance with **[its disciplinary procedures] the South African Local Government Bargaining Council (SALGBC) Disciplinary Procedure Collective Agreement.**

Additional measures will include:

- Communication of specific disciplinary standards and prohibited conduct relating to fraud and corruption;
- Ensuring that disciplinary measures are applied consistently;
- Ongoing training of managers in the application of disciplinary measures available to deal with fraud and corruption;
- Where managers are found to be inconsistent and/or inefficient in the enforcement of discipline, intervention from the relevant director is required and corrective action must be instituted. Corrective action may include training of

managers in disciplinary measures for first time failures and disciplinary action against the managers themselves for repeated failures in their duty to uphold discipline;

- Publication (within the permissible legal framework) of the outcomes and sanctions of disciplinary actions, including lessons learned, to serve as a deterrent.

2.3.3. CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

A Code of Conduct for Municipal Staff Members is clearly stipulated in Schedule 2 of the Municipal Systems Act (No. 32 of 2000). Newly appointed permanent and certain temporary staff receive a copy of the Code of Conduct with their employment contracts.

Disciplinary measures will be instituted against staff who contravene the Code of Conduct in accordance with legislation and the policies of Overstrand Municipality.

2.3.4. CODE OF ETHICS FOR MUNICIPAL STAFF

Overstrand Municipality has ~~created~~adopted a Code of Ethics to formalise the ethical behaviour expected of its staff.

Disciplinary measures will be instituted against staff who contravene the Code of Ethics, in accordance with legislation and the policies of Overstrand Municipality.

2.4. FINANCE

Finance policies and procedures are necessary to ensure appropriate internal control over financial management and ~~to limit~~reduce fraud and corruption risks.

The Local Government: Municipal Finance Management Act (No. 56 of 2003) assigns financial management responsibilities to all municipal officials. In addition, the financial policies, procedures and other prescripts of the Municipality prescribe various controls, which, if effectively implemented and adhered to, would limit fraud and corruption within the Municipality.

The financial policies of the Municipality contain, among other aspects, the following fraud prevention and anti-corruption controls:

- 1) Prevention controls, consisting of:
 - o Authorisation Controls – require that all transactions must be authorised or approved by an appropriate responsible person and that the limits for these authorisations are specified in the delegations of authority of the Municipality.

- Physical Controls – procedures and security measures designed to ensure that access to assets / information is limited to authorised personnel and that the assets / information cannot be removed without authorisation.
- 2) Detection controls, consisting of:
- Arithmetic and accounting controls – controls within the recording function which ensure that transactions to be recorded and processed have been authorised, are complete, correctly recorded and accurately processed.
 - Physical controls – detects and/or records who gained access to or are in possession of assets / information.
 - Supervision – supervision by responsible officials of day-to-day transactions and the recording thereof.
 - Management Information – review of management accounts and budgetary controls. These controls are normally exercised by management outside the day-to-day routine of the system.
- 3) Segregation of duties
- One of the primary means of control is the separation of responsibilities or duties that would, if combined, enable one individual to record and process a complete transaction, thereby providing him/her with the opportunity to manipulate the transaction irregularly and commit fraud and/or corruption.
 - Segregation of duties reduces the risk of intentional manipulation or error and increases the element of oversight.
 - Functions that should be separated include authorisation, execution, custody, recording and, in the case of computer-based systems, systems development and daily systems operations.
 - In computerised systems, the access granted to officials according to their responsibilities should be duly authorised, job specific, limited and monitored on a regular basis to ensure their level of access [is]are still relevant.
 - Placed in context of fraud prevention and anti-corruption, segregation of duties lies in separating either the authorisation or the custodial function from the oversight function.

2.5. INFORMATION

Confidentiality and the use of information for personal gain are addressed in the employment contracts, **[and]** Code of Conduct and Code of Ethics for Municipal

Staff, in the Code of Conduct for Councillors and in municipal contracts entered into with suppliers.

An Access to Information manual has been created and is updated regularly. The manual is accessible to the public on the Municipality's website and on the intranet for municipal officials. A designated information officer and deputies have been appointed to process requests for information in terms of the Promotion of Access to Information Act (No. 2 of 2000).

The information policies will be revised at least annually with a specific focus on the electronic security measures to ensure it is up to date with the changes in technology.

In addition to the above, the following measures will be undertaken by the Municipality:

- Sensitising all municipal officials on a regular basis to the fraud and corruption risks associated with information security and the utilisation of computer resources, in particular access control;
- Ensure that systems are developed to limit the risk of manipulation of computerised data;
- Communiqués will be provided to municipal officials on the management of intellectual property and confidential information;
- Regular communiqués to municipal officials pointing out information policies and the implications for the Municipality (e.g. loss of data, fines) and the official (e.g. disciplinary action, non-compliance);
- Regular reviews of information and computer security to identify areas for improvement.

2.6. PHYSICAL ASSETS

Physical assets are critical to the Municipality's ability to deliver on its mandate.

An asset register is maintained electronically with at least one asset count bi-annually. Photographs of assets are taken and included in the asset register.

The responsibility to safeguard an asset is assigned to a person or department, who may be held liable for loss of, or damage to, the asset. An Asset Loss Control Committee has been established, which investigates losses and recommends whether disciplinary and/or recovery procedures should be instituted against municipal officials responsible for the loss.

Overstrand Municipality has implemented a fingerprint access control system at its main premises to control access to the buildings and assets inside. The roll-out of the

system to other premises will be considered on a cost-benefit analysis and availability of funds in the budget.

The physical asset policies of the Municipality also contain the following fraud prevention and anti-corruption measures:

- Criteria for classifying items as either assets or expenses;
- Internal control procedures over assets that must be followed;

Security and other measures for control of assets will continuously be reviewed to identify areas for improvement.

2.7. RISK MANAGEMENT

Fraud and corruption risks will be identified and assessed by management periodically as part of the risk identification and assessment processes facilitated by the Risk Management Unit. It remains the responsibility of management to continuously identify new fraud and corruption risks or changes to existing fraud and corruption risks.

The management of fraud and corruption risks forms part of the risk management responsibilities of risk owners and risk action owners.

The identification of fraudulent and/or corrupt incidents which occurred at the Municipality is a standing item on the agenda of Fraud and Risk Management Committee meetings. Incidents of fraud and/or corruption will be followed up by the Risk Management Unit to identify control weaknesses or any type of process deficiencies and determine whether the initial impact, likelihood and control ratings of fraud and corruption risks need adjustment.

Detailed information about the Municipality's risk management can be found in the risk management strategy and policy.

2.8. INTERNAL AUDIT

The Chief Audit Executive directs the activities of Internal Audit Services in relation to fraud and corruption, mainly informed by the risk based audit plan. It is thus imperative that management identifies fraud and corruption risks for inclusion in the risk register.

The Municipal Manager may request Internal Audit Services to audit areas prone to fraud and/or corruption or to provide assurance on the fraud prevention and anti-corruption measures of the Municipality that is not included in the risk based audit plan.

Management, Directors or the Municipal Manager, as the case may be, must act on internal audit findings related to fraud and/or corruption. Findings and recommendations from an internal audit can be used in the evaluation and improvement of fraud prevention and anti-corruption measures.

3. EXTERNAL FOCUS

3.1. EXTERNAL AUDIT

An annual external audit is conducted by the Auditor-General of South Africa in accordance with applicable legislation. The Auditor-General's audit will include a focus on fraud and corruption risks, as it impacts on the integrity of the financial statements and compliance with legislation.

The Municipality may also contract a private external auditor to audit areas prone to fraud and/or corruption or to provide assurance on the fraud prevention and anti-corruption measures of the Municipality.

Management, Directors or the Municipal Manager, as the case may be, must act on external audit findings related to fraud and/or corruption. Findings and recommendations from an external audit can be used in the evaluation and improvement of fraud prevention and anti-corruption measures.

3.2. COMMUNITY / PUBLIC

The public and community organisations have an important role to play in identifying and reporting fraudulent and/or corrupt acts committed by other members of the public (including businesses) in their dealings with Overstrand Municipality as well as corrupt and/or fraudulent conduct by municipal officials and/or Councillors in their dealings with the public.

3.2.1. CORRUPTION AND FRAUD HOTLINE

The National Corruption and Fraud Hotline number, **0800 701 701**, for the anonymous reporting of cases of corruption and/or fraud, will be included in the contact numbers listed on the monthly "Bulletin" newspaper (which is distributed to ratepayers of the Municipality and available on the Municipality's website) and it will be displayed on the Municipality's website along with the important contact numbers.

3.2.2. WARD COMMITTEES

It is essential for good governance that citizens are actively involved in the processes with regard to planning, budgeting, monitoring and evaluation of programmes/projects. Ward committees are regarded as the most suitable vehicles to promote good governance at local government level.

Ward Committees should identify and report incidents of fraud and/or corruption to the Municipality, but are also at risk of providing a platform to its members for the perpetration of fraud and/or corruption. Therefore, Ward Committee Rules, including a Code of Conduct for Ward Committee Members, are in place.

3.3. SUPPLIERS

Supply chain management is a high risk area for fraud and corruption. A Contract Management Policy and comprehensive Supply Chain Management Policy, which includes a Code of Conduct for Supply Chain Management Practitioners and Other Role Players, are in place and will be reviewed annually.

The main fraud prevention and anti-corruption measures included in the abovementioned policies are:

- The range of supply chain management processes that Overstrand Municipality may use;
- When a particular process must be used;
- Procedures for each type of process;
- Open and transparent pre-qualification processes for tenders and other bids;
- Competitive bidding processes;
- Bid documentation, advertising of and invitations for contracts;
- Procedures for:
 - opening, registering and recording of bids in the presence of interested parties;
 - evaluation of bids;
 - negotiating the final terms of the contracts; and
 - approval of bids;
- Screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value;
- Compulsory disclosure of conflicts of interests from municipal officials involved with supply chain management and suppliers competing for contracts;
- The barring of persons from participating in tendering or other bidding processes who have:
 - been convicted of fraud or corruption during the past five years; or
 - wilfully neglected, or failed to complete, or failed to comply, with a government contract during the past five years; or
 - tax matters that are not cleared with SARS;

- Procedures for the combating of fraud, corruption, favouritism and unfair and irregular practices in supply chain management;
- Loss recovery in cases of fraud and/or corruption;
- Clear distinction between the duties of the different role-players involved in the acquisition process (separation of duties).

4. ENFORCEMENT

4.1. REPORTING

4.1.1. ENCOURAGING REPORTING

A culture of reporting fraud and corruption and an ethical culture are intertwined. The Municipality has implemented a Code of Ethics for Municipal Staff, which also addresses fraudulent and corrupt behaviour and the reporting of unethical conduct. The implementation will be followed by awareness campaigns targeting all municipal officials.

In addition, provisions for the protection of whistle blowers have been included in the Fraud Prevention and Anti-Corruption Policy and will be implemented by the Municipality to give whistle blowers assurances with regard to their rights and how they will be protected should they report fraud and/or corruption.

4.1.2. ENABLING REPORTING

The contact details of Directors, the Municipal Manager and Councillors are available on Overstrand Municipality's website. Members of the public, suppliers and municipal officials may contact them anonymously to report instances of fraud and/or corruption.

The contact details of municipal officials in the Supply Chain Management department are included in advertisements and supplier documentation. A supplier may contact the number to report fraud and/or corruption in the Municipality's supply chain process.

Formal avenues for anonymous reporting will be explored and established.

4.1.3. REPORTING TO SAPS

Cases of fraud and/or corruption will be assessed by either the disciplinary board, Council Committee, Internal Audit Services or Legal Services, as the case may be, to determine whether it must be reported to the South African Police Service (SAPS) in terms of Section 34 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004) or Section 10 of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (No. 37699).

Even if there is no legal requirement to report, the Municipal Manager or Speaker will consider the circumstances pertaining to the case to determine whether it should be reported to the SAPS or not in order to maintain a culture of zero tolerance towards financial misconduct.

4.2. INVESTIGATION

4.2.1. MUNICIPAL OFFICIALS

Allegations of fraud and/or corruption levelled against a municipal official will be escalated to the Municipal Manager who, if there is reasonable cause to believe that an act of fraud or corruption has been committed, must refer the matter within 7 calendar days to the disciplinary board for a preliminary investigation.

[The Executive Mayor, through delegated authority by way of a Council Resolution dated 23 July 2014, will establish a disciplinary board on a case by case basis.]

The disciplinary board must conduct a preliminary investigation to determine whether or not the allegation has any merit and subsequently make a recommendation to Council as to whether sufficient grounds exists to warrant a full investigation into the allegation. If the disciplinary board determine that there is merit in the allegation and Council adopts the recommendation, a full investigation must be conducted by the disciplinary board.

When the investigation has been finalised, the Municipal Manager, Executive Mayor or Speaker must table the report of the investigation to Council at the first Council meeting after the report has been finalised.

4.2.2. COUNCILLORS

The Speaker, or Executive Mayor, if the Speaker is implicated, must deal with allegations of fraud, corruption and other misconduct against Councillors in accordance with the *Procedure for Investigation regarding any allegation of misconduct against a member of a Municipal Council*, approved by Council on 12 August 2016.

The Speaker or Executive Mayor, as the case may be, will conduct a preliminary investigation to determine whether there is a prima facie case to answer.

Should the Speaker or Executive Mayor, as the case may be, be satisfied that there is a prima facie case to answer, the Speaker or Executive Mayor will call a meeting of the committee selected by Council either in general or specifically for that purpose to consider the matter.

4.3. DISCIPLINARY ACTION

4.3.1. MUNICIPAL OFFICIALS

Investigations that conclude that fraud and/or corruption took place or was attempted, will be forwarded to the Human Resources Department for the institution of disciplinary steps against the alleged offender.

Offenders who are municipal officials will be disciplined in accordance with the Labour Relations Act (No. 66 of 1995) and the South African Local Government Bargaining Council (SALGBC) Disciplinary Procedure Collective Agreement.

4.3.2. COUNCILLORS

The committee of Council established in terms of the *Procedure for Investigation regarding any allegation of misconduct against a member of a Municipal Council* must recommend appropriate sanctions to be imposed against Councillors [**found guilty of**] implicated in fraud, corruption or other misconducts.

The Council must consider the committee's recommendation and vote on an appropriate sanction against the Councillor.

4.4. LEGAL ACTION

The results of investigations that conclude that fraud and/or corruption were/was committed will be forwarded to the relevant budget holder who suffered a loss due to the fraud and/or corruption.

It is the responsibility of the budget holder to consult with Human Resources and Legal Services to determine appropriate legal action to be instituted. Legal action to recover losses, if determined to be cost effective, will be instituted against those involved (internal and external) with the fraud and/or corruption.

Cases of fraud and/or corruption reported to the SAPS should be investigated further by the SAPS. The Municipality will furnish all relevant evidentiary material of its own investigation and will assist the SAPS and the Department of Public Prosecutions in any way it can to ensure a successful prosecution and conviction of the offender(s).

Persons or entities involved in fraud or corruption will be reported to National Treasury for blacklisting.

5. IMPLEMENTATION

5.1. COMMITMENT

The Fraud Prevention and Anti-Corruption Strategy, Policy and Plan will be submitted for Council approval annually. During this process, external stakeholders may comment on the documents.

Internal stakeholders may provide comments throughout their interaction with the Risk Management Unit.

Feedback and suggestions received from stakeholders will be considered during the annual revision of the strategy, policy and plan.

5.2. AWARENESS AND TRAINING

A program to create a culture of awareness about fraud prevention and anti-corruption will consist of four parts, namely: leadership; education / training; communication; and intervention.

5.2.1. LEADERSHIP

The Municipal Manager and Directors must set an example from the top. They must adhere to the Code of Conduct and Code of Ethics for Municipal Staff Members and comply with the policies of the Municipality.

They must give effect to and consider the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan in the decisions they take, ensuring that their subordinates understand the fraud prevention and anti-corruption aspects that were considered in reaching the decision.

5.2.2. EDUCATION / TRAINING

The ongoing creation of a culture of awareness amongst municipal officials is the responsibility of all managers.

Educational approaches to create awareness amongst municipal officials will address the following issues:

- Awareness of the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan;
- Application of professional ethics in the work environment;
- Awareness of the current systems, policies and procedures relating to fraud and corruption, including whistle blowing;

- Encouraging officials to blow the whistle on fraud and corruption within their work environments and informing them of their rights and protections as whistle blowers;
- Encouraging officials to understand specific fraud and corruption related risks to which the Municipality may be exposed, thus enhancing the prospect of detecting irregularities earlier;
- Circulation of a list of frequently asked questions and answers regarding typical fraud and corruption issues.

5.2.3. COMMUNICATION

The contents of the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan will be communicated to the stakeholders of the Municipality to facilitate a culture where all stakeholders strive to contribute towards making it a success.

Communication approaches that will be considered by Overstrand Municipality are the following:

- An official launch of the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan aimed at all stakeholders;
- A suggestion box for municipal officials and other stakeholders to make submissions for enhancements of the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan;
- Publishing the Fraud Prevention and Anti-Corruption Policy and its successes in the Annual Report;
- Making the Fraud Prevention and Anti-Corruption Strategy, Policy and Plan available on the Municipality's intranet and website;
- Notifying stakeholders of changes to the Fraud Prevention and Anti-Corruption Strategy, Policy or Plan.

5.2.4. INTERVENTION

The fraud prevention and anti-corruption culture of the Municipality will be monitored to determine the cultural awareness of the municipal officials. Shortcomings will be addressed through education, communication or both to reach the desired cultural awareness.

5.3. EXECUTE

Directors or managers will assign timeframes for implementation and hold municipal officials accountable for implementing the Fraud Prevention and Anti-Corruption Strategy and Policy in their areas of operation.

The execution of certain fraud prevention and anti-corruption activities will be included in the risk management implementation plan.

5.4. MONITORING

Progress with the implementation of the Fraud Prevention and Anti-Corruption Strategy and Policy will be monitored continuously by the Risk Management Unit, monthly by Management, Directors and the Municipal Manager and quarterly by the Joint Audit and Performance Audit Committee and Fraud and Risk Management Committee.

Progress with the implementation of action plans to mitigate fraud and corruption risks will be reported on as part of the progress reports on risk actions.

6. CONFIDENTIALITY

To ensure the confidentiality of information during investigations, the following protocols will be followed:

- Only the investigator may keep the docket of the investigation and must store it in a place that only he/she can access;
- The investigator must authorise people whom require information with regard to the investigation before they may access the docket of the investigation;
- Information that may identify the source that reported the alleged fraud and/or corruption must be removed or blocked when other authorised people view the docket;
- The list of people co-operating with the investigator may not be disclosed during and subsequent to the investigation, unless it is clear that the list will only be used to thank and/or reward those who co-operated for their assistance with the investigation and not to victimise them;
- Potential witnesses interviewed by the investigator may only be made privy to information pertaining to the investigation to the extent necessary in order for them to furnish relevant information and evidence;
- The alleged perpetrator's identity may only be disclosed to the affected budget holders, their directors and the Municipal Manager when sufficient proof of wrongdoing has been established.

7. PROTECTION OF WHISTLE BLOWERS

The protection of whistle blowers will be handled on a case by case basis in accordance with the processes outlined in annexure A of the Fraud Prevention and Anti-Corruption Policy.

Internal whistle blowers have access to the contact details of the Municipality's management, Directors, Municipal Manager, Executive Mayor and Speaker and may contact the relevant person in order to report victimisation and/or threats.

External whistle blowers have access to the contact details of Directors, the Municipal Manager, Executive Mayor, Speaker, Ward Councillors and Proportional Councillors, all of whom may be contacted in order to report victimisation and/or threats.

8. OFFENCES

The offences listed in this section highlight known and common acts of fraud and corruption. This list is not exhaustive (not only limited to these examples) and any other act that complies with the definition of fraud or corruption (refer to definitions in the Fraud Prevention and Anti-Corruption Policy) will constitute the offence/offences of fraud and/or corruption.

8.1. OFFENCES CONSTITUTING FRAUD

Fraud refers to the unlawful and intentional making of a misrepresentation / deceit resulting in actual or potential prejudice to the Municipality.

Additionally, prejudice does not refer to financial loss only, but to any harm or loss, be it proprietary or non-proprietary. Consequently, if an act results in no financial loss (or even financial gain) to the Municipality, but for example results in damage to the Municipality's reputation, it can still constitute the crime of fraud.

(1) Municipal officials

- Claim travel expenses for a trip to a work related function, but include the distance of sightseeing and recreational trips along the way in the travel claim.
- Deviating from the fastest / most efficient route when using a municipal vehicle in order to make non-work related stops along the way.
- Use of fuel cards for private vehicles.
- Use of municipal vehicles despite receiving a vehicle allowance that is sufficient to cover the actual travelling expenses.
- Requesting the Municipality to pay for the attendance of meetings, conferences and functions, without any intention or plan to derive value for the Municipality from such attendance. (i.e. vacationing / entertaining at the Municipality's expense)
- Use of municipal assets for non-work related purposes, including:
 - unauthorised travel with vehicles;
 - using computers and the internet for unauthorised purposes;
 - printing personal or private business related documents;
 - performing private work.
- Claim overtime for time not actually worked.

- Unauthorised absence from work without declaring the time not worked, while still accepting payment based on the perceived work hours.
- False or inaccurate information supplied in a CV.
- False or inaccurate information supplied for performance evaluation.
- Assistants electronically approve / authorise transactions using the manager's account details, without proper delegation or expressed permission from the manager.
- Not declaring private work.
- Not declaring any conflicts of interest when asked to do so, and then proceeding to take part in discussions to influence opinion or vote on matters in which the municipal official does have a conflict of interest.
- Intentionally splitting orders into smaller quantities or values to avoid having to follow a more stringent procurement process.
- Informing a supplier of the lowest quote received thus far, to enable the supplier to quote the lowest and receive the order.
- Developing specifications in such a manner with the intention to suit a particular supplier.
- Not declaring interests in entities that supply goods and/or services to the Municipality.
- Misrepresenting the contract performance and/or percentage completion of a contract of a supplier.
- Approving a goods received note which does not correspond with the actual quantity and quality delivered.
- Intentional mismanagement / postponement to enable emergency procurement.
- Intentional over-ordering of inventory.
- Using sick leave when the municipal official is not really sick.
- Faking injuries to claim for medical incapacity or to obtain injury on duty leave.
- Applying for and receiving study bursaries, without any intent or commitment to complete the studies.
- Supplying false information for performance evaluations.
- Clock in and out for colleagues.
- Requesting a member of the public to pay the official in his/her personal capacity for the delivery of a service, in addition to or instead of the Municipality.
- Using grant funding or donations in a manner that contravenes the conditions attached to the funding.
- "Borrowing" of petty cash.
- Intentionally providing misleading information to the public.

(2) Councillors

- Claim travel expenses for a trip to a work related function, but include the distance of sightseeing and recreational trips along the way in the travel claim.
- Use of municipal assets for non-work related purposes, including:
 - using computers and the internet for unauthorised purposes;

- printing personal or private business related documents;
- performing private work.
- Using the municipal administration's communication function for political messages.
- Using the municipal administration's resources for political activities.
- Requesting the Municipality to pay for the attendance of meetings, conferences and functions, without any intention or plan to derive value for the Municipality from such attendance. (i.e. vacationing / entertaining at the Municipality's expense)
- Intentionally providing misleading information to the public.

8.2. OFFENCES CONSTITUTING CORRUPTION

Both the person receiving and giving unauthorised gratification commits the offence of corruption, which therefore includes the public. This section will however only focus on offences of corruption which relate to municipal officials and Councillors.

- (1) A municipal official accepts unauthorised gratification (bribe) from a member of the public, another municipal official, a supplier, a Councillor or any other person to:
- award a contract to a particular supplier;
 - award a grant to a particular entity or person;
 - approve an application for an indigent subsidy, although the person does not qualify;
 - fast track an application for a certificate or licence, even if the application meets all criteria and the certificate or licence would have been awarded anyway;
 - issue a certificate or licence, which should not have been issued;
 - ignore illegal acts or breaches of contract, licence or other agreements, which the municipal official should have reported or acted upon;
 - allocate municipal resources for political functions;
 - allocate municipal resources to a certain area, whether for service delivery, upgrading or construction of infrastructure or any other municipal function;
 - supply information on competing bids to a supplier;
 - allow unauthorised persons to enter municipal premises;
 - perform a service for a member of the public at a reduced rate;
 - approve refunds to clients;
 - support the selling/leasing of municipal land and/or buildings to developers;
 - provide a reduced assessment on the costs / amounts owed to the Municipality (e.g. penalties for non-performance, fire services account, etc.)
 - sell municipal assets below market value;
 - interfere in public matters;
 - make a certain decision or delay a decision;
 - provide information to another person.

- (2) A Councillor accepts unauthorised gratification (bribe) from a member of the public, a municipal official, a supplier, another Councillor or any other person to:
- vote a particular way;
 - convince other Councillors to vote a particular way;
 - interfere in matters of the municipal administration;
 - pressure a municipal official or officials to award a contract to a particular supplier;
 - pressure a municipal official or officials to ignore illegal acts or breaches of contract, licence or other agreements, which the municipal official should report or act upon.

8.3. ACCESSORY TO CRIMES OF FRAUD AND CORRUPTION

Without committing acts that constitute fraud or corruption themselves, municipal officials and Councillors could be accessories to the crimes by:

- not reporting acts of fraud and/or corruption as required by legislation or policies of the Municipality;
- destroying, altering (including removing and/or adding information), mutilating or falsifying evidence, including electronic records, of fraud and/or corruption or knowing about the aforementioned, but not reporting it;
- allowing acts of fraud and/or corruption to continue without instituting corrective action;
- obstructing investigations into fraud and/or corruption.

9. REVIEW

The Fraud Prevention and Anti-Corruption Plan must be reviewed and approved by the Municipal Council on an annual basis.

Review history:

| Policy Section | Risk Management Unit |
|---------------------|----------------------|
| Current update | |
| Previous review | 28 March 2018 |
| Previous review | 2 December 2016 |
| Previous review | 30 March 2016 |
| Previous review | 29 April 2015 |
| Previous review | 30 April 2014 |
| Previous review | 26 June 2013 |
| Approved by Council | 26 November 2008 |