

ANTI-FRAUD AND CORRUPTION POLICY OF THE GAUTENG PROVINCIAL LEGISLATURE

1. BACKGROUND

- 1.1 The objective of this policy is to develop and foster a climate within the Gauteng Provincial Legislature (“the Legislature”) where all employees strive for the ultimate eradication of fraud, corruption, theft and maladministration by means of the application of the full spectrum of both pro-active and re-active measures at their disposal.
- 1.2 This policy also sets down the stance of the Legislature to fraud as well as re-enforcing existing regulations aimed at preventing, reacting to, and reducing the impact of fraud, corruption, theft and maladministration where these dishonest acts subsist.

2. SCOPE OF THE POLICY

- 2.1 This policy applies to all fraud, corruption, theft, maladministration or suspected irregularities of this nature involving the following persons or entities:
- a) All employees of the Legislature;
 - b) Consultants, suppliers, contractors and other providers of goods or service to the Legislature; and
 - c) Non-Governmental Organisations and other parties receiving benefits from the Legislature

3. POLICY

- 3.1 It is the policy of the Legislature that fraud, corruption, theft, maladministration or any other dishonest activities of a similar nature will not be tolerated. In addition, these will be investigated and followed up by the application of all remedies available within the full extent of the law.
- 3.2 Appropriate prevention and detection controls will be applied. These include the existing controls and checking mechanisms as prescribed in existing policies, procedures and other relevant prescripts to the activities of the Legislature, and systems of internal control.
- 3.3 It is the responsibility of employees of the Legislature to report all incidents of fraud, corruption, theft, maladministration or any other dishonest activities of a similar nature to his/her Manager. If the employees/employees is not comfortable reporting such matters to his/her Manager, he/she should report the matter to his/her Manager's superior, with final recourse to the Accounting Officer. Employees may also report incidents by using the Provincial hot-line reporting facility, if they wish to remain anonymous or for any other reason.
- 3.4 All Managers are responsible for the detection, prevention and investigation of fraud, corruption, theft, maladministration or any dishonest activities of a similar nature, within their areas of responsibility.
- 3.5 The Legislature will take appropriate legal recourse to recover losses or damages arising from fraud, corruption, theft or maladministration.

3.6 The efficient application of Treasury Regulations issued in terms of the Public Finance Management Act, instructions contained in the codes, circulars and manuals of the Legislature and the Public Service, is one of the most important duties of every employee/employee in the execution of their daily tasks and under no circumstances may there be a relaxation of the prescribed controls.

4. ACTIONS CONSTITUTING FRAUD, CORRUPTION, THEFT AND MALADMINISTRATION

4.1 The term fraud, corruption, theft and maladministration refers to, but is not limited to:

- a) Any dishonest, fraudulent or corrupt act;
- b) Theft of funds, supplies, or other assets;
- c) Maladministration or financial misconduct in handling or reporting of money or financial transactions;
- d) Making a profit from insider knowledge;
- e) Disclosing confidential or proprietary information to outside parties;
- f) Irregularly accepting or requesting anything of a material value from contractors, suppliers, or other persons providing services/goods to the Legislature;
- g) Irregularly offering or giving anything of a material value to contractors, suppliers, or other persons providing services/goods to the Legislature;
- h) Destruction, removal, or abuse of records, furniture, and equipment;
- i) Deliberately omitting to report or act upon reports of any such irregular or dishonest conduct;
- j) Acts of financial misconduct contemplated in terms of sections 81 to 85 of the Public Finance Management Act;
- k) Incidents of unauthorized, irregular or fruitless and wasteful expenditure as defined in the Public Finance Management Act; and
- l) Any similar or related irregularity.

5. RESPONSIBILITY TO CONDUCT INVESTIGATIONS

5.1 The responsibility to conduct investigations relating to the actions listed in this policy resides with the Managers within the Legislature who have the advisory and supporting assistance from units / departments which include the following:

- a) Shared Services Centre, in particular the Forensic Services unit of Gauteng Audit Services;
- b) State Attorney;
- c) External investigating agencies, for example the South African Police Services, where matters fall within their mandate;
- d) External consultants, for example Forensic Accounting consultants;
- e) Office of the National Director of Public Prosecutions;
- f) Special Investigating Units established under any law;
- g) The Public Protector.

6. CONFIDENTIALITY

6.1 All information relating to irregularities that is received and investigated by Managers will be treated confidentially. The progression of investigations will be handled in a confidential manner and will not be disclosed or discussed with any other person(s) other than those who have a legitimate right to such information. This is important in order to avoid harming the reputations of suspected persons who are subsequently found innocent of wrongful conduct.

6.2 No person is authorized to supply any information with regard to the issues covered within this policy to the media without the express permission of the Accounting Officer.

7. REPORTING PROCEDURES AND RESOLUTION OF REPORTED INCIDENTS

- 7.1 It is the responsibility of all employees/employees of the Legislature to report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to his/her Manager. If the employee/employee is not comfortable reporting such matters to his/her Manager, he/she should report the matter to his/her Manager's superior, with final recourse to the Chief Financial Officer or Accounting Officer.
- 7.2 It is the responsibility of the Managers to report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to the Accounting Officer and Chief Financial Officer. This reporting must take place as follows:
- a) Telephonically immediately after discovery of such an incident;
 - b) This telephonic report must be followed by a detailed written report to be submitted within 24 hours of the discovery of such an incident.
- 7.3 It is the responsibility of the Accounting Officer to immediately report all incidents of fraud, corruption, theft, maladministration and other suspected irregularities of this nature to the provincial Treasury. This reporting must take place as follows:
- a) Telephonically within twenty four hours of receiving the report from the Manager in regards to an incident;
 - b) This telephonic report must be followed by a detailed written report to be submitted within seven days after discovery of such an incident.
- 7.4 If the matter could lead to the laying of criminal charges, the Accounting Officer will report within 24 hours to the South African Police Services.

- 7.5 Where an employee is alleged to have committed an act of fraud, corruption, theft, or maladministration the Manager must institute disciplinary proceedings, within a reasonable period, in terms of the disciplinary code and procedure of the Legislature.
- 7.6 As soon as disciplinary hearings concerning charges of financial misconduct are completed, the outcome must be reported within 48 hours to the Speaker :
- a) The name and position of the employee against whom proceedings are instituted;
 - b) The disciplinary charges, indicating the financial misconduct the employee is alleged to have committed;
 - c) The findings of the disciplinary hearing;
 - d) Any sanction imposed on the employee; and
 - e) Any further action to be taken against the employee, including criminal charges or civil proceedings.
- 7.7 The Accounting Officer is also required to ensure that losses or damages suffered by the Legislature as a result of an act committed or omitted by an employee must be recovered from such an employee if he/she is liable in law. The Accounting Officer must determine the amount of the loss or damage and, in writing request that employee to pay the amount within 30 days or in reasonable installments. If the employee fails to comply with the request, the legal process will then be initiated by the Accounting Officer.

8. PROTECTION OF WHISTLE BLOWERS

- 8.1 The Protected Disclosures Act, 26 of 2000 makes provision for the protection of employees who makes a disclosure that is protected in terms of this Act.
- 8.2 Any disclosure made in good faith and substantially in accordance with any procedure prescribed by the employee's employer for reporting is considered a protected disclosure under this act. An employee making such a protected disclosure is protected from being subjected to an occupational detriment on account of having made a protected disclosure.
- 8.3 An employee who suspects or reports suspected dishonest activity or such activity which he/she has witnessed, should be afforded the opportunity to remain anonymous should he/she so require.
- 8.4 Allegations made by employees which are false and made with malicious intentions, should be discouraged by Managers. Where such malicious or false allegations are discovered, the person who made the allegations must be subjected to firm disciplinary action. Such disclosures are not protected by the Protected Disclosures Act.

9. APPLICATION OF PREVENTION CONTROLS AND DETECTION MECHANISMS

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

10. TRAINING, EDUCATION AND AWARENESS

- 10.1 It is the responsibility of Managers to ensure that all employees/employees receive appropriate training and education with regard to this policy.

11. ADMINISTRATION

- 11.1 The custodian of this policy is the Accounting Officer who is supported in its implementation by the Fraud Prevention Plan Steering Committee as well as the Fraud Prevention Plan Operational Committee.

- 11.2 The Legislature Fraud Prevention Plan Operational Committee is responsible for the administration, revision, interpretation, and application of this policy. It will be reviewed annually, and revised as required.

12. ADOPTION OF THE POLICY

Provincial Secretary (Accounting Officer)