

# INTEGRITY MANAGEMENT POLICY & PLAN

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ETHICS HOTLINE



## CONTENTS

	Page Number
1. TERMS AND ABBREVIATIONS.....	4 – 8
2. INTRODUCTION & VALUES.....	9
3. POLICY STANCE .....	10
4. WHAT SHOULD AN EMPLOYEE DO IF HE/SHE SUSPECTS FRAUD & CORRUPTION ...	11
5. WHAT SHOULD A MEMBER OF THE PUBLIC OR PROVIDERS OF GOODS AND/OR SERVICES DO IF THEY SUSPECT FRAUD & CORRUPTION .....	11
6. HOW WILL ALLEGATIONS OF FRAUD & CORRUPTION BE DEALT WITH .....	12
7. RECOVERY OF LOSSES.....	12
8. FEEDBACK TO REPORTERS OF FRAUD .....	12
9. CONFIDENTIALITY .....	13
10. MEDIA.....	13
11. PROTECTION OF WHISTLE BLOWERS.....	13 - 14
11.1 Harassment or Victimisation .....	14
11.2 Confidentiality .....	14
12. COMPONENTS OF THE PLAN .....	15
13. APPROACH TO FRAUD.....	15 - 17
13.1 FOCUS ON THE ORGANISATION .....	18
Code of Conduct for Municipal Employees & Councillors	
13.1.1 Gifts Policy .....	20
13.1.2 Declaration of private business interests.....	20
13.1.3 Systems, policies and procedures.....	20
13.1.4 Employment Practices .....	21
13.1.5 Discipline.....	24
13.1.6 Financial Systems & Control .....	25
13.1.7 Procurement.....	28
13.1.8 Risk Management & Assessment .....	29
13.1.9 Fraud Detection Reviews .....	29
13.1.10 Internal & External Audit .....	31

- 13.1.11 Physical & Information Security..... 32
- 13.2 FOCUS ON EMPLOYEES..... 33**
- 13.3 FOCUS ON OTHER STAKEHOLDERS..... 34**
  - 13.3.1 Trading Partners ..... 35
  - 13.3.2 Employee representative organisations ..... 35
  - 13.3.3 National & Provincial Government Departments ..... 36
  - 13.3.4 SALGA ..... 36
  - 13.3.5 The general public..... 36
- 13.4 ENFORCEMENT ..... 36**
  - 13.4.1 Reporting and monitoring of fraud & corruption ..... 36
- 13.5 IMPLEMENTATION AND AWARENESS..... 38**
  - 13.5.1 Monitoring ..... 38
  - 13.5.2 Creating awareness ..... 38
  - 13.5.3 Education ..... 38
  - 13.5.4 Communication ..... 39
  - 13.5.5 Implementation structure..... 39
- 14. ETHICAL ADVICE / ASSISTANCE ..... 40**
- 15. REVIEW ..... 40**

## 1. TERMS AND ABBREVIATIONS

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

Constitution	Constitution of the Republic of South Africa, Act 106 of 1996
Demarcation Act	Local Government Municipal Demarcation Act, No 27 of 1998
DPLG	Department of Provincial and Local Government
LGACS	Local Government Anti-Corruption Strategy, 2006
MFMA	Municipal Finance Management Act, No. 56 of 2003
Plan	Ethics Management Policy & Plan for Midvaal
Protected Disclosures Act	Protected Disclosures Act, Act 26 of 2000 plus amendments (Regulations relating to Protected Disclosures, 2018)
RSA	Republic of South Africa
SALGA	South African Local Government Association
SARS	South African Revenue Services
Structures Act	Local Government: Municipal Structures Act, Act 17 of 1998 and Regulations
Systems Act	Local Government: Municipal Systems Act 32, Act 32 of 2000 and Regulations
PAM	Public Administration Management Act, Act 11 of 2014, effective as from 1 Apr 2019
Midvaal	Midvaal Local Municipality
Municipal Manager/ Accounting Officer	A person appointed in terms of Section 82(1) of the Structures Act, Act 17 of 1998
Employee	A person appointed in the public administration, but excludes a person appointed as a special adviser in terms of Section 12A of the Public Service Act and a person performing similar functions in a municipality
Municipality	A municipality as defined in Section 1 of the Local Government: Municipal Structures Act, Act 117 of 1998
Public Administration	The public service, municipalities and their employees
Disciplinary Regulations	Local Government: Disciplinary Regulations for Senior Managers, 2010
Disciplinary Procedure	Disciplinary Procedure Collective Agreement, 2018
Financial Misconduct	Financial Misconduct Procedures & Regulations, 2014
King III & IV	King Report on Corporate Governance

Fraud and Corruption Includes, but is not limited to, the following:

**Legal definitions:**

**Fraud**, i.e. the unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another;

**Theft**, i.e. the unlawful and intentional misappropriation of another's property or property which is in his/her lawful possession, with the intention to deprive the owner of its rights permanently;

**Extortion**, i.e. involves coercing a person or entity to provide a benefit to an official, another person or an entity in exchange for acting (or failing to act) in a particular manner

**Nepotism**, i.e. involves ensuring that family members are irregularly appointed or that family member irregularly receive contracts

**Offences** in respect of corrupt activities as defined in the Prevention and Combating of Corrupt Activities Act, 2004, i.e:

The general offence of corruption which could be summarised as directly or indirectly accepting or agreeing to accept any gratification from another person; giving or agreeing to give any other person any gratification in order to influence that person directly or indirectly to exercise his powers, duties or legal obligations in a manner which is/amounts to:

1. Illegal, dishonest, unauthorised, incomplete, or biased;
2. Misuse or selling of information or material acquired;
3. Abuse of position of authority;
4. Breach of trust;
5. Violation of a legal duty or set of rules;
6. Designed to achieve an unjustified result; and
7. Any other unauthorised or improper inducement to do or not to do anything.

**Corrupt activities in relation to:**

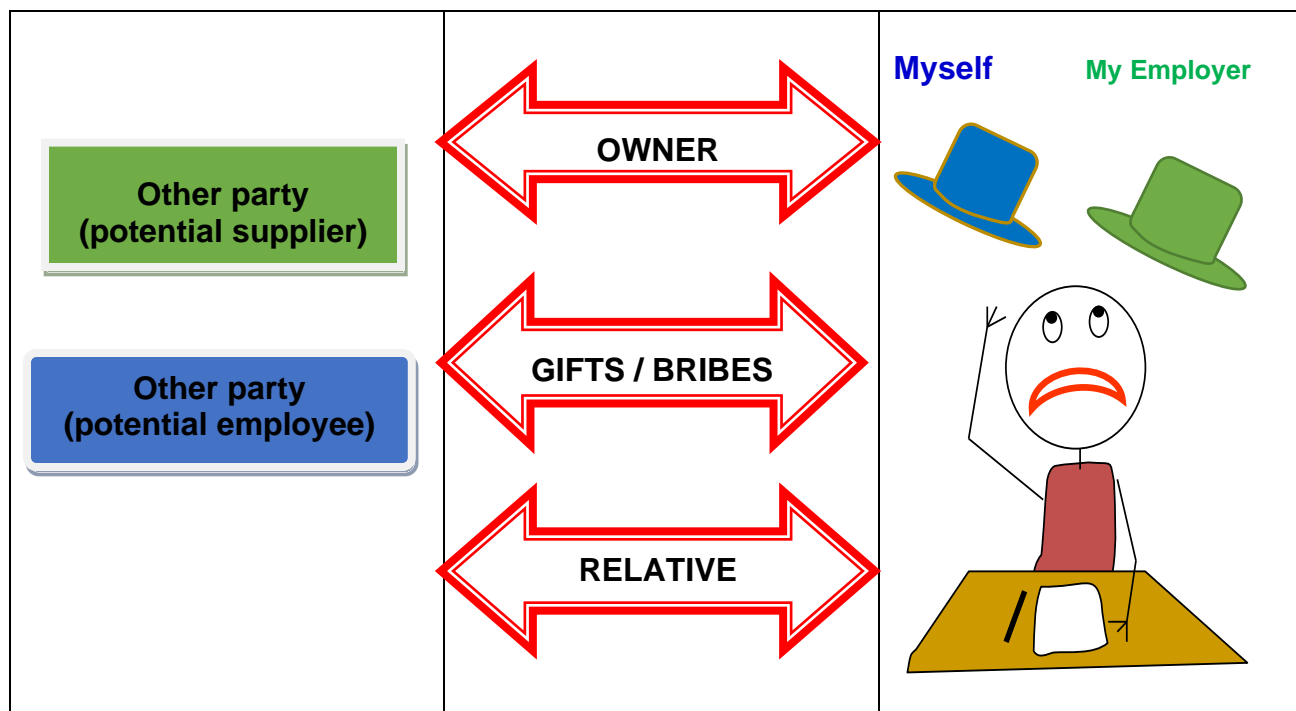
1. Public officials & Foreign Public Officials;
2. Agents & Judicial Officers;
3. Members of the prosecuting authority;
4. Unauthorised gratification received or offered by or to a party with an employment relationship;
5. Witnesses and evidential material during certain proceedings;
6. Contracts;
7. Procuring and withdrawal of tenders;
8. Auctions;
9. Sporting events; and
10. Gambling games or games of chance.

## Conflicts of interests and other unacceptable conduct, e.g.:

1. Acquisition of private interests in contracts, agreements in or investment in public body;
2. Unacceptable conduct relating to witnesses;
3. Intentional interference with, hindering or obstruction of investigation of offence.

## What is conflict of interest?

When I am influenced by my **personal interests** and cannot **objectively** apply my mind in the **best interest of Midvaal**.



## Other offences relating to corrupt activities, viz:

1. Accessory to or after an offence;
2. Attempt, conspiracy and inducing another person to commit an offence; and
3. Failure to report corrupt transactions/actions.

## Declare and recuse whenever you are conflicted in a:

1. Bid committee;
2. Recruitment and selection process;
3. Investigation;
4. Labour matter;
5. Others (prohibited by relevant legislation).

## **Irregularities relating to the following:**

1. Systems issues: where a process/system exists which is prone to abuse by employees, the public or other stakeholders, e.g.:
  - 1. Employment Practices**
    1. Inadequate vetting of employees;
  - 2. Procurement**
    1. Non-compliance to tender procedures;
    2. Procurement fraud, e.g. collusion between employees and suppliers;
    3. Fraudulent information submitted by suppliers when tendering for work.
  - 3. Financial Systems and Control**
    1. Theft of blank cheques;
    2. Unauthorised journal entries;
    3. Deliberate non-compliance to policies and procedures;
    4. Abuse of the system of overtime;
    5. Abuse of the system of travel claims;
    6. Fraudulent payment certificates submitted for payment;
    7. Non-compliance to delegated authority limits.
2. Financial issues: i.e. where individuals or entities have fraudulently obtained money from Midvaal, e.g.:
  - 1. Employment Practices**
    1. Ghost employees;
    2. Irregular appointment of staff for undue benefits.
  - 2. Procurement**
    1. Suppliers invoicing for work not done;
    2. Service providers double invoicing;
    3. Contractors “fronting”.
  - 3. Financial Systems and Control**
    1. Theft, e.g. petty cash, etc;
    2. Fraudulent cashing of cheques;
    3. Fraudulent travel claims by employees.
3. Equipment and resource issues: i.e. where Midvaal's equipment/resources/vehicles are utilised for personal benefit or stolen, e.g.:

1. Theft of assets;
  2. Abuse of assets;
  3. Misappropriation of assets;
  4. Deliberate destruction of property;
  5. Use of Midvaal resources and equipment for private gain.
4. Other issues: i.e. activities undertaken by employees of Midvaal, which may be against policies or fall below established ethical standards, e.g.:
1. Conflict of interest;
  2. Favouritism;
  3. Non-disclosure of private work.



## **2. INTRODUCTION & VALUES**

Midvaal subscribes to the principles of good corporate governance, which requires conducting business in an honest and transparent fashion. Consequently Midvaal is committed to fighting fraudulent behaviour at all levels within the organisation.

### **Midvaal cherishes the following values:**

1. **Loyalty;**
2. **Professionalism;**
3. **Absolute integrity;**
4. **A culture of honesty;**
5. **A positive public image;**
6. **Confidence from the public;**
7. **High standards of service delivery;**
8. **Striving for and maintaining credibility;**
9. **A sense of pride in belonging to Midvaal;**
10. **Acceptance of responsibility and accountability;**
11. **Sanctioning bad and rewarding good behaviour; and**
12. **All other positive attributes contributing towards sound ethical standards.**

The Plan is premised on the organisations core ethical values driving the business of Midvaal, the development of its systems, policies and procedures, interactions with ratepayers, the public and other stakeholders, and even decision-making by individual managers representing the organisation.

This means that in practice all departments and other business units of Midvaal and even external stakeholders must be guided by the Plan as the point of reference for their conduct in relation to Midvaal.

Further, the plan for Midvaal is intended to update the existing Fraud and Anti-Corruption Response Plan that is already in place.

In addition to promoting ethical conduct within Midvaal, the Plan is also intended to assist in preventing, detecting, investigating and sanctioning fraud and corruption. This dynamic document details the steps, which have been, and will continually be taken by Midvaal to promote ethical conduct and address fraud and corruption.

### 3. POLICY STANCE

**The policy of Midvaal is zero tolerance to fraud and corruption**

In addition, all fraud and corruption will be investigated and followed up by the application of all remedies available within the full extent of the law and the implementation of appropriate prevention and detection controls.

These preventative controls include the existing financial and other controls and checking mechanisms as prescribed in the systems, policies and procedures of Midvaal.

The efficient application of instructions contained in the policies and procedures of Midvaal, is one of the most important duties to be applied by every employee in the execution of their daily tasks.

4. **WHAT SHOULD AN EMPLOYEE DO IF HE/SHE SUSPECTS FRAUD AND CORRUPTION**

It is the responsibility of all employees to **immediately** report all allegations or incidents of fraud and corruption to their immediate manager and the Ethics Hotline.

Should an employee be concerned that the manager is involved, the report can be made to any other member of management, the Municipal Manager, the Chairperson of the Performance & Audit Committee **and the Ethics Hotline.**

All managers are responsible for the detection, prevention and investigation of fraud and corruption, and must report all incidents and allegations of fraud and corruption to the Municipal Manager, via the Ethics Hotline (externally and/or internally).

The Municipal Manager will initiate an investigation into the matter.

5. **WHAT SHOULD A MEMBER OF THE PUBLIC OR PROVIDERS OF GOODS AND/OR SERVICES DO IF THEY SUSPECT FRAUD AND CORRUPTION**

Midvaal encourages members of the public or providers of goods and/or services who suspect fraud and corruption to contact any member of management, the Municipal Manager, the Chairperson of the Performance & Audit Committee, Executive Mayor, the National Hotline on 0800-701-701 and **the local independently managed Ethics Hotline on 0860-268-624 without any delay.**



**0860-268-624**

**ETHICS HOTLINE**

## **6. HOW WILL ALLEGATIONS OF FRAUD AND CORRUPTION BE DEALT WITH**

6.1 For issues raised by employees, ratepayers, members of the public or providers of goods and/or services, the action taken will depend on the nature of the concern.

The matters raised will be screened and evaluated and may subsequently:

1. Be investigated internally;
2. Be referred to another law enforcement agency;
3. Be referred to the Financial Disciplinary Board;
4. **Be dealt with in terms of the Local Government: Disciplinary Regulations for Senior Managers, 2010.**

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

- 6.2.1 In case of employees, taking disciplinary action within a reasonable period of time after the incident has been reported;
- 6.2.2 Instituting civil action to recover losses;
- 6.2.3 Initiating criminal prosecution by reporting the matter to the SAPS or any other relevant law enforcement agency;
- 6.2.4 Any other appropriate and legal remedy available and applicable.

## **7. RECOVERY OF LOSSES**

Managers are required to ensure that losses or damages suffered by Midvaal as a result of all reported acts committed or omitted by an employee, ratepayer or any other person are recovered from such an employee, ratepayer or other person if he or she is found to be liable for such losses.

## **8. FEEDBACK TO REPORTERS OF FRAUD**

The Municipal Manager will, upon receiving a report of fraud from an external person, write to the person making the report:

1. Acknowledging that the concern has been received;
2. Indicating how he proposes to deal with the matter and whether any initial enquiries have been made;
3. Giving an estimate of how long it will take to provide a final response;
4. Informing them whether any further investigations will take place, and if not, why not.

## 9. **CONFIDENTIALITY**

All information relating to fraud and corruption 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.

## 10. **MEDIA**

**No** person is authorised to supply any information with regard to allegations or incidents of fraud and corruption to the media, without the express permission of the Municipal Manager.

## 11. **PROTECTION OF WHISTLE BLOWERS**

The Protected Disclosure Act, Act 26 of 2000 make provision for procedures in terms of which employees in both the private and the public sector may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers; to provide for the protection of employees who make a disclosure which is protected in terms of the Act and to provide for matters connected therewith.

It is the spirit of the Act that no employee may be subjected to any occupational detriment by his or her employer on account, or partly on account, of having made a protected disclosure.

Any disclosure **made in good faith**, Section 6(1)(a), and substantially in accordance with any procedure prescribed, or authorised by the employee's employer for reporting or otherwise remedying the impropriety concerned or to the employer of the employee, where there is no procedure as contemplated in Section 6(1)(a) is a protected disclosure.

Any employee who, in accordance with a procedure authorised by his or her employer, makes a disclosure to a person other than his or her employer, is deemed, for the purposes of the Act, to be making the disclosure to his or her employer.

The general protected disclosure, includes any disclosure **made in good faith** by an employee who reasonably believes that the information disclosed, and any allegation contained in it, are substantially true and who does not make the disclosure for purposes of

personal gain, excluding any reward payable, in terms of any law, is a protected disclosure if one or more of the conditions referred to in Sub-section (2) of the Act apply and in all the circumstances of the case, it is reasonable to make the disclosure.

In compliance to the Protected Disclosures Act, an employee who reports suspected fraud and/or corruption may remain anonymous should he/she so desire.

Concerns expressed anonymously are difficult to investigate; nevertheless it will be investigated at the discretion of Midvaal.

This discretion will be applied by taking into account:

1. the seriousness of the issue raised;
2. the credibility of the concern;
3. the likelihood of confirming the allegation.

No employee will suffer any penalty or retribution for **good faith reporting** of any suspected or actual incident of fraud and corruption which occurred within Midvaal.

Any person making it its business to find out who made the report is chargeable with a dismissible offence.

This may include:

### **11.1 Harassment or victimisation**

Midvaal acknowledges the fact that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal from those responsible for the irregularity. Midvaal will not tolerate harassment or victimisation and will take action to protect employees when they raise a concern in good faith. This does not mean that if an employee is already the subject of disciplinary or other action, that action will be halted as a result of their whistle-blowing.

### **11.2 Confidentiality**

Midvaal will do its best to protect an individual's identity when he/she raises a concern and does not want their identity to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the employee may be required as part of the evidence.

All managers should discourage employees or other persons from making allegations, which are false or made with malicious intentions.

Where such allegations are discovered, the person who made the allegations must be subjected to firm disciplinary, or other appropriate relevant action.

## **12. COMPONENTS OF THE PLAN**

The main principle upon which this Plan of Midvaal is based on and aligned to the Local Government Anti-Corruption Strategy (LGACS) includes the following:

1. Creating a culture which is ethical and intolerant to fraud and corruption;
2. Deterrence of fraud and corruption;
3. Preventing fraud and corruption which cannot be deterred;
4. Detection of fraud and corruption;
5. Investigating detected fraud and corruption;
6. Taking appropriate action in the event of such irregularities, e.g. disciplinary action, recovery of losses, prosecution; and
7. Applying sanctions, that includes blacklisting and prohibition from further employment.

The above is not intended to detract from the premise that all the components are equally essential for the successful implementation of the Plan.

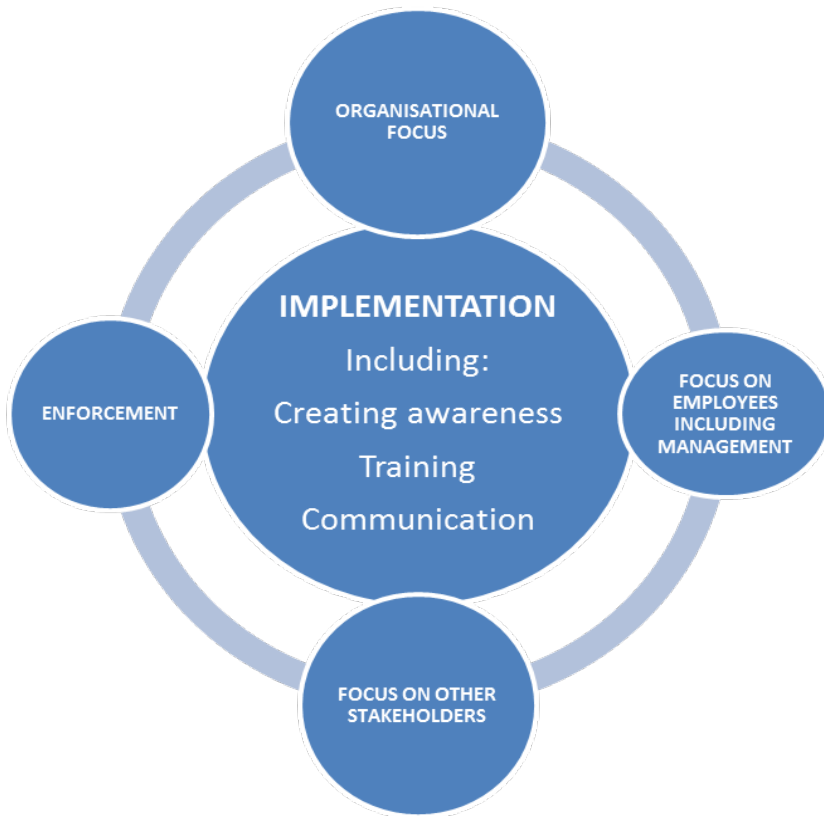
The components of the Plan for Midvaal are the following:

1. Focus on the Organisation;
2. Focus on Employees;
3. Focus on other stakeholders;
4. Enforcement;
5. Implementation.

## **13. APPROACH TO FRAUD**

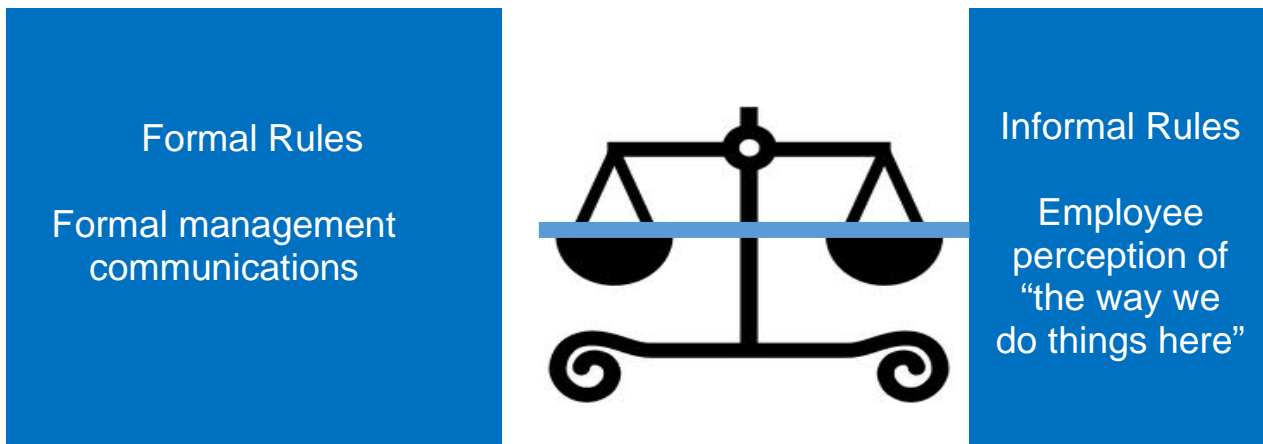
### **Prevention**

The approach to fraud prevention in Midvaal can be summarised as follows:



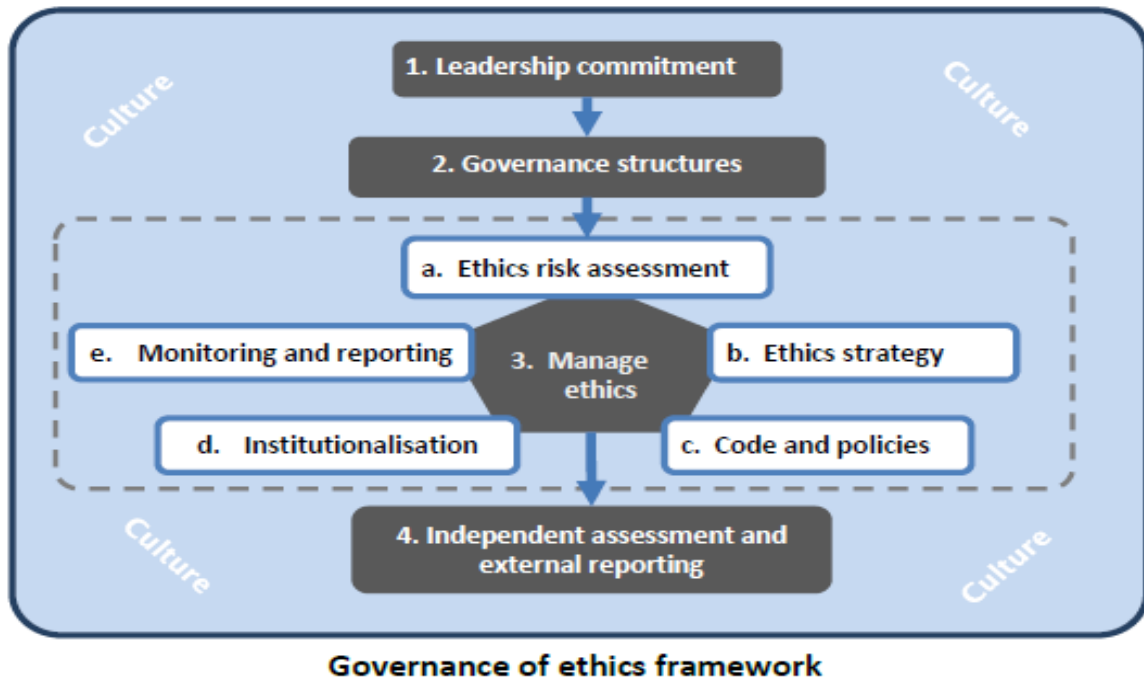
The Plan is aligned to the Ethics Framework to enhance governance in the management of sound ethical conduct underpinned by management’s influence to a sound and good corporate culture. Management is ultimately responsible for the culture within the organisation.

### Formal versus Informal Culture

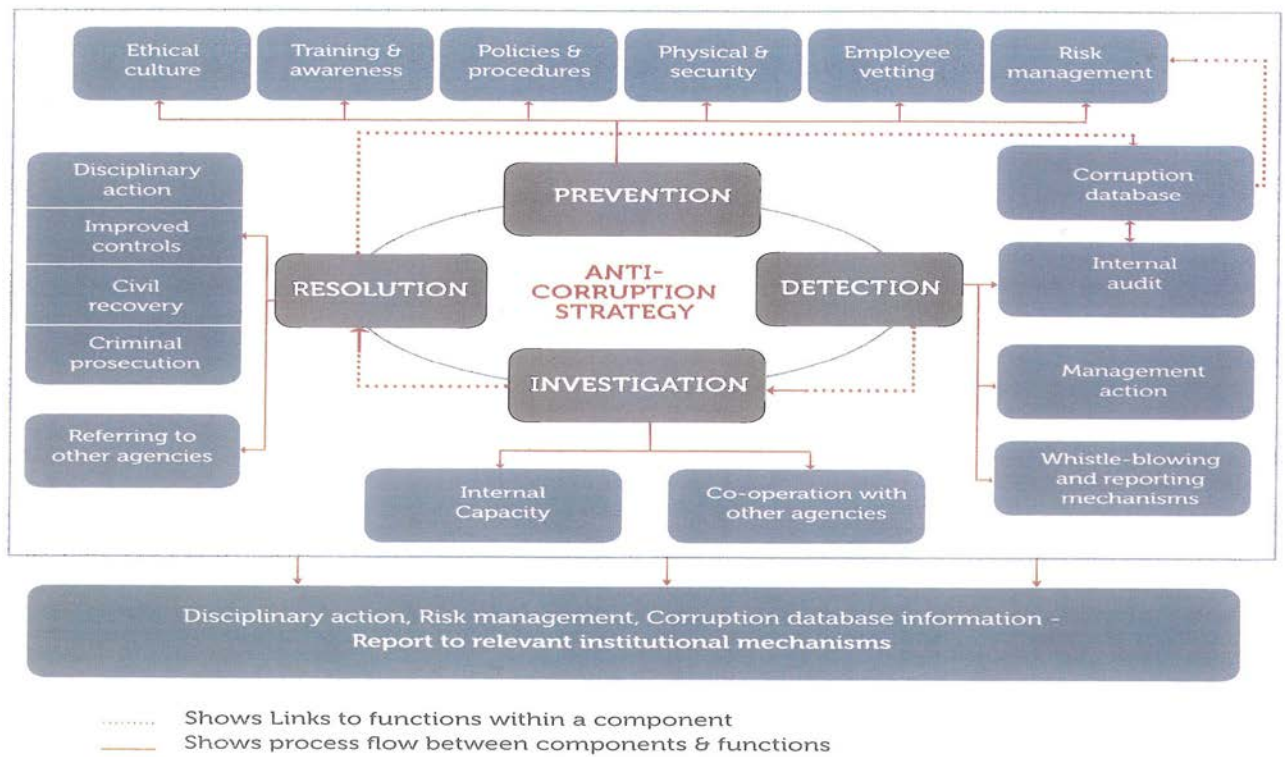




Council's approach to ethics management is guided by the following framework:



The backbone of this Ethics Plan is informed by the pillars guided by the Gauteng Minimum Anti-Corruption Strategic Framework, illustrated as follows:



## 13.1 **FOCUS ON THE ORGANISATION**

### **Codes of Conduct for Municipal Employees and Councillors**

In terms of Section 2 of the Systems Act, the Code of Conduct for Municipal employees contains specific conduct standards categorised as follows:

- General Conduct;
- Commitment to serving the public interest;
- Personal gain;
- Disclosure of benefits;
- Unauthorised disclosure of information;
- Undue influence;
- Rewards, gifts and favours;
- Council property;
- Payment of arrears;
- Participation in elections;
- Sexual harassment;
- Reporting duty of staff members; and
- Breaches of Code.

In terms of Section 1 of the Systems Act, the Code of Conduct for Councillors contains the following categories:

- General conduct of councillors;
- Attendance at meetings;
- Disclosure of interests;
- Personal gain;
- Declaration of interests;
- Full-time councillors;
- Rewards, gifts and favours;
- Unauthorised disclosure of information;
- Intervention in administration;
- Council property;
- Duty of chairpersons of municipal councils;
- Breaches of Code; and
- Application of Code to traditional leaders.

Municipal employees are expected to comply with every respect with the conditions of employment and collective agreements and any related regulation, order, policy and practice and to refrain from any conduct which would give just cause for discipline.

***In particular, employees should adhere to the following Code of Ethics:***

1. Attend work regularly and punctually;
2. Conform to the reasonable dress and uniform requirements of the employer;
3. Perform their tasks and job responsibilities diligently, carefully and to the best of their ability;
4. Obey all lawful and reasonable instructions given by a person having the authority to do so;
5. Conduct themselves with honesty and integrity;
6. Request permission in advance for any leave of absence whenever possible;
7. Refrain from being absent from duty without leave or permission, except on good cause;
8. Refrain from performing any other remunerative work outside of normal working hours without the prior written permission of the departmental head & Municipal Manager;
9. Refrain from any rude, abusive, insolent, provocative, intimidatory or aggressive behaviour to a fellow employee or member of the public;
10. Refrain from wilful or negligent behaviour, which may result in the damage of property;
11. Refrain from participating, either individually or with others, in any form of action, which will have the effect of disrupting the operations of the employer, other than actions contemplated by the Labour Relations Act;
12. Refrain from wrongfully disclosing privileged information; and
13. Refrain from consuming alcohol or using intoxicating drugs whilst on duty.



### **13.1.1 Gifts Policy**

The minimum principle should be adhered to that no gifts or courtesies above the value of R350.00, per financial year (1 Jul – 30 Jun), may be accepted.

In any event, the acceptance of any gift or courtesy may not create a conflict of interest or compromise the exercise of any discretion or inhibit the performance of any function or duty.

All rewards, gifts, hospitalities or other benefits directly or indirectly offered to employees must be declared in the departmental Gifts Register. The departmental Gifts Register must be available at the Office of the Departmental Secretary and be verified by the relevant Head of Department quarterly.

The annual Gifts Register must also be submitted to internal audit on 30 June, annually for auditing purposes.

This clause must be read in conjunction with Council's Policy on the Acceptance of Grants, Gifts, Donations and Sponsorships.

### **13.1.2 Declaration of private business interests (Declaration of Interest)**

All employees and councillors must declare any and all private business interests and actual or potential conflicts of interest at least annually and within 60 days of any change in the nature or detail of any such interests.

### **13.1.3 Systems, policies and procedures**

Midvaal has a number of systems, policies and procedures designed to ensure compliance with specific laws and regulations and basic internal control.

All employees and other stakeholders are expected to comply with the applicable policies and procedures. A fundamental risk in this area is the lack of knowledge, awareness, effective communication and training relating to prevailing systems, policies and procedures.

Non-compliance with policies and procedures is a risk with the potential to seriously impact the success of the Plan of Midvaal. This will be addressed by senior management developing clearly defined communication and training strategies to create awareness of all policies and procedures in

order to ensure that all employees are made aware of, and adequately trained in the implementation of policies and procedures relevant to their duties and responsibilities, e.g. provisions for all employees to acknowledge, in writing, that they have read the policies and procedures applicable to their duties, have undergone relevant training and/or are aware of these policies and procedures, etc.

A structured monitoring mechanism must be developed by senior management for the keeping of proper records of the policies and procedures that are being updated, and of new policies and procedures that are being developed in order to set clear targets and monitor progress continuously.

#### **13.1.4 Employment Practices**

Midvaal is committed to developing human resources systems, policies and procedures, which incorporate fraud and corruption prevention practices. There is a risk of poor implementation of its human resource systems, policies and procedures and Midvaal undertakes testing thereof during internal audits in which control shortcomings are subsequently addressed.

Employee focussed anti-fraud and anti-corruption measures should be visible from:

1. The point of advertising a vacant post,
2. Recruitment,
3. Specific employment conditions,
4. Maintaining high employee morale,
5. Performance management; and even
6. Exit procedures upon resignation or retirement.

The approaches indicated below are key to Midvaal's efforts in this regard.

##### **1. Advertising posts**

The inclusion of specific provisions when advertising posts, to provide an indication to applicants that only people with the highest levels of personal integrity will be considered and that submission to appropriate pre-employment screening processes are obligatory, for consideration in any post.

The Recruitment and Selection Policy of Midvaal must uphold and aim to ensure that the anti-corruption initiatives as highlighted above in relation to advertising posts, is included.

## **2. Pre-employment screening and probity**

Midvaal intends ensuring that pre-employment screening procedures are applicable to all employees, regardless of level, including employees acting in specific positions, seconded employees and temporary and contract workers. Relevant probity will be included in all employee screening processes.

## **3. Probation**

Compulsory probationary periods should be applicable to all full-time employees.

In terms of this, new employees will be evaluated once a month for a period of three months. This provision will be extended to include seconded employees and temporary and contract workers.

Relevant vetting will again be considered for employees on probation, during probation and prior to their final appointment in view of the long duration of the probationary period.

## **4. Ongoing financial disclosure and lifestyle audits**

All staff including senior managers will be obliged to declare specific personal assets and private business interests on an annual basis, as per the approved policy and procedure.

## **5. Employee induction programmes**

Employee induction is an opportunity to introduce employees to the culture and ethos of the organisation.

Efforts will be made to ensure that organisational strategy, business ethics and conduct standards are included in employee induction.

Specific steps will also be developed to include seconded employees, interns and temporary and contract workers in relevant aspects of induction programmes.

According to the Recruitment and Selection Policy of Midvaal, induction will be conducted within seven days after the initial date of appointment, records to be available for auditing.

## **6. Obligatory leave periods**

In order to limit the risk of over-worked employees who could become lackadaisical leading to non-compliance to internal controls and to further limit the risk of fraud and corruption Midvaal will compel all employees to take annual leave, in terms of the Conditions of Service. This control also limits the risk of unethical individuals, mono-policing specific tasks.

Managers will be encouraged to ensure that appropriate controls, e.g. appropriate scrutiny and supervision, are put in place in instances where employees do not take leave for extended periods of time due to work commitments.

## **7. Remunerated work outside normal working hours**

In considering an application by an employee to conduct business outside normal working hours, the following must be taken into account:

- 7.1 The nature and extent of work to be undertaken;
- 7.2 The time required for the outside work;
- 7.3 The work load of the applicant;
- 7.4 The employee's performance record;
- 7.5 The possible reputational impact on the Council;
- 7.6 The need for rest;
- 7.7 The utilisation of Council's property and resources;
- 7.8 Employees must attach such approval when submitting their financial disclosure forms;

Read with the Public Administration Management Act, Act 11 of 2014, effective as from 1 Apr 2019, no employee may not conduct business with the State, or be a director of a public or private company conducting business with the State.

A contravention of the above, is an offence and any person found guilty of the offence is liable to a fine or imprisonment for a period not exceeding 5 years or both such fine and imprisonment and constitutes serious misconduct which may result in the termination of employment by the municipality.

## **8. Exit procedures for employees and control over assets**

The exit procedures for employees leaving Midvaal usually require the return of assets and an exit interview. Steps will be taken to ensure that specific follow-up time frames are set to encourage managers to apply the requirement related to the return of assets promptly.

Midvaal will ensure that an exit interview process is in place, which includes the assessment of the perceptions of the business ethics and conduct standards within the organisation. This will assist in identifying areas for improvement.

### **13.1.5 Discipline**

Midvaal will be consistent and efficient in its application of the disciplinary measures.

Additional measures, which will be considered include:

- Communication of specific disciplinary standards and forbidden conduct;
- Introducing a system where the application of disciplinary measures is applied consistently;
- Steps for ongoing training of managers in the application of disciplinary measures;
- Where managers are found to be inconsistent and/or inefficient in the application of discipline, Midvaal will consider firm action; and
- Publication (within the permissible legal framework) of the outcomes and sanctions of disciplinary actions, including lessons learned. The successful achievement of these initiatives, together with their communication, is expected to have a deterrent effect.

Midvaal maintains a register of disciplinary cases which assists in the tracking of outcomes and sanctions of disciplinary cases. This register should be updated to include the lessons learned.



### 13.1.6 Financial Systems and Control

Appropriate finance policies and procedures are also necessary to ensure appropriate internal control over finance management and to limit fraud and corruption risks. The effectiveness of the existing finance policies and procedures will also be tested during the course of internal audits and shortcomings are addressed.

The Council of Midvaal must approve an annual budget, in terms of current legislation, for Midvaal before the beginning of each financial year. Midvaal may only incur expenditure in terms of an approved budget and within limits of the amounts appropriated for the different votes in an approved budget.

The Municipal Manager of Midvaal, in terms of Section 60 of the MFMA, is regarded as the accounting officer for Midvaal. Therefore the Municipal Manager should ensure that the financial systems and controls that are in place in Midvaal address the following:

- Effective, efficient and economic use of resources;
- Proper record keeping of the financial affairs of Midvaal;
- Effective, efficient and transparent systems of financial and risk management and internal control;
- Effective, efficient and transparent systems of internal audit;
- Prevention of irregular or fruitless and wasteful expenditure; and
- Institution of disciplinary or, when appropriate, criminal proceedings against employees who have committed an act of financial misconduct or other offence, including fraud and corruption.

Further, the Municipal Manager must ensure that an effective system of expenditure control is in place. According to Section 32(6) of the MFMA, the accounting officer of Midvaal must report to the South African Police Service all cases of alleged theft and fraud that occurred in Midvaal.

Top management, senior management and other officials of Midvaal must assist the Municipal Manager in co-ordinating the financial systems and controls within Midvaal.

The finance policies, procedures and other prescripts of Midvaal prescribe various controls, which, if effectively implemented, would limit fraud and corruption within Midvaal.

These controls may be categorised as follows, it being recognised that the categories contain over-lapping elements:

1. Preventative controls, which is further subdivided into:
  - 1.1 Authorisation controls which require that all transactions must be authorised or approved by an appropriate responsible person and that the limits for these authorisations are specified in the approved Delegations of Authority, in terms of Section 79 of the MFMA of Midvaal.
  - 1.2. Physical controls which 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.
2. Detection controls, which is further subdivided into:
  - 2.1 Arithmetic and accounting controls, which are basic controls within the recording function which ensure that transactions to be recorded and processed have been authorised, are complete, are correctly recorded, and accurately processed. Such controls include checking, arithmetical accuracy of records, the maintenance and checking of totals, reconciliation, control accounts and accounting for documents.
  - 2.2 Physical controls, which relate to the security of records and are similar to preventive controls in that they are also designed to limit access.
  - 2.3 Supervision, which relates to supervision by responsible officials of day-to-day transactions and the recording thereof.
  - 2.4 Management Information which relates to the review of management accounts and budgetary controls. These controls are normally exercised by management outside the day-to-day routine, of the system.

### 3. Segregation of duties

- 3.1 One of the primary means of control is the separation of those responsibilities or duties that 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 and corruption.
- 3.2 Segregation of duties reduces the risk of intentional manipulation or error and increases the element of checking.
- 3.3 Functions that should be separated include those of authorisation, execution, custody, recording, and, in the case of computer-based accounting systems, systems development and daily operations.
- 3.4 Placed in context with fraud and corruption prevention, segregation of duties lies in separating either the authorisation or the custodial function from the checking function.

Despite the existence of policies and procedures to address internal control, deficiencies such as ineffective application of policies and procedures resulting from lack of training, expertise, knowledge and capacity has the potential to lead to increased incidence of fraud and corruption.

Midvaal will continue to initiate steps to address the problem of lack of training, expertise and knowledge in systems, policies and procedures to improve internal control. Areas of weakness will be identified during audits and risk assessments.

Furthermore, Midvaal will also continue to re-emphasise to all supervisors that consistent compliance by all employees with internal control is one of the fundamental controls in place to prevent fraud and corruption. Managers will be encouraged to recognise 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 which do not comply with basic internal controls, e.g. non-adherence to the delegation of authority limits, firm action(s) will be considered.

### 13.1.7 Procurement

The MFMA requires every municipality to have a procurement policy that is fair, equitable, transparent, competitive and cost effective.

Further, the MFMA (read in conjunction with the Municipal Supply Chain Management Regulations) stipulates that the procurement policy of Midvaal must at least address the following aspects:

1. The barring of persons from participating in tendering or other bidding processes that have been convicted of fraud or corruption during the past five years (Regulation 38(1)(g)(ii));
2. Wilfully neglected, reneged on or failed to comply with government contract during the past five years (Regulation 38(1)(g)(iii));
3. Prohibition on awards to persons whose tax matters are not in order;
4. Prohibition on awards to persons in the service of the state;
5. Been blacklisted at National Treasury's database as a person prohibited from doing business with the public sector.

The Municipal Manager of Midvaal must implement the procurement policy and take all reasonable steps to ensure that proper mechanism and separation of duties in the procurement system are in place to minimise the risk of fraud, corruption, favouritism and unfair and irregular practices.

At a minimum, the procurement policy of Midvaal contains the following anti-fraud and anti-corruption provisions:

- The range of supply chain management processes that Midvaal may use, e.g. tenders, quotations, etc;
- When a particular process must be used;
- Procedures for each type of process;
- Open and transparent pre-qualification processes for tenders and other bids;
- Competitive bidding processes;
- Bid documentation, advertising of and invitations for contracts;
- Procedures for:

- the opening, registering and recording of bids in the presence of interested parties;
- the evaluation of bids;
- negotiating the final terms of the contracts; and
- the approval of bids;
- Screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value;
- Compulsory disclosure of conflicts of interests.

### **13.1.8 Risk Management and Assessment**

In order to identify and address risks facing Midvaal, a risk assessment will be performed on an annual basis. This process will be complimented by the specific identification of existing controls to mitigate risks identified. Additional actions to further mitigate these risks will culminate in a risk management plan.

Presentations to employees of Midvaal will be conducted in order to ensure that they have a more detailed understanding of the fraud and corruption risks facing Midvaal and the areas wherein these risks exist, thus enhancing the prospect of detecting irregularities earlier.

### **13.1.9 Fraud Detection Reviews**

Midvaal will perform specific detection reviews in areas, which are at high risk of unethical conduct, fraud and corruption on a regular basis.

This will include the conducting of presentations to employees, including managers, to ensure that they have a more detailed understanding of the risks associated with these areas, thus also enhancing the prospect of detecting irregularities earlier.

These include:

- Recruitment of staff;
- Procurement, e.g. emergency procurement, sole suppliers, etc;
- Housing, e.g. allocation, administration of housing waiting lists, etc; and
- Financial Systems and Control, e.g. payment of suppliers, receipt and banking of revenue received.

Midvaal has identified the following indicators that provide an indication of susceptibility to fraudulent activities:

- A department that lacks competent personnel;
- A department that does not enforce clear lines of authority and responsibility;
- A department that does not enforce proper procedures for authorisation of transactions;
- A department that lacks adequate documents and records;
- No separation of responsibilities between the various duties within a business cycle;
- Inadequate disclosure of personal investment and other income;
- Operating on a crisis basis;
- Too much trust placed on key employees;
- Failure to discipline violators of policy; and
- Inadequate background and reference checking before hiring new employees.

Further, Midvaal has identified the following opportunities in which the likelihood of the occurrence of fraud is increased:

- Rapid turnover of key employees through resignation or dismissal;
- Dishonest and dominant management;
- Inadequate training programmes;
- Complex business structures;
- No effective internal audit function;
- Continuous problems with regulatory agencies; and
- Large year-end and unusual accounting transactions.

### 13.1.10 Internal and External Audit

The MFMA stipulates that a Municipality must maintain a system of internal audit under the control and direction of an audit committee. Furthermore, the internal audit function of Midvaal is required to report on matters relating to:

- Internal Control;
- Accounting procedures and practices;
- Risk and risk management;
- Loss control; and
- Compliance with applicable legislation.

Midvaal outsourced its Internal Audit Unit to ensure total independence and objectivity. The Municipality will ensure that the internal audit function has anti-corruption capacity and falls under the guidance of an audit committee.

In terms of its Charter, the primary role of the Performance & Audit Committee should be to:

- Evaluate the performance of internal audit;
- Review the internal audit function's compliance with its mandate as approved by the Audit Committee;
- Review and approve the internal audit charter, internal audit plans and internal audit's conclusions with regard to internal control;
- Review significant differences of opinion between management and internal audit function;
- Evaluate the independence and effectiveness of internal auditors; and
- Review the co-operation and co-ordination between the internal and external audit function and co-coordinating the formal internal audit work plans with external auditors to avoid duplication of work.

The anti-corruption capacity within Midvaal will be responsible for the investigation of allegations of fraud and corruption that is brought to its attention.

Additionally, it will support the risk management procedures from a fraud risk identification perspective.

Midvaal recognises the fact that the positive support by all its managers for internal audit and its functions, speedy response to, and the addressing of queries raised by internal audit is vital to the success of the plan. Where managers are found to be slow in addressing internal control and shortcomings raised by internal audit, firm action will be considered.

Awareness strategies will also be developed to enhance managers' understanding of the role of internal audit.

Midvaal is also the subject of annual external audits. These audits include the following tasks:

- Examining evidence supporting the amounts and disclosures in the financial statements;
- Assessing the accounting principles used and significant estimates made by management;
- Evaluating the overall financial statement presentation.

According to the annual report the nature and scope of the work performed by the Auditor-General complies with the above provisions.

### **13.1.11 Physical and Information Security**

#### **Physical Security**

Midvaal's main physical security threat arises in the area of control over its physical assets, facilities and employees. Further a risk of insufficient physical security to buildings and facilities.

Security personnel and access systems are deployed to mitigate this threat. However, control over security personnel and access systems should continuously be reviewed for adequacy.

Midvaal will also consider conducting a regular detailed review of the physical security arrangements at its offices and other sites and improve weaknesses identified. Specific focus areas will be physical security over infrastructure, assets and staff.

Furthermore, Midvaal will continue to pursue steps to ensure adequate security over its people, confidential information and information systems.



## **Information Security**

Midvaal will ensure that all employees are sensitised on a regular basis, to the fraud and corruption risks, associated with information security and the utilisation of computer resources, in particular – access control, and ensure that systems are developed to limit the risk of manipulation of computerised data.

Communiqués will be provided to all employees on the management of intellectual property and confidential information to limit the risk of manipulation of information.

Regular communiqués will be forwarded to employees pointing out security policies, with a particular emphasis on e-mail and Internet usage and the implications (e.g. disciplinary action) of abusing these and other computer related facilities. Where employees are found to have infringed on prevailing policy in this regard, disciplinary action will be taken.

Regular reviews of information and computer security will also be considered. Weaknesses identified during these reviews will be addressed.

### **13.2 FOCUS ON EMPLOYEES**

Key ambassadors for the successful implementation of the Plan for Midvaal are its employees.

In essence, this means that their conduct often forms the base upon which Midvaal as an organisation is judged. Midvaal employees have to therefore demonstrate behaviour beyond reproach in the execution of their duties.

Anti-fraud and anti-corruption measures to address employees as referred to in Paragraphs 3, 6 and 11 above will be implemented by Midvaal.

The following indicators and/or red flags that individuals may be susceptible to commit fraud must be noted:

1. Unusually high personal debts;
2. Living beyond one's means;
3. Excessive gambling habits;
4. Alcohol / drug problems;
5. Undue family or peer pressure to succeed;
6. Feeling of being underpaid;
7. Feeling of insufficient recognition for job performance;
8. Close association with suppliers;
9. "Wheeler-dealer attitude";
10. Desire to "beat the system";
11. Criminal record;
12. Not taking vacations;
13. Not allowing someone access to area of responsibility;
14. Undisclosed conflict of interest;
15. Rationalization for conflicting behavioural patterns.

### **13.3 FOCUS ON OTHER STAKEHOLDERS**

Midvaal has several other stakeholders with whom it interacts. These are indicated below:

1. Trading partners, e.g. suppliers, contractors, consultants;
2. Employee representative organisations;
3. National & Provincial Government Departments;
4. South African Local Government Association; and
5. The general public.

All stakeholders with whom Midvaal interacts are expected to abide by the principles contained in the plan. Although Midvaal has limited legal rights to enforce these principles on external stakeholders, it can exercise moral persuasion to gain compliance to the principles contained in the plan or choose not to enter into relationships with stakeholders who do not comply.

### **13.3.1 Trading Partners**

It is a common perception that employees face the greatest challenge to their integrity in the form of enticement to accept bribes from unethical suppliers, contractors and consultants.

Furthermore, these trading partners are also often viewed as untrustworthy in delivery of goods and/or services.

Approaches to address the risk of fraud and corruption relating to trading partners are the following:

- Appropriate terms and conditions in invitations to propose for services relating to the standards of business ethics expected by Midvaal;
- Appropriate pre-award screening of credentials supplied by contractors;
- Provisions for the compulsory declaration of actual and/or potential conflicts of interest both by suppliers and employees of Midvaal dealing with these suppliers;
- Appropriate contract terms and conditions indicating the conduct expected by Midvaal;
- Ongoing communication of these standards;
- Sound project management;
- Monitoring and evaluation of breaches;
- Taking sound action in the event of breaches such as:
  - Prosecution;
  - Loss recovery; and
  - Placing of appropriate prohibitions on future contracts and cancellation of existing contracts.

### **13.3.2 Employee representative organisations**

Midvaal is committed to complying with the resolutions of recognition agreements with trade unions. Nonetheless, it is also expected of trade union representatives to comply with the principles of the plan of Midvaal.

### **13.3.3 National & Provincial Government Departments**

DPLG, as one of the national departments, whose primary function is to develop policies and legislation with regard to provinces and local government, and to monitor the implementation of the Municipal Structures Act, Municipal Demarcation Act, Systems Act as well as the MFMA.

Efforts will be made to ensure that this stakeholder is also made aware of the principles contained in the plan and the conduct encouraged by Midvaal.

### **13.3.4 SALGA**

SALGA is an organisation mandated by the South African constitution to assist in the transformation of Local Government in South Africa.

SALGA plays a core role in areas related to local government transformation and as a national representative of the local government sector and its employees.

Midvaal will also ensure that SALGA is made aware of the plan and appropriately compliment it when dealing with Midvaal.

### **13.3.5 The general public**

Members of the general public will also be made aware of Midvaal's commitment to fraud prevention and encouraged, through awareness programmes, to report irregularities affecting Midvaal.

## **13.4 ENFORCEMENT**

No fraud prevention plan would be complete without enforcement forming an integral component for instances where fraud and corruption occur.

### **13.4.1 Reporting and monitoring of fraud and corruption**

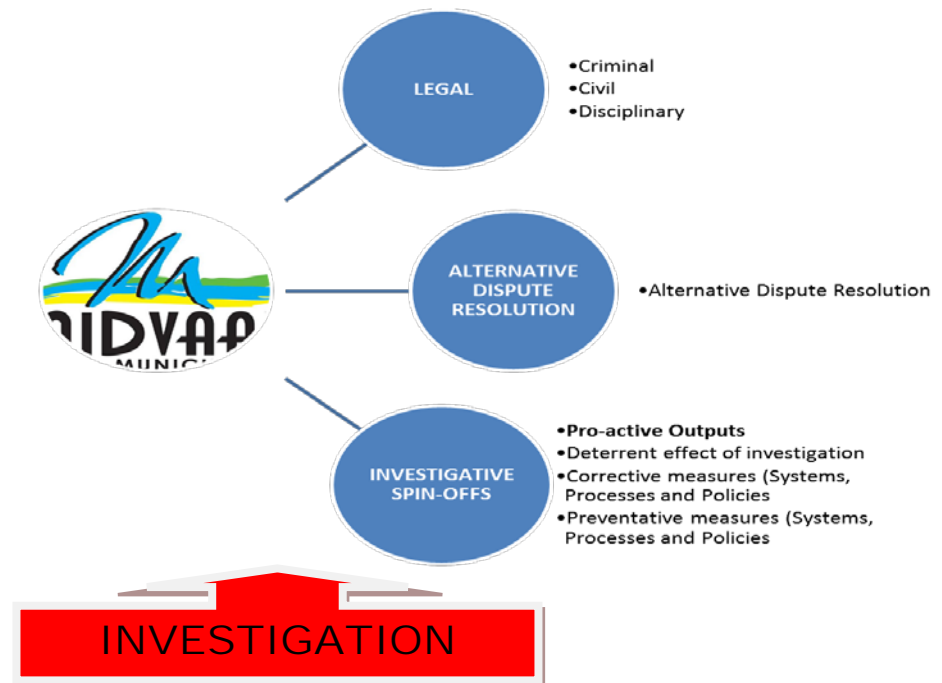
#### **Reporting Channels**

The reporting channels for unethical conduct, fraud and corruption impacting Midvaal are the following:

1. All allegations of fraud and corruption must be reported by employees to their immediate managers and the anti-fraud and corruption hotline;
2. If there is a concern that the immediate manager is involved, the report must be made to any other member of management, the Municipal Manager, via the independently managed Ethics Hotline (0860-268-624) or the National Hotline (0800-701-701) or the Chairperson of the Performance & Audit Committee or the Executive Mayor.
3. All managers should report all allegations to the Municipal Manager, via the Ethics Hotline, who will initiate an investigation; and
4. Should an employee wish to make a report anonymously, such a report may be made to any member of management, the Municipal Manager via the independently managed Ethics Hotline, the National Hotline, the Chairperson of the Performance & Audit Committee or the Executive Mayor.

Parallel to the above enforcement approaches, is the task of fixing of controls by management, to limit future recurrence of fraud and corruption in the event of breaches.

The resolution mechanisms, which can be pursued in enforcement, are illustrated below:



## **13.5 IMPLEMENTATION AND AWARENESS**

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 to be taken, responsible persons and feedback dates relating to progress made will also be set.

### **13.5.1 Monitoring**

Midvaal will ensure that a fraud and corruption information system is developed for the following purposes:

1. Recording all allegations;
2. Tracking progress with the management of allegations;
3. To facilitate the early identification of systemic weaknesses and recurring risks and inform managers and employees of systemic weaknesses/risks;
4. Provide feedback to employees and other whistle blowers on the management of allegations.

### **13.5.2 Creating awareness**

This component of the plan comprises two areas, namely education and communication.

### **13.5.3 Education**

Formal awareness presentations will be conducted for employees of Midvaal in planned workshops. The ongoing creating of awareness amongst all employees is, however, the responsibility of all managers.

Approaches to create awareness amongst employees will address the following issues:

- Employee awareness and the application of professional ethics in their work environment;
- Employee awareness of the current systems, policies and procedures relating fraud and corruption and their rights should they blow the whistle;
- Encouraging employees to blow the whistle on fraud and corruption within their work environments; and

- Encouraging employees to understand specific fraud and corruption related risks to which Midvaal may be exposed, thus enhancing the prospect of detecting irregularities earlier.

#### **13.5.4 Communication**

The objective of communication is to further create awareness amongst employees, the public and other stakeholders, in order to facilitate a culture where all stakeholders strive to contribute towards making it a success. This will increase the prospect of fraud and corruption being reported and improve Midvaal's prevention and detection ability.

Communication approaches that will be considered by Midvaal are the following:

- Continuous communication to existing and newly appointed employees;
- Posters, newsletters and pamphlets to advertise the Codes of Conduct for staff members and Councillors, aimed at employees, the public and other stake-holders;
- Ensuring that ethics promotion is a fixed agenda item in meetings;
- Signing of declarations of commitment by all employees to the plan;
- Endorsements of other correspondence directed at providers of goods and/or services with pro-ethics and anti-fraud and anti-corruption messages; and
- Publishing the plan and successes in its implementation in the Annual Report of Midvaal.

#### **13.5.5 Implementation structure**

The following responsibilities were assigned to the Performance & Audit Committee relating to anti-fraud and corruption.

The role of the committee is to oversee the institution's approach to fraud prevention and corruption incidents reported by employees or other external parties. This committee is a sub-committee of the independent members of the Performance & Audit Committee. The various business divisions should have representation of a compulsory member.

The committee shall meet at least quarterly to discuss the following issues:


1. Progress made in respect of implementing the Anti-Fraud & Corruption Strategies and Fraud Prevention;
2. Reports received by the institution regarding fraud and corruption incidents with the view to making any recommendations to the Chairperson of the Performance & Audit Committee;
3. Reports on all investigations initiated and concluded;
4. All allegations received via the hotline.

The Risk Management Committee will include champions from all faculties and other business units, which will assist in implementing this plan.

The terms of reference of this team will amongst others include the following in relation to the plan:

- Securing buy-in from all stakeholders;
- Information sharing;
- Ongoing identification of weaknesses in systems and solutions;
- Creating awareness and ensuring adequate training and education to promote the plan;
- Assessing progress and ongoing maintenance and review.


#### 14. ETHICAL ADVICE / ASSISTANCE


 Employees seeking advice and/or assistance regarding any ethical challenges/dilemmas can approach the Ethics Champion, Ethics Officers or Ethics Trainers.

#### 15. REVIEW

This policy is subjected to annual review and/or as required.

This policy was approved by Council per item C2359/08/2020 dated 27 August 2020 of Midvaal Local Municipality and is signed as follows:

  
\_\_\_\_\_  
**MRS. S.N. MHLANGA**  
MUNICIPAL MANAGER

  
\_\_\_\_\_  
**MR. T. NTHO**  
CHAIRPERSON: PERFORMANCE &  
AUDIT COMMITTEE

  
\_\_\_\_\_  
**MRS. M.C. MOKOENA**  
CHAIRPERSON: ETHICS &  
RISK COMMITTEE MANAGEMENT  
COMMITTEE