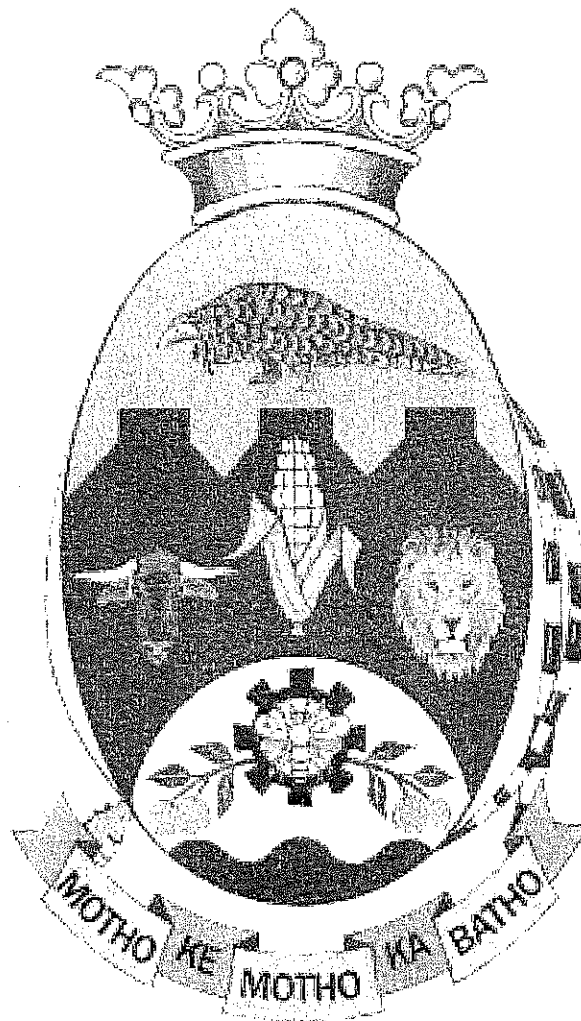


Lepelle Nkumpi Local Municipality



Anti-Fraud and Corruption Strategy 2016/17

Contents

1	Introduction	4
1.1	Statement of attribute to fraud	4
1.2	The Public Service Anti- Corruption Strategy	4
1.3	The Local Government Anti-Corruption Strategy	4
1.4	Lepelle-Nkumpi Local Municipality's Anti-Fraud and Corruption Strategy and Prevention Plan	4
1.5	Definition of Fraud and Corruption	4
1.5.1	Forms of Corruption	5
2	Regulatory Framework	7
2.1	Summary of statutory offences relating to dishonesty	7
2.1.1	Prevention and Combating of Corrupt Activities Act, 12 of 2004	7
2.1.2	Prevention of Organised Crime Act, 121 of 1998 (POCA)	8
2.1.3	Financial Intelligence Centre Act, 38 of 2001 (FICA)	8
2.2	Statutes combating fraud and corruption	8
2.2.1	Protected Disclosures Act, 26 of 2000	8
2.2.2	Municipal Finance Management Act 2003 ("MFMA")	9
2.2.3	Municipal Systems Act, No 32 of 2000 ("MSA")	11
3.	Policy of Fraud and Corruption	12
3.1	Background	12
3.2	Scope of the policy	12
3.3	Policy	12
3.4	Actions constituting fraud and corruption	12
4.	Fraud and Corruption Control Strategy	14
4.1	Structural Strategies	14
4.1.1	Responsibilities for fraud and corruption risk management	14
4.1.2	An ethical culture	15
4.1.3	Senior Management commitment	16
4.1.4	Assessment of fraud and corruption risk	16
4.1.5	Employee awareness	19
4.2	Operational Strategies	19
4.2.1	Internal Controls	19
4.2.2	Prevention Strategies	19
4.2.3	Detection strategies	20
4.2.4	Response strategies	21

4.3	Maintenance strategies	23
4.3.1	Review of the effectiveness of Anti-Fraud and Corruption Strategy and Prevention Plan	23
4.3.2	Review of updating the Anti-Fraud and corruption Strategy and Prevention Plan	23
5.	Procedures for Investigation	24
5.1.1	Handling of fraud allegation	24
5.1.2	Documentation of the Results of the investigation	24
5.1.3	Other Matters	24
5.2	Reporting fraud to police and or external parties	24
5.3	Recovery and other remedies	25

1. Introduction

1.1 Statement of attitude to fraud

Fraud represents a significant potential risk to the Municipality's assets and reputation. The Municipality is committed to protect its funds and other assets. Lepelle-Nkumpi Municipality will not tolerate corrupt or fraudulent activities whether internal or external to the organisation, and will vigorously pursue and prosecute any parties, by all legal means available, which engage in such practices or attempt to do so.

1.2 The Public Service Anti-Corruption Strategy

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

1.3 The Local Government Anti-Corruption Strategy

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

1.3.1 Creating a culture within municipalities, which is intolerant to unethical conduct, fraud and corruption;

1.3.2 Strengthening community participation in the fight against corruption in the municipalities;

1.3.3 Strengthening relationships, with key stakeholders, that are necessary to support the actions required to fight corruption in municipalities, for example, South African Local Government Association (SALGA), Employee Representatives Unions and Communities;

1.3.4 Deterring and preventing of unethical conduct, fraud and corruption;

1.3.5 Detecting and investigating unethical conduct, fraud and corruption;

1.3.6 Taking appropriate action in the event of irregularities, for example, disciplinary actions, recovery of losses, prosecution, etc; and

1.3.7 Applying sanctions, which include redress in respect of financial losses.

1.4 Lepelle-Nkumpi Local Municipality's Anti-Fraud and Corruption Strategy and Prevention Plan

This Anti- Corruption Strategy and Fraud Prevention Plan have been developed as a result of the expressed commitment of Government to fight corruption. It is also an important contribution to the National Anti-Corruption Strategy of the country and supplements both the Public Service Anti-Corruption Strategy and the Local Government Anti-Corruption Strategy.

1.5 Definition of Fraud and Corruption

In South Africa, the Common Law offence of **fraud** is defined as *"the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice and another"*. The term *"fraud"* is also used in a wider sense by the general public. In this regard, the term is used in this document in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty. In other words, fraud can be described as any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

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

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

Corruption in its wider meaning, and as referred to in this document, includes any conduct or behaviour where a person accepts, agrees or offers any gratification for him/her or for another person where the purpose is to act dishonestly or illegally. Such behaviour also includes the misuse of material or information, abuse of a position of authority or a breach of trust or violation of duty.

1.5.1 Forms of Corruption

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

1.5.1.1 Bribery

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

1.5.1.2 Embezzlement

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

1.5.1.3 Fraud

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

1.5.1.4 Extortion

Coercion of a person or entity to provide a benefit to a public servant, another person or an entity, in exchange for acting (or failing to act) in a particular manner.

1.5.1.5 Abuse of power

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

1.5.1.6 Conflict of interest

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

1.5.1.7 Abuse of privileged information

This involves the use, by a public servant of privileged information and knowledge that a public servant possesses as a result of his/her office to provide unfair advantage to another person or entity to obtain a benefit.

1.5.1.8 Favouritism

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

1.5.9 Nepotism

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

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

2. Regulatory Framework

2.1 Summary of statutory offences relating to dishonesty

2.1.1 Prevention and Combating of Corrupt Activities Act, 12 of 2004

The Prevention and Combating of Corrupt Activities Act (generally referred to as "PRECCA") is aimed at the strengthening of measures to prevent and combat corrupt activities.

The Act refers to a wide range of offences relating to corrupt activities. In addition to specific offences, the Act also provides for the following:

- 2.1.1.1 The provision of investigative resources;
- 2.1.1.2 The establishment of a register relating to persons convicted of corrupt activities;
- 2.1.1.3 Placing a duty on a persons in a "*position of authority*" to report certain corrupt transactions; and
- 2.1.1.4 Extraterritorial jurisdiction in respect of offences relating to corrupt activities.

As far as offences are concerned, the Act defines a general offence of corruption. In addition to the general offence, certain specific offences are defined relating to specific persons or specific corrupt activities.

The offences defined by the Act relate to the giving or receiving of a "*gratification*". The term ***gratification*** is defined in the Act and includes a wide variety of tangible and intangible benefits such as money, gifts, status, employment, release of obligations, granting of rights or privileges and the granting of any valuable consideration such as discounts etc.

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

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

The Act defines specific offences relating to the following categories of persons:

- a) Public Officers;
- b) Foreign Public Officials;
- c) Agents;
- d) Members of Legislative Authorities;
- e) Judicial Officers; and
- f) Members of Prosecuting Authority.

The Act furthermore defines specific offences in respect of corrupt activities relating to the following specific matters:

- a) Witness and evidential material in certain proceedings;
- b) Contracts;
- c) Procuring and withdrawal of tenders;
- d) Auctions;

- e) Sporting events; and
- f) Gambling games or games of chance.

2.1.2 Prevention of Organised Crime Act, 121 of 1998 (POCA)

The Prevention of Organised Crime Act, as amended, (generally referred to as "POCA") contains provisions that are aimed at achieving the following objectives:

- 2.1.2.1 The combating of organised crime, money laundering and criminal gang activities;
- 2.1.2.2 The criminalisation of conduct referred to as "*racketeering*";
- 2.1.2.3 The provision of mechanisms for the confiscation and forfeiture of the proceeds of crime;
- 2.1.2.4 The creation of mechanism for National Director of Public Prosecutions to obtain certain information required for purposes of an investigation; and
- 2.1.2.5 The creation of mechanisms for co-operation between investigators and South African Revenue Services.

Section 4 of the Act defines the "*general*" offence of money laundering and provides that a person who knows, or ought reasonably to have known, that property is, or forms part of the proceeds of unlawful activities, commits an offence if he commits an action connection with that property which has the effect or is likely to have the effect of concealing the nature and source thereof.

2.1.3 Financial Intelligence Centre Act, 38 of 2001 (FICA)

The Financial Intelligence Centre Act, as amended, (generally referred to as "FICA") was signed by the President in November 2001. Its provisions were implemented over time, commencing during January 2002.

The Act (FICA) establishes a Financial Intelligence Centre and a Money Laundering Advisory Council. The purpose of these entities is to combat money laundering activities.

FICA imposes certain reporting duties and compliance obligations.

The Act imposes compliance obligations on so called "*accountable institutions*" which are defined in schedule 1 to the Act. These obligations include:

- 2.1.3.1 A duty to identify clients;
- 2.1.3.2 A duty to retain records of certain business transactions;
- 2.1.3.3 A duty to report certain transactions; and
- 2.1.3.4 The adoption of measures to ensure compliance, namely, the implementation of so-called "*internal rules*", provision of training etc.

A person who fails to make a report is liable to a fine not exceeding R10 million or imprisonment not exceeding 15 years.

2.2 Statutes Combating fraud and corruption

2.2.1 Protected Disclosures Act, 26 of 2000

The Protected Disclosures Act was promulgated to facilitate reporting by employees (whistle blowers) of fraud, corruption or other unlawful or irregular actions by their employer(s) or co-employees without fear of any discrimination or reprisal by their employees or co-employees.

Any employee who has information of fraud, corruption or other unlawful or irregular actions(s) by his/her employer(s) or co-employees can report such actions, provided that he/she has information that:

- a) A crime has been, is being, or is likely to be committed by the employer or employee(s);
- b) The employer or employees has/have failed to comply with an obligation imposed by law;
- c) A miscarriage of justice has or will likely to occur because of the employer's or employee(s) actions;
- d) The health or safety of an individual has been, is being, or is likely to be endangered;
- e) The environment has been, is being, or is likely to be endangered;
- f) Unfair discrimination has been, is being practiced; or
- g) Any of the above has been, is being, or is likely to be concealed.

The Act prohibits the employer from:

- a) Dismissing, suspending, demoting, harassing or intimidating the employee;
- b) Subjecting the employee to disciplinary action;
- c) Transferring the employee against his or her will;
- d) Refusing due transfer or promotions;
- e) Altering the employment conditions of the employee unilaterally;
- f) Refusing the employee a reference providing him/her with an adverse reference;
- g) Denying appointment;
- h) Threatening the employee with any of the above; or
- i) Otherwise affecting the employee negatively

If the disclosure is made in terms of the Act.

2.2.2 Municipal Finance Management Act of 2003 (MFMA)

The MFMA was promulgated to facilitate the formal management of municipal finance and associated activities. The controls and administrative systems implemented by any Municipality are very relevant to the content of the Act. Certain aspects of the Act refer specifically to activities which might be regarded as being corrupt or fraudulent in nature. Some relevant aspects are as follows:

2.2.2.1 Unauthorised, irregular or fruitless and wasteful expenditure

Section 32 of the Act indicates that, without limiting the liability of the common law or other legislation, the following office bearers of a Municipality are mandated with certain responsibilities, as follows:

- (a) A political office bearer of a Municipality is liable for unauthorised expenditure if that office bearer knowingly instructed an official of the Municipality to incur expenditure, which was likely to be considered unauthorised expenditure;
- (b) The accounting officer (i.e. Municipal Manager) is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer, unless the expenditure was incurred following the decision by the mayor or the executive committee of the Municipality, resulting in fruitless or wasteful expenditure, provided that the accounting officer has notified the council, the mayor or the executive committee, in writing, that the expenditure is likely to be considered unauthorised, irregular or fruitless and wasteful;
- (c) Any political office bearer or official of a Municipality who deliberately or negligently committed, made or unauthorised an irregular expenditure, is liable for that expenditure;

- (d) Any political office bearer or official of a Municipality who deliberately or negligently committed, made or unauthorised a fruitless and wasteful expenditure is liable for that expenditure.

2.2.2.2 Funds transferred to organisations and bodies outside government

Section 67 of the Act refers to the transfer of funds and stipulates, *inter alia*, that no funds will be transferred from the Municipality unless the accounting officer is satisfied that the organisation or body implements effective, efficient and transparent financial management and internal control systems **to guard fraud theft and financial mismanagement.**

2.2.2.3 Supply chain management policy to comply with prescribed framework

Section 112 stipulates that the supply chain management policy of the Municipality must be fair, equitable, transparent, competitive and cost effective and comply with prescribed regulatory framework for municipal supply chain management, which must cover, *inter alia*, measures for:

- (a) Combating fraud corruption, favouritism and unfair and irregular practices in municipal supply chain management; and
- (b) Promoting ethics of officials and other role players involved in municipal supply chain management

2.2.2.4 Implementation of the system

Aligned with the supply chain management policy is section 115, which stipulates 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 practices.

2.2.2.5 Audit Committees

Section 166 of the Act stipulates that the procedures aligned to Audit Committees. Each Municipality must have an Audit Committee, which is regarded as an independent advisory body which must:

- (a) Advise the municipal council, political office bearers, the accounting officer and management staff on matters relating to, *inter alia*:
 - i. Internal financial control and internal audits
 - ii. Risk Management
 - iii. Effective governance
- (b) Carry out such investigations into the financial affairs of the Municipality as the council may request.

2.2.2.6 Financial misconduct by municipal officials

Section 171 sets out the stipulations relating to disciplinary proceedings to be adopted in the event of financial misconduct by municipal officials.

The accounting officer commits financial misconduct if he/she deliberately or negligently:

- (a) Contravenes the provisions of the Act;
- (b) Fails to comply with a duty imposed by a provision of the Act on the accounting officer of the Municipality;

- (c) Permits or instruct another official of the Municipality to make an unauthorised, irregular or fruitless and wasteful expenditure;
- (d) Provides incorrect or misleading information in any document which in terms of the Act, must be submitted to the mayor, council, Auditor General, National Treasury or other organ of state, or made public.

2.2.3 Municipal systems Act, No 32 of 2000 (MSA)

The MSA sets out procedures to be adopted by municipal management with regard to a number of aspects affecting the management of the Municipality. The Act also stipulates procedures to be adopted with regard to certain aspects related to misconduct and the investigation thereof.

2.2.3.1 Human Resource Development

In section 67, the Act stipulates that a Municipality, in accordance with the Employment Equity Act, 1998, must develop and adopt appropriate systems and procedures to ensure, *inter alia*, the investigation of allegation of misconduct and complaints against staff.

2.2.3.2 Code of Conduct

Section 69 and 70 of the Act deal with the Code of Conduct, details which appear in the schedule 2 of the Act, to be provided to staff members and communicated to the local community. The Municipal Manager of the Municipality must:

- (a) Provide a copy of the Code of Conduct to every member of the municipal staff;
- (b) Provide every member of staff with any amendments of the Code;
- (c) Ensure that the purpose, contents and consequences of the Code of Conduct are explained to the staff members who cannot read; and
- (d) Communicate sections of the Code of Conduct that affect the public, to the local community.

2.2.3.3 Rewards gift and favours

Under section 9 of the Act, it is stipulated that a councillor may not request, solicit or accept any reward, gift or favour for:

- (a) Voting in a particular manner
- (b) Persuading the council or any committee in regard to the exercise of any power, function or duty;
- (c) Making representation to the council; or
- (d) Disclosing privileged or confidential information.

2.2.3.4 Duty of chairpersons of municipal councils with regard to council property

A councillor may not use, take or acquire or benefit from any property or assets owned, controlled or managed by the council. In the event that the chairperson of a council, on reasonable suspicion, is of the opinion that a provision of this stipulation has been breached, then the chairperson is obliged to:

- (a) Authorise an investigation of the facts and circumstances of the alleged breach;
- (b) Give a councillor a reasonable opportunity to rely in writing regarding the alleged breach; and
- (c) Report the matter to a meeting of the municipal council.

The chairperson must furthermore, report the matter to the MEC for the Local Government in the province concerned.

2.2.3.5 Competitive bidding

In the event that a Municipality decides to provide a municipal service through a service delivery agreement, it must select the service provider through selection processes, which, *inter alia*, minimise the possibility of fraud and corruption.

3. Policy on Fraud and Corruption

3.1 Background

The policy is established to facilitate the development of controls which will assist in the prevention and detection of fraud and corruption, as well as provide guidelines as to how to respond should instances of fraud and corruption be identified. This policy is also established to give effect to the various legislative instruments as described in the previous section.

3.2 Scope of the policy

This policy applies to all employees, stakeholders, contractors, vendors/suppliers and any other party doing business with Municipality.

Any fraudulent or corrupt behaviour must be reported immediately through the mechanisms as set out in this document, and such reports will be investigated and acted upon.

3.3 Policy

It is the policy of the Municipality that fraud, corruption, maladministration or any other dishonest activities of a similar nature will not be tolerated. Such activities will be investigated, where required, and actions instituted against those found responsible. Such actions may include the laying of criminal charges, civil and administrative actions and the institutions recoveries where applicable.

Prevention, detection, response and investigative strategies will be designed and implemented where necessary. These will include any existing controls (systems controls and internal controls) and those currently prescribed in existing policies, procedures and other relevant prescripts to the activities of the Municipality. (See MFMA and MSA)

It is the responsibility of all employees of the Municipality to report all incidents of fraud and corruption, or any other dishonest activities of a similar nature to his/her Manager. Alternatively, such reports can be made by way of submitting a report through the prescribed whistle blowing mechanism.

All reports received will be treated with the requisite confidentiality and will not be disclosed or discussed with parties other than those charged with the investigation into such reports.

All managers are responsible for the detection, prevention and investigation of fraud and corruption or any dishonest activities of a similar nature, within their areas of responsibility.

3.4 Actions constituting fraud and corruption

Fraud and corruption manifest itself in a number of ways and varying degrees of intensity. These include, but are not limited to:

- a) Unauthorised private use of municipal assets, including vehicles;
- b) Falsifying travel and subsistence claims;
- c) Conspiring unfairly with others to obtain tender;
- d) Disclosing proprietary information relating to a tender to outside person;

- e) Accepting inappropriate gifts from suppliers;
- f) Employing family members or close friends;
- g) Operating a private business during working hours;
- h) Stealing equipment or supplies from work;
- i) Accepting bribes or favours to process request;
- j) Accepting bribes or favours for turning a blind eye to a service provider who does not provide an appropriate service;
- k) Submitting or processing false invoices from contractors or other service providers; and
- l) Misappropriating fees received from customers, and avoiding detection by not issuing receipt to those customers

4. Fraud and Corruption Control Strategies

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

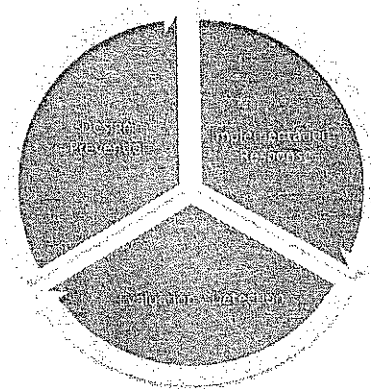
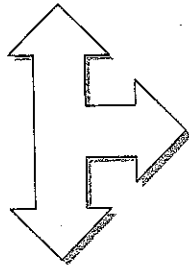
- a) Structural Strategies
- b) Operational Strategies
- c) Maintenance Strategies

Fraud and Corruption Control Framework

Structural Strategies

- a) Sound and ethical culture
- b) Executive Management Commitment
- c) Assessment of Fraud and Corruption risk
- d) Employee awareness

Operational Strategies



Maintenance Strategies

- a) Reviewing effectiveness of the Fraud and Corruption control strategies
- b) Review and update of the Fraud and Corruption Prevention Plan

4.1 Structural Strategies

Structural Strategies represent the actions to be undertaken in order to address fraud and corruption at the Structural level.

4.1.1 Responsibilities of fraud and corruption risk management

The following section outlines the fraud and corruption risk management responsibilities associated with the different roles within the Municipality.

4.1.1.1 Municipal Manager

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

4.1.1.2 Risk Management Committee

The role of Anti-Fraud and Corruption Committee is to oversee the Municipality's approach to fraud prevention and fraud detection strategies and response to fraud and corruption incidents reported by employees or other external parties. This committee is a sub-committee of the Audit Committee and will be chaired by one of the independent members of Audit Committee. The various Departments should have representation on this committee. The Internal Auditor is to be a compulsory member.

The Anti-Fraud and Corruption Committee will meet at least once a quarter to discuss the following issues:

- a) Progress made in respect of implementing the Anti-Fraud and Corruption Strategies and Fraud Prevention Plan;
- b) Reports received by the Municipality regarding fraud and corruption incident with the view to making any recommendation to the Municipal Manager and Chairperson of the Audit Committee;
- c) Reports on all investigations initiated and concluded; and
- d) All allegations received via the hotline.

Proceedings of such meetings will be minuted and such minutes circulated to the Municipal Manager and Chairperson of the Audit Committee.

4.1.2 An ethical culture

The Municipality is required to conduct itself in an ethical and moral way. In this regard, the MSA No. 32 of 2000 (as amended) prescribes a Code of Conduct for Councillors (Schedule 1 to the Act) and Code of Conduct for Municipal Employees (Schedule 2 of the Act).

Ethics are concerned with human charter and conduct and deal with questions of right and wrong, appropriate and inappropriate behaviour and what constitutes good or evil. Ethical conduct is based on a set of principles referred to as values or norms. The collective ethical conduct of all the individual employees of a Municipality reflects the Municipality's ethical conduct. In this regard, the highest standards of ethics are required by employees when fulfilling their duties.

The Code of Conduct of Municipal Staff contains specific standards categories as follows:

- a) General Conduct
- b) Commitment to serving the public interest;
- c) Personal gain;
- d) Disclosure of benefits;
- e) Unauthorised disclosure of information;
- f) Undue influence;
- g) Rewards, gifts and favours;
- h) Council property;
- i) Payment of arrears;
- j) Participation in elections;
- k) Sexual harassment;
- l) Reporting duty of staff members; and
- m) Breach of Code.

The Code of Conduct for Councillors contains the following categories:

- a) General conduct of councillors;
- b) Attendance at meetings;
- c) Disclosures of interests;
- d) Personal gain;
- e) Declaration of interests
- f) Full-time councillors;
- g) Rewards, gifts and favours;
- h) Unauthorised disclosure of information;
- i) Intervention in administration;
- j) Council property;
- k) Duty of chairpersons of municipal council;
- l) Breaches of code; and
- m) Application of code to traditional leaders.

4.1.3 Executive Management commitment

Executive Management is to be committed to eradicate fraud and corruption and ensuring that the Municipality strives to be perceived as ethical in all its dealings with the public and other interested parties. In this regard, executive management, under guidance of the Municipal Manager, will ensure that it does not become complacent in dealing with fraud and corruption and that it will ensure the Municipality's overall fraud and corruption strategy is reviewed and updated regularly. Furthermore, executive management will ensure that all employees and stakeholders are made aware of its overall anti-fraud and corruption strategies through various initiatives of awareness and training.

4.1.4 Assessment of fraud and corruption risk

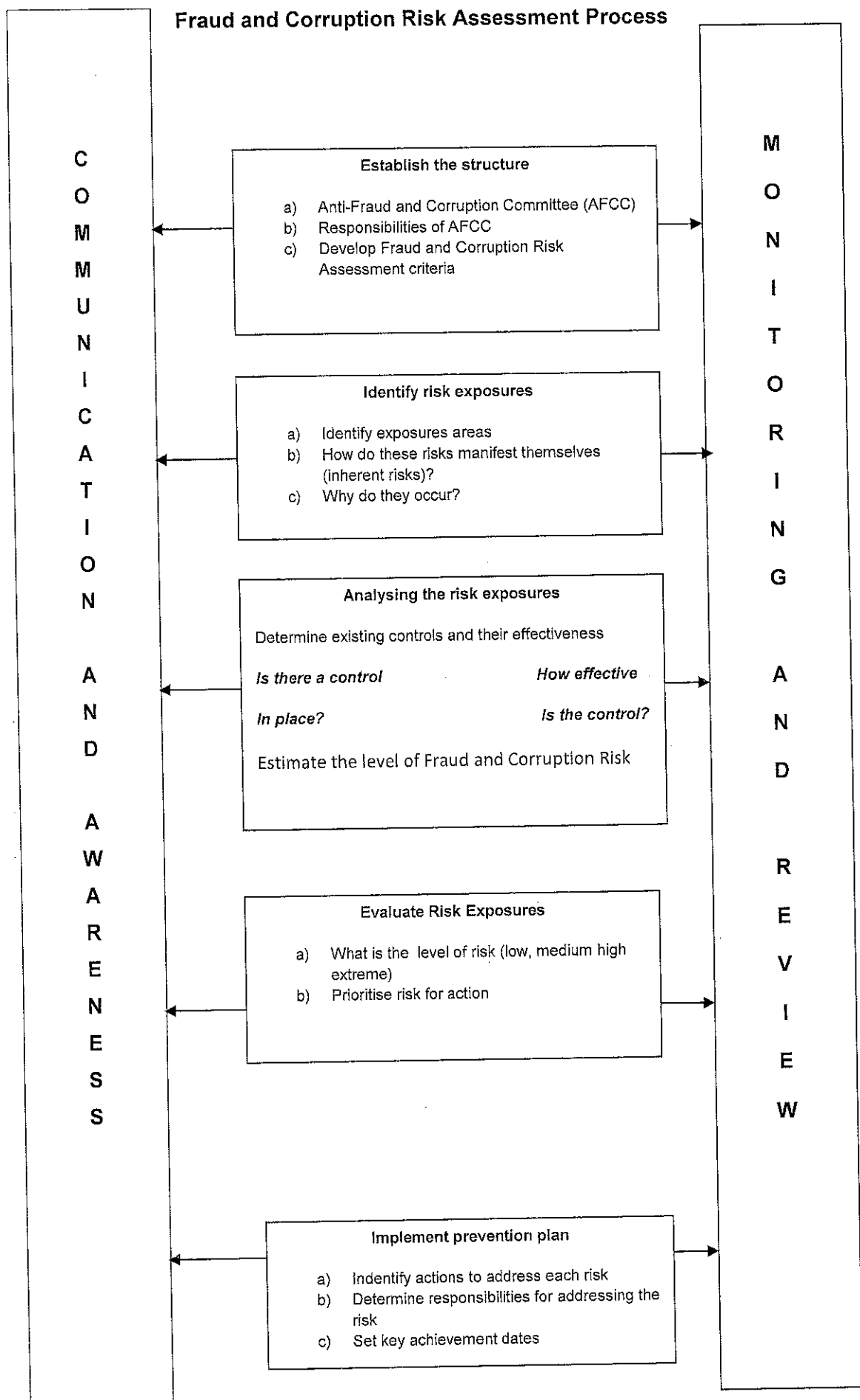
The Municipality, under the guidance of the Municipal Manager and the Chairperson of Risk Management committee, will conduct annual fraud and corruption risk assessments to identify potential fraud and corruption risk exposures to the Municipality. This process will ensure that actions to address the identified fraud and corruption exposures will be implemented to mitigate these exposures.

The above will be formulated into "*Fraud Risk Assessment*" and which will provide an indication of how fraud and corruption risks are manifested and, a "*Fraud and Corruption Risk Register*" which will prioritise the fraud and corruption risks and indicate actions to mitigate these risks.

4.1.4.1 Fraud and corruption risk assessment process

The fraud and corruption risk assessment will be conducted using the following framework:

Fraud and Corruption Risk Assessment Process



The following is a more detailed summary of each of the steps of the risk assessment process as set out in the Figure above having regard to the particular application of the process to the assessment of fraud and corruption risk:

(i) Establishing the structure

This involves Risk Management Committee that will oversee the implementation of anti-fraud and corruption strategies and ensure that Fraud and Corruption Risk Assessment occur.

(ii) Identifying risk exposures

The objective of this phase is to generate a register (the Fraud and Corruption Risk Register) of all possible inherent risks for subsequent analysis. All inherent risks identified should be documented at this point regardless of whether preliminary assessment conclude that internal controls currently in force will be fully effective in mitigating the risk. How each risk manifest itself should be documented as well as why it occurs?

(iii) Analysing the risk exposures

All internal controls that are currently in force and which would tend to have the effect of mitigating the risk of fraud and corruption under consideration will be recorded. The assessment should conclude, in relation to each control, whether it is so or is like to be:

- a) Unsatisfactory; or
- b) Weak; or
- c) Satisfactory; or
- d) Good; or
- e) Very Good.

In mitigating the risk to which it relates

The assessment of each internal control considered should not represent an assessment of the control in terms of its ability to mitigate business risk generally. Really, it is an assessment of that control's perceived impact on the specific fraud or corruption risk under consideration.

(iv) Evaluating the risk exposures

Each risk exposure will be evaluated (high, medium, low) and this will allow the Municipality to prioritise which risk exposures require immediate action.

(v) Implementing prevention plans

All fraud and corruption risks rated as "High" and "Extreme" will require the development and implementation of proposed action aimed at achieving one or more of the following:

- a) Alteration to existing internal control procedures;
- b) Introducing new internal control procedure;
- c) Introducing procedures aimed at detecting and preventing fraud.

Proposed action may also be developed in relation to risks assessed as being lower level of residual risk. All actions proposed by the risk assessment team will be evaluated by the executive management, as appropriate, prior to implementation will also be monitored periodically by the Risk Management Committee.

4.1.5 EMPLOYEE AWARENESS

The main purpose of fraud and corruption awareness workshops/training is to assist in the prevention, detection and reporting of fraud and corruption by raising the level of awareness as to how fraud and corruption is manifested in the workplace, all employees receive training on the following:

- a) Anti-Fraud and Corruption;
- b) Code of Conduct for Municipal employees;
- c) Whistle blowing policy;
- d) How to respond to fraud and corruption; and
- e) Manifestation of fraud and corruption in the workplace

Lepelle-Nkumpi Local Municipality has to identify the individual that would be responsible for employee awareness and that will arrange and schedule awareness sessions throughout the year.

4.2 Operational Strategies

4.2.1 Internal Controls

Internal controls are the first line of defence against fraud and corruption. While internal controls may not fully protect the Municipality against fraud and corruption, they are essential elements in the overall Anti-Fraud and Corruption Strategy.

All areas of operations require internal controls, for examples:

- a) Physical Controls (security of assets)
- b) Authorisation controls (approval of expenditure)
- c) Supervisory controls (supervising day-to-day issues)
- d) Analysis of data;
- e) Monthly and annual financial statements;
- f) Reconciliation of bank statements, monthly; and
- g) Reconciliation of ledger accounts, monthly.

The Internal Audit Department will be responsible for implementing an internal audit program which will incorporate steps to ensure adherence to internal controls.

4.2.2 Prevention Strategies

A number of combined initiatives result in an overall preventative environment in respect of fraud and corruption. These include the following:

4.2.2.1 Employee Awareness

Employee awareness of the Municipality's Anti-Fraud and Corruption Strategy, Code of Conduct, Whistle blowing policy and the manifestation of fraud and corruption in the workplace all assist in the creation of an environment which may be considered to be hostile to a would-be transgressor.

4.2.2.2 Pre-employment screening

Pre-employment screening will be carried out for all appointments, and evidence of such screening will be maintained by the HR Department/ Risk Department. Consideration should be given to the following pre-employment screening:

- (a) Verification of Identity (Birth Certificate, driver's licence).
- (b) Police criminal history.
- (c) Reference checks with the two most recent employers – this will normally require telephone contact.

(d) A consideration of any gaps in employment history and the reasons for those gaps.

(e) Verification of formal qualifications claimed.

The Municipality's policy of the pre-employment screening will cover all new and promoted employees including those with administrative responsibilities or computer access. The screening will be performed by a person/people nominated by the Risk Department in conjunction with the Municipal Manager to ensure that screening is consistent and appropriately resourced throughout all Departments. Screening will be conducted in accordance with classification of the employee or the levels of screening outlined below.

Where an employee is promoted into a management position and has not been screened during the course of the previous three years, the applicant will be re-screened. The levels of screening include:

Level 1- All employees (including those with administrative functions or computer access)

- a) Verification of claimed educational qualification;
- b) An independent reference check directly with two referees nominated by applicant or previous employers; and
- c) Criminal history checks (after authorisation has been obtained from the prospective employee)

Level 2- All Managers and above, IT and Finance staff

- a) All level 1 checks;
- b) Employment history checks;
- c) Directorship and membership searches; and
- d) Insolvency/ credit search.

4.2.2.3 Recruitment procedures

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

4.2.2.4 Internal audit programme

A robust Internal Audit programme, which focuses on the prevalent high Fraud and Corruption risks, serves as an effective preventative measure. The Internal Audit Department will compile such a programme on an annual basis, and such a programme will also include "surprise audits".

4.2.2.5 Fraud and corruption prevention plan

The actions set out in this plan are all focused at mitigating the risk of fraud and corruption in the Municipality.

4.2.2.6 Disclosure of interests

All executive managers and full-time Councillors of the Municipality will be required to disclose their specific personal assets and business interests on an annual basis. This register will be kept by the Municipal Manager.

4.2.3 Detection strategies

Detection of Fraud and corruption may occur through:

- a) Vigilance on the part of employees, including line management;
- b) The Internal Audit functions
- c) Risk Management Function
- d) Ad hoc Management Reviews;
- e) Anonymous reports; and

f) The application of detection techniques.

The Risk Officer will be responsible for developing detection strategies, and will work closely with line management and the Internal Audit function for this purpose.

The Municipality will embark on a number of initiatives to detect fraud and corruption in the workplace.

4.2.3.1 External Audit

The Municipality recognises that the external audit function is an important control in the detection of fraud. The Chief Financial Officer will need to hold discussions with all engaged external auditors to ensure that due consideration is given, by the auditors, to ISA 240 "The Auditors' Responsibility to Consider Fraud in the Audit of a Financial Statement".

4.2.4 Response Strategies

4.2.4.1 Reporting fraud and corruption- a whistle blowing policy

One of the key obstacles to fighting fraud and corruption is the fear of employees of being intimidated to identify or "*blow the whistle*" on fraudulent, corrupt or unethical practices witnesses in the work place. Those who often do "*blow the whistle*" end up being victimised and intimidated. For this reason, the Municipality will adopt a **Whistle Blowing Policy** setting out the detailed procedure which must be followed in order to report any incidents of fraud and/or corruption. This policy will be designed to comply with the provisions of the Protected Disclosure Act.

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

4.2.4.2 Investigating fraud and corruption

Dealing with suspected fraud and corruption

In the event that fraud or corruption is detected or suspected, investigations will be initiated, and if warranted, disciplinary proceedings, prosecutions or action aimed at the recovery of losses will be initiated.

Investigations

Any reports or incidents of fraud and/or corruption will be informed by an independent investigation. Anonymous reports may warrant a preliminary investigation before any decision to implement an independent investigation is taken.

Investigation will be undertaken by appropriately qualified and experienced persons who are independent of the section/unit where investigations are required. This may be executive manager within the Municipality itself, an external consultant or a law enforcement agency. All investigations performed are evidence obtained will be in accordance with acceptable practices and legal requirements. Independence and objectivity of investigations are paramount.

Any investigations initiated must be concluded by the issue of a report by the person/s appointed to conduct such investigations. Such reports will only be disseminated to those persons required to have access thereto in order to implement whatever action is deemed appropriate as a result of the investigation.

Investigations may involve one or more of the following activities:

- a) Interviewing of relevant witness, internal and external, including obtaining statements where appropriate;
- b) Reviewing and Collating documentary evidence;
- c) Forensic examination of computer systems;
- d) Examination of telephone records;
- e) Enquiries from banks and other financial institutions (subject to the granting of appropriate approval/Court orders);
- f) Enquiries with other third parties;
- g) Data search and seizure;
- h) Expert witness and specialist testimony;
- i) Tracing funds/assets/goods;
- j) Liaison with the police or other law enforcement or regulatory agencies;
- k) Interviewing persons suspected of involvement in fraud and corruption; and
- l) Report preparation

Any investigation into improper conduct within the Municipality will be subject to an appropriate level of supervision by a responsible committee, having regard to the seriousness of the matter under investigations.

Disciplinary proceedings

The ultimate outcome of disciplinary proceedings may involve a person/s receiving written warnings or the termination of their services. All disciplinary proceedings will take place in accordance with the procedures as set out in the disciplinary procedures.

Prosecution

Should investigations uncover evidence of fraud and corruption in respect of an allegation or series of allegations, the Municipality will review the facts at hand to determine whether the matter is one that ought to be reported to the relevant law enforcement agency for investigation and possible prosecutions. Such reports must be submitted to the South African Police Service in accordance with the requirements to the MFMA and MSA. The Municipality will give its full cooperation to any of such law enforcement agency including provision of reports compiled in respect of investigations conducted.

Recovery action

Where there is clear evidence of fraud or corruption or corruption and there has been a financial loss to the Municipality, recovery action, criminal or administrative, will be instituted to recover any such losses. In respect of civil recoveries, costs involved will be determined to ensure that the cost of recovery is financially beneficial.

Internal control review after discovery of fraud

In each instance where fraud is detected, Line Management will reassess the adequacy of the current internal control environment (particularly those controls directly impacting on the fraud incident) to consider the need for improvements.

The responsibility for ensuring that the internal control environment is re-assessed and for ensuring that the recommendations arising out of this assessment are implemented will lie with Line Management of the Department concerned.

4.3 Maintenance Strategies

4.3.1 Review of the effectiveness of the Anti-Fraud and Corruption Strategy and Prevention Plan

The Municipality will conduct a review of the Anti-Fraud and Corruption Strategy and Prevention Annually to determine effectiveness thereof. The Municipal Manager is ultimately accountable for this review and may appoint a Risk Officer to take responsibility for this.

4.3.2 Review and updating the Anti-Fraud and Corruption Strategy and Prevention Plan

A central part of any fraud and corruption control programme should involve an ongoing review of fraud and corruption risk exposures. Fraud and Corruption Risk Assessments will also be conducted annually at the same time as the review of the Anti-Fraud and Corruption Strategy and Prevention Plan. As with the Municipal Manager is ultimately accountable for this and may delegate a Risk Officer to take the responsibility.

5 Procedures for investigation

The investigation of fraud and corruption can be a complex and, at times technical process and employees should be aware of the consequences of a poorly conducted investigation, including:

- a) Denial of Justice;
- b) Defamation;
- c) Action against an employer for wrongful dismissal;
- d) Inadmissible or poor control over the collection of evidence; and
- e) Destruction of physical evidence

To ensure that there is reasonable assurance that investigations are performed and reported properly, recognising the limited resources within the Municipality, external consultant (e.g. external auditors or forensic accountants) may be used to provide assistance to the Municipality when a fraud is report. The external consultant may be assisted by experienced personnel within the Municipality who are sufficiently independent of the area or the matter under the investigation. The Municipal Manager, within his/her delegated authority, will have the discretion to determine the appropriate external consultants and / or the Municipality personnel to conduct investigations.

5.1.1 Handling fraud allegation

Should a Line Manager receive an allegation of fraudulent or corrupt activity, he/she will ensure that the Municipal Manager is advised at the earliest opportunity.

The Municipal Manager will ensure that conduct or co-ordination of an investigation into allegations take place. The investigator of an allegation of fraud may consult the Chairperson of the Anti - Fraud and Corruption Committee on technical aspects of the investigation.

Upon receipt of an allegation of a suspected fraud, the immediate concern of the investigating officer should be preservation of evidence and the containment of loss.

5.1.2 Documentation of results of the investigation

The appointed investigator is to submit a written report to the Municipal Manager dealing the circumstances and recommending appropriate remedial action following the investigation.

5.1.3 Other matters

The Municipal Manager, in conjunction with the Chairperson of Risk Committee, will provide the details of fraud/corruption or possible fraud/corruption to the Audit Committee.

In each instance where fraud is detected, the Municipality will reassess the adequacy of the internal control environment (particularly those controls directly impacting on the fraud incident) and consider the need for improvement. Where improvements are required, they should be implemented as soon as practicable.

5.2 Reporting

The Municipal Manager will be responsible for reporting to the police, in circumstances in which there is evidence of fraud:

- a) An employee/volunteer of the Municipality;
- b) A client of the Municipality;
- c) A Supplier of the Municipality.

In case where the Municipal Manager is involved in the event of fraud anyone from municipality may report to the South African Police Service.

Reporting fraud to the police for investigation will be subject to requirements as set out in the Municipal Finance Management Act and the Municipal System Act.

Any decision not to refer an allegation of fraud to the police for investigation (where there is sufficient evidence to justify making such report) will be referred to the Audit Committee with the reasons for the decision.

Responsibility for complainant statements lodged with police will be assigned on a case by case basis by the Municipal Manager in the consultation with the investigator.

5.3 Recovery and other remedies

The Municipality will actively pursue the recovery of any money or property lost through fraud, provided there is a strong prospect of a net benefit to the Municipality from such action.

Where it is considered appropriate that the matter not be reported to the police, the Municipality reverse its right to pursue a range of other remedies including appropriate disciplinary action. Any disciplinary action pursued will be done in accordance with the disciplinary procedures.

Exit interviews and exit checklist procedures will be performed in the event of dismissal from the municipality for misconduct or fraud. This is necessary to ensure that factors contributing to misconduct and fraudulent activity by municipal employees can be managed as a process to mitigate fraud risk.

Signed on behalf of the Council



Speaker

28/06/2016

Date

Council Resolution Number 6.7.10/2015/16