

# ANNEXURE J.9



## ANTI CORRUPTION STRATEGY

**MERAUFONG CITY LOCAL MUNICIPALITY**

## CODE OF ETHICS

### 1. SCOPE

- The purpose of the Business Code of Ethics is to support MCLM vision and values by informing employees of acceptable and unacceptable conduct. It seeks to embody the spirit of our conduct and behaviour in terms of fairness, justice and ethical standards and to ensure that the integrity of MCLM is not compromised.
- Each employee will be expected to apply sound judgment in deciding on the most ethical means of dealing with any given situation involving customers, competitors, and suppliers, the public, fellow employees and council matters in general. Personal ethics establish credibility and true leadership. Whenever we find ourselves with a hard or difficult decision to make, we should seek advice from our supervisor and or manager.
- c. The Council is obliged to take appropriate disciplinary action whenever any conduct is regarded as unacceptable according to its norms, policies and procedures. Therefore, violation of any part of the Code of Ethics could result in disciplinary action up to and including dismissal and civil prosecution.

### 2. REFERENCE DOCUMENTATION

All Council policies and procedures as amended from time to time.

### 3. DEFINITIONS

#### 3.1 Assets:

An asset is any moveable, immovable or incorporeal thing, or any right and entitlement in a personal or any other legal right.

#### 3.2 Business courtesy:

A business courtesy is a gift or favour from a person or a firm, regardless of whether a business relationship exists between MCLM and that person or firm, for which fair market value is not paid by the recipient. A business courtesy may be a tangible or an intangible benefit, such as non monetary gifts, meals, drinks, entertainment hospitality, recreation, attendance prizes, transportation, discounts, tickets, passes, promotional items or the use of a donor's time, materials or equipment.

### **3.3 Code of Ethics:**

A set of rules aimed at governing the conduct and relations of a certain group of people belonging to the same professional, cultural, social status, that have a collective interest in respect of their employment environment, or that are remunerated by an employer for services rendered or for a job, etc.

### **3.4 Conflict of interest:**

A conflict of interest arises where employees have a personal interest that could be seen to have the potential to interfere with their objectivity in performing their duties or exercising their judgment on behalf of MCLM. Any such personal interest on the part of an employee, or member of his/her family, is not permitted unless formally approved in writing by senior management.

### **3.5 Competitor:**

A competitor to MCLM is any person or entity, which renders the same or very similar services or supplies the same or similar products in any one or a number of business environments. Business partners could be competitors that partner with MCLM in certain situations under various partnership agreements. We should be aware and sensitive of competition, which is competing in one area but cooperating in another.

### **3.6 Customers:**

A person or entity to which MCLM provides a service or product. This may, in certain instances include potential customers who are therefore to be included in the contemplation of any behaviour towards such individuals or entities. In some cases customers may also be suppliers to MCLM or competitors and this must be borne in mind when disclosing information.

### **3.7 Diversity:**

In terms of the value statement that MCLM values the cultural diversity of its employees it means that MCLM has noted that its employees originate from numerous cultural groupings. The Council acknowledges this fact and takes it into cognizance in the treatment of its employees. The same will apply in respect of MCLM view and manner towards its customers.

### **3.8 Ethics:**

Refers to standards of conduct, which indicate how to behave, based on moral duties and virtues arising from principles about right and wrong. Ethics involve two aspects namely the ability to distinguish right from wrong and the commitment to do what is right.

### **3.9 Gift:**

A gift includes any item, service, benefit or courtesy received worth more than R 300, including money, free meals, vacations and recreation, accommodation and discount on any goods or service for personal use at a rate that is not available to the general public.

### **3.10 Proprietary information:**

Proprietary information is information held by a person or entity concerning the business processes, sales forecasts, customer lists or potential customer information, etc which is regarded as being of confidential nature and belongs to and is owned by the Council.

### **3.11 Premises:**

MCLM premises refer to any and all buildings, structures; vehicles etc. that are in any form owned or used by MCLM. This includes rental vehicles that are paid for by MCLM.

### **3.12 Relations or family members:**

Family members are regarded as an employee's spouse/life partner, children adopted children, own parents, adoptive parents, parents-in-law, parents of life partners, grandparents, grandchildren and siblings.

### **3.13 Suppliers:**

Suppliers are persons or entities that provide products or render services of any nature to MCLM. In many cases Suppliers are also Customers.

### **3.14 Trading assistance:**

The provision of specialised and or confidential information that the employee has by virtue of his employment with MCLM.

### **3.15 Vendors:**

Vendors are suppliers to MCLM.

## **4. DEALING WITH CUSTOMERS**

### **4.1 Customers**

MCLM recognizes that integrity and customer satisfaction are inextricably intertwined. It is therefore imperative that information provided to customers is clear, factual, correct and timeous. Commitments made to customers must at all times be honored. If commitments cannot be honored feedback must be given to the customer within agreed upon time frames or organizational guidelines.

### **4.2 Privacy of customer communications**

- 4.2.1 Privacy of customer communication is fundamental to MCLM integrity in the communications business.
- 4.2.2 Except when compelled by law, or in the normal course of performing repair, isolation of trouble, installation or preventative maintenance. (All this work requires an authorized job or work document such as a fault report; service order/request, routine maintenance document), MCLM does not -
  - Disclose customer information to any unauthorized persons;
  - Tamper with any device;

### **4.3 Business Dress**

4.3.1 Employees must ensure that when they have direct contact with customers they are not to be dressed in such a manner or wear clothing that may offend the customer or compromise health and safety standards.

## **5. DEALING WITH EMPLOYEES**

### **5.1 Respect for the individual**

5.1.1 Mutual understanding is built on respect for the individual's rights, dignity, aspirations and interests. We therefore treat each other with respect and dignity, whilst valuing diversity. MCLM is committed to the provision of a work environment that is free from discrimination based on race, colour, religion, nationality, gender, disability, marital status, sex, pregnancy, ethnic or social origin, birth, age, colour, sexual orientation or any other unlawful factor. This means that we comply with applicable human rights legislation and do not permit conduct that creates an intimidating or offensive work environment. Such conduct includes, but is not limited to racist, sexist or ethnic comments, statements, material, jokes, harassment or being in possession of or reading pornographic literature, photographs or material. Such conduct may result in disciplinary action, up to and including dismissal.

**5.1.2** MCLM prohibits all forms of sexual harassment. All employees are responsible for assuring that the workplace is free from sexual harassment. Such conduct may result in disciplinary action, up to and including dismissal.

**5.1.3** MCLM places a high premium on the privacy of the individual. We are therefore committed to keep personal information regarding our employees truly confidential. Access to and knowledge of employee records will be limited to people in the Council who need the information for legitimate business or legal purposes.

## **5.2 Safe working environment**

**5.2.1** MCLM is totally committed to making the work environment safe and healthy for all its employees and customers, contractors and suppliers. To this end, the Council strives to comply with all applicable legislation relating to occupational health and safety as well as environmental management and conservation.

**5.2.2** MCLM is deeply concerned with the safety of its employees. Physical violence or any perceived threat of violence shall be dealt with severely. Any employee who has any knowledge of prohibited conduct or has concerns regarding his/her safety or the safety of a colleague, customer or supplier must immediately report these concerns to a supervisor. The supervisor must take appropriate action.

**5.2.3** All employees carrying private firearms must declare their firearms at Security. Employees carrying firearms are at all times fully responsible and accountable for the firearm. The carrying and safeguarding of the firearms must at all times be strictly in accordance with the stipulations of the Arms and Ammunition Act and Council policy. The unauthorized possession of any weapon or implement that might be used as a weapon, including but not limited to a firearm, knife or explosives is strictly prohibited on Council premises, in Council vehicles or while conducting Council business.

## **5.3 Substance abuse**

**5.3.1** MCLM is committed to a drug-free workplace. The misuse of illegal drugs or alcohol while on Council premises or while conducting Council business is prohibited. MCLM specifically prohibits the use, possession, distribution or sale of drugs on its premises, in its vehicles and while conducting Council business. Furthermore, no employee may conduct MCLM business while under the influence of drugs or alcohol. Any transgressions in this regard shall be dealt with in accordance with the disciplinary code.

## **5.4 Conflict of interest**

- 5.4.1** It is an employee's duty to act in the exclusive interest of the Council and not for personal gain. Conflict of interest may arise from certain activities in which employees engage in as private individuals. MCLM requires of employees to never allow business dealings on behalf of MCLM to be influenced - or even appear to be influenced - by personal or family interests.
- 5.4.2** Employees may not enter into any business relationships with competitors, not own a competing business or offer trading assistance i.e. the provision of specialized and or confidential information that the employee has by virtue of his/her employment with MCLM, to any person or body outside MCLM including family or friends.
- 5.4.3** Employees may not have a material interest (financial or otherwise) in a supplier, competitor or in any organization that could cause a conflict of interest. Non-public information about MCLM or any other Council may not be used for an employee's own benefit or disclosed to anyone outside the Council. No employee may under any circumstances whatsoever procure a personal loan from a competitor or supplier except if such supplier is a commercial bank or registered financial institution.
- 5.4.4** Employees are required to declare in writing to their promoter whether they, their spouse/partner or a close family member have a direct or indirect material interest in an undertaking that either competes with MCLM or renders services or supplies products to MCLM. Employees are responsible for declaring, in writing, any changes in circumstance to their promoter.
- 5.4.5** A conflict of interest can be encountered where an employee works for monetary gain for another or himself in addition to his MCLM responsibilities. Employees will not engage in any activity nor perform outside work (a second job) outside their scope of activities in MCLM without the Council's permission (this includes directorships on boards, consultancy, etc.). Employees may not perform such outside work or solicit business while on MCLM premises or in MCLM time, nor may MCLM equipment, materials, resources or proprietary information be used for any outside work.
- 5.4.6** Should a MCLM employee's spouse/partner, another member of his immediate family, be a competitor or supplier that poses opposition to MCLM in so far as the marketing of telecommunication services or products is concerned, the best course of action is for the employee to review the particular situation with management with a view to resolve any conflict that may arise.
- 5.4.7** Should a MCLM employee's spouse/partner, another member of his immediate family, be a service provider or supplier or in their employment, and the employee has direct dealings with the service provider or supplier, management should be informed immediately in writing, with a view to resolve any conflict that may arise.

## **5.5 Business courtesies/gifts, invitations and favours**

- 5.5.1** Invitations to local sporting events, the theatre, group invitations extended to employees to attend year-end functions organized by customers or suppliers and similar functions from existing customers and suppliers extended as a courtesy during the normal course of business, are not to be accepted without approval at Managing/Group Executive level. Any employee involved in decision-making during the procurement process may not accept invitations of any nature.
- 5.5.2** Acceptance of a meal, refreshments, or other hospitality in the normal course of business relations is ordinarily not considered as being capable of influencing actions or as giving the appearance of being capable of influencing actions and as such is permitted as a courtesy and when practical should be on a reciprocal basis.
- 5.5.3** Never accept money. No gift, present or any favour that is valued at more than R300 should under any circumstances be accepted, including seasonal or congratulatory gifts or presents as well as gifts for promotional purposes. Receiving any gift should be discouraged.
- 5.5.4** Gifts, presents or favours which by themselves are valued at not more than R300, but by virtue of the frequency with which they are being offered have a cumulative effect, over a period of 6 months, in excess of R300 must be declined.
- 5.5.5** Any personal favours that are offered to an employee or to a family member that could be construed to influence business decisions by the employee must be declined.
- 5.5.6** Where unsolicited gifts or presents are delivered to an employee, he/she must return such gift to the donor with an appropriate explanation of the Council policy. Where the goods delivered are perishables, these should be donated to charity and the appropriate explanation on Council policy as well as the action taken, communicated to the donor.
- 5.5.7** Where, for reasons of cultural sensitivity, it is considered inappropriate to return gifts or presents which are not permissible in terms of this policy, such goods must be donated to charity and the donor should diplomatically be advised of the action taken and the reasons for such action.
- 5.5.8** All gifts, meals, refreshments, or other hospitality offered whether accepted or returned by the employee must be declared in a gift register, which is maintained, by the employee's immediate Line Manager.
- 5.5.9** The above provisions apply to all employees at all times, even if the employee is on vacation at the time the offer is made.

## **5.6 Employees giving evidence in court**

**5.6.1** Employees who are subpoenaed to give evidence in court in any legal proceedings (i.e. the High Court, Magistrates Court, Arbitration etc.) regarding any matter involving and or related to MCLM business operations, should firstly refer it to their Line Manager who will consult with Legal Services and in the case of labour related matters the Employee Relations Manager.

**5.6.2** In order to be properly mandated and advised on the issues required to be disclosed in the subpoena, an employee who is subpoenaed to testify and or to provide information on evidence, as referred to above, represents MCLM in the matter, and as such any employee who testifies and or provides information as such without consulting with their Line Manager and Legal Service/Labour Relations will be subjected to disciplinary actions which may include dismissal.

## **5.7 Fraudulent or unlawful conduct**

**5.7.1** Any suspected fraudulent conduct must be identified and investigated promptly.

**5.7.2** Fraudulent or unlawful conduct committed on or off the job may be grounds for disciplinary action up to and including dismissal.

**5.7.3** Employees should report improper conduct or dishonest acts on or off the job to their Line Manager who will consult with Legal Services and in the case of labour related matters the Employee Relations Manager.

## **5.8 Patent rights**

**5.8.1** If an employee at any time during his employ in MCLM makes an invention or discovery that is related to a product or service of the Council, it will be regarded as the exclusive property of MCLM, irrespective of whether it has been developed during or outside working hours.

**5.8.2** The employee concerned should immediately inform the Council of such invention or discovery furnish full particulars thereof and make available relative documentation and models. He must also, on request of MCLM and at Council expense, do everything necessary and sign all documentation that may be required to transfer all his rights in respect of the invention or discovery to the Council and to obtain all patents or rights in the Republic of South Africa or any other country as required by MCLM in its own discretion.

**5.8.3** However, the possibility may also be investigated of MCLM taking the initiative to obtain joint patent rights with the inventor at Council expense, in which case an agreement must be concluded regarding the division of profits.

**5.8.4** If the invention or discovery is not related to a product or service of the Council, the employee may obtain patent rights at his own expense. He may be permitted to retain the profits that may accrue to him from that source, after he has a signed agreement from his line manager authorizing this.

## **6. DEALING WITH SUPPLIERS**

### **6.1 Selection of suppliers**

**6.1.1** MCLM is committed to the principle of honest and transparent dealing with suppliers. All business relationships between MCLM and its suppliers will be conducted in accordance with the guidelines based on internationally accepted standards and ethical business conduct. MCLM is committed to the highest standards of integrity and any employee transgressing the principles embodied in the Business Code of Ethics will be dealt with in accordance with the disciplinary procedures up to and including dismissal.

**6.1.2** Selection of suppliers will be done on a level playing field applying fair, legally sound, equitable, consistent and transparent procurement processes and in accordance with the policies, processes and procedures as well as work instructions that regulate the selection of suppliers.

**6.1.3** No verbal or written commitments can be made to any supplier for equipment, material or services without working with MCLM Procurement Services Organisation.

### **6.2 Marketing of products on MCLM premises**

**6.2.1** For security, operational and practical reason, representatives of outside organisations, members of the public as well as MCLM employees, may under no circumstances be allowed to market or sell their products – be it insurance policies, housing loan schemes, funeral benefits schemes, medical aid schemes, merchandise, etc. on MCLM premises.

## **7. DEALING WITH COMPETITORS**

### **7.1 Competitors**

**7.1.1** It is inevitable that employees of MCLM and its competitors as well as potential competitors, will meet, talk and attend the same business meetings from time to time. In all contacts with competitors the general rule is to avoid discussing matters such as pricing policy, terms and conditions, costs, product plans, market surveys or studies, business plans or any other proprietary or confidential information.

## **7.2 Competition laws**

**7.2.1** It is MCLM policy to comply fully with competition laws, not only in South Africa, but also throughout the world. MCLM generally prohibits the following actions:

- Making agreements or reaching understandings with competitors to set minimum or maximum prices or any term of sale affecting price, to allocate customers, products, services or territories, or to set the supply or production levels for any product or service.
- Making agreements or reaching understandings with competitors not to deal with any customer, supplier or competitor or any group of customers, suppliers or competitors.
- Dictating the resale prices of MCLM products or services offered by independent distributors or other resellers.
  
- Employees can help by adhering to the Council's business ethics guidelines in this document by being sensitive to the possibility of legal concerns under competition laws and by raising any such concerns with their supervisor/manager.

## **7.3 Information about competitors**

**7.3.1** Gathering information about competitors is a legitimate business activity when it is done legally and ethically. It broadens our knowledge of the marketplaces in which we operate and helps us understand and meet customer needs.

**7.3.2** However, proprietary information of competitors should never be obtained - directly or indirectly - by improper means such as misappropriation of confidential information, bribing a competitor's employee or misrepresenting the fact that you are a MCLM employee. There are also other ways competitive information could come to your attention such as when you are attending trade shows or other types of meetings with competitors. In such cases employees should not engage in any discussions with competitors about pricing, profit margins or costs, bids, terms or conditions of sale, sales territories, market share, distribution practices or other competitive information.

**7.3.3** Obtaining proprietary information about competitors through improper means could have negative consequences such as embarrassing publicity or damaged customer relationships. It could also subject MCLM and its employees involved to substantial monetary damages and criminal penalties and will lead to disciplinary action.

**7.3.4** It is prohibited to use the information acquired in the course of providing services to competing service providers/operators inappropriately, such as providing the information to other competitors of the customers, for personal gain and using the information to solicit the end customers of the said service provider/supplier/operator.

## **8. DEALING WITH THE MEDIA AND GOVERNMENT AND REGULATORS**

**8.1** Contact and co-operation with the media, government and regulators is extremely important to our Council. It is therefore necessary that we handle this relationship in a professional manner.

**8.2** The Group Executive: Corporate Communication is responsible for handling media matters in the Council. No employee should therefore deal directly with the media without consultation with, or the support of the Corporate Communication Group.

**8.3** Employees, who are approached by the media, should refer them to Corporate Communication immediately.

**8.4** The Group Executive: Government and Regulatory Relations is responsible for handling regulatory and government policy matters, (except of sales and customer service) for the Council. No employee should approach Government and the Regulator without the sanction of Government and Regulatory Affairs Service Organisation.

## **9. DEALING WITH STAKEHOLDERS**

**9.1** Contact and co-operation with stakeholders is extremely important to our Council. It is therefore necessary that we handle this relationship in a professional manner.

**9.2** Employees, who are approached by stakeholders should refer them to Corporate Communication immediately.

## **10. DEALING WITH THE COMMUNITY**

### **10.1 Community activities**

**10.1.1** MCLM encourages its employees to participate in community activities in their own time. Employees should ensure, however, that no conflict of interest - be it actual or potential - exists between their MCLM employment and their duties in community affairs, whether elective or appointed, paid or voluntary. For example, sometimes employees who perform public service or hold an elected or appointed position are called upon to make decisions that might affect MCLM. Any employee who finds himself in a situation like this should abstain from the vote.

### **10.2 Involvement in political activities**

**10.2.1** The Council acknowledges the rights of all employees to participate in the political process. However, employees are prohibited from using their positions with MCLM, or Council assets, to try to influence the personal decisions of others to contribute to or otherwise support a political party or candidate.

**10.2.2.** MCLM employees participate in politics as private citizens, not as Council employees. Therefore it is the policy of the Council not to make contributions of resources such as money, goods or services to political candidates or parties.

**10.2.3** If an employee has been, or is elected to a political position which requires him to be absent from work to attend meetings, run for political office, or to launch a campaign for that purpose, or if an employee is required to undertake any other political activity during normal working hours, such absences will be regarded as leave without pay. Alternatively, employees may take vacation leave to cover absences in this regard. Prior approval for absences of this nature must be obtained.

## **11. DEALING WITH COUNCIL ASSETS**

### **11.1 Council funds and property**

**11.1.1** We are all responsible for safeguarding and making proper and efficient use of Council funds and property. Always conduct MCLM business judiciously. Council funds and property include but are not limited to Council time, cash, cheques, drafts, land, buildings, records, vehicles, equipment, including fax machines, copiers, telephones, computer hardware and software, scrap and obsolete items and all other items belonging to the Council. Any employee wilfully/maliciously or negligently damaging the physical MCLM Network will be subject to disciplinary action up to and including dismissal and or civil/criminal prosecution.

## **11.2 Proprietary information**

**11.2.1** Proprietary information is information or knowledge that MCLM does not want to be disclosed to outsiders, except as required by law, because doing so could disadvantage MCLM competitiveness or harm its financial well being. When a legitimate business need arises to disclose proprietary information outside MCLM, a non-disclosure agreement should be considered. The Legal Department should be approached for assistance in this regard.

**11.2.2.** Proprietary information includes but is not limited to information about:-

- MCLM business, financial, marketing and service plans;
- Research and development activities and results, inventions and patent applications;
- Customer and employee records;
- Network and infrastructure;
- MCLM technology;
- Confidential manufacturing and service processes or know-how;
- Non-public information about products or services;
- Any other confidential organisational information.
- Share buy-back or trading in blocks;
- Any other object that will materially affect the listed MCLM share, including acquisitions and disposals and mergers.

**11.2.3** During an employee's term of employment in MCLM and even after, every employee is responsible for ensuring that proprietary information is protected from theft, unauthorised disclosure or inappropriate use and compliance with security procedures for computer systems. Employees are urged to use common sense to prevent inadvertent disclosure of proprietary information when answering questions from outsiders or using internal information systems or supplies. Be cautious not to be overheard when discussing proprietary information in public places such as restaurants, aeroplanes, elevators, etc. and when using portable communication devices. In addition do not discuss MCLM proprietary information with family or friends.

### **11.3 Council records**

**11.3.1.** Council records include employee and payroll records, vouchers, bills, time sheets, measurement, performance and production records and other essential documentation.

**11.3.2** Accurate and complete records are critical in meeting MCLM financial, legal and managerial obligations as well as in fulfilling our obligations to customers, suppliers, employees and others. Records should be retained according to legal requirements and MCLM file retention system. Disclose records only when authorized by the Council or in response to legal requirements. Any employee who willfully manipulates customer fault cause and clear codes or damages the integrity of Network records contained in the MCLM Inventory Systems (CBS, Netplan, Salamis) will be subject to disciplinary action up to and including dismissal and or civil/criminal prosecution.

### **11.4 Security devices to safeguard assets**

**11.4.1** Where security devices such as gear locks, safes, tracking systems, alarm systems, etc. have been provided to protect Council assets - be it money, movable/immovable property, proprietary information or Council records - such equipment must be used at all times.

### **11.5 Copyright**

**11.5.1** Copyright laws protect the original expression in, among other things, written materials, works of art and music and prohibit its unauthorised duplication, distribution, display and performance. One may not reproduce, distribute or alter copyrighted materials from literature, computer software, or play visual or audio recordings thereof without the permission of the copyright owners or their authorised agents.

**11.5.2** Computer software used in connection with MCLM business must be properly licensed and used only in accordance with that license. Using unlicensed software could constitute copyright infringements.

**11.5.3** Violations or suspected violations of computer security measures, controls or software/licensing agreements should be reported to the Information Technology Department.

## **12. RESPONSIBILITIES REGARDING BUSINESS CODE OF ETHICS**

### **12.1 Responsibilities of Management**

Management has the following responsibilities with regard to the administration of the Business Code of Ethics:

- Ensuring that all employees under their control receive and sign an acknowledgement of receipt of a copy of the Business Code of Ethics at employment and annually thereafter during the performance review discussion.
- Taking steps to ensure that employees are fully conversant with the Business Code of Ethics.
- Ensuring that the Business Code of Ethics forms part of MCLM orientation programme.
- Ensuring that all standards and procedures comply with the Business Code of Ethics and are communicated to all employees.
- Reporting any violations of the Business Code of Ethics up through the chain of command.
- Ensuring that all matters that cannot immediately be decided on are properly escalated to the appropriate level/division.
- Ensuring that each employee completes a Commitment Form and a Declaration of Interest Form (where applicable) and filing these forms together with the PDM contract in the employee's personal file, which should be retained by you.
- Creating and maintaining a Gift Register for your section.
- Ensuring that a record is kept of all Declaration of Interest Forms received.

### **12.2 Responsibilities of employees**

- All employees must commit themselves to the following responsibilities:
- Be familiar with the Code of Ethics according to which MCLM business should be conducted.
- Abiding by the behaviour embodied in the Business Code of Ethics.
- Keeping a copy of the document for personal reference.
- Any changes in the declaration of interest status should again be reported in writing the promoter.
- Seeking advice and information from their supervisors when needed.
- Reporting violations of the Business Code of Ethics up through the chain of command.
- Ignorance of the Code will not be an excuse.
- The onus is on the employee to complete a new Declaration of Interest Form as and when there are any changes.

### 13. PROCESS

- Ensure that employees have a copy of the Code of Ethics
- Employees must sign a commitment form of acceptance and understanding of the Code of Ethics at appointment and annually thereafter
- Ensure that employees are conversant with the principles of the Code of Ethics
- Abide by the standards embodied in the Code of Ethics
- Communicate the objectives of the Code of Ethics
- Report any violation of the Code of Ethics
- Newly recruited employees to sign declaration of interest
- Declaration of interest
- Employees to sign declaration in interest annually or when personal circumstances change
- Gift register Maintain gift register
- Employee to declare any gift that was offered/declined

## A. FRAUD PREVENTION POLICY STATEMENT

*The purpose of this document is to set the tone through which top management commit themselves and their department towards rejecting fraud as a business norm.*

### INTRODUCTION

Fraud is an ever-increasing global problem that affects us all. MCLM is not immune to this worldwide epidemic and is not prepared to continue being a victim of fraud, but rather seeks to be a part of the solution to a fraud free society.

The main aim of this policy is to reduce fraud to an absolute minimum in order to provide better care and quality of services for all its stakeholders.

### FRAUD POLICY STATEMENT

MCLM irrevocably binds itself to combat all forms of fraud and corruption and binds the organisation to remain proactive in the fight against fraud and other white collar crime.

The **Fraud Policy**, which is to be signed by the Municipal Manager, sets the attitude towards the problem and declares a Zero Tolerance policy towards fraud and other acts of dishonesty.

As a municipality, it is important that we take these values seriously and ensure that we do not permit activities that are not aligned with our norms. It is incumbent on all to be intolerable of this behaviour and to report such findings. To this end, defrauding MCLM will not be tolerated and those employees or other stakeholders found to be in violation of this policy will be prosecuted to the fullest extent possible, both internally and externally.

This policy places fraud prevention and/or reporting of any form of irregularity as a responsibility of every employee in MCLM. It is therefore expected of every employee to report all incidents of irregularities or fraud that comes to his or her attention. Failure to do so will result in disciplinary or criminal action for having failed to comply with this policy.

**Municipal Manager**

**Date:**

**J M Rabodila**

## **MCLM FRAUD POLICY**

### **1. INTRODUCTION**

- 1.1 Responsibility for the prevention and detection of misconduct involving loss of MCLM assets rests with Management. In particular, fraud, theft and corruption can generally be deterred and/or detected through the design, implementation and operation of adequate system of internal controls.
- 1.2 Internal controls, may, however, fail to operate as designed and may be ineffective against fraud, theft and corruption, when committed with the collusion of employees and/or outside parties. Other factors may also militate against the operation of these controls.
- 1.3 The purpose of this document is to determine responsibilities and lay down effective procedures for the deterrence and early detection of theft, fraud and corruption. The document also seeks to clarify the responsibilities of management in safeguarding MCLM assets and to set forth policies and procedures regarding deterrence, detection, investigation and reporting of fraud, theft and corruption.

### **2. DEFINITIONS**

#### **Fraud**

- 2.1 A more comprehensive definition that is often used is: "Fraud is wilful perversion of the truth made with intent to deceive and resulting in actual or potential prejudice to another".  
Fraud involves the misrepresentation of information both by overt acts, such as forgery, as well as by concealment of and/or deliberate failure to record transactions. Usually fraud involves the concealment and/or falsification of financial information. The following elements are requirement to establish fraud:
  - Misrepresentation
  - Prejudice
  - Unlawful act
  - Intent

#### **Theft**

- 2.2 Theft consists of the unlawful appropriation of anything capable of being stolen, with intent to deprive the owner thereof of his/her ownership. This includes the interest of the Council whether tangible or intangible.
- 2.3 Within the context of the MCLM, theft usually entails the unauthorized and unlawful removal of assets belonging to the Council. It should be noted that the definition of theft does not cover unauthorized use of mot vehicle (the unauthorized use of a motor vehicle is however a statutory offence). The following elements establish theft:  
Act of removing or misappropriation property capable of being stolen  
Unlawful act  
Intent

## **Corruption**

2.4 Corruption can be defined as the offering, giving, soliciting or acceptance of an inducement or reward, which may improperly influence the action of any person.

### **2.5 Deterrence**

Deterrence may be defined as:

“The prevention and discouragement of crime or the hindrance of individuals in the perpetration thereof.”

### **Detection**

2.6 Detection may be defined as:

“The revelation or bringing to light of crime and the speedy discovery of loss sustained, and the identification of individuals involved.”

## **3. POLICY STATEMENT - DETERRENCE**

3.1 Deterrence consists of those actions taken to discourage the perpetration of fraud and theft and to limit the losses to MCLM, which may arise there from.

3.2 Management is responsible for adopting sound accounting policies, for maintaining an

3.3 adequate and effective system of account, for safeguarding assets, and for devising a system of internal control that will inter alias, assist in the production of adequate financial statements and deter theft and fraud.

3.4 Internal Audit is responsible for assisting management by

- Evaluating the adequacy and the effectiveness of actions taken by management to fulfil their obligations as stated in paragraph 3.2 above
- Examining and evaluating the adequacy and effectiveness of internal controls and the quality of performance in carrying out assigned responsibilities.
- Recommending corrective measures to improve systems of internal control
- Evaluating compliance with the financial policy and standing orders/procedures.

## **4. POLICY STATEMENT - DETECTION**

Detection consists of speedy identification of indicators pointing to the commission of fraud and/or theft and/or corruption. These indicators should be such as to warrant an investigation. They may come to light from the control established by management, by auditor's tests, and/or other sources, both within and outside MCLM . It is practice within the organisation to allow reporting of suspected theft, fraud and corruption anonymously to either legal services or to Internal Audit and to protect informants.

In conducting audit assignments, Internal Audit's responsibilities for assisting management in detecting fraud and theft are:

- Possessing sufficient knowledge of the elements of these offences as to timeously identify indicators denoting commission of a possible offence.
- Recognising the characteristics of fraud and theft, their essential elements, the techniques used to commit fraud and theft and the types of fraud and theft associated with the activities audited.
- Evaluating the indicators that fraud and theft may have been committed and deciding whether any further action is necessary or whether an investigation should be recommended.

## **ACTIONS TO BE TAKEN**

### **Investigation of fraud, theft and corruption**

Employees who discover actions (or omissions), which may suggest fraud, theft and corruption, must report their findings to the respective manager at the level of the MCLM Council immediately. It is then the Manager's responsibility to report the Municipal Manager and to Internal Audit. If necessary, the Manager will also be responsible for informing the South Africa Police Services (SAPS). Steps must be taken to inform MCLM's insurers, that a claim of MCLM's insurance policy may be forthcoming.

In the event of an alleged fraud, theft and corruption the investigation will consist of carrying out the necessary procedures to determine whether the offence, as suggested by the indicators, has occurred. This will include the gathering of sufficient evidential information about the alleged misconduct.

Internal Audit, Legal Services and other specialists' form inside or outside the organisation will conduct or participate in investigations of alleged fraud, theft or corruption. In cases involving less than **R2000** in value, the investigations are to be conducted by the CFO.

#### **Internal Audit:**

- Designing appropriate procedures in attempting to identify the alleged perpetrators, extent of the alleged fraud, theft and corruption techniques used, and the cause of the alleged fraud, theft and corruption.
- Interview persons having knowledge of the allegations, as well as possible witnesses.
- Carry out various audit tests and gather all necessary evidence.
- Attempt to identify the perpetrator(s).

#### **Legal Services:**

- Provide legal advice and support
- Carry out preliminary review of the case and evaluate the available evidence.
- Assist in determining what further evidence would be required to prove the alleged misconduct.
- Advice on whether the matter should be reported to the SAPS
- Advice on steps to recover losses
  
- Assist with the preparation of the clearance and the necessary evidence supporting the charge, for delivery to SAPS.
- Attend/monitor criminal proceedings where thought appropriate

Internal Audit findings on each case of alleged fraud, theft and corruption should be the basis for Management's decision to institute disciplinary action against any employee and/or lay criminal charges against

the alleged perpetrators. Management may also decide to take steps to secure restitution or compensation. Based on the amount involved and the complexity of the case, management must decide on who is to represent MCLM in attending (and taking notes) at the hearing/court case. Management's attention should be drawn to the "Statutes of the Republic of South Africa – Criminal Law and Procedure" and the "Criminal Procedure Act, No 51 of 1977", specifically section 300 dealing with compensation and restitution, where "Court may award compensation where offence causes damage to or loss of property:

- (1) Where a person is convicted by a superior court, a regional court or a magistrate's court of an offence which has caused damage to or loss of property (including money) belonging to some other person, the court in question may, upon the application of the injured person, or of the prosecutor acting on this instruction of the injured person, forthwith award the injured person compensation for such damage or loss; provided that – a regional court or a magistrate's court shall not make any such award if the compensation applied for exceeds R20 000 or R5 000 respectively."

To apply this section, management should refer its application to Legal Services who are to prepare a written request through the appropriate channels.

On completion of the investigation, Internal Audit is to make an assessment of the control procedures in order to:

- Determine whether further controls need to be implemented or existing controls strengthened to reduce future vulnerability.
- Design audit tasks to help disclose the existence of similar behaviour in future
- Determine the reason for existing controls not functioning effectively.

### **Secure assets at risk**

Appropriate steps must be taken by the manager to secure assets at risk or Misappropriated assets may be recovered.

### **Remove employee-signing authorities/suspension of employee**

Any suspect in respect of whom there is a prima facie evidence of fraud, theft and corruption should after discussing with the Human Resources and EXCO, member be removed from a position of authority. This fact and the suspension of signing authorities must be communicated to the employee in writing.

The employee may be suspended as provided for in the Conditions of Service.

## **6. COMPILING THE REPORT**

- 6.1 Reporting consists of the various oral or written, interim or final communications to management regarding the progress and/or results of investigations into alleged fraud, theft and corruption.
- 6.2 When a possible offence has been detected, preliminary report is to be drawn up. This report should be completed by management and distributed to the Municipal Manager and to Internal Audit.
- 6.3 A final report on the investigation should be prepared with the cooperation of personnel from Internal Audit and Legal Services, or by departmental staff in less serious cases. The report should indicate what evidence has been gathered, set out conclusions based on such evidence and be distributed accordingly.
- 6.4 All evidence is to be retained by the investigating team for use in possible criminal prosecution.

6.5 The report should attempt to identify the cause of the misconduct and the reason why the occurrence went undetected or was not prevented. If there are weaknesses in control, recommendations should be made for remedial action.

6.6 The written report should include the following:

- Source of discovery (regular audit, complaint, confession, discovery by management)
- What was discovered (theft, misappropriation of funds)
- Who was the perpetrator (employee, manager, outside accomplice), and has there been collusion?
- How much money has been lost (audited amount, suspected amount, admitted amount) or what has been misappropriated?
- How was the occurrence concealed (rolling, forgeries).
- Duration of crime (when first begun).
- Effect on financial statements (how will loss or potential loss be reported)
- Method of prevention (control deficiency, recommendations for future)
- Prosecution (waived, pending, sentence, restitution)
- Report to be signed by all personnel participating in the investigation.

## 7. **CONCLUSION**

7.1 It should be noted that wherever practical management will always take steps to recover losses through litigation and all criminal activities would be vigorously prosecuted.

## GLOSSARY OF TERMS

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):

"Code"	-	Code of Conduct
"Committee"	-	Fraud and Risk Committee
"MCLM"	-	MCLM
"Fraud"	-	Includes, but is not limited to, the following: <ul style="list-style-type: none"><li>(a) Any dishonest, fraudulent or corrupt act;</li><li>(b) Theft of funds, supplies, or other assets;</li><li>(c) Maladministration or financial misconduct in handling or reporting of money, financial transactions or other assets;</li><li>(d) Making a profit from insider knowledge;</li><li>(e) Disclosing confidential or proprietary information to outside parties;</li><li>(f) Irregularly accepting or requesting anything of material value from contractors, suppliers, or other persons providing services and/or goods to MCLM;</li><li>(g) Irregularly offering or giving anything of material value to contractors, suppliers, or other persons providing services and/or goods to MCLM;</li><li>(h) Irregular destruction, removal, or abuse of records (including intellectual property and other assets) and equipment;</li></ul>
		Deliberately omitting or refusing to report or act upon reports of any such irregular or dishonest conduct; and <ul style="list-style-type: none"><li>(i) Any similar or related irregularity.</li></ul>
"Plan"	-	Fraud Prevention Plan
"Policy"	-	Fraud Policy and Response Plan
"Protected Disclosures Act"	-	Protected Disclosures Act, Act 26 of 2000

### **FRAUD POLICY.**

The MCLM irrevocably binds itself to combat all forms of fraud and corruption and binds the Council to remain proactive in the fight against fraud and other white collar crime.

The Fraud Policy, which is to be signed by the Municipal Manager, sets the attitude towards the problem and declares a Zero Tolerance policy towards fraud and other acts of dishonesty.

As a municipality, it is important that we take these values seriously and ensure that we do not permit activities that are not aligned with our norms. It is incumbent on all to be intolerable of this behaviour and to report such findings. To this end, defrauding the Council will not be tolerated and those employees or other stakeholders found to be in violation of this policy will be prosecuted to the fullest extent possible, both internally and externally.

This policy places fraud prevention and/or reporting of any form of irregularity as a responsibility of every employee in MCLM. It is therefore expected of every employee to report all incidents of irregularities or fraud that comes to his or her attention. Failure to do so will result in disciplinary or criminal action for having failed to comply with this code.

## **FRAUD PREVENTION PLAN**

### **Objectives of the plan**

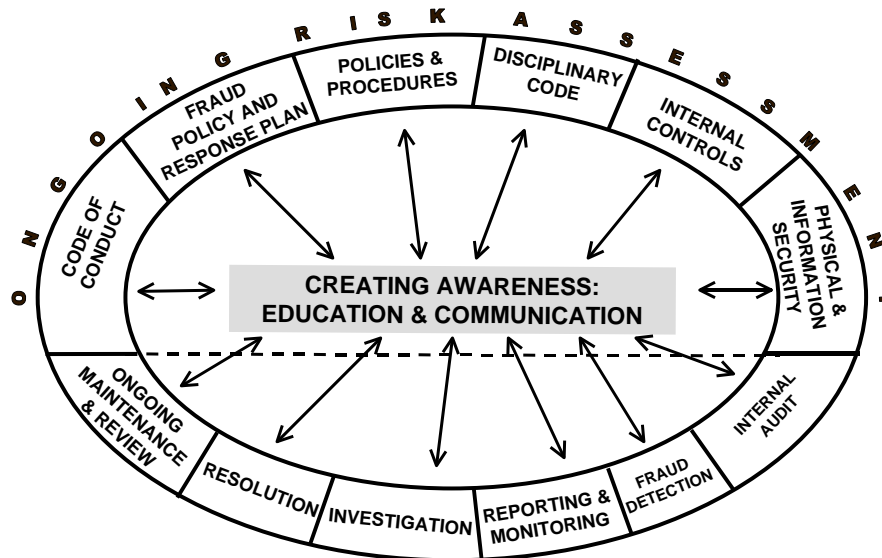
- To develop and foster a climate within MCLM where all stakeholders strive for the ultimate eradication of all types of fraud, corruption, theft and maladministration through the application of every pro-active and re-active means at their disposal.
- To minimize the implications of fraud, corruption, theft and maladministration on MCLM's employees, stakeholders, assets and reputation.
- To ensure compliance with both statutory and regulatory requirements.
- To adhere to best local and international good governance practices such as the King II Code on Good Governance

### **COMPONENTS OF THE FRAUD PREVENTION PLAN**

The components of the Plan for MCLM are the following:

- (a) Creation of awareness amongst employees and other stakeholders (in the broad sense of the word) through communication and education of the Code and the Policy;
- (b) A Code of Conduct in which management of MCLM believes, and requires their employees to subscribe;
- (c) A Fraud Policy and Response Plan which includes the policy stance of MCLM to fraud and steps for the reporting, basic investigation and resolution of allegations and incidents of fraud;
- (d) MCLM's policies, procedures, rules, regulations and other relevant government prescripts;
- (e) The disciplinary code and procedure;
- (f) Internal controls to prevent and detect fraud;
- (g) Internal Audit;
- (h) Ongoing risk assessment, which includes fraud detection approaches;
- (i) The Fraud and Risk Committee, to steer and take responsibility for the Plan as well as to ensure effective project-management of its implementation and maintenance;
- (j) Reporting and monitoring of allegations;
- (k) Physical and information security management; and
- (l) Ongoing maintenance and review of the Plan.

An illustration of the Plan is contained in the figure below:



## 1. Creating awareness

This component of the Plan comprises two approaches, namely education and communication. The weaknesses identified in this area are the following:

- Lack of a strategy to create awareness amongst employees of the manifestations of fraud; and
- Lack of communication of fraud prevention strategies.

### 1.1 Education

MCLM will ensure that regular presentations are given to employees to enhance their understanding of the manifestations of fraud thereby improving their ability to prevent and detect fraud. These presentations will include training on the components of the fraud prevention plan.

### 1.2 Communication

The objective of the communication strategy is to also create awareness among employees, officials and other stakeholders of the Plan in order to facilitate a culture where all stakeholders strive to contribute toward making the Plan a success as well as for the sustaining of a positive, ethical culture within MCLM.

Communication tactics that will be considered by MCLM will include the following:

- (a) Developing a poster campaign aimed at all stakeholders to advertise MCLM's stance toward fraud and its expectations with regard to ethics and integrity of all stakeholders;
- (b) Developing submissions for inclusion in publications of MCLM and its public entities aimed at external stakeholders;
- (c) Circulating copies of the Code and the Policy to all employees;
- (d) Circulating appropriate sections of the Code to other stakeholders; and

- (e) Publishing actions taken against people found guilty of fraud against MCLM as well as the results of all disciplinary action taken. Due to possible legal ramifications, the information published with regard to the latter will be decided in consultation with the Manager: Human Resources.

## **2. Code of Conduct**

- 2.1 The primary weaknesses identified in this area are the following:
  - Failure to create awareness of the Code; and
  - Failure by management to consistently set an example to employees of the ethical behaviour expected of employees.
- 2.2 MCLM will train employees with regard to their conduct and behaving ethically and with integrity.
- 2.3 A copy of the Code will be circulated to all employees and included in induction packs for new employees. All employees will also be required to sign an annual declaration serving as an indication of their understanding of and commitment to the Code.

## **3. The Fraud Response Plan**

- 3.1 A draft Fraud Response Plan (**Appendix B**) has been developed for MCLM. The Plan contains the channels to report, investigate and resolve incidents of fraud which impact on MCLM.
- 3.2 The Plan, once finalized, will be circulated to all managers within MCLM for further communication to all employees.

## **4. MCLM's policies, procedures, regulations and other prescripts**

- 4.1 MCLM has a number of policies and procedures designed to ensure compliance with government legislation and limit risk, including fraud risk. Fundamentally, the principles inherent in the principles of sound corporate governance must be complied with by all employees of MCLM.
- 4.2 MCLM has identified the fraud risks in this area as the following:
  - Non-compliance with specific policies and procedures leading to fraud; and
  - Inappropriate screening of potential employees leading to employment of fraudsters.
- 4.3 Furthermore, MCLM will develop and distribute a regular communiqué outlining the implications for employees, for example the taking of disciplinary action against offenders not complying with policies and procedures. In instances where breaches occur, swift and efficient disciplinary action will be taken to set an example to other potential wrongdoers. The communiqué will stress that the waiving of guidelines set down in specific policies, where possible in certain instances, should only be done with the securing of the relevant motivation and authorisation of senior management.
- 4.4 MCLM prescribes thorough pre-employment and security clearance screening is conducted for all candidates applying for sensitive positions.

4.5 As part of its approach to the management of human resources, MCLM will also initiate steps to limit the risk of appointing poorly qualified people.

## **5. Disciplinary code and procedure**

5.1 MCLM recognises the fact that the consistent and efficient application of disciplinary measures is an integral component of effective fraud prevention. MCLM will initiate the following steps to ensure the consistent, efficient and speedy application of disciplinary measures:

- (a) Training of managers in the application of disciplinary measures and the disciplinary process, and sustaining this training; and
- (b) Developing a system to facilitate the consistent application of disciplinary measures.

5.2 Where managers are found to be inconsistent and/or inefficient in the application of discipline, firm action will be taken against such managers.

## **6. Internal controls**

6.1 This section of the Plan relates to basic internal controls to prevent and detect fraud. Risks identified in this area are the following:

- Failure by managers to scrutinize documents before approving them;
- Poor management of contracts leading to fraud;
- Poor application of exit procedures for employees leaving MCLM leading to loss of assets;
- Failure to detect fraudulent advance request forms;
- Failure to screen grant and funding applicants; and

6.2 The policies, procedures, regulations and other prescripts of MCLM prescribe various controls which, if effectively implemented, would limit fraud within MCLM. These controls may be categorized as follows, it being recognized that the categories contain overlapping elements:

### **Prevention controls:**

These are divided into two sub-categories, namely Authorization and Physical;

**Detection controls:**

These are divided into four categories, namely Arithmetic and accounting, Physical, Supervision and management information; and

Segregation of duties.

*Prevention controls*a) *Authorisation*

- (i) All transactions require authorization or approval by an appropriate responsible person.
- (ii) The limits for these authorizations are specified in the delegations of authority of MCLM .

b) *Physical*

These controls are concerned mainly with the custody of assets and involve procedures and security measures designed to ensure that access to assets is limited to authorised personnel. This becomes prominent in the case of protection of valuable, portable, exchangeable and desirable assets.

***Detection controls***

## a) Arithmetic and accounting

- (i) These are basic controls within the recording function which check that transactions to be recorded and processed have been authorized and that they are correctly recorded and accurately processed.
- (ii) Such controls include checking the arithmetical accuracy of the records, the maintenance and checking of totals, reconciliations, control accounts and accounting for documents.

## b) Physical

- (i) These controls relate to the security of records. They therefore underpin arithmetic and accounting controls.
- (ii) Their similarity to preventive controls lies in the fact that these controls are also designed to limit access.

## c) Supervision

This control relates to supervision by responsible officials of day-to-day transactions and the recording thereof.

- d) Management information
  - (i) This relates to the review of management accounts and budgetary control.
  - (ii) These controls are normally exercised by management outside the day-to-day routine of the system.

*Segregation of duties*

- a) One of the primary means of control is the separation of those responsibilities or duties which would, if combined, enable one individual to record and process a complete transaction, thereby providing him/her with the opportunity to manipulate the transaction irregularly and commit fraud.
  - b) Segregation of duties reduces the risk of intentional manipulation or error and increases the element of checking.
  - c) Functions that should be separated include those of authorization, execution, custody, and recording and, in the case of computer-based accounting systems, systems development and daily operations.
  - d) Placed in context with fraud prevention, segregation of duties lies in separating either the authorization or the custodial function from the checking function.
- 6.3 MCLM will initiated a system requiring employees to attend a minimum number of hours in training sessions to improve their understanding of prevailing policies, procedures, regulations and financial control and management skills in order to improve their capacity to address internal controls.
- 6.4 MCLM will continue to regularly re-emphasize to all managers and supervisors that consistent compliance by employees with internal control is one of the fundamental controls in place to prevent fraud. Managers will be encouraged to recognize that internal control shortcomings identified during the course of audits are, in many instances, purely symptoms and that they should strive to identify and address the causes of these internal control weaknesses, in addition to addressing the control weaknesses.
- 6.5 MCLM will develop a formal system where the performance of managers is also appraised by taking into account the number of audit queries raised and the level of seriousness of the consequent risk to MCLM as a result of the internal control deficiency identified. This is intended to raise the level of manager and supervisor accountability for internal control.
- 6.6 A matrix of internal control weaknesses identified during audits will be developed in order to assist in the identification of areas that require additional focus.
- 6.7 Where managers do not comply with delegation of authority limits, for example in signing off contracts, or with the application of basic internal controls, firm disciplinary action will be considered. A more detailed contracts management training programme will be considered for all managers involved in this area.

- 6.8 The following steps will be taken in order to further address the risks identified in paragraph 6.1 above:
- a) Managers will be required to ensure that when employees leave the services of MCLM proper exit procedures are implemented, including the following:
    - Immediate prevention of access to assets or records, including the revision of computer passwords;
    - Physical search of the bags of suspended or dismissed employees for MCLM's assets; and
    - Return of access cards, equipment or other reference material.
  - b) A system will be developed for more detailed screening of applicants for grants and funding. This system will consider the following steps, *et al*:
    - Appropriate background checks of key individuals; andInternal audit
- 7.1 MCLM's Internal Audit function assists management by enhancing its understanding of risks. Internal Audit is carrying out traditional audits in order to play a more pro-active role aimed at improving controls before irregularities occur.

## 7. Ongoing risk assessment

- 8.1 MCLM acknowledges the fact that it faces diverse business risks from both internal and external sources. A comprehensive risk assessment is intended to be conducted. This information will be used to assist management in prioritising areas for attention and subsequently developing appropriate controls to limit the risks identified.
- 8.2 In addition to the fraud risks already discussed, the fraud risks listed below will be addressed by conducting reviews in order to secure a more detailed understanding of the areas wherein these risks exist to ensure that adequate fraud prevention controls and detection mechanisms are developed. This will include the conducting of presentations to managers and staff to ensure that they have a more detailed understanding of the fraud risks associated with these areas, thus enhancing the prospect of detecting irregularities earlier. Furthermore, specific transactions in these areas will be selected in order to conduct **fraud detection reviews** aimed at identifying possible incidents of fraud and control weaknesses in order to address these.
- Abuse of assets, including financial resources and time:
    - Abuse of sick leave;
    - Abuse of travel and subsistence claims;
    - Abuse of telephones;
    - Inappropriate use of assets by officials for personal use (e.g. internet and e-mail, vehicles, etc.); and
    - Abuse of bursaries;
  - Misappropriation of assets, including theft of confidential information;

- Irregularities relating to tendering, procurement and supplier payments
  - Collusion in procurement leading to fraud;
  - Irregular collusion in the outsourcing of arts MCLM's products and services resulting in self-enrichment by officials;
  - Double invoicing by suppliers leading to duplicate payments; and
  - Payment of fraudulent orders;
- Irregularities relating to funding and grants:
  - Collusion by officials with applicants and beneficiaries for funding and grants; and
  - Fraudulent abuse of funding received from donor institutions;
- Falsification of qualifications in order to be appointed to more senior positions;
- Fraudulent tampering with legal documents in the MCLM; and
- Irregular expenditure stemming from fraudulent actions.

## **8. Fraud and Risk Committee**

9.1 The responsibilities of the Committee will include the following:

- a) To steer and take responsibility for the Plan;
- b) To make recommendations relating to risks identified within MCLM and to refer these to other appropriate Committees or management;
- c) To evaluate reports of irregularities and highlight areas of risk within MCLM;
- d) To consider criminal activity threatening MCLM and make fraud prevention recommendations with regard to areas that should be examined; and
- e) To monitor action taken to implement recommendations relating to incidents of fraud.

## **9. Reporting and monitoring**

10.1 MCLM will keep a consolidated record of allegations of fraud made to managers or other employees. The effect hereof is that fraud risk cannot be managed effectively as threats to MCLM could be overlooked.

10.2 MCLM has also recognized the fact that whistle blowers could be victimized by fellow employees or supervisors in contravention of the Protected Disclosures Act, without management being aware of this. This could have severe negative implications for MCLM, for example, negative media publicity.

10.3 MCLM will continue to implementing a Fraud Hotline in order to achieve the following:

- (a) To deter potential fraudsters by making all employees and other stakeholders aware that MCLM is not a soft target, as well as encouraging their participation in supporting, and making use of such a facility;
- (b) To raise the level of awareness that MCLM is serious about fraud;
- (c) To detect incidents of fraud by encouraging whistle blowers to report incidents which they witness;

- (d) To assist MCLM in managing the requirements of the Protected Disclosures Act by creating a channel through which whistle blowers can report irregularities which they witness or which come to their attention; and
  - (e) To further assist MCLM in identifying areas of fraud risk in order that preventive and detective controls can be appropriately improved or developed.
- 10.4 With the Protected Disclosures Act having come into effect on 16 February 2001, the Hotline can serve as an effective channel for whistle blowers to make reports of fraud.
- 10.5 The Response Plan contains basic steps for the reporting of allegations of fraud which are the following:
- Making a report to the employee's immediate manager;
  - Where the person reporting the information wishes to make a report anonymously, such a report may be made to any manager of MCLM; and
  - The manager who receives such a report must forward it to Fraud and Risk Committee, which will make a recommendation to senior management on the appropriate steps to take to resolve the allegation.
- 10.6 MCLM will also ensure that a system is developed for proper record keeping of all allegations brought to its attention. This will be crucial in effectively addressing the risk of whistle blowers being victimised, by managers and fellow employees, in contravention of the Protected Disclosures Act.

## **10. Physical and information security**

### *Physical security*

- 11.1 Recognizing that effective physical security is one of the "front line" defenses against fraud, MCLM will take regular steps to improve physical security and access control at its offices in order to limit the risk of theft of assets.
- 11.2 MCLM will also consider conducting a detailed review of the physical security arrangements at its offices.

### **Information security**

- 11.3 The fraud risks identified in this area are the following:
- Manipulation of information on computers due to poor access control, including passwords; and
  - Abuse of e-mail and Internet facilities.
- 11.4 MCLM will ensure that all employees are sensitized on a regular basis to the fraud risks associated with access control and ensure that systems are developed to limit the risk of manipulation of computer data as well e-mail and Internet abuse.
- 11.5 Regular communiqués will be forwarded to employees pointing out the policy with regard to e-mail and Internet usage and the implications (e.g. disciplinary action) of abusing these facilities. Where

employees are found to have infringed on prevailing policy in this regard, disciplinary action will be taken.

## **11. Ongoing maintenance and review**

12.1 The Committee, once formed, will be responsible for the ongoing maintenance and review of the Plan. This will include:

- (a) Reviewing and making appropriate amendments to the Code and the Policy;
- (b) Amending the awareness programme as necessary, and implementing the changes; and
- (c) Ensuring that ongoing communication strategies are developed and implemented.

12.2 The Plan will be reviewed on an annual basis, whilst progress with the implementation of the various components will be reviewed on a quarterly basis. In the latter regard, specific priorities stemming from the Plan, actions, responsible persons and feedback dates relating to progress made will also be set.

## **12. Approval of the plan**

**Approved by:**

**Municipal Manager**  
**JM Rabodila**

**Date:**

## **FRAUD RESPONSE PLAN (Annexure B to the Fraud Prevention Plan)**

This document sets out the procedure to be followed when information is received of an actual or alleged fraud. It identifies the role players setting out their duties and responsibilities and the action steps that should be taken.

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

1.1 It is the responsibility of all employees to immediately report all allegations or incidents of fraud to their immediate manager. All managers must report all incidents and allegations of fraud to the Fraud Prevention Committee for a decision on steps to follow to resolve the matter.

1.2 Should employees wish to report allegations of fraud anonymously, they can report it directly to Fraud Prevention Committee.

1.3 Any fraud committed by an employee of MCLM will be pursued by thorough investigation and to the full extent of the law, including:

- a) Taking disciplinary action within a reasonable period of time after the incident;
- b) Instituting civil action;
- c) Initiating criminal prosecution; and
- d) Any other appropriate and legal remedy available.

1.4 Managers are also required to ensure that losses or damages suffered by MCLM as a result of all reported acts committed or omitted by an employee are recovered from such an employee if he / she is found to be liable.

1.5 The following response steps can serve as an additional guideline to managers when faced with a report of fraud. These should be considered in consultation with the Fraud Committee.

#### **Step 1:**

- a) Evaluate the information or allegation;
- b) Identify the issues and their implications; and
- c) Consider all possibilities and their implications.

#### **Step 2**

- a) Secure the assets at risk by, for example, notifying banks and other parties holding assets or relevant documentary records;
- b) Where appropriate, eliminate the immediate threat by the suspension or removal of the suspected person from a position of authority
- c) Ensure that all accounting records are secured and back-ups of computer data have been
- d) made; and
- e) Secure the contents of offices where the suspect was employed, such as files and computer data that is the property of MCLM.

**Step 3**

- a) Start tracing and securing the documentation that was under the control of the suspect; and
- b) Initiate the investigation process of the alleged fraud.

**Step 4**

- a) Start the procedure of recovering of MCLM's assets;
- b) Where appropriate contact the South African Police Services ("SAPS") or other appropriate organisation, for assistance; and
- c) Audit current accounting procedures and correct any flaws.

**2. RESPONSIBILITY TO CONDUCT INVESTIGATIONS INTO SERIOUS CASES OF FRAUD**

2.1 The responsibility to initiate investigations in serious cases of fraud resides with the Municipal Manager or his delegate. The Municipal Manager will decide whether to report such matters to the SAPS or other law enforcement agency, and/or whether to secure the assistance of external providers of forensic or other appropriate services.

**3. CONFIDENTIALITY**

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

4.1 No person is authorised to supply any information with regard to allegations or incidents of fraud impacting MCLM to the media without the express permission of the Municipal Manager.

**5. PUBLICATION OF SANCTIONS**

5.1 The Municipal Manager will decide, in consultation with appropriate senior managers, whether any information relating to corrective actions taken or sanctions imposed, regarding incidents of fraud should be brought to the direct attention of any person or made public through any other means.

## **6. PROTECTION OF WHISTLE BLOWERS**

6.1 No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud.

6.2 All managers should discourage employees or other parties from making allegations, which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations will be subjected to firm disciplinary, or other appropriate action.

## **7. APPLICATION OF PREVENTION CONTROLS AND DETECTION MECHANISMS**

7.1 In respect of all reported incidents of fraud, managers are required to immediately review, and where possible, improve the effectiveness of the controls which have been breached in order to prevent similar irregularities from taking place in future.

## **8. CREATING AWARENESS**

8.1 It is the responsibility of all managers to ensure that all employees, are made aware of, and receive appropriate training and education with regard to this policy.

## **9. ADMINISTRATION**

9.1 The custodian of this policy is the Municipal Manager who is supported in its implementation by all other managers.

9.2 The Risk Management Committee, supported by all MCLM managers, is responsible for the administration and revision of this policy. This policy will be reviewed annually and appropriate changes will be made should these be required.

## **10. ADOPTION OF THE POLICY**

Approved by:

**Municipal Manager**  
**JM Rabodila**

**Date:**