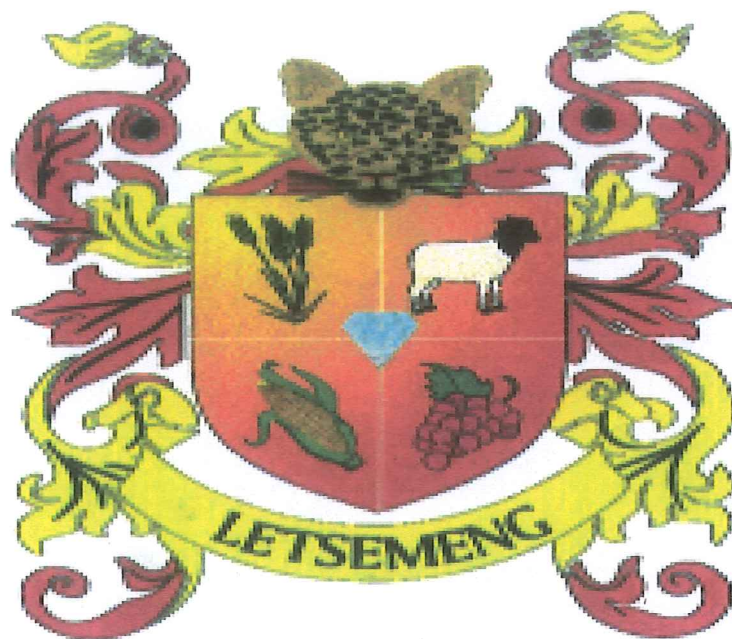


# LETSEMENG LOCAL MUNICIPALITY



## ANTI-FRAUD AND CORRUPTION

### POLICY

2019 – 2020

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## 1. DEFINITIONS

**Municipality** - means the Letsemeng Local Municipality, and when referred to as:

- a) A municipal entity, has the meaning assigned to it in section 1 of the Municipal Systems Act, and
- b) Geographic area means a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 [Act 27 of 1998].

**Accounting Officer** - means the person who is appointed by the Council as the head of the administration and accounting officer for the municipality in accordance with section 82 of the Structures Act.

**CFO**- means the Chief Financial Officer of the municipality;

**Political Office Bearer** - means the Mayor elected by the Council to such a post or position in accordance with the provisions of the Structures Act;

**Council** - means the Municipal Council of the Municipality, its legal successors in title and its delegates.

**Staff** - means the Council, Political Office Bearers and the other employees of the Municipality.

In this document, unless the context otherwise indicates, words and expressions denoting:

1. The singular shall include the plural and vice versa;
2. The male sex shall include the female sex and vice versa; and
3. A reference to a natural person shall include a legal person and vice versa.

**Corruption** - it is defined as any conduct or behavior where a person accepts, agrees or offers any gratification for him / her or for another person where the purpose is to act dishonestly or illegally. Such behavior also includes the misuse of material or information, abusing a position of authority or a breach of trust or violation of duty.

**Maladministration** – it is about poor governance. It is defined as an “act or omission committed by the administration or by an employee of the administration and which has the impact of infringing upon a person or institutions' right to fair administrative action or that results in manifestly inequitable, unfair, irregular or procedural treatment”.

**Theft** - it is defined as “unlawful and intentional misappropriation of another’s property or property which is in his/her lawful possession, with the intention to deprive the owner of its rights permanently”

**Fraud** - it is defined as “the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another”. The use of the term is in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty. In other words, fraud can be described as any conduct or behavior of which a dishonest representation and / or appropriation forms an element.

## 2. INTRODUCTION AND BACKGROUND

Section 95(c) of the MFMA states that it is the responsibility of the Accounting Officer to take all reasonable steps to ensure the entity has and maintains effective, efficient and transparent systems of financial risk management and internal control. Section 115(1) (b) of the MFMA further states that the accounting officer of a municipality must take all reasonable steps to ensure that proper mechanisms and separation of duties in the supply chain management system are in place to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practice.

The Fraud and Corruption Policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud and corruption against Letsemeng Local Municipality. It is the intent of Letsemeng Local Municipality to promote consistent organizational behavior by providing guidelines and assigning responsibilities for the development of controls and conduct of investigations.

## 3. SCOPE OF POLICY

This policy applies to any fraudulent activities, or suspected irregularity, involving employees as well as consultants, suppliers, contractors and/ or any other organisation with a business relationship with Letsemeng Local Municipality. Any investigative activity

required will be conducted without regard to the suspected perpetrator's length of service, position/title, or relationship to the municipality.

#### 4. POLICY OBJECTIVE

The objective of this policy is to set out the stance of the Municipality with regard to corruption and fraud, as well as to reinforce existing legislation, systems, procedures and policies of the municipality aimed at deterring, preventing, detecting, reacting to and reducing the likelihood of fraud corruption occurring.

#### 5. POLICY STATEMENT

The municipality's stance is "Zero Tolerance" to fraud and corruption. All allegations of fraud, corruption and maladministration will be investigated and legal action will be taken against perpetrators. i.e disciplinary steps, civil recovery of financial losses and criminal prosecutions.

Management is responsible for the detection and prevention of fraud, misappropriations, and other irregularities.

*Fraud* is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury.

Each member of the management will be familiar with the types of fraud or corruption that might occur within his or her area of responsibility and be alert for any indication of irregularity. Any irregularity that is detected or suspected must be reported immediately to the Chief Risk Officer, who coordinates all investigations with the Corporate Services and other affected areas, both internal and external (including South African Police Services).

#### 6. ACTIONS CONSTITUTING FRAUD

The terms *fraud, corruption, misappropriation, and other fiscal irregularities* refer to, but are not limited to:

- Any dishonest or fraudulent act.
- Misappropriation of funds, supplies, or other assets.
- Impropriety in the handling or reporting of money or financial transactions.
- Profiteering as a result of insider knowledge of company activities.
- Disclosing confidential and proprietary information to outside parties.
- Accepting or seeking anything of material value from contractors, vendors, or persons providing goods/services to the municipality. Exception: Gifts less than R350 in value (the total of gifts received in a year).
- Destruction, removal, or inappropriate use of records, furniture, fixtures, and equipment.
- Any similar or related irregularity.

#### **7. OTHER IRREGULARITIES**

Irregularities concerning an employee's moral, ethical, or behavioral conduct should be resolved by departmental management and the Human Resources rather than the Risk Management Unit. If there is any question as to whether an action constitutes fraud, contact the Chief Risk Officer for guidance.

#### **8. INVESTIGATION RESPONSIBILITIES**

The Labour Relations Officer will maintain a register for the reported fraud incidents and disclose such information to the Accounting Officer. The Accounting Officer will in consultation with the Labour Relations Officer and Corporate Service Director determine a course of action appropriate, based on the seriousness of the alleged offence, to be instituted against the person(s) suspected of fraud while investigation is being conducted.

The Accounting Officer will determine, as advised by the Labour Relations Officer, whether the case can be dealt with internally or whether it requires the involvement of external third parties. Internal investigations will be conducted by either the Labour Relations Officer or by the municipality's disciplinary board.

All investigation procedures must be structured and documented as much as possible. The Director of the affected unit or section, with the assistance of the Internal Audit Manager, will immediately review the controls in order to curb re-occurrence of the incident and secure original documentation to be used for investigation. A report detailing the findings and conclusions must be issued for every investigation.

## **9. CONFIDENTIALITY**

Any employee who suspects dishonest or fraudulent activity will notify the Municipal Manager or the Directorate for Priority Crime Investigation (Free State or National) immediately, and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act.

Investigation results will be treated as confidential and will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the municipality from potential civil liability.

## **10. REPORTING PROCEDURES**

Great care must be taken in the investigation of suspected fraudulent activities or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way. An employee who discovers or suspects fraudulent activity may report such activities through one of the following:

### **Non-Anonymous Reporting**

Reporting any act of fraud/corruption may be done:

- In writing, verbally or telephonically to the Municipal Manager.
- In writing, verbally or telephonically to the Mayor, if the Accounting Officer is involved in the alleged fraudulent act
- In writing, verbally or telephonically to the Office of the Premier, if the Mayor is involved in the alleged fraudulent act.
- National Anti-Corruption Hotline: (012) 352 1000

The employee or other complainant may remain anonymous. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the Corporate Services.

No information concerning the status of an investigation will be given out. The proper response to any inquiries is: "I am not at liberty to discuss this matter." Under no circumstances should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

The reporting individual should be informed of the following:

- Do not contact the suspected individual in an effort to determine facts or demand restitution.
- Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the Corporate Services Department.

#### **11. DISCIPLINARY ACTION**

Where the Investigator's report reveals that an employee has committed possible fraud/corruption, the Accounting Officer in consultation with the Director Corporate Service, must pursue disciplinary action in terms of the Collective Agreement Disciplinary Procedure and open a criminal case with the South African Policy Service if need be.

#### **12. RECOVERING LOSS**

Where the municipality has suffered loss, efforts will be made to seek retribution from the fraudster or individual(s) responsible for the fraud if the loss is recoverable.

#### **13. FOLLOW UP**

Following a case of fraud, the Accounting Officer will ensure that all staff in the affected areas are debriefed on the outcome of the fraud investigation. There must be a follow up



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with the individual(s) who reported the initial suspicion of fraud, to provide assurance that their claims have been taken seriously.

The Risk Officer will meet quarterly with the Accounting Officer and the Corporate Service Director on reported fraud cases and in turn the Risk Officer must report quarterly to the Risk Committee and the Audit Committee on the finalization of fraud cases.

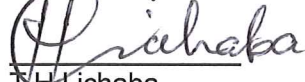
**14. POLICY ADMINISTRATION**

The Risk Management Unit is responsible for the administration, revision, interpretation, and application of this policy. The policy will be reviewed and revised annually and will be submitted to the Accounting Officer for approval.

**15. RECOMMENDATION AND APPROVAL:**

The Risk Management Committee has reviewed and recommends the approval of this policy.

Compiled by:

  
T.H. Lichaba  
Risk Officer  
Letsemeng Local Municipality

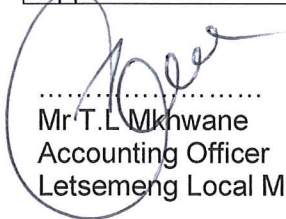
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Recommended		Approved		Noted	
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Ms D.S. Nage  
Chairperson  
Risk Management Committee

26 JUNE 2019  
Date

Approved				Noted	
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Mr T.L. Mkhwane  
Accounting Officer  
Letsemeng Local Municipality

26/06/2019  
Date