

**KAROO HOOGLAND MUNICIPALITY**

**FRAUD PREVENTION POLICY/STRATEGY**

**2018 - 2021**

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## 1. INTRODUCTION

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Fraud and corruption is a global phenomenon and as such require concerted efforts from both the public and private sector. Karoo Hoogland Municipality recognises four components i.e. **prevention, detection, investigation and resolution**, which plays an integral part in the fight against fraud and corruption.

The **primary objective** of this strategy is **to prevent fraudulent conduct before it occurs**. The fundamental advantage of prevention of fraudulent conduct advances two main purpose of criminal law: deterring future criminal conduct and protecting the public from dangerous offenders. The characteristic of successful fraud enforcement is its effectiveness not only in apprehending those who have already violated the law, but also in preventing others from committing acts of fraud. In South Africa, Common Law defines fraud as “the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another”. The term “fraud” is also used in a wider sense by the general public.

In this regard, the term is used in this document in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty. In other words, fraud can be described as any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

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

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

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

## **1.1 LINKAGE WITH OTHER NATIONAL ANTI-CORRUPTION STRATEGIES**

### **1.1.1 THE PUBLIC SERVICE ANTI-CORRUPTION STRATEGY**

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

A range of other resolutions emanated from this Summit and all the sectors committed to implementing these.

The Department of Public Service and Administration (DPSA) was instructed to forget various initiatives across the public service into a coherent strategy with the support of other Departments. A Public Service Task Team (PSTT) consisting of key Departments was convened for this task and representation from local government and public entities were included in order to establish a platform for the roll-out of the strategy to the whole of the Public Sector (Public Service, Local Government and Public Entities).

### **1.1.2 THE LOCAL GOVERNMENT ANTI-CORRUPTION STRATEGY**

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

- Creating a culture within municipalities, that is intolerant to unethical conduct, fraud and corruption;
- Strengthening community participation in the fight against corruption in municipalities;
- Strengthening relationships, with key stakeholders, that are necessary to support the actions required to fight corruption in municipalities, for example, South African Local Government Association (SALGA), Employee Representative Unions, and Communities;
- Deterring and preventing of unethical conduct, fraud and corruption;
- Detecting and investigating unethical conduct, fraud and corruption;
- Taking appropriate action in the event of irregularities, for example, disciplinary action, recovery of losses, prosecution, etc; and
- Applying sanctions, which include redress in respect of financial losses.

## **1.2 COMPONENTS OF THE POLICY**

All fraud will be investigated and followed up by the application of all remedies available within the full extent of law as well as the application of appropriate prevention and detection controls and checking controls.

### **THE MAIN PRINCIPLES OF THE FRAUD PREVENTION ARE THE FOLLOWING -**

- Creating a culture which is intolerable to corruption / fraud
- Deterrence of corruption and fraud
- Preventing corruption/fraud which cannot be deterred
- Detection of corruption/fraud
- Fraud prevention plan/strategy
- Investigating detected corruption/fraud
- Taking appropriate action against fraudsters. e.g. prosecution, disciplinary action
- Applying sanctions, which include redress in respect of financial losses.

## **2. DEFINITIONS**

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### **POLICY**

It is a standard document that binds us to enforce existing systems like rules and regulation to determine the prevention of irregular actions by reducing fraud and corruption at the work place.

### **FRAUD**

Fraud is an unlawful and intentional making of misrepresentation resulting in actual or potential prejudice to another

### **CORRUPTION**

Corruption is any conduct or behaviour where a person accepts. Agrees or offer any gratification for himself /herself or another person where the purpose is to dishonestly or illegally. Such behaviour also includes the misuse of material or information, abusing a position of authority or a breach of trust or violation of duty.

### **THEFT**

The unlawful and intentional misappropriation of other's property or which is in his/her possession with the intention to deprive the owner of its right permanently.

## **MALADMINISTRATION**

The definition of maladministration certain actions that cause injustice that include the following:

- Delay of documents requested;
- Incorrect action or failure to take action;
- Failure to provide information;
- Inadequate record- keeping;
- Failure to investigate;
- Failure to reply;
- Misleading or inaccurate statement;
- Inadequate liaison; and
- Broken promises

## **NEPOTISM**

Favouritism shown to relatives by those with power and influence in work related activities.

## **UTTERING**

Uttering is the unlawful and intention offering, passing off or communication of a forged document with the intent to defraud to the actual or potential prejudice of another

## **FORGERY**

Forgery is the unlawful and international making of false document with intent to defraud to the actual or potential prejudice of another.

## **BRIBERY**

Dishonest persuasion to act in one's favour by a payment or the inducement.

## **EMBEZZLEMENT**

It is a form of theft. It is the appropriation of someone else's property that is already in your possession in control. It is something referred to as theft by conversion in that someone else's property is converted for your private use.

## **CONSPIRACY**

Any person, who unlawfully and intentionally conspired with any other person to aid or procure the commission of or to commit any offence, whether at common law against statute or a statutory, shall be guilty of and liable on conviction to the punishment to which the person convicted of actually committing offence would be liable.

## **EXTORTION**

Extortion is committed when a person unlawfully and intentionally obtains some advantage which is not due to him from another by subjecting the latter to pressure which induce him to hand over the advantage.

## **3. OBJECTIVE**

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- Encourage a culture within Karoo Hoogland Municipality where all employees, the public and other stakeholders continuously behave ethically in their dealings with, or on behalf of Karoo Hoogland Municipality improving accountability, efficiency and effective administration within Karoo Hoogland local Municipality.
- Improving the application of systems, policies, procedures and regulations, changing processes of the Municipality that facilitate corruption/fraud and allow it to go unnoticed or unreported.
- Develop an anti-corruption capacity within the Karoo Hoogland Local Municipality.
- Encouraging all employees and other stakeholders to strive towards the promotion of integrity and the prevention and detection of unethical conduct, fraud and corruption impact or having the potential to impact on the local spheres of government.

## **4. LEGISLATIVE REQUIREMENTS**

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### **4.1 MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003 (MFMA) SECTION 62 OF THE MFMA**

“Accounting authority of the municipality must ensure that it has and maintains effective, efficient and transparent systems of financial management, internal control and risk management.”

**Treasury Regulation 27.2.1** extends the above requirement with emphasis on Risk Assessment, Risk Management Strategy and Fraud Prevention Plan summarized as follows:

(i) The Accounting Authority must ensure that a risk assessment is conducted regularly to identify emerging risk of the institution.

(ii) A risk management strategy, which must include a fraud prevention plan, must be used to direct internal audit effort and priority and to determine the skills required of managers and staff to improve controls and to manage these risks.

(iii) The strategy must be clearly communicated to all officials to ensure that the risk management strategy is incorporated into the language and culture of the institution.

Fraud prevention plan/strategy

The Constitution of the Republic of South Africa (Act 108 Of 1996)

#### **4.2 PROTECTED DISCLOSURE ACT. NO 26 OF 2000**

Protects employees who disclose information on fraudulent activities against victimization.

#### **4.3 THE KING III REPORT**

Code of Governance reflects on integrated reporting as an increase in the company's business opportunities and an improvement in risk management. The principles outlined on the code of governance requires that:- the risk tolerance level should be determined by top management; the risk or audit committee to assist management on carrying out the risk responsibilities; management to design, implement and monitor the risk management plan; risk assessment to be conducted on a continuous basis; framework and methodologies are implemented to increase the profitability of anticipating unpredictable risks; management considers and implements appropriate risk responses; there is continuous risk monitoring by management; assurance given to management regarding the effectiveness of risk management process.

#### **4.4 OTHER RELATED LEGISLATIVE REQUIREMENTS;**

- Prevention of Organised Crime Act 121 of 1998
- The Prevention and Combating of Corrupt Activities Act( No.12 of 2004)
- Public Service Act, 1994
- Local Government Municipal Systems Act (No.32 of 2000)
- Promotion of Administration Act (No.26 of 2000) PAJA
- The National Prosecuting Authority Amendment Act,2000
- National Strategic Intelligence Act, 1994
- Strategic Intelligence Amendment Act, 2002 (67 of 2002)

## **5. SCOPE**

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### ***5.1. THIS POLICY APPLIES TO THE FOLLOWING:***

- All corruption, fraud, theft and maladministration or suspected irregularities of this nature involving, but not limited to, the following persons or entities:
- Employees of the Municipality;
- Political Office Bearers;
- Councillors;
- Consultants, suppliers, contractors and other providers of goods and services to the Municipality.

### **5.2. DISCIPLINARY**

The municipality must be **consistent and efficient** in its application of the disciplinary procedures of the measures. Additional measures should be considered for the following actions:

### ***5.3. ACTIONS CONSTITUTING FRAUD INCLUDE, BUT NOT LIMITED TO:***

- Dishonest, fraud and corrupt act;
- Theft of funds, supplies or other assets;
- Maladministration or financial misconduct in handling or reporting of money, financial transaction or other assets;
- Making a profit from insider knowledge

- Disclosing of confidential or proprietary information to outside parties for financial or other advantage;
- Requesting or accepting anything of material value (free of charge) from contractors, suppliers or other persons providing goods or services to Karoo Hoogland Municipality;
- Irregular destruction, removal or abuse of records and equipment
- Deliberately omitting or refusing to report or act upon reports of any such irregular or dishonest conduct;
- Bribery, blackmail, secret commissions and extortion involving the Karoo Hoogland Municipality's employee in performance of her or his duties;
- Abuse of Karoo Hoogland Municipality's facilities; and
- Any similar or related irregularity.

#### **5.4. SECURITY CLEARANCE (Vetting)**

Security screening/ vetting is required when a person is promoted, transferred or performs general official duties that will give them access to classified information. The degree of security clearance given to a person is determined by the content of and/or access to classified information entailed by the post already occupied or to be occupied by a person.

Vetting will be carried out from the lowest level up to Senior Management for all staff members and any stakeholders who should have access to classified information. The security clearance period of validity ranges from 5 to 10 years; the categories that an individual is analysed on in terms of security clearance level are as follows:

- Top Secret
- Secret, and
- Confidential

## **6. REFERRING CASES TO EXTERNAL AGENCIES**

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After internal assessment has been conducted and the perpetrator was found guilty, all cases that constitute criminal offence; theft and fraud within the municipality should be reported to South African Police Services(SAPS) in the line with section 32(6) of the MFMA and also the Prevention of Corrupt Activities Act ( Participants are encouraged to read the whole of section 32 of MFMA and the section in Act mentioned above) There is how ever a number of government agencies that could be involve in carrying out investigations depending on the nature of the allegations.

**They are as follows:**

*The Hawks;*

*Special Investigation Unit (SIU);*

*Asset Forfeiture Unit (AFU);*

*Public Protector Office;*

*Auditor General;*

*National Intelligence Agency; and*

*Public Service Commission (PSC).*

## **7. REPORTING PROCEDURES AND RESOLUTION OF REPORTED INCIDENTS**

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It is the responsibility of all the employees within the municipality to report all incidents of fraud, corruption, theft maladministration and other suspected irregularity of this nature to his/her manager.

It is responsibility of all employees to immediately report all allegations or incidents of fraud and corruption to their immediate manager. Should an employee be concerned that the manager is involved; the report can be made to any other member of management, the Municipal Manager and /or the chairperson of Audit Committee.

Suspected cases of any fraud, corruption or maladministration should be reported immediately after the discovery of such incident or within 24 hours of the discovery of such an incident.

### **7.1. REFERRING CASES TO OTHER AGENCIES**

Any fraud and corruption committed by an employee or any other person will be pursued by thorough investigation and to the full extent of the law, including (where appropriate) consideration of -

- Initiating criminal prosecution by reporting the matter to the SAPS ( which the municipality should present a case number on record) or any other relevant law enforcement agency
- Any other appropriate and legal remedy available

## 7.2. REPORTING CASES TO THE DEPARTMENT OF PUBLIC SERVICE ADMINISTRATION (DPSA)

Karoo Hoogland Municipality will provide the DPSA with the following minimum information at the end of each financial year Number of allegations of corruption received and corruption cases detected per defined categories as defined in the Prevention and Combating of Corrupt Activities Act, 2004 and service delivery area

- a) Number of allegations and cases referred:
  - I. Handled in terms of disciplinary procedure
  - II. Referred to law enforcement agency or other body
  - III. Not investigated for disciplinary purposes or not referred
  - IV. Description of corruption risk areas
- b) Report on the performance of its minimum anti-corruption capacity as part of its annual report

## 7.3 FRAUD AND CORRUPTION CASE DATABASE

The purpose of the fraud and corruption database is to collate information from participating jurisdictions to allow the Municipality to be a step ahead of the fraudsters. Fraud investigators will be kept up to date on emerging trends and new techniques in all areas.

The Municipality through the **Risk Management Unit must establish a central database** to track criminal activity within the Municipality's operations. Karoo Hoogland Municipality should establish links with participating jurisdictions that are involved in fighting fraud and corruption.

- ✓ The municipality is obliged to report their misconduct cases to Anti Corruption unit to the Provincial Office every term as part of the monitoring and implementation strategy.

NORTHERN CAPE (2018 2019)

	MUNICIPALITY	CORRUPTION TYPE	SOURCE OF INFORMATION	PERPETRATOR'S POSITION	MONETARY VALUE	STATUS OF INVESTIGATION	OUTCOME AND FINALIZED DATE
1.							
2.							
3.							
4.							

**8. FRAUD AND CORRUPTION CONTROL AND MONITORING THE MISCONDUCT CASES (*will be in detailed on the municipality implementation plan*)**

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The approach in controlling fraud and corruption is focused on 3 areas, namely;

- Structural strategies (Oversight Structures)
- Operational Strategies
- Maintenance Strategies

**8.1 STRUCTURAL STRATEGIES**

Represents the actions to be undertaken in order to address Fraud and Corruption at the structural level is as follows:

- Ethics Committee
- Creating awareness campaigns
- Training of staff
- Code of conduct
- Security Vetting
- Employment induction

### **8.1.1. MANAGEMENT ACCOUNTABILITY**

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

Managers and supervisors have oversight responsibility for internal controls within their units. The implementation of controls should/could be included in performance agreements of managers at all levels. The latter will lead to increased focus in mitigating risks and teach a risk management culture. The day to day responsibilities for the prevention and detection of fraud rest with line managers who are responsible for identifying the risks to which systems, operations and procedures are exposed

Developing and maintaining effective controls to prevent and detect fraud and ensuring that controls are being complied with. Failure to take remedial measures to correct an irregularity in the systems or internal control will lead to the Municipality taking disciplinary measures against the responsible manager in the unit concerned. The Internal Audit and Risk Management Unit have no primary responsibility for establishing or maintaining internal controls. However, the effectiveness of the internal controls are enhanced through the reviews performed and recommendations made by both sections. Managers should ensure that recommendations made by Internal Audit and any other assurance providers are fully implemented within a specified time.

## **9. SETTING ETHICAL STANDARDS**

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The code of ethics and of code of conduct is often used interchangeably;

Code of conduct is generally just a list of rules; and

Code of ethics gives a board guidelines based on values without going into specific rules.

## 9.1. ETHICAL CULTURE

Ethics are concerned with human character and conduct and deal with questions of right and wrong, appropriate and inappropriate behaviour and what constitute good or evil. The ethical principles contained in the Code of Conduct for the Public Service are applicable to all employees of the Municipality. Therefore, the Code of Conduct for the Public Service as set out by the Public Service Commission will be customised accordingly towards the core business operations of the Municipality. All employees are expected to abide by the code of conduct. The municipality is required to conduct itself in an ethical and moral way.

Senior management of Karoo Hoogland Municipality are committed to eradicating fraud and corruption and ensuring that the municipality strives to be perceived as ethical in all its dealings with the public and other interested parties. In this regard, senior management, under the guidance of the Municipal Manager will ensure that fraud and corruption will be dealt with effectively and that the fraud and corruption strategy is reviewed and updated annually. All employees and stakeholders will be made aware of anti - fraud and corruption strategies through awareness campaigns and training.

Ethical conduct is based on a set of principles referred to as values or norms. The collective ethical conduct of all Councillors and employees reflects the organisational ethical conduct. In this regard, the highest standards of ethics are required by Councillors and employees when fulfilling their duties and to the municipal code of conduct.

## 9.2. COMPLIANCE REQUIRED OF THE MUNICIPALITY CODES

The Municipality subscribes to the eight *Batho Pele Principles* which are:

- Consultation
- Service Standards
- Access
- Courtesy
- Information
- Openness and Transparency
- Redress
- Value for Money

## 10. CONFIDENTIALITY

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All information relating to fraud and corruption that is received and investigated will be treated confidential. The progression in investigations will in a confidential manner and will not be disclosed or discusses with any person(s) other than those who have a legitimate right to such information. This is important in order to avoid harming the reputation \s of suspected persons who are subsequently found innocent of wrongful conduct. In accordance with ***Protected Disclosures Act No.26 of 2000***, no employee may be subjected to an occupational detriment by his/her employer on account of having made a protected disclosure.

## 11. MEDIA

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**No person is authorized to supply information with regards to allegations or incidents of fraud and corruption to the media without the express permission of the Municipal Manager.**

## 12. PROTECTION OF THE WHISTLE BLOWERS

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An employee who reports suspected fraud/ and or corruption may remain anonymous should he/she so desire. Concern expressed anonymously are difficult to investigate nevertheless they will be followed up at the discretion of the Accounting Officer of Karoo Hoogland Municipality. This discretion will be applied by taking into account the following:

- The seriousness of the issues raised;
- The credibility of concern; and
- The likelihood of confirmation the allegation.
- The person who made the allegations must be subjected to firm disciplinary or other appropriate action.

No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and corruption which occurred within the municipality.

This may include:

- **Harassment or Victimization:** Karoo Hoogland acknowledges the fact that the decision to report concern can be a difficult one to make, not least because of fear of reprisal from those responsible for the irregularity. Karoo Hoogland will not tolerate harassment or victimization and will take action to protect to employees when raise a concern in good faith. This does not mean that if an employee is already the subject of disciplinary or other action, that action will be halted as a result of their whistle blowing.
- **Confidentiality:** The municipality will do their best to protect an individual's identify when he/ she raised a concern and does not want their identity to be disclosed. It must be taking into consideration, however, that the investigation process may reveal the source of the information and a statement by the employee may be required as part of the evidence.

#### **12.1. ANONYMOUS ALLEGATIONS**

Karoo Hoogland Municipality should encourage staff and members of the public who suspect fraud and corruption to the accounting manager to put their names to allegations.

There is an anonymous reporting for corruption and fraud at **National Anti Corruption Hotline** which is **0800701701**, to report the corruption cases.

#### **13. HARASSMENT OR VICTIMIZATION**

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Karoo Hoogland Municipality acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal from those responsible for irregularity. Karoo Hoogland Municipality will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. Any act of harassment or victimisation should be reported to the Head of Department/ Accounting Officer. This does not mean that if a staff member is already subject of disciplinary or other actions will be halted as a result of their whistle blowing.

#### 14. FALSE ALLEGATIONS

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Staff or other parties must understand the implications (resources and cost) of undertaking investigations and should therefore guard against making allegations, which are false and made with malicious intent.

#### 15. GIFT REGISTER

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The municipality must develop a gift policy (*KHM GIFT & REWARD POLICY*) in order to ensure that both the acceptance and the offering of business courtesies, including gifts, by all employees of the municipality occur only within the ethical standards as prescribed by the municipality.

The municipality must further prescribe that gift with a monetary value exceeding a specific amount may not be accepted unless with the express consent of Top Management. All gifts received must be reported and recorded by the employee in the Disclosure Register which has been created and kept at the Human Resource Section. The register must be reviewed by the Municipal Manager and CFO on a quarterly basis.

#### 16. ADMINISTRATION

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The custodian of this policy is the Accounting Officer who is responsible for administration, revision, interpretation and application of this policy. It will be reviewed after every **3 years** and revised as and when required.

Approved at (Place) \_\_\_\_\_ Day of (Date) \_\_\_\_ On (month and Year) \_\_\_\_\_

MUNICIPAL MANAGER: \_\_\_\_\_

<b>FRAUD PREVENTION POLICY 2014-2017</b>	
<b>POLICY NUMBER: 8.3</b>	<b>ADOPTED BY COUNCIL DATE: 27 OCTOBER 2015</b>
<b>EFFECTIVE DATE: 1 JULIE 2014</b>	<b>REVIEW DATE: 26 APRIL 2016</b>
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