

Municipal Integrity Management Framework

Appendix A

2016 Local Government Anti-Corruption Strategy

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cooperative governance

Department:
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REPUBLIC OF SOUTH AFRICA

Table of Contents

Overview.....	2
1. Leadership commitment	4
1.1. Councillor responsibilities.....	4
1.2. Accounting Officer responsibilities	4
2. Community ownership	5
2.1. Increased transparency	5
2.2. Awareness raising	5
2.3. Community reporting avenues.....	5
3. Governance structures	6
3.1. Oversight committees	6
3.2. Oversight of allegations and outcomes	6
3.3. Oversight of the anti-corruption / integrity management programme	6
3.4. Integrity champion.....	6
3.5. Integrity management capacity.....	7
4. Prevention	7
4.1. Promote a professional ethical culture	7
4.2. Develop relevant policies to promote integrity in the organisation	8
4.3. Manage corruption risks.....	9
4.4. Drive compliance	10
4.5. Pre-employment screening.....	10
4.6. Conflict of interest management.....	11
5. Detection	12
5.1. Management monitoring.....	12
5.2. Internal audit.....	12
5.3. Analysis of information / Data analytics	12
5.4. Whistle-blowing and reporting mechanisms	13
5.5. Community reporting avenues.....	13
5.6. Data management	14
6. Investigations.....	15
6.1. Investigations policy / response plan	15
6.2. Internal or external investigations capacity	15
6.3. Co-operating with law enforcement agencies	15
6.4. Multi-agency approach.....	16
7. Resolution	16
7.1. Disciplinary action.....	16
7.2. Recovery of losses.....	17
7.3. Individual accountability.....	17
7.4. Criminal prosecutions	18
7.5. Cancellation of contracts	18
7.6. Prevention of recurrence.....	18
7.7. Communication of successes	18
8. Reporting	18
8.1. Reporting on implementation of the Framework.....	18
8.2. Reporting of allegations and outcomes (Internal reporting)	19
8.3. Reporting of allegations and outcomes (External reporting)	19
8.4. Information management.....	20
<i>Implementation of the Framework – A differentiated approach</i>	21

Overview

This Local Government Integrity Management Framework sets out the responsibility of municipalities in implementing the 2015 Local Government Anti-corruption Strategy.

The following diagram gives an overview of the Framework.



Figure 1 - Schematic diagram of the Local Government Integrity Management Framework

1. Municipal **leadership** should set the tone and drive good governance, organisational integrity and anti-corruption initiatives.
2. **Communities** must be acknowledged as the ‘owners’ of municipalities and initiatives must be put in place to ensure transparent and accountable governance, and community oversight.
3. Appropriate **governance structures** should be in place and should ensure effective governance, oversight and the implementation of the integrity management framework. There should be sufficient capacity to implement the integrity management framework.
4. Municipalities should institutionalize **integrity management initiatives** based on the four pillars of:
 - **Prevention**
 - **Detection**
 - **Investigation; and**
 - **Resolution.**
5. Effective information management systems should be implemented and municipalities must submit reports to appropriate entities to ensure transparency through monitoring, oversight and accountability.

The following diagram gives an overview of the four pillar approach to integrity management.

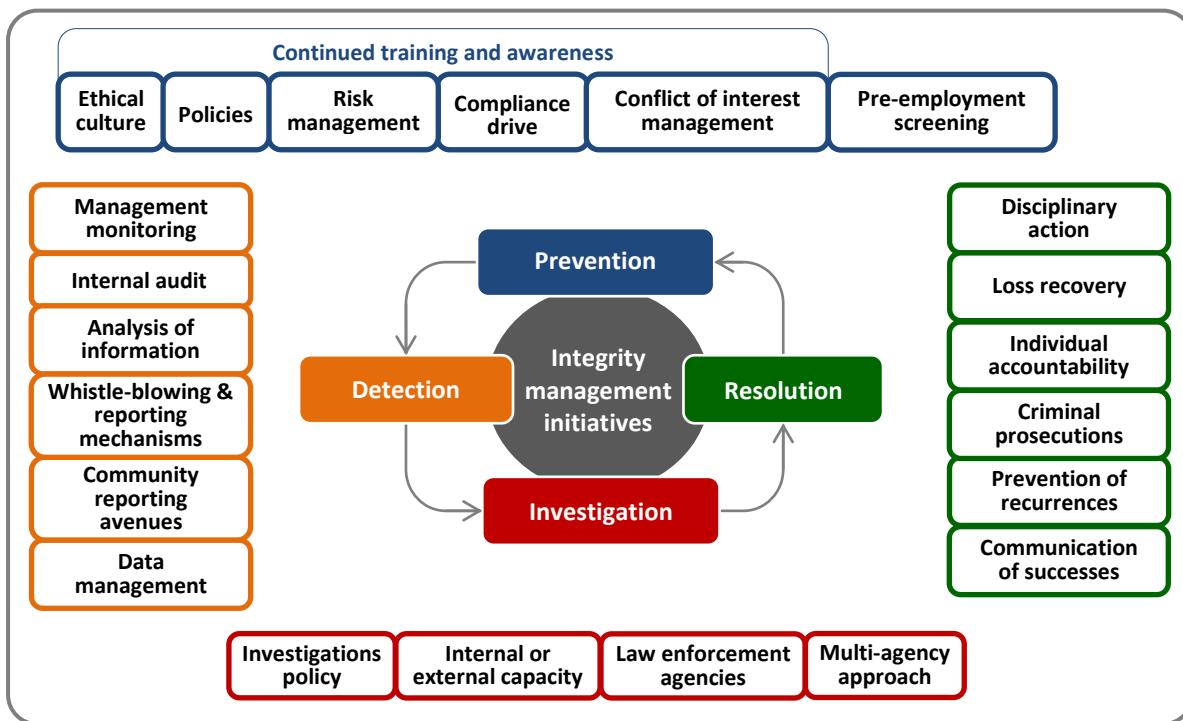


Figure 2 - Schematic diagram of the integrity management initiatives

The majority of the elements of the Integrity Management Framework are existing legislative and regulatory duties which have been packaged into a coherent framework.

Each element of the framework will now be explained in more detail.

1. LEADERSHIP COMMITMENT

Principle:

- *Municipal leadership should set the tone and drive good governance, organisational integrity, and anti-corruption initiatives.*

Implementation:

1.1. Councillor responsibilities

- a) Councillors should set an ethical tone the municipality, ensuring sound governance and strong oversight in the interest of the community.
- b) Councillors should at each council meeting give an ‘acknowledgement of moral responsibility’.

Example:

As councillor of this municipality I am the custodian of good governance on behalf of my community. I am responsible for ensuring the municipality is governed effectively and ethically. I need to fulfil this responsibility in line with my conscience and in the best interests of my community. This responsibility is mine alone. If I fail at this, I fail my people.

Role of other parties:

The Minister for Co-operative Governance and Traditional Affairs should promote a structured national dialogue to determine ‘Values and principles for ethical governance in municipalities’.

1.2. Accounting Officer responsibilities

- a) The Accounting Officer should provide ethical leadership in the administration of the municipality.

Role of other parties:

The Competence Framework for Senior Managers (Municipal Systems Act) should be amended to add ethical leadership competencies.

- b) The Accounting Officer should ensure that the municipality has a strong programme to promote integrity and fight corruption.
 - o This responsibility should be incorporated in the Accounting Officer’s performance agreement.
- c) The Accounting Officer should allocate sufficient resources for the implementation of the integrity management requirements
- d) The successful implementation of the Integrity Management Framework should form part of the Accounting Officers’ performance contract.

2. COMMUNITY OWNERSHIP

Principle:

- *Communities must be acknowledged as the 'owners' of municipalities and are therefore entitled to transparent and accountable governance.*

Implementation:

2.1. Increased transparency

- a) Municipalities should as a minimum comply with legislative and regulatory requirements for promoting community participation.
- b) Municipalities should implement programmes to increase transparency of municipal processes.
- c) Information on budget planning and performance should be made easily accessible to the public in a clear and understandable format.
- d) Municipalities should comply with the letter and spirit of the Promotion of Access to Information Act and the Promotion of Administrative Justice Act.

2.2. Awareness raising

- a) Municipalities should raise awareness among communities of (among others):
 - o Their rights to transparent and accessible information when engaging with the municipality
 - o Their right to just administrative action
 - o Recourse if they do not believe these rights have been fulfilled
 - o Avenues to raise concerns or report corruption
 - o Service standards
 - Including clarity on procedures and costs for transactions.
- b) Ward councillors and community development workers should play a key part in awareness raising.

2.3. Community reporting avenues

- a) The municipality should create avenues where the community can raise concerns over and above through their ward councillors or community development workers.
 - o Municipalities can consider the use of hotlines, Ombudsmen or other independent recourse.

Municipalities are encouraged to explore innovative solutions to promote community ownership and to share these emerging best practices in provincial and national forums.

3. GOVERNANCE STRUCTURES

Principles:

- Appropriate governance structures should be in place and should effectively ensure good governance and the implementation of integrity and anti-corruption programmes.
- There should be sufficient capacity to implement the integrity management requirements

Implementation:

3.1. Oversight committees

- a) Each municipality must establish an Audit Committee (in line with the MFMA s.166), which must be effective in fulfilling its mandate.
- b) Municipalities should also consider establishing the following committees (in line with section 79 of the Municipal Structures Act):
 - o Municipal Public Accounts Committee
 - o Council Disciplinary Committee
 - This is sometimes referred to as an Ethics Committee. The purpose of the committee is however generally to ensure discipline where councillors transgress ethics requirements. The term Council Disciplinary Committee is therefore deemed more appropriate.

Guidance document:

- The Municipal Public Accounts Committee Guide (SALGA)

3.2. Oversight of allegations and outcomes

- a) The municipal council must provide oversight of allegations and outcomes as set out in the MFMA: Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (2014)

3.3. Oversight of the anti-corruption / integrity management programme

- a) A relevant committee (such as the Municipal Public Accounts Committee) should provide strategic guidance and oversee implementation of the municipality's integrity promotion and anti-corruption strategy.
- b) The relevant committee should continuously monitor progress with the implementation of the strategy. Where there is lack of implementation there should be a response. This could include improved support and resources, or holding non-performing officials accountable.

3.4. Integrity champion

- a) A member of the senior management team should be assigned the responsibility to champion the integrity management initiatives of the municipality.

3.5. Integrity management capacity

- a) An official or a unit should be delegated the responsibility for co-ordinating or implementing the municipality's integrity management initiatives. Components of the strategy can be implemented by different officials or units, dependent on the current arrangements and capacity of the municipality.
- b) Where municipalities do not have the capacity internally they should look to shared service arrangements, for example with district municipalities.

4. PREVENTION

Principles:

Municipalities should:

- *Promote a professional ethical culture*
- *Promote sound governance and risk management*
- *Ensure competent employees of integrity are appointed; and*
- *Manage conflicts of interests pro-actively.*

Implementation:

4.1. Promote a professional ethical culture

The spirit and letter of the Code of Conduct for Councillors, and the Code of Conduct for Municipal Staff Members (Schedules 1 and 2 of the Municipal Systems Act) should be promoted and upheld in the municipality.

- a) Councillors and officials should receive a copy of the code applicable to them;
- b) Councillors and officials should receive induction training on the codes applicable to them;

Guidance:

Senior managers and councillors (e.g. the Speaker and chairpersons of council committees) could contribute to induction training and ongoing training sessions by clarifying:

- Councillors' and managers' responsibilities in building an ethical organisation;
- How employees should react when pressurised by unethical councillors or managers; and
- How to raise concerns and what to expect if they do.

- c) Councillors and officials should be required to sign annual commitments to the principles and provisions of the codes.
- d) Councillors and officials should participate in interactive ethics workshops at least once every two years. Such workshops should include discussions on:
 - o Professional and organisational values
 - o Relevant workplace ethical dilemmas / challenges
 - o The relevant code of conduct

- Organisational policies and procedures related to:
 - Conflicts of interest (e.g. disclosure of interests, and external remunerative work)
 - Whistle-blowing
- e) Councillors and senior managers are not exempt from ethics sessions.
- f) Officials should be clear on the limits of councillors' involvement in administration. A trusted avenue must be created for officials to escalate matters if they feel that this line is being crossed.
- g) The Code of Conduct for Councillors, and the Code of Conduct for Municipal Staff Members must be made available to the public (e.g. on the website, noticeboards, etc.)
- h) Continuous awareness campaigns should be run which could focus on the following:
 - Required ethical standards
 - Batho Pele Principles
 - Boundaries, rights and responsibilities when engaging with councillors
 - Relevant policies and procedures: e.g. whistle-blowing, conflicts of interest, disciplinary code, etc.
- i) Municipalities should require their suppliers to sign an 'Ethics commitment for suppliers' prior to contracting with them.
 - This should form part of all bid documents

Role of other parties:

National Treasury to give guidance on the content of the 'Ethics commitment for Suppliers.'

4.2. Develop relevant policies to promote integrity in the organisation

- a) Municipalities should develop policies to promote ethics and integrity in the organisation. These may include a values statement and policies that deal with:
 - Integrity management
 - Fraud and corruption prevention
 - Supply chain management
 - Conflicts of interest
 - Recruitment, selection and appointment
 - Including vetting and pre-employment screening
 - Whistle-blowing
 - Including non-retaliation
 - Electronic communications and telephone use
 - There must be stipulated that the municipality may monitor communications.
 - Investigations
 - Disciplinary matters

Care should be taken not to duplicate policies and some policies may therefore cover more than one aspect mentioned above.

b) Processes / resources must be put in place to ensure that it is easy for employees to adhere to the policies.

For example – where employees need to get permission for external remunerative work there should be:

- A standard form to be completed
- A resource person to contact for assistance
- Examples of how the form needs to be completed
- Trained staff to ensure that the forms are assessed and that appropriate recommendations are made.

c) Policies must be easily accessible by employees and the public.

d) Policies must be communicated to employees and they must be trained on their implementation.

4.3. Manage corruption risks

a) Corruption impacts on service delivery. Municipalities must identify areas of their core business that are specifically prone to corruption. Managing these risks must form a key part of the municipality's pro-active anti-corruption initiatives.

The following areas must be included in considerations:

- Supply chain management / procurement
- Financial management
- HR (e.g. appointments, promotions and creation of positions)
- Land matters (e.g. assignment of land rights, disposals etc.)
- Housing allocation (if relevant)
- Infrastructure projects (e.g. contracting; implementation etc)
- Permits and licenses (approval and inspecting)

b) Appropriate controls and risk mitigation measures must be implemented.

c) Municipalities should explore the use of information and communications technology (ICT) systems in the above areas to improve efficiency, transparency and risk mitigation.

Municipalities are encouraged to consult with other municipalities, or relevant provincial and national departments on possible mitigation measures.

Role of other parties:

- Relevant national and provincial departments (e.g. National Treasury / DCoG) should develop guidelines / case studies on practical mitigation measures.
- Relevant national and provincial departments (e.g. National Treasury / DCoG) should organise 'communities of practitioners' to develop and share best practice.

d) Municipalities must audit the implementation of controls and mitigation measures to ensure consistent implementation.

e) Employee exit procedures should be in place to ensure that:

- Municipal assets and access cards are handed back
- Access to municipal systems (such as IT systems) is blocked.

4.4. Drive compliance

Consistent compliance is one of the building blocks of a professional work environment.

- a) Municipalities must ensure that employees are familiar with the legislative, regulatory, policy and control requirements that apply to them and must ensure consistent compliance to these requirements.

4.5. Pre-employment screening

- a) Municipalities must ensure that competent employees with high standards of personal integrity are appointed and promoted.
- b) Senior manager appointments must comply with the minimum competency requirements as set out in the Regulations on appointment and conditions of employment of senior managers' (Municipal System Act: Regulations on appointment and conditions of employment of senior managers – Annexure B)

Role of other parties:

- DCoG should verify compliance with competency requirements.
- DCoG should develop a national competency testing centre for senior managers.

- c) Pre-employment screening should be conducted for all new appointments to verify:
 - o Qualifications
 - o Previous employment
 - o Disciplinary record
 - o Criminal record
 - o Credit record
 - o Any outstanding investigations or disciplinary matters at previous employers.
- d) Municipalities must consult the record on dismissed employees kept by the Minister and must abide by the prescribed periods.

Relevant legislation:

Municipal Systems Act – s.57A

- (1) Any staff member dismissed for misconduct may only be re-employed in any municipality after the expiry of a prescribed period

Relevant periods are set out in the 'Regulations on appointment and conditions of employment of senior managers - schedule 2

- (9) The Minister must maintain a record of all staff members that have:
 - a. Been dismissed for misconduct; or
 - b. Resigned prior to the finalisation of the disciplinary proceedings which record must be made available to municipalities as prescribed.

- e) Employees should be re-screened when they are promoted, especially if different levels of qualifications are required by the new position.
- f) Municipalities should conduct a once off qualifications audit on senior managers and other officials key positions.

4.6. Conflict of interest management

Municipalities should ensure that conflicts of interest are pro-actively managed.

- a) A conflict of interest policy needs to be developed that deals with.
 - o Declaration of interests
 - o Disclosure of interests
 - o Gifts
 - o External remunerative work

Role of other parties:

- For declarations of interests the Minister should give clarity on what information should be made public and what should remain confidential.
- DCoG should consider moving municipalities to a single e-disclosure platform which gives municipalities access to their own information and allows national oversight. The DPSA has developed such an e-disclosure platform and should be consulted to explore synergies or the sharing of technology.
- DCoG to consider making disclosure compulsory for all municipal officials (not just senior managers).

- b) Supporting systems and processes should be developed for:
 - o Declaration of interest (in line with the Code of Conduct for Municipal Councillors s.7, and the Code of Conduct for Municipal Staff Members, s.5a.)
 - o Checking the declarations for potential conflicts of interest during procurement processes.
 - Declarations should ideally be in electronic format to allow for accessibility of information.
 - o External remunerative work
 - o Gift registers
- c) All suppliers must be screened against the municipality's financial declaration database, CIPC database, National Treasury's register for tender defaulters and the List of Restricted Suppliers, and with the South African Revenue Service to ensure that their tax matters are in order.

Relevant regulation:

Accounting Officers are required to email the details of the recommended bidder to the National Treasury prior to awarding a contract. A response will generally be provided within one (1) working day confirming whether the name provided has been listed as a person or company prohibited from doing business with the public sector. This is not a public service so the request must be emailed from a person authorised by the Accounting Officer. These enquiries should be forwarded by e-mail to restrictions@treasury.gov.za.

- National Treasury MFMA circular no. 46

Role of other parties:

DCoG, National Treasury and the Department of Trade and Industry should ensure that municipalities have access to the Companies and Intellectual Property Commission (CIPC) database for conflict of interest risk management purposes.

5. DETECTION

Principles:

Municipalities should:

- *Put in place systems and processes to ensure that they detect instances of corruption that may occur.*
- *Manage information on cases reported or under investigation and report such information to the MEC and the Minister.*

Implementation:

5.1. Management monitoring

- a) Managers in high risk areas should monitor (e.g. perform spot checks on) transactions and processes under their control to ensure non-procedural / corrupt activities are detected.

5.2. Internal audit

- a) Section 165 of the MFMA requires all municipalities to have an internal audit unit, or to outsource this function.
- b) The internal audit unit must be given the mandate to perform ongoing assessments to ensure non-procedural / corrupt activities are detected. This may be done through:
 - o Scheduled audits
 - o Unscheduled / random audit checks
- c) The senior management team should consider Internal Audit reports and monitor implementation of recommendations.

5.3. Analysis of information / Data analytics

- a) Information should be analysed to detect possible conflicts of interest or other fraud or corruption red flags. This includes information obtained from:
 - o Disclosures of interests;
 - o External remunerative work applications;
 - o Gift registers;
 - o The municipal vendor database;
 - o Financial management system; and
 - o The Companies and Intellectual Property Commission (CIPC) database.

- b) Transactional information should also be analysed by using information technology to highlight red flags.
- c) Data analytics can be technical and municipalities should consider getting external expertise if it is not available in-house.

5.4. Whistle-blowing and reporting mechanisms

- a) The municipality should have a mechanism to allow for the anonymous reporting of fraud and corruption.
- b) As far as practical and effective municipalities should utilise the National Anti-corruption Hotline which is managed by the Public Service Commission.

Role of other parties:

DCoG will, together with the Public Service Commission and other role-players, review the efficacy of the National Anti-corruption Hotline to ensure it provides timely and trusted reports to municipalities.

The possibility should be explored for municipalities to receive reports directly from the Public Service Commission to avoid long communication channels.

- c) The municipality must have a whistle-blowing policy in place which at a minimum specifies:
 - o Avenues for reporting misconduct;
 - o What will happen when reports are received;
 - o Commitment to not retaliating against those who report; and
 - o Disciplinary consequences for those who do retaliate.

Relevant legislation:

- Protected Disclosures Act (26 of 2000)
- MFMA: Municipal regulations on financial misconduct procedures and criminal proceedings, 2014.
 - o These regulations (s.17) require the establishment of confidential reporting procedures and specify to whom allegations of financial misconduct may be reported (s. 9).

The whistle-blowing policy should align with the Protected Disclosures Act and these regulations.

5.5. Community reporting avenues

- a) The municipality must create trusted avenues for residents / community members to report corruption or suspicions of corruption.
 - o Such avenues may include the use of ombudsmen / integrity commissioners.

- The MFMA: Municipal regulations on financial misconduct procedures and criminal proceedings, 2014 (s17) specifies that the community must be made aware of confidential reporting procedures in relevant media.

5.6. Data management

- a) Municipalities must establish a case management system that :
 - Keep records of all reported cases and cases under investigation.
 - Tracks progress
 - Allows for trend analysis
 - Aligns with the reporting requirements of national and provincial government.

Relevant regulation:

MFMA: Municipal regulations on financial misconduct procedures and criminal proceedings, 2014.

- Section 14 of the regulations require municipalities to prepare an information document on any alleged financial misconduct or offence stating:
 - Name and position of person alleged to be involved;
 - Summary of facts
 - Monetary amount involved
 - Disciplinary steps taken or to be taken
 - If no disciplinary steps are taken, the reason for this decision.
 - Case number issued by SAPS if it is a financial offence
 - Steps taken to recover unauthorized, irregular or fruitless and wasteful expenditure.

This information must be submitted to a number of entities. The information management system must therefore keep data at least on these aspects.

Section 34 of the Prevention and Combatting of Corrupt Activities Act requires persons in positions of authority to report acts of corruption, or acts of fraud involving more than R100 000 to the SAPS. The information management system should keep proof of these reports.

- b) The information should be kept in electronic format.
- c) Steps should be taken to ensure that the information is secure and remains confidential in line with the Minimum Information Security Standards (MISS).
- d) Regular reports must be submitted to the Municipal Manager and the Audit Committee.
- e) Reports must also be submitted to external entities as set out in section 8 of this document.

6. INVESTIGATIONS

Principles:

- Municipalities must ensure that all legitimate corruption allegations are investigated. They may develop internal capacity, make use of external expertise, or draw on provincial or national expertise.
- There must be transparency about how investigations are dealt with.
- All matters must receive the appropriate level of independent investigation. A multi-agency approach should be promoted.

Implementation:

6.1. Investigations policy / response plan

- a) Municipalities must develop an investigations policy setting out how detected matters will be dealt with, including:
 - o Procedures for investigations
 - o Processes for ensuring independence when senior managers, municipal managers, or councillors are implicated.
 - For example, it is not possible for an internal municipal forensic investigator to conduct an independent investigation into allegations against senior politicians senior managers in their municipality. Independent external investigation is required and a multi-agency approach should be followed.
 - o Roles and responsibilities including oversight by council committees.
- b) The investigations policy should align with the MFMA: Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (2014)

Role of other parties:

The Anti-corruption Task Team must develop guidelines and sample policies for municipalities to ensure that investigations are fair, independent and procedurally correct.

6.2. Internal or external investigations capacity

- a) Municipalities should ensure that allegations are investigated appropriately by competent, and sufficiently independent, investigators.
- b) Internal capacity may be developed if it is cost effective and the required skills can be sourced.
- c) The municipality may also make use of external forensic consultants, shared service arrangements, provincial or national investigators, or the Special Investigations Unit.

6.3. Co-operating with law enforcement agencies

- a) In line with section 32(6) and (7) the Accounting Officer (or Council if the Accounting Officer is implicated) must report to SAPS all cases of alleged irregular expenditure that constitute a criminal offence, theft and fraud that occurred in the municipality.

Relevant legislation:

Prevention and Combating of Corrupt Activities Act – s.34, which stipulates that a failure by persons in position of authority to report acts of corruption, or acts of fraud involving more than R100 000, is a criminal offence.

6.4. Multi-agency approach

- a) A multi-agency should be promoted whenever there are potentially sensitive matters which may be open to interference.

7. RESOLUTION

Principles:

- *Municipalities should ensure the timely, fair and complete resolution of corruption matters. Perpetrators must be held accountable, losses must be recovered and recurrences prevented.*

Implementation:

7.1. Disciplinary action

- a) The municipality must have competent labour relations capacity to ensure swift, fair and procedural disciplinary action.

Role of other parties:

The South African Local Government Bargaining Council should review the Disciplinary Procedure and Code to ensure it supports anti-corruption efforts.

- b) The municipality should make use of trained and experienced presiding and prosecuting officers for corruption cases.
- c) The municipality may make use of external capacity where they don't have the internal capability or in sensitive or high profile cases.

Relevant legislation:

The Public Administration Management Act establishes the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit which will, among other things, *“provide technical assistance and support to institutions in all spheres of government regarding the management of ethics, integrity and disciplinary matters relating to misconduct in the public administration.”*

The Unit may perform its functions in respect of: *“a municipality with the concurrence of the Municipal Council or upon the request of the relevant Municipal Council, or upon the request of the relevant Member of the Executive Council in respect of an investigation contemplated in section 106(5) of the Municipal Systems Act.”*

Role of other parties:

DCoG (in collaboration with the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit) should ensure the availability of a pool of experienced presiding and prosecuting officers that can be seconded to municipalities.

7.2. Recovery of losses

Municipalities must recover all unauthorised, irregular or fruitless and wasteful expenditure.

- a) The municipality must recover losses from the responsible individuals in line with section 32 of the MFMA.
 - o Council may not write off losses without valid reasons.

Role of other parties:

The Auditor General should review all losses written off.

- b) All losses and consequent steps must promptly be reported to the Auditor General and MEC in line with section 32(4) of the MFMA.
- c) Criminal Procedures Act
 - o Where criminal matters go to court the municipality should request prosecutors to ask for restitution in terms of section 300 of the Criminal Procedures Act (51 of 1977). The municipality may in this way recover losses without legal fees.
 - o The municipality should also explore recovery from the employee's pension fund in terms of section 37D(b)(ii) of the Pension Funds Act (24 of 1956). This can form part of the restitution order described above.
- d) Civil recovery
 - o The municipality should institute civil recovery proceedings to recover losses due to unlawful acts.
- e) Asset forfeiture
 - o Where the Asset Forfeiture Unit is involved the municipality must request them to pay recovered proceeds back to the municipality. (This can be done at the discretion of the Asset Forfeiture Unit – alternatively it will be paid into the Criminal Assets Recovery Account.)

7.3. Individual accountability

- a) Section 173 of the Municipal Finance Management Act provides for the following people to be held criminally liable in their individual capacity for among other things:
 - o Accounting officer – for deliberately or due to gross negligence not implementing certain provisions of the MFMA;
 - o Finance managers with delegated responsibilities – for deliberately or due to gross negligence not implementing requirements of their delegations;
 - o Councillors – for interfering with the implementation of the MFMA.

- b) The municipality should bring criminal charges against individuals who wilfully corrupt the municipality.

7.4. Criminal prosecutions

- a) Cases that have been reported to the SAPS must be followed up to track the outcome of criminal prosecutions.
- b) The municipality should collaborate with law enforcement agencies to bring about successful prosecutions.

7.5. Cancellation of contracts

- a) The municipality should consider cancelling contracts that were fraudulently or corruptly obtained where it is in the municipality's interest. (In line with s.38 of the Municipal Supply Chain Management Regulations.)

7.6. Prevention of recurrence

- a) The municipality should take appropriate steps to prevent recurrences of specific types of corruption. The implementation of these steps must be monitored by the Internal Audit Unit.
- b) The municipality should report blacklisted suppliers to National Treasury for inclusion in the List of Restricted Suppliers.
- c) The municipality should report dismissed employees to the Minister for inclusion in a national database.

7.7. Communication of successes

- a) Municipalities should communicate its successes in combatting corruption. This should deter perpetrators and build confidence in the governance of the municipality.

8. REPORTING

Principle:

- *Municipalities must submit reports to appropriate entities to ensure implementation and transparency.*
- *Effective information management systems should be implemented to ensure the appropriate information is kept and reported.*

Implementation:

8.1. Reporting on implementation of the Framework

- a) Those responsible for implementing the Framework (i.e. integrity management practitioners) should report quarterly to the Municipal Public Accounts Committee (MPAC).
- b) A report must also be submitted to council.

- c) A report on integrity management and corruption response must also be made public on an annual basis.

8.2. Reporting of allegations and outcomes (Internal reporting)

Municipal regulations on financial misconduct procedures and criminal proceedings, 2014.

These regulations require:

- a) The mayor or accounting officer to table an allegation of financial misconduct before the council not later than 7 days after receipt thereof or at the next sitting of the council.

Back to Basics Approach requires the following reporting:

- b) Speaker to report on a monthly basis to Council on:
 - o How many misconduct issues were brought to the attention of councillors and how these are being addressed.
 - o All actions being taken to address fraud and corruption.
- c) Municipal manager to report on a monthly basis to Council on:
 - o The overall operations of financial management and all reported instances of fraud and corruption, including actions being taken.

8.3. Reporting of allegations and outcomes (External reporting)

MFMA: Municipal regulations on financial misconduct procedures and criminal proceedings, 2014.

These regulations stipulate:

- a) The responsibility of the accounting officer (or the council if the accounting officer is involved) to report alleged financial offences to the South African Police Service.
 - *This is also required by the MFMA s.32(6) and (7);*
- b) That, when investigating a councillor, ‘the designated official’ must submit completed investigative reports to council and make it available to the public. In five days from submitting it to council the report must also be submitted to the:
 - o MEC for finance in the province;
 - o MEC for local government in the province;
 - o Minister of Finance; and
 - o Minister responsible for local government.
- c) Municipalities must prepare an information document on any alleged financial misconduct or offence stating:
 - o Name and position of person alleged to be involved;
 - o Summary of facts
 - o Monetary amount involved
 - o Disciplinary steps taken or to be taken
 - o If no disciplinary steps are taken, the reason for this decision.
 - o Case number issued by SAPS if it is a financial offence
 - o Steps taken to recover unauthorized, irregular or fruitless and wasteful expenditure.
- d) This information should within 5 days of finalizing investigation documents be reported to:

- The mayor
- The MEC for local government in the province
- The national department responsible for local government
- The provincial treasury
- National Treasury; and
- Auditor General.
 - *This aligns with the s.32(4) of the MFMA which requires all losses and consequent steps to be promptly be reported to the Auditor General and MEC for local government in the province.*

e) All suspensions, disciplinary and criminal proceedings for financial misconduct must be reported in municipalities' annual reports.

Municipal Systems Act

f) Section 57A of the act requires municipalities to report certain information on disciplinary proceedings to the MEC for local government, as set out below.

Relevant legislation:

Municipal Systems Act – s.57A

*(6) A **municipality** must maintain a record that contains the prescribed information regarding the disciplinary proceedings of staff members dismissed for misconduct.*

(7) A copy of the record referred to in subsection (6) must be submitted to the MEC for local government on a quarterly basis.

*(8) The **MEC for local government** must, within 14 days of receipt of the record referred to in subsection (6), submit a copy thereof to the Minister.*

*(9) The **Minister** must maintain a record of all staff members that have-*

(a) been dismissed for misconduct; or

(b) resigned prior to the finalisation of the disciplinary proceedings,
which record must be made available to municipalities as prescribed.

8.4. Information management

A database of relevant information should be kept in an electronic format to allow for the reporting as set out above.

Implementation of the Framework – A differentiated approach

Municipalities have differing levels of capacity, and a differentiated approach will be promoted in the roll-out of the Integrity Management Framework. Implementing aspects which are too complex or arduous can be counterproductive. Municipalities should therefore implement the requirements to the extent that it has an overall net positive effect.