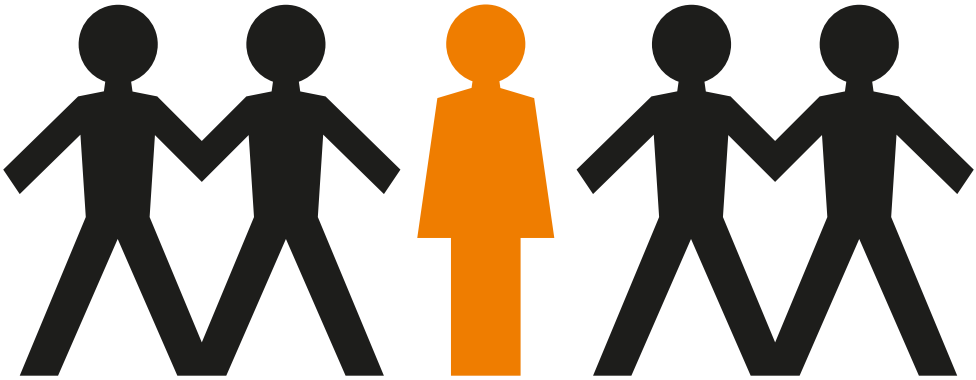
LOCAL GOVERNMENT
ANTI-CORRUPTION STRATEGY 2016



BREAK THE CORRUPTION CHAIN

cooperative governance
Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA

2030 NDP

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A. Foreword

Minister of Co-operative Governance and Traditional Affairs (CoGTA)

Fraud and Corruption has become one of the main issues occupying the public discourse. Government has prioritized the fight against corruption in the public and the private sector. The fight against corruption is one of the key pillars and a priority area of our Back to Basics strategy.

Municipalities are perceived to be the hub of corruption. In almost all areas where there is protest over service delivery; corruption features as one of the main contributory elements. Communities take to the streets over looting of public resources meant to uplift them.

The jostling for positions of senior managers, factionalism, nepotism, political interference in municipalities are some of the elements of the governance system which are driven by a quest for access to resources and control of the levers of power for self-serving ends.

Deviations from set standards and norms enshrined in various legislative enactments and policies, is a daily occurrence in the governance of most municipalities as evident from the Auditor General's reports. There is no consequence management and action is taken against those found to have broken the rules, this cultivate a culture of non-compliance with prescripts.

The country has some of the best legislative regimes and has established proper structures to address corruption. Laws serve the purpose for which they were enacted only if implemented and enforced. There is no will or commitment within municipalities or provinces to enforce the laws and eradicate corruption. Laws that are unenforced are like non-existent.

The revised Local Government Anti-Corruption Strategy (LGACS) and the Municipal Integrity Management Framework provide a high level road map for the three spheres of Government (national, provincial and local) on how to deal with fraud, maladministration and corruption. The National Development plan put Combating fraud and corruption as one of the key priorities of Government.

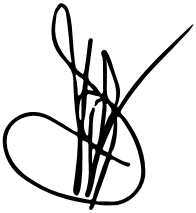
The aim of this Strategy, therefore, is to address the above as well as ensuring that there are serious consequences for corruption, fraud and maladministration, and that action will be taken against perpetrators, including forfeiture of assets and instituting of civil claims in line with the Back to Basics campaign.

This Strategy is a product of collaborative efforts with the South African Local Government Association (SALGA), relevant national and provincial departments, municipalities, law enforcement agencies, other partners including labour, business and civil society. It is premised on the following broad strategic objectives:

- Promoting community ownership;
- Strengthening municipalities' resilience against corruption;
- Building trust and accountability through effective investigation and resolution.

The success of its implementation lies in ensuring that there is adequate capacity. In this regard, Anti-Corruption Technical Working Groups have been established in all provinces to play an oversight role amongst other things.

I therefore would like to acknowledge and thank the contribution, dedication, commitment and hard work of all role-players and partners who participated in the engagements and development of this Strategy, but most importantly we must all seek to implement this strategy with vigour.



DES VAN ROOYEN, MP
MINISTER

B. Purpose

To set out the strategic objectives to be pursued by the local government sector in combating corruption in South African municipalities.

C. Context

The Diagnostic Report of the National Planning Commission identified high corruption levels as one of the 9 primary challenges facing South Africa. It is a challenge in all spheres of society, and it is imperative that every sector combats corruption, individually and collectively, if we are to succeed.

Corruption breaks down societal norms, erodes good governance and obstructs service delivery. Municipalities must combat corruption not as a side project, but as part of the consistent drive to deliver services to communities, and to achieve the other 'Objects of local government' as set out in section 152 of the Constitution.

Municipalities must also promote the 'Basic values and principles governing public administration'. These are set out in section 195 of the Constitution and include the following principles which are particularly important in the promotion of good governance and combatting of corruption:

(a) A high standard of professional ethics must be promoted and maintained.

(b) Efficient, economic and effective use of resources must be promoted. …

(f) Public administration must be accountable.

(g) Transparency must be fostered by providing the public with timely, accessible and accurate information.

The 2006 Local Government Anti-corruption Strategy was a key initiative in promoting anti-corruption efforts in the local government sphere. The strategy formed part of a comprehensive legislative and regulatory environment aimed at combatting corruption. Today this regulatory environment remains in place, but there are still significant challenges regarding implementation.

At the 2013 South African Local Government Association (SALGA) Anti-corruption Summit, there was a collective resolution to: *"Intensify the fight to collectively combat all forms of fraud, corruption and maladministration, including through a revised Anti-Corruption Strategy for Local Government"*

In line with this resolution, and to support the Back to Basics Approach, the Department of Co-operative Governance (DCoG) has reviewed the Local Government Anti-corruption strategy.

The review has been undertaken in collaboration with SALGA and the Department of Public Service and Administration (DPSA) and in consultation with various other key role-players, including law enforcement agencies.

The review also forms part of a broader campaign to strengthen anti-corruption initiatives in South Africa.

- The National Development Plan (chapter 14) and the Medium Term Strategic framework (Outcomes 3, 9 and 12) both deal extensively with anti-corruption and good governance initiatives;
- The recently signed Public Administration Management Act legislates a number of interventions intended to combat public sector corruption;
- Cabinet has approved the Public Service Integrity Management Framework;
- The Anti-corruption Task Team (ACTT) is reviewing the National Anti-corruption Strategy, which also looks at local government matters; and
- National Treasury is reviewing government's procurement processes.

This revised Local Government Anti-corruption Strategy aims to consolidate initiatives aimed at combatting corruption in the local government sphere and to align with existing and emerging initiatives.

D. Vision

A local government sector where:

- Leadership is unquestionably committed to high ethical standards, service delivery and good governance;
- A sense of openness and accountability defines the relationship with the citizens;
- Robust governance and oversight processes are institutionalised and resourced;
- A professional ethical culture is embedded; and
- Corruption incidents are dealt with justly and decisively.

E. Principles of the Local Government Anti-corruption Strategy

The revised strategy seeks to:

a) Provide a holistic and integrated approach to fighting corruption at the local government level;

b) Promote prevention, detection, investigation, resolution and public participation as the platform for the strategy;

c) Support comprehensive public awareness and civil education; including strengthening community participation in the fight against corruption in municipalities;

d) Professionalise the local government sector and to promote ethical conduct;

e) Promote the integrity of municipal business processes, including comprehensive risk management.

Within this context, this Strategy affirms the commitment of local government to work collaboratively with all relevant agencies and chapter 9 institutions to report fraud and corruption and effectively implement measures against those found in contravention of applicable policies, systems and legislation.

F. Strategic Objectives - Overview

The local government anti-corruption strategy is built around the following three strategic objectives and the supporting focus areas:

1. **Promoting community ownership**
   a) Facilitating a national dialogue on governance and ethical leadership in municipalities
   b) Implementing basic public participation responsibilities
   c) Developing and promoting good practice in community oversight
   d) Driving an anti-corruption awareness campaign

2. **Strengthening municipalities' resilience against corruption**
   a) Implementing the Integrity Management Framework in municipalities
   b) Developing a community of Integrity Management Practitioners

3. **Building trust and accountability through effective investigation and resolution**
   a) Developing municipal capability to manage investigations and consequences
   b) Providing capacity support to municipalities for investigations and disciplinary procedures
   c) Improving oversight of investigations and consequences

G. Strategic Objectives

This section clarifies why these objectives are important and gives more detail on what programmes will entail.

1. Promoting community ownership

1.1. Context

The White Paper on Local Government (1998) provides that developmental local government needs to be accountable and transparent, defining accountability as the willingness to account for decisions and actions. Developmental local government requires a political leadership which creates opportunities to account to the community over and above regular elections. A political 'culture of participatory governance' is vital if the vision of development local government is to be realised.

Section 152 of the Constitution stipulates the objects of local government, which include:

- To provide democratic and accountable government for local communities; and
- To encourage the involvement of communities and community organisations in the matters of local government.

Municipalities' responsibilities in this regard are elaborated in Chapter 4 of the Municipal Systems Act, which deals with Community Participation, and specifically highlights the *"Development of culture of community participation" (s. 16)*. 'Putting people first' is also one of the 5 pillars of the Back to Basics Approach. It highlights the need for improved compliance with the letter and spirit of the laws regarding public participation.

As the 'owners' of municipalities communities are entitled to transparent and accountable governance. The municipal administration is accountable to the municipal council, which is in turn accountable to local communities. The interface between communities and municipalities, however, remains a challenge - especially as it relates to transparency of processes and accountability mechanisms. Besides traditional public participation methods there is also a need to develop innovative platforms for engagement, transparency and oversight. A number of South African and international good practice examples exist in this regard.

Communities also engage with municipalities through their elected representatives. This requires leaders to lead in the interest of communities.

The National Development Plan states that *"South Africa needs a national conversation about the qualities of leadership that are required in all areas of public life. The first national plan provides an excellent opportunity to provide that conversation and to identify the leadership attributes that are essential to build a just and equal nation"*.[1]

Such a conversation is critical at local government level. Beyond merely specifying leadership qualities there is a need for a discussion that gives practical guidance on the values, responsibilities and arrangements required for good governance.

1. National Development Plan - p.410

The King Report on Corporate Governance sets principles for ethical leadership and good governance in South Africa. Its principles are supported by government, but it does not address challenges specific to local government. There is a need for a widely consulted, local government owned document that sets out governance and ethical leadership principles for local government.

Citizens themselves however also have a role to play. There is broad media coverage of corruption matters, yet there is very limited communication on the role of citizens in combatting corruption. The people of South Africa should understand that they have the power to be part of the solution. The National Development Plan sets out the vision of *"a South Africa which has a zero tolerance for corruption, in which an empowered citizenry have the confidence and knowledge to hold public and private officials to account and in which leaders hold themselves to high ethical standards and act with integrity."*[2]

Municipalities are also dependent on citizens to identify and report cases of corruption. People will however only report if they trust that their reports will be of consequence. Successes need to be communicated in a way that shows commitment and impact.

The Anti-corruption Task Team will be initiating a coordinated national anti-corruption awareness campaign. There is an opportunity to align with this campaign for maximum impact.

1.2. Focus areas

The issues identified above will be addressed through the following initiatives:

a) Facilitating a national dialogue on governance and ethical leadership in municipalities

A structured national dialogue should be facilitated to determine 'Values and principles for ethical governance in municipalities'. The process should culminate in a widely consulted document that specifies not only abstract values, but specifically how to operationalise good governance and ethical leadership in practice.

Roles and responsibilities:

The Minister of Co-operative Governance and Traditional Affairs should initiate a national dialogue and establish a multi-sectoral body to drive the initiative.

A broad spectrum of knowledgeable or interested parties should contribute to the discussion. (E.g. municipalities, provinces, SALGA, community bodies, political parties, professional associations, labour, and business.)

b) Implementing basic public participation responsibilities

There should be minimum compliance with legislative and regulatory requirements aimed at promoting community participation. Plans should align with and support the 'Putting people first' pillar of the Back to Basics Approach.

Roles and responsibilities:

The implementation responsibility lies with municipalities.

National and provincial departments for local government will monitor and support implementation in line with the Back to Basics Approach.

c) Developing and promoting good practice in community oversight

Innovative solutions and good practice need to be developed in the following areas:

- Encouraging participation
- Improving transparency in municipal processes;
- Promoting participative community oversight; and
- Ensuring municipalities are responsive to community reports of corruption.

Roles and responsibilities:

SALGA will co-ordinate the research and development of good practice by engaging with DCoG, provinces, municipalities and organisations from other sectors (e.g. research institutions, civil society, and professional bodies). They will facilitate the establishment of communities of practitioners dealing with community participation and oversight.

Provinces should co-ordinate provincial knowledge sharing initiatives and support municipalities with the implementation of emerging good practice.

Innovative municipalities should share their experiences and participate in forums. Municipalities that have the capacity should implement emerging good practice.

d) Driving an anti-corruption awareness campaign

An awareness campaign should be launched to:

- Promote an understanding of corruption;
- Drive a social aversion to corruption;
- Motivate the reporting of corruption;
- Make citizens aware of their rights (e.g. for accountable governance); and
- Promote citizen involvement in municipal governance.

The campaign should have a strong national identity and should align with the Anti-corruption Task Team's national campaign. Efforts should be made to collaborate with all sectors to strengthen the impact.

Roles and responsibilities:

DCoG will collaborate with relevant departments and role-players (e.g. the Department of Communications, the Anti-corruption Task Team, civil society, the media and business) to develop a communication master plan for local government that aligns with the national anti-corruption campaign. Resource material and guidance on local campaigns will be developed.

National, provincial and local government will drive the roll-out of the co-ordinated campaign in their sphere of influence. Communities (e.g. religious organisations, community organisations, schools, and business bodies) should be encouraged to participate in campaigns.

2. Strengthen municipalities' resilience against corruption

2.1. Context

An organisation's resilience against corruption is often understood to be a reflection of its anti-corruption capacity. It should however be acknowledged that resilience against corruption is perhaps even more dependent on an organisation being well governed, having competent administrative capacity, and being focussed on delivering on its mandate.

Developing such organisations is the focus of the Back to Basics Approach as can be seen from its 5 pillars:

- Putting people first;
- Basic Services;
- Good Governance;
- Sound Financial Management; and
- Building institutional Capability.

To avoid duplication of the Back to Basics Approach this strategy will remain focussed on municipalities' anti-corruption initiatives, but also ensuring that such initiatives contribute to improved governance, competence and professionalism.

In the Public Service (i.e. national and provincial government) there is a requirement for all departments to develop specified levels of Minimum Anti-corruption Capacity (MACC). It has become the standard 'checklist' for assessing departments' progress in this regard. There has however been an acknowledgement in the Public Service that the focus should shift to a more pro-active approach that focuses on promoting ethics and organisational integrity. The Public Service Integrity Management Framework (approved by Cabinet in 2013) was developed to fill this gap.

The 2006 Local Government Anti-corruption Strategy contains elements of a measurable standard for municipalities, but there are also a number of existing legislative and regulatory requirements that should be implemented as part of anti-corruption initiatives. There is however no single coherent specification of exact requirements, which contributes to weak implementation.

There is therefore a need for a framework that consolidates initiatives and requirements to promote integrity and combat corruption. It should be specific to local government while aligning to national initiatives. It should also be measurable to ensure implementation can be monitored. The *"existence and efficiency of anti-corruption measures"* will be monitored as part of the Back to Basics Approach.

Mayors and municipal managers should drive and support the implementation of integrity initiatives. At the same time there is a need for a cadre of professionals to implement these initiatives.

2.2. Focus areas

a) Implementing the Integrity Management Framework in municipalities

To drive the constitutional imperative of promoting the basic values of public administration and to take measures to prevent corruption as is required by the Municipal Systems Act s.6(2) this strategy sets out an Integrity Management Framework that will serve as a guideline for municipalities in implementing their initiatives to promote integrity and combat corruption.

The Framework aligns with current public sector initiatives, but is modified to be specifically applicable to municipalities. It is intended to set out municipalities' complete responsibility in implementing the Local Government Anti-corruption Strategy.

The following diagram gives a schematic 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 are therefore entitled to transparent and accountable governance.
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 reports must be submitted to appropriate bodies to ensure transparency in terms through monitoring, oversight and accountability.

The entire Integrity Management Framework is set out in Appendix A.

Roles and responsibilities:

The main implementation responsibility lies with local government.

DCoG will, in conjunction with SALGA and other relevant role-players:

- Develop guidelines and resources to support implementation;
- Facilitate skills development in provinces to capacitate them to support municipalities;
- Develop a model information technology system to enhance good governance within the sector.
- Review the efficacy of the National Anti-corruption Hotline to ensure it provides timely and trusted reports to municipalities.
- Develop a clean administration maturity assessment tool (i.e. monitoring indicators)
- Monitor implementation across municipalities at regular intervals using the instrument; This will be done with differentiation and the context of municipalities in mind.
- Establish a national peer review mechanism and provide administrative and technical support thereto;
- Report on the state of implementation and the impact to parliament and provincial legislatures.

Provinces will support municipalities in the implementation of the framework and will support DCoG in monitoring and oversight.

A number of other departments will be responsible for driving programmes which align with their mandate. For example national and provincial treasuries will keep promoting sound financial management and supply chain practices.

b) Developing a community of Integrity Management Practitioners

A skilled and committed cadre of integrity practitioners should be developed. They will develop and exchange good practice and provide collegial support. Learning networks should be developed nationally and provincially.

Mayors and municipal managers should attend dedicated learning events to enable them to drive programmes.

Roles and responsibilities:

DCoG and SALGA to collaborate with other role-players (e.g. the School of Government and professional bodies) to develop programmes to capacitate integrity professionals.

DCoG and SALGA to initiate provincial and national networks and learning forums, including forums for mayors and municipal managers.

Municipalities should identify appropriate integrity practitioners and support their development.

3. Building trust and accountability through effective investigation and resolution

3.1. Context

The National Development Plan points out that accountability is essential to deter people from involvement in corruption[3]. The National Planning Commission's Diagnostic Report however found that *"Weak accountability and damaged societal ethics make corruption at lower levels in government almost pervasive"*.[4]

There are a number of provisions in legislation for ensuring accountability related to misconduct in municipalities. Among these are:

- The Code of Conduct for Councillors which also deals with breaches of the Code by councillors;
- The Code of Conduct for Municipal Staff Members, and Section 67(1)(h) of the Municipal Systems Act which require disciplinary procedures to be in place.
- Section 57A of the Municipal Systems Act which restricts the appointment of municipal staff members dismissed for misconduct;
- Section 32 of the MFMA which deals with unauthorised, irregular, or fruitless and wasteful expenditure;
- Chapter 15 of the MFMA which deals with financial misconduct;
- The recent 'MFMA: Municipal regulations on financial misconduct procedures and criminal proceedings, 2014' which specifies investigative and disciplinary procedures, as well as reporting responsibilities relating to financial misconduct; and

The implementation should be monitored by the municipal oversight structures which include Audit Committees, Municipal Public Accounts Committees, and the Councils themselves.

In addition to this section 105 of the Municipal Systems Act provides for MECs responsible for local government to monitor municipal matters. Section 106 of the Municipal Systems Act also allows MECs to engage with municipalities where "maladministration, fraud, corruption or any other serious malpractice" has occurred and to investigate if necessary. It also provides for the Minister responsible for local government to request investigations or to investigate the matter if no investigation has been conducted within 90 days of such a request.

Despite all of these initiatives the Auditor-General's 'Consolidated general report on the audit outcomes of local government – 2012-13' found that lack of consequences for irregular expenditure are a serious concern[5]. The initiatives are not being applied consistently and oversight legislation is seldom invoked.

DCoG's assessment of investigations that have been conducted in municipalities, as well as law enforcement agencies' experience in municipal investigations highlight a number of factors that impede accountability:

3. National Development Plan - Executive summary - p.46 4. National Planning Commission Diagnostic Report - p.37 5. Auditor General's 'Consolidated general report on the audit outcomes of local government – 2012-13' - p.51

- Lack of knowledge or experience in dealing with corruption allegations in a procedurally correct manner;
- Lack of expertise in municipalities (e.g. investigators, labour relations and presiding officers);
- Use of incompetent or unscrupulous external forensic investigators;
- Interference with investigations / Intimidation of investigators (also applicable to municipal investigations conducted by provinces);
- Recommendations from investigations are not implemented; and
- Losses are not recovered.

The complex regulatory environment, including fragmented and cross-regulation contribute to the problem. Investigations are also impeded by a lack of integration between municipal HR systems which keep information such as ID numbers and banking details.

A number of reporting requirements exist that would further improve transparency and ensure accountability. This includes information on:

- Allegations, investigations and outcomes;
- Dismissals;
- Blacklisting of suppliers; and
- Declarations of interest.

To enable the sensible use of such information there should be structured information management systems and processes, both at municipalities and at departments and agencies that receive the reports.

3.2. Focus areas

a) Developing municipal capability to manage investigations and consequences

All municipalities should have the capability to navigate the pitfalls and technicalities to ensure that investigations and disciplinary procedures are conducted procedurally correct. Not all municipalities will have internal investigative capacity, but they should have standard procedures for ensuring sound resolution which may include working with external agencies.

Roles and responsibilities:

DCoG and the Anti-corruption Task Team will develop a capacity building programme and support which may include:

- A plain language guide on applicable regulations and procedures to follow for ensuring accountability;
- Training for relevant officials at municipalities and provinces; and
- Helplines.

b) Providing capacity support to municipalities for investigations and disciplinary procedures

Where municipalities do not have the capacity to investigate or drive successful disciplinary procedures they should have access to competent people to assist them.

A national database of accredited professionals should be developed to ensure high standards in investigations and disciplinary proceedings where external professionals are contracted.

Roles and responsibilities:

DCoG will, working with the DPSA and the Anti-corruption Task Team ensure that capacity and processes exist to provide such support. This may, for example, take the form of a pool of experts, utilising resources in the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit established by the Public Administration Management Act (s. 15), or in the form of a Special Tribunal as allowed under the Special Investigating Units and Special Tribunal Act.

The same role-players should consider the establishment of the database of accredited professionals.

c) Improving oversight of investigations and consequences

Mechanisms should be institutionalised to:

- Ensure transparency and oversight of investigations;
- Provide quality control on investigations;
- Promote individual accountability and responsibility of officials and councillors
- Ensure the recovery of losses
- Monitor the implementation of the recommendations flowing from investigations; and
- Ensure enforcement of just recommendations.

A multi-agency approach should be promoted for high value or high profile investigations as this promotes peer oversight.

Roles and responsibilities:

DCoG will work with the Anti-corruption Task Team to develop a robust oversight model that will ensure accountability. Provinces should be consulted and form part of the oversight solution.

Municipalities should develop and institutionalise procedures to ensure investigations are dealt with professionally and consistently and that there are just consequences for perpetrators. Oversight responsibilities should be assigned to relevant governance structures.

d) Improving information management

Accurate, complete and timely information should be available to improve oversight, accountability and risk management.

Roles and responsibilities:

DCoG will, in consultation with relevant role players (e.g. the Anti-corruption Task Team, National and Provincial Treasuries, provincial departments responsible for local government, the Auditor-General, and organised local government) ensure clear co-ordination and improved alignment of information management, monitoring and reporting standards and processes across all spheres of government. There should be an efficient and coherent reporting framework that clearly stipulates all reporting and oversight obligations.

DCoG will, working with the Anti-corruption Task Team and other relevant role-players, explore the integration of municipalities HR databases.

DCoG and relevant role players (e.g. National Treasury) will explore making information technology available to municipalities to improve financial management and pro-active detection of red flags.

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 the desirability of making disclosure compulsory for all municipal officials (not just senior managers).

Municipalities and provinces should align their information management, monitoring and reporting to the information requirements of relevant entities.

Departments and agencies that receive reports should ensure that they have capacity to analyse reported information and take action if necessary. There should also be consequences for non-reporting.

H. Roles and responsibilities

In general DCoG will be responsible for driving the strategic objectives set out in this document. They will however need the support and collaboration of many other organisations such as National and Provincial Treasuries, premiers' offices and provincial departments responsible for local government, the Anti-corruption Task Team, and the Department for Public Service and Administration.

As organised local government the South African Local Government Association (SALGA) has contributed to the development of the strategy. It is a general implementation partner to DCoG, but will more specifically assist in developing resources and supporting municipalities to implement the strategy. Provinces will also be a key partner in support, monitoring and oversight of municipal implementation.

It is acknowledged that some of the initiatives outlined are already underway as part of the Back to Basics Approach or are being led by other departments or entities. DCoG will align with and support these initiatives and avoid duplication.

The most important role-players are municipalities themselves. Municipalities' responsibilities are consolidated in the Integrity Management Framework.

Specific responsibilities are set out under each focus area.

I. Implementation monitoring and co-ordination

DCoG will form a national implementation steering committee with other role-players. The steering committee will be required to meet quarterly to monitor implementation of the strategy and co-ordinate activities.

All provinces should establish some form of anti-corruption technical working group which will, besides other functions, also monitor implementation in provincial municipalities.

DCoG should report to provincial legislatures and Parliament on implementation and impact. These legislatures will fulfil an oversight function to ensure implementation.

Within municipalities an appropriate committee should be tasked with implementation oversight.

MUNICIPAL INTEGRITY MANAGEMENT FRAMEWORK

Appendix A: Local Government Anti-corruption Strategy

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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.

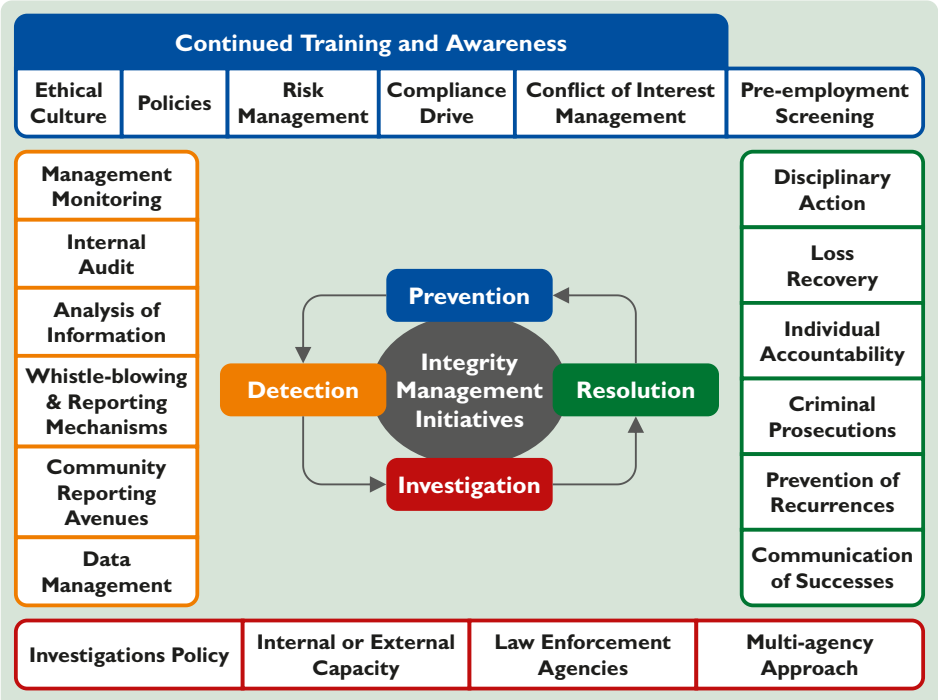


Figure 2 - Schematic diagram of the integrity management initiatives

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.
   - 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):
   - Their rights to transparent and accessible information when engaging with the municipality
   - Their right to just administrative action
   - Recourse if they do not believe these rights have been fulfilled
   - Avenues to raise concerns or report corruption
   - 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.
   - 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):

- Municipal Public Accounts Committee
- 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:

- Professional and organisational values
- Relevant workplace ethical dilemmas / challenges
- 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
     - It 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.

Roles 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)

Roles 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:
   - Qualifications
   - Previous employment
   - Disciplinary record
   - Criminal record
   - Credit record
   - Any outstanding investigations or disciplinary matters at previous employers

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.

d) Municipalities must consult the record on dismissed employees kept by the Minister and must abide by the prescribed periods.

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.
   - Declaration of interests
   - Disclosure of interests
   - Gifts
   - External remunerative work

Roles 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:
   - 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.)
   - Checking the declarations for potential conflicts of interest during procurement processes.
     - Declarations should ideally be in electronic format to allow for accessibility of information.
   - External remunerative work
   - 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

Roles 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:

- Scheduled audits
- 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:
   - Disclosures of interests;
   - External remunerative work applications;
   - Gift registers;
   - The municipal vendor database;
   - Financial management system; and
   - 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.

Roles 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:
   - Avenues for reporting misconduct;
   - What will happen when reports are received;
   - Commitment to not retaliating against those who report; and
   - 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.
  - 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.
   - 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:
   - Procedures for investigations
   - 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.
   - 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)

Roles 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.

Roles of other parties:

The South African Local Government Bargaining Council should review the Disciplinary Procedure and Code to ensure it support 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."

Roles 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.
   - Council may not write off losses without valid reasons.

Roles 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
   - 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.
   - 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
   - The municipality should institute civil recovery proceedings to recover losses due to unlawful acts.

e) Asset forfeiture
   - 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:
   - Accounting officer – for deliberately or due to gross negligence not implementing certain provisions of the MFMA;
   - Finance managers with delegated responsibilities – for deliberately or due to gross negligence not implementing requirements of their delegations;
   - 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:
   - How many misconduct issues were brought to the attention of councillors and how these are being addressed.
   - All actions being taken to address fraud and corruption.

c) Municipal manager to report on a monthly basis to Council on:
   - 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:
   - MEC for finance in the province;
   - MEC for local government in the province;
   - Minister of Finance; and
   - Minister responsible for local government.

c) Municipalities must 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.

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.

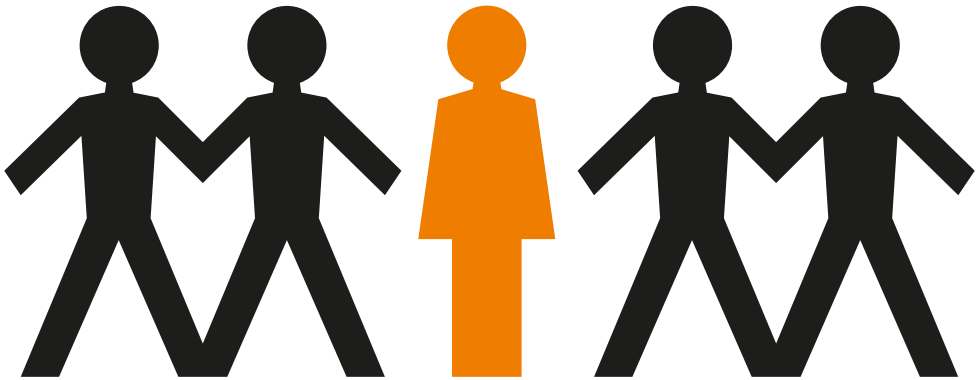
(9) The **Minister** must maintain a record of all staff members that have -
   (a) been dismissed for misconduct; or
   (b) resigned prior to the finalisation of the disciplinary proceedings, which record must be made available to municipalities as prescribed.

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.



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