

UMZIMVUBU LOCAL MUNICIPALITY



UMZIMVUBU
— LOCAL MUNICIPALITY —

ANTI-FRAUD AND CORRUPTION POLICY

2023-2024

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1. DEFINITIONS

Throughout this document, unless otherwise stated, the words in the first column below have the meanings stated opposite them in the second column (and cognate expressions shall bear corresponding meanings):

Word	Meaning
“Code”	Code of Conduct for the Municipality
“Municipality”	Umzimvubu Local Municipality
ULM	Umzimvubu Local Municipality
“Senior Management”	Top management in terms of section 77 of the MFMA
“Fraud”	<i>Fraud</i> , i.e. "the unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another"
“RMC”	Risk Management Committee
AC	Audit Committee
MM	Municipal Manager of Umzimvubu Local Municipality
CFO	Chief Financial Officer
Employee	Means any employee of the municipality contractual or permanent.
“MFMA”	Municipal Finance Management Act, Act No. 56 of 2003
“Protected Disclosures Act”	Protected Disclosures Act, Act 26 of 2000
“MSA”	Municipal Systems Act, 32 of 2000
SAPS	South African Police Service

2. BACKGROUND

In terms of the Municipal Finance Management Act section 62 states that it is the responsibility of the Accounting officer to take all reasonable steps to ensure the municipality has and maintains effective; efficient and transparent systems of financial risk management and internal control. The Municipal Finance Management Act section 115 (1) (b) further states that the Accounting Officer of a municipality must take all reasonable steps to ensure that proper mechanisms and separation of duties in the Supply Chain Management System are in place to minimize the likelihood of fraud and corruption.

3. PURPOSE

The purpose of this policy is to articulate Umzimvubu Local Municipality philosophy on fraud prevention plan. This document details steps which have been and will continually be taken by the municipality to promote ethical conduct and address fraud and corruption. In addition to promoting ethical conduct within the municipality the plan is also intended to assist in preventing, detecting, investigation and resolution.

4. LEGISLATIVE MANDATE

The policy framework is in accordance with applicable legislation and any relevant policies and guidelines:

1. The Constitution of RSA (Act No. 108 of 1996 (hereafter referred to as the Constitution));
2. Protected Disclosure Act (Act No. 26 of 2000);
3. Prevention and Combating of Corrupt Activities (Act No 12 of 2004);
4. Municipal Finance Management Act (Act No.56 of 2003)
5. Municipal Systems Act (Act No. 32 of 2000)
6. Municipal Structures Act (Act No. 117 of 1998);
7. Municipal Supply Chain Management Regulations.
8. National Treasury Regulations

5. SCOPE OF THE ANTI-FRAUD AND CORRUPTION POLICY

5.1 This policy applies to all fraud, corruption, theft, maladministration, or suspected irregularities of this nature involving the following persons or entities:

- All employees of the municipality.
- Councillors

- Traditional Leaders
- Consultants, suppliers, contractors and other providers of goods or service to the municipality; and
- Non-Governmental Organizations and other parties receiving benefits from Umzimvubu Local municipality.

5.2 The policy shall be applied with due observance of the municipality's delegation of powers. Such delegations refer to delegations between the Municipal Manager and other responsible officials, the Council, and the mayor as well as between the Council and the Municipal Manager.

6. ANTI-FRAUD AND CORRUPTION POLICY STATEMENT

6.1 It is the policy of Umzimvubu Municipality that fraud, corruption, theft, maladministration, or any other dishonest activities of a similar nature will not be tolerated. In addition, these will be investigated and followed up by the application of all remedies available within the full extent of the law.

6.2 Fraud Risk Management will be practiced by Umzimvubu Municipality through a robust fraud risk assessment and application of appropriate prevention and detection controls as a response to a fraud risk assessment. The prevention and detection controls include the existing controls and checking mechanisms as prescribed in existing policies, procedures and other relevant prescripts to the activities of the municipality, and systems of internal control.

7. FRAUD; CORRUPTION; THEFT AND MALADMINISTRATION

7.1 Forms of fraud and corruption

7.1.1 Bribery

Bribery involves the promise; offering or giving of a benefit that improperly affects the actions or decisions of an employee. This benefit may occur to the employee or councillor; another person or entity.

7.1.2 Embezzlement

This involves theft of resources by persons entrusted with the authority and control of such resources

7.1.3 Fraud

This involves actions or behaviour by an employee; councillor or other person that provides a benefit that would not normally accrue to the person(s). Such fraud is frequently committed by persons who enjoy positions of trust or authority within the municipality; and may involve acts such as issuing falsified AFS or performance reports with the object of misleading council.

7.1.4 Extortion

This involves coercing a person or entity to provide a benefit to an employee, councillor or another person or an entity in exchange for acting (or failing to act) in a particular manner.

This involves an employee or councillor using his or her vested authority to improperly benefit another employee or councillors; persons or entity or using vested authority to improperly discriminate against an employee or councillor.

7.1.5 Conflict of Interest

This involves an employee or councillor acting or failing to act on a matter where the employee or councillor has an interest or another person or entity that stands in a relationship with the employee or councillor has interest.

7.1.6 Abuse of privileged information

This involves the use of privileged information and knowledge that an employee or councillor possesses because of his or her office to provide unfair advantage to another person or entity to obtain a benefit; or to accrue a benefit to him/herself.

7.1.7 Favouritism

The provision of services or resources according to personal affiliation.

7.1.8 Nepotism

A public servant ensuring that family members are appointed to the public service positions or that family members receive contracts from the state.

These manifestations outlined above are by no means exhaustive; any other legislation that may be applicable as fraud and corruption appears in many forms and it is virtually impossible to list all of these.

7.2 ACTIONS CONSTITUTING FRAUD, CORRUPTION, THEFT AND MALADMINISTRATION

The actions constituting fraud corruption, theft and maladministration refer to, but not limited to the following:

7.2.1 Any dishonest, fraudulent, or corrupt act

7.2.2 Theft of funds, supplies or other assets

7.2.3 Maladministration or financial misconduct in handling or reporting of money or financial misconduct in handling or reporting of money or financial transactions

7.2.3 Making profile from inside knowledge

7.2.4 Deliberately and dishonestly altering document, records or vouchers for financial gain; creating false invoices or credit notes, creating fictitious suppliers accounts, creating false purchasing items for private use on the municipality's accounts, false disbursement claims, approving unauthorised deliveries and/or creating ghost employees on payroll.

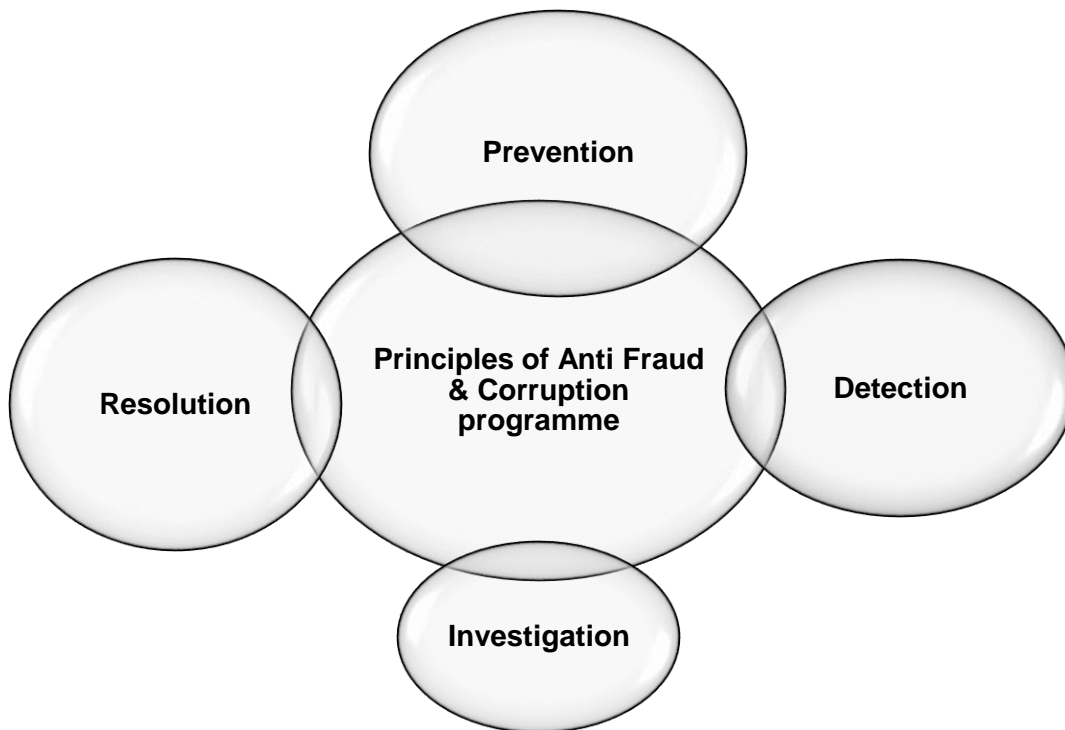
- 7.2.5 Irregular accepting, requesting or offering anything of a material value from contractors, suppliers or persons providing goods/ services to the municipality. Or special favours or concessions to clients/ suppliers in exchange for remuneration in the form of cash or other benefit
- 7.2.6 Destruction, removal, or abuse of records furniture and equipment,
- 7.2.7 Deliberately omitting to report or act upon reports of any such irregular or dishonest conduct
- 7.2.8 Acts of financial misconduct contemplated in terms of MFMA section 173 to 173
- 7.2.9 Any similar or related irregular as prescribed by the Prevention and Combating of Corrupt Activities Act, the MFMA and other applicable legislation.
- 7.2.10 Disclosing confidential or proprietary information to outside parties

8. PRINCIPLES OF THE ANTI-FRAUD AND CORRUPTION POLICY

The following **principles** underpin the anti-fraud and corruption policy of Umzimvubu municipality:

- Creating a culture which is intolerant to fraud (zero tolerance);
- Deterrence of fraud.
- Preventing fraud which cannot be deterred.
- Detection of fraud.
- Investigating detected fraud.
- Taking appropriate action against fraudsters e.g. disciplinary action, recovery of losses, prosecution, etcetera; and
- Applying suitable sanctions which include blacklisting and prohibition from further employment or engaging in business with the Umzimvubu municipality or any government organ/institution or public entity.

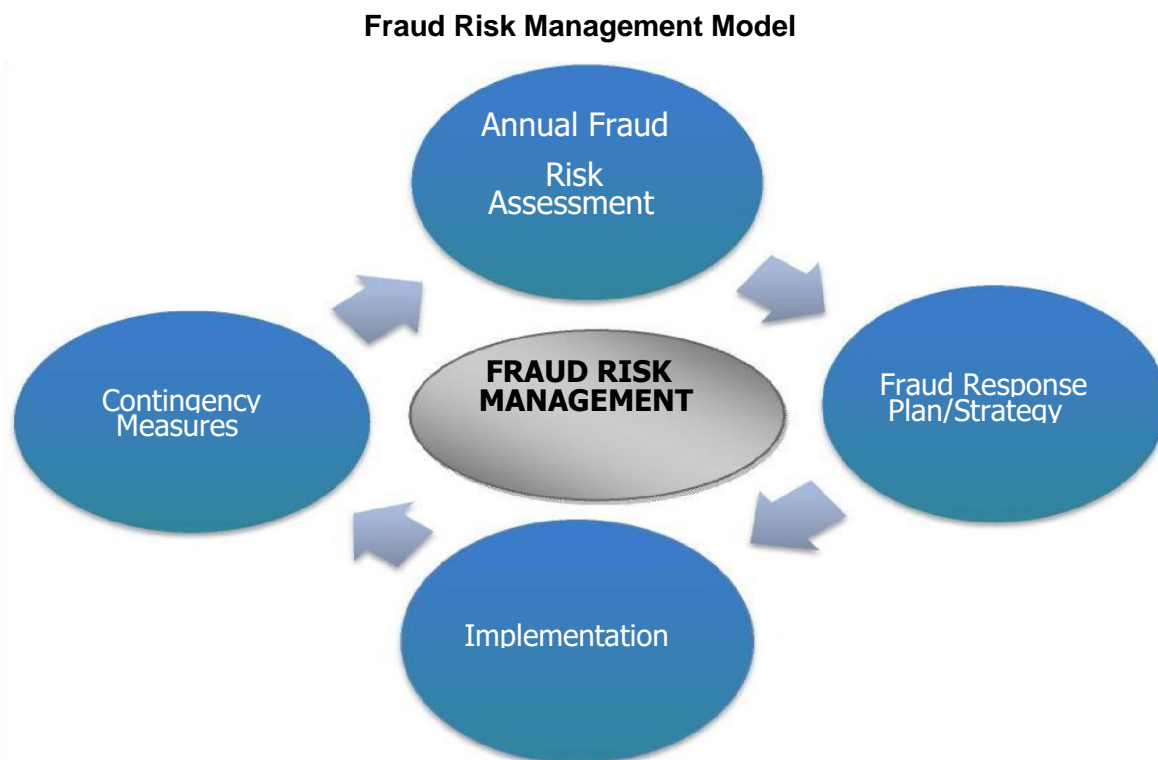
These principles are further explained by the diagram below:



8.1 Prevention

- Appropriate prevention and detection controls will be applied, these shall include the existing controls such as policies and procedures and systems of internal control that have been put in place to mitigate fraud risks, with particular emphasis on the areas of greatest vulnerability.
- The councillors of Umzimvubu Municipality will, at all times and for the duration of their term of office, uphold high levels of integrity and ethics in the execution of their political, fiduciary and oversight responsibilities and will always maintain a zero tolerance level for fraud and corruption.
- All councillors & employees shall make declaration on interest regarding conflict of interest and also all employees that sit on bid committees shall for each bid sign declaration of interest.
- The supply chain management shall ensure that prior any procurement is made the suppliers have completed and signed the declaration of interest and all supply chain mandatory declarations.
- In induction of new employees an awareness on matters relating to fraud and corruption shall be made and each employee receive a copy of code of conduct.
- Fraud risk assessment is a pre-requisite to the prevention of fraud in order to ensure appropriate policies and procedures are implemented. The process will entail the identification of fraud risks, the rating of each fraud risk identified, the development of a fraud response plan where areas prone to

fraud risk are not adequately safeguarded and contingency planning. To enable this process a fraud risk management model will be used.



The illustration of the model is that, Umzimvubu municipality will perform the following activities annually in managing their exposure to fraud risks.

8.1.1 Fraud Risk Assessment

- On an annual basis a fraud risk assessment will be conducted by management of the municipality with a view to identifying areas that are prone to fraud inherent fraud risks any fraud that has occurred but not reported. Such an assessment will be conducted either by way of a Strategic Fraud Risk Assessment Questionnaires (SFRAQ) or through a risk assessment workshop (Enterprise Risk Management).
- A fraud risk register will be maintained for this purpose and integrated into the global risk register of the municipality for adoption review by the Audit Committee and approval by Council.
- The risk assessment is a pre-requisite to the prevention of fraud in order to ensure appropriate policies and procedures are implemented. Risks are considered in three main categories:
 - a) personnel risk
 - b) structural/physical risks

c) operational/financial risks

- Differing risk environments in which Umzimvubu municipality operates will be taken into consideration because in some environments the level of risk may be higher and thus require more rigorous mitigation measures than in other environments.
- In identifying and assessing risk areas, particular attention will be placed on personnel risk. Research indicates that most frauds are committed by people within an organization and that the biggest frauds are committed by the most trusted employees. Fraud can also be committed by an individual or a group outside an organization, with the assistance of employees. In other words, collusion is often present.

8.1.2 Fraud Response Plan/Preventive Measures

- Following risk assessment, measures are put in place to mitigate the risks identified, with particular emphasis on the areas of greatest vulnerability. The mitigating action plans will be signed-off by the Accounting Officer (Municipal Manager) of Umzimvubu municipality.
- Preventive measures address risks as well as the internal control measures that concern segregation of incompatible duties and other related matters that form a key element of fraud risk mitigation. Examples include policies and procedures in the areas of human resource management, financial management, contracting, and procurement are specifically designed to reduce the risk of fraud.

8.1.3 Implementation and Monitoring

- It will be the responsibility of all senior managers and councillors including employees to ensure that the response plan is implemented. The actions captured in the fraud response plan will be documented in the fraud risk register and monthly monitoring of the plans will be conducted by risk management office and reported at management meetings, risk committee, quarterly to Audit Committee and Council.

8.1.1.4 Contingency Measures

- Contingency measures are necessary to ensure that corrective actions are taken should the municipality experience a fraud. Contingency measures include, inter-alia, procedures regarding the reporting of suspected fraud, procedures regarding evidence, dealing with the suspected fraudster, reporting the incident to the relevant authorities, dealing with the media, and recovering of funds and property these have been dealt with in the sections below.

- Reported fraud will be investigated in accordance with the applicable laws, regulations, and policies of the Republic of South Africa. All responsible elements will be brought to book in strictest of terms.

8.2 Detection

The management of ULM is responsible for monitoring all transactions and processes under their control to ensure that nonprocedural/ corrupt activities are detected.

7.2.1 Internal reporting / whistle blowing

It is the responsibility of all Councillors, management, and ULM employee/s to report all incidents of fraud, corruption, theft, maladministration, and other suspected irregularities of this nature. The reporting may be conducted according to the following:

- a) Employees must report directly to the immediate supervisor, if not comfortable may report the matter to his/her manager's superior, with final recourse to the Chief Financial Officer or Municipal Manager
- b) The Councillors may report directly to the Municipal Manager or CFO
- c) The incident may also be reported anonymously through to the National Anti -Corruption hotline 0800 701 701.
- d) The reporting must be done telephonically immediately after discovery of such an incident by the Manager to the Municipal Manager
- e) The telephonic report must be followed by a detailed written report to be submitted within 24 hours of the discovery of such an incident to the Municipal Manager.
- f) The Municipal Manager shall immediately report all incidents of fraud, corruption, theft, maladministration, and other suspected irregularities of this nature to the chairperson of the Audit & Performance Committee and Council.
- g) If the reported matter could lead to the laying of criminal charges the Municipal Manager shall report within 24 hours to the South African Police Services (SAPS).

8.3 Investigations

- a) A preliminary investigation will be conducted for all reported or suspected fraud and appropriate action will be taken.
- b) The designated investigation officer/s shall have full, free and prompt access to all records, property, personnel, operations and functions within the municipality which are relevant to the subject matter under review.

- c) Staff members have the duty to cooperate with any investigation and assist investigators. No reprisal shall be taken against staff members providing information on irregular activity unless it was wilfully provided with the knowledge that it was false or with intent to misinform.
- d) The investigation officers or the designated nominee has a responsibility to take great care in the investigation of suspected fraudulent activities and will fully respect staff rights.
- e) An investigation report will be prepared for the attention of the Municipal Manager and Council of Umzimvubu municipality for decision-making and application of the relevant sanction/s as per this policy.
- f) Where an employee is alleged to have committed an act of fraud, corruption, theft, or maladministration the immediate supervisors and heads of departments must institute disciplinary proceedings, within a reasonable period, in terms of the disciplinary code and procedures of the municipality.
- g) The responsibility to conduct investigations resides with the Municipal Manager Senior Managers of Umzimvubu municipality or the designated subordinate as well advisory and supporting institutions which may include internal auditors, external investigating agencies i.e. SAPS, external consultants i.e. forensic Accounting consultants, Public Protector and Special Investigating unit.

8.4 Resolution

- a) The municipality shall ensure the timely, fair, and complete resolution of all incidents of fraud and corruption.
- b) As soon as disciplinary hearings concerning charges of financial misconduct are completed, the outcome must be reported within 48 hours to the Municipal Manager:
 - The name and position of the employee against whom proceedings are instituted.
 - The disciplinary charges, indicating the nature of the misconduct the employee is alleged to have committed.
 - The findings of the disciplinary hearing.
 - Any sanction imposed on the employee; and
 - Any further action to be taken against the employee, including criminal charges or civil proceedings.
- c) The Municipal Manager is also required to ensure that losses or damages suffered by the municipality because of an act committed or omitted by an employee must be recovered from such an employee if he/she is liable in law.
- d) The Municipal Manager must determine the amount of the loss or damage and, in writing request that employee to pay the amount within 30 days or in reasonable instalments.
- e) If the employee fails to comply with the request, the legal process will then be initiated by the Municipal Manager.

- f) A register of all reported cases of fraud and investigations will be maintained by management and will form part of reporting to the Risk Management Committee, Audit Committee and Council and any other relevant stakeholders.

9. REVIEW OF PREVENTION CONTROLS AND DETECTION MECHANISMS

In all instances where incidents of fraud, corruption, theft, maladministration, and other similar irregularities of this nature take place, all Senior managers are required to immediately review the controls which have been breached in order to prevent similar irregularities from taking place in future, within a period of 48 hours after the occurrence of the initial incident. The Risk Management and Internal Audit Unit should be contacted for assistance in this regard.

10. PROTECTED DISCLOSURES

10.1 Protection of Whistle Blowers

- a) The Protected Disclosures Act, 26 of 2000 makes provision for the protection of employees who makes a disclosure that is protected in terms of this Act.
- b) Any disclosure made in good faith and substantially in accordance with any procedure prescribed by the employee's employer for reporting is considered a protected disclosure under this act. An employee making such a protected disclosure is protected from being subjected to an occupational detriment on account of having made a protected disclosure.
- c) An employee who suspects or reports suspected dishonest activity or such activity which he/she has witnessed should be afforded the opportunity to remain anonymous should he/she so require.
- d) The Municipality recognizes that employees or councillors will be concerned about potential victimization; recrimination and even threats to their personal safety because of disclosing such fraudulent and of corrupt activities. The municipality shall provide measures to protect the information and the identity of the person

10.2 Confidentiality

- a) All information relating to irregularities that is received and investigated by Managers will be treated confidentially. The progression of investigations will be handled in a confidential manner and will not be disclosed or discussed with any other person(s) other than those who have a legitimate right to such information. This is important to avoid harming the reputations of suspected persons who are subsequently found innocent of wrongful conduct.
- b) No person is authorized to supply any information regarding the issues covered within this policy to the media without the express permission of the Municipal Manager or council delegate for this purpose.

10.3 Harassment

- a) The municipality shall not tolerate harassment or victimization and shall take action to protect employees or councillors when they report an irregularity in good faith.
- b) Any act of harassment or victimization should be reported in line with the reporting protocol of the Municipality.

10.4 False Allegations

- a) Employees and Councillors must understand the implications (resources and cost) of undertaking investigations and should therefore guard against making allegation, which are false and made malicious intent.
- b) If during the investigation it should be found that the allegations made malicious intent such allegations shall be treated in a very serious light. The employee concerned must be subjected to a disciplinary enquiry and in case of Councillor Code of conduct for Councillors shall be applied.

11. ROLES AND RESPONSIBILITIES

To help ensure that the municipality's fraud risk management program is effective, it is important to understand the roles and responsibilities that personnel at all levels of the municipality have with respect to fraud and corruption. The following role players are imperative to effective fraud risk management:

- Council
- Audit committee
- Municipal Manager
- Management
- Employees
- Internal audit
- Risk Management

Council

Council is responsible for setting the tone at the top by:

- Considering and adopting the anti-fraud and corruption policy of the municipality
- Annually reviewing and amending where necessary the anti- fraud and corruption policy.
- Perform oversight functions that support the implementation of the fraud and corruption policy of the municipality
- Consider reports from the Municipal Manager on fraud risks, policies, and control activities, which include obtaining assurance that the controls are effective. Council also should establish mechanisms to ensure it is receiving accurate and timely information from management, employees, internal and external auditors, and other stakeholders regarding potential fraud occurrences.
- Acting in an ethical and responsible manner and abide by the code of conduct of the municipality.

Audit Committee

The Audit Committee (AC) is appointed by Council as prescribed in Section 166 of the MFMA, No 56 of 2003. The AC shall be responsible for:

- Performing oversight role through continuous monitoring and assessment of fraud risk within the municipality.
- Advising the municipal council, political office bearers, the Municipal Manager and management on matters relating to good governance, fraud and corruption.
- Must ensure that the internal and external audit strategies are geared towards addressing fraud risks, i.e. testing of internal controls relating to fraud risks is part of the audit approach.
- Review the anti- fraud and corruption policy and recommend for approval by Council.
- Must discuss the Auditor-General's approach to detect fraud as part of the financial statements audit. The Audit Committee must also provide the Auditor-General with any suspected fraud for integration in the audit approach during the audit of financial statements.
- Must ensure that Auditor-General's approach to the audit of financial statements is such that it provides, to council, reasonable assurance that the financial statements are free of material misstatements caused by either fraud or error.

Municipal Manager

The Municipal Manager is responsible for ensuring that the policy is implemented within the municipality by:

- Ensuring that the municipality develops and implements the anti- fraud and corruption policy.
- Establish the Fraud and Corruption Committee/ Risk Committee

- Ensure that Councillors and employees receive training or awareness sessions on the anti-fraud and corruption policy.
- Oversee the implementation of prevention, detection investigation and resolution measures in respect of fraud and corruption are within the municipality
- Abide by the code of conduct of the municipality
- Reporting to the Council on what actions have been taken to manage fraud risks and regularly reporting on the effectiveness of the fraud risk management program. This includes reporting any remedial steps that are needed, as well as reporting actual frauds.

Management

Management has the overall responsibility for the design and implementation of a fraud risk management program, including setting the tone at the top for the rest of the municipality. As mentioned, the municipality's culture plays an important role in preventing, detecting, and deterring fraud. The management is responsible for the following:

- Implementing adequate internal controls and appropriate systems and process to prevent fraud and corruption.
- Report incidences or suspicious fraud and corruption activities
- Participate in annual fraud risk assessment conducted with strategic risk assessments
- Share the municipality's policy for fraud and corruption with their sub ordinates
- All managers are responsible for the detection, prevention and investigation of fraud, corruption, theft, maladministration, or any dishonest activities of a similar nature, within their areas of responsibility.

Employees

Strong controls against fraud are the responsibility of everyone in the municipality. All levels of employees including management, should:

- Have a basic understanding of fraud and be aware of the red flags.
- Understand their roles within the internal control framework. Staff members should understand how their job procedures are designed to manage fraud risks and when non-compliance may create an opportunity for fraud to occur or go undetected.

- Read and understand policies and procedures (e.g., the fraud and corruption policy, code of conduct.), as well as other operational policies and procedures, such as supply chain management policy, employment policy.
- Report incidences or suspicious fraud and corruption activities
- Participate in initiatives to prevent, minimise, detect and investigate fraud.
- Avoid conflict of interest.

Internal Audit

Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes." In relation to fraud, this means that internal auditing provides assurance to the Council and to management that the controls they have in place are adequate and effective. In relation to this definition, internal auditors are responsible for the following in relation to fraud:

- Provide an objective review of fraud risks identified by management as well as assurance, to management and council that internal controls relating to fraud risks are adequate and are functioning effectively.
- Include the municipality's assessment of fraud risks as part of the risk-based internal audit plan including management's capabilities for fraud risk management.
- Maintain ongoing communication with those responsible for risk assessments to ensure that fraud risks are considered appropriately.
- Must exercise scepticism when carrying out their internal audit work and be on guard for any fraud.
- The internal audit charter must include internal audit responsibilities in relation to fraud, and these may include, *inter-alia*, the following:
 - Initial or full investigation of alleged fraud.
 - Analysis of root causes
 - Control improvement recommendations
 - Monitoring of reporting/whistle-blowing hotline o
 - Provision of ethics training
 - Maintain sufficient skills and competencies in relation to fraud i.e., investigation techniques, laws, knowledge of fraud schemes etc.

Risk Management

One of the objectives of risk management is to provide a sound basis for integrated risk management and control as components of good corporate governance and ensure that specific risks such as fraud risks are effectively managed. Therefore, risk management shall:

- Conduct fraud and corruption risk assessments and susceptibility assessments to identify and address high risk areas.
- Facilitate presentations and working session’s relating to fraud and corruption risks to promote awareness and the ethics and integrity standards required by the municipality.

12. TRAINING, EDUCATION AND AWARENESS

It is the responsibility of Municipal Manger and Heads of departments to ensure that all employees receive appropriate training and education regarding this policy.

13. PENALTIES

Non – compliance to any of the stipulations contained in this policy will be regarded as misconduct and will be dealt with in terms of the Disciplinary Code implemented by the Umzimvubu Local Municipality.

14. POLICY REVIEW

This Policy shall be reviewed annually to reflect the current stance on fraud prevention and management.

15. ADOPTION OF THE POLICY

Recommended by Municipal Manager

Signature: _____ Date: _____

Speaker

Signature: _____ Date: _____

Council Resolution:

