

GREATER TZANEEN MUNICIPALITY



ANTI-CORRUPTION STRATEGY

OFFICE OF THE MUNICIPAL MANAGER

RISK AND COMPLIANCE UNIT

2024/2025 FY

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TERMS AND ABBREVIATIONS

MFMA	Municipal Finance Management Act (Act No 56 of 2003).
STRUCTURES ACT	Local Government: Municipal Structures Act, (Act No 117 of 1998).
SYSTEMS ACT	Local Government: Municipal Systems Act, (Act No 32 of 2000).
“Constitution” 1996	means the Constitution of the Republic of South Africa, (Act No 108 of 1996).
PFMA	Public Finance Municipal Act (Act No.1 of 1999 as amended by Act 29 of 1999).
GTM	Greater Tzaneen Municipality.
PDI & R	Prevention, Detection, Investigation and Response
GTM	Greater Tzaneen Municipality.
“Council”	refers to the Council of Greater Tzaneen Municipality.
“Councillor”	means a member of Council of Greater Tzaneen
“CFO”	means the Chief Financial Officer Greater Tzaneen
Municipality;	means Greater Tzaneen Municipality
“Employee”	means any employee of the Municipality.
“Fraud”	means the unlawful and intentional making of a misrepresentation which causes actual or potential prejudice to another, including inter alia, all aspects of economic crime and acts of dishonesty.
“Political Office Bearers”	means Councillors appointed to hold political offices in the Municipality, which is, the Mayor, Speaker, etc.
“Speaker”	means the speaker of Greater Tzaneen Municipality

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1. Introduction

The Municipality is committed to protect public funds and ensure that all Council activities are carried out in accordance with the principles of openness, honesty, and integrity. The Council has a zero tolerance of fraud and corruption activities by offenders. In carrying out its functions and responsibilities the Council is fully committed to deterring theft, fraud, corruption, and bribery whether it is attempted on or from within the Council; and is committed to an effective anti-fraud and corruption strategy. The Municipality has established anti-corruption structure under Risk Management Unit whose responsibilities are to investigate complaints and allegations on fraud and corruption. The structure will compile reports and submits to the Accounting Officer for appropriate action.

2. Legislative/Regulatory Framework

- a) Constitution of the Republic of South Africa, (Act No 108 of 1996, hereafter referred to as the Constitution)
- b) Protected Disclosure Act, (Act No 26 of 2000)
- c) Prevention and Combating of Corrupt Activities (Act no 12 of 20014)
- d) The Municipal Finance Management Act, (Act No 56 of 2003)
- e) Local Government: Municipal Systems Act, (No 32 of 56 of 2000)
- f) Local Government: Municipal structures Act, (No 117 of 1998)
- g) Local Government: Municipal Supply Chain Management Regulations, (Act No 27636 of 2005)
- h) Financial Intelligence Centre Act, 38 Of 2001 (FICA)
- i) Protection of Constitutional Democracy Against Terrorist and Related Activities Act, Act 33 of 3004 (POCDATARAA)
- j) National Treasury Regulations.

3. Definitions and elements of corruption

3.1. "Corruption"

- i. Is an act of a person in a position who unlawfully seeks, attains, receives a benefit other than his/her salary or allowance in return for doing or abstaining from doing a specific thing expected to do in

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the performance of his/her duties or influencing another or on behalf of another person or

- ii. Misuse of entrusted power for private gain

3.2. Elements of corruption:

a) Unlawfulness

The offences of corruption are committed only where there is a benefit promised, given, or received corruptly.

b) Benefit

This offence is committed by promising, giving, or receiving a benefit of whatever nature which is not legally due.

c) Person

Corruption is committed by a person who is charged with duty. It is not however necessary to establish that he/she has been charged with duty. In many cases the corruptor is also guilty as the corruptee and they can both be charged with corruption.

d) Intention

The intention to corrupt is basically an element of this offence.

e) Code of ethics

A code of ethics is a set of guidelines which are designed to set out acceptable behaviours for members of a particular group, association, or profession, acting responsibly, elements of strong personal beliefs.

4. Objectives of the Strategy

This anti-corruption strategy is: -

- a) In compliance with **MFMA** and **PFMA** which requires that municipalities must develop an anti-corruption strategy
- b) Aimed at rooting out corruption.
- c) Aimed at introducing and developing awareness programmes in respect of corruption within its own ranks.

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5. Scope

The strategy applies to all corruption, fraud, theft and maladministration or suspected irregularities of this nature involving, but not, limited, the following persons.

- a) Employees of the Municipality.
- b) Political office Bearers.
- c) Councillors.
- d) Consultants, suppliers, contractors, and other providers of goods and services to the Municipality.

6. RESPONSIBILITY IN TERMS OF ANTI-CORRUPTION STRATEGY

The Accounting Officer is responsible for developing and implementing the strategy. It is the responsibility of all employees and councillors of the Municipality to report all incidents of fraud or corruption, or any other dishonest activities of a similar nature. Any fraudulent or corrupt behaviour must be reported immediately. All reports received will be acted upon, will be treated with the requisite confidentiality, and will not be disclosed or discussed with parties other than those charged with investigation into such reports. All Directors and managers are responsible for the detection, prevention and investigation of fraud and corruption or any dishonest activities of a similar nature, within their areas of responsibility.

7. Corruption Perspective

7.1. Moralist

Entails that corruption is inherently bad.

7.2. Functionalist

Entails that corruption is ever present in the society and always wanted. When corruption opportunity prevails, the society is mostly tempted to participate.

7.3. Public Office

Legal Municipalities independent from Government are expected to combat corruption.

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7.4. Interest

This is a market centred perspective wherein officials convert political resources into goods needed to initiate and maintain corrupt relations.

8. Consequence Of Corruption

8.1. Loss of confidence in Municipalities

The public entrusts confidence in its political order and Municipality.

8.2. Reduction in productive investment and growth

Costs of corruption are very high. Widespread corruption compromises the development of the Municipality and attraction of investors.

8.3. Macro-fiscal costs

These entail the loss of revenue. It may also result in excessive expenditures because of corruption on state service level agreements and contracts.

8.4. Costs to the public and the poor

At Municipalities, the resources are diverted and do not reach the intended destinations or services because of bribes. This makes it difficult in the policy formulation and the service provision.

8.5. Disregard in the Rule of Law

Legal disputes are no longer resolved in accordance with pre-established rules and open procedures but by bribes paid or threats made to officials. The allocation of resources or services is determined by not in accordance with the needs but by their willingness and ability to bribe the officials involved. Fight against corruption must be accelerated by government.

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9. Components/Pillars of Fraud Prevention (PDI & R)

9.1. Prevention

Fraud prevention is a primary control which should lower the likelihood of fraud occurring. The prevention efforts should focus on identifying controls to prevent opportunity, rationalisation and pressure that have to occur for fraud to take place.

The following potential control can be implemented:

9.1.1. Employee awareness

Employee awareness programmes on Anti-Fraud and Corruption Strategy, Code of Conduct, Whistle blowing policy and the manifestation of fraud and corruption in the workplace all assist in the creation of an environment which may be hostile to a would-be transgressor.

9.1.2. Pre-employment screening

Pre-employment screening will be carried out for all appointments, and evidence of such screening will be maintained by the Human Resources Management. Consideration should be given to the following pre-employment screening:

The Municipality's policy of pre-employment screening will cover all new and promoted employees including those with administrative responsibilities or computer access. The screening will be performed by a person / people nominated by the Human Resources Management in conjunction with the Accounting Officer to ensure that screening is consistent and appropriately resourced throughout the Municipality. Screening will be conducted in accordance with the classification of the employee, or the levels of screening outlined below.

Where an employee is promoted into a management position and has not been screened during the previous three years, the applicant will be re-screened. The levels of screening include:

Recruitment procedures

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- a) Recruitment will be conducted in accordance with the requisite recruitment procedure.
- b) It will be a transparent process and all appointments will be confirmed only after due recommendation.
- c) Any person, involved in any decision-making process, who may have a conflict of interest, must declare such a conflict in writing to the Human Resources Management and withdraw from any further procedures.

9.1.3. Internal audit plan

A robust Internal Audit plan, which focuses on the prevalent high Fraud and Corruption risks, serves as an effective preventative measure. The Internal Audit Activity will compile such a plan on an annual basis, and such a plan will also include “surprise audits”.

9.1.4. Fraud and corruption prevention plan

The actions set out in this plan are all focused at mitigating the risk of fraud and corruption in the Municipality.

9.1.5. Declaration of interests

Senior Managers, all officials and Councillors of the Municipality are required to declare their business interests on an annual basis. This register will be kept by Accounting Officer and Human Resource Management. Officials may not perform any private work outside of public service without prior approval of the Accounting Officer.

9.2. Detection

Internal Audit plays an integral role in the detection of fraud and corruption. Included in Audit annual plan are reviews of systems of financial controls and specific fraud and corruption tests, spot checks etc.

The following tools can assist with detecting fraud when it occurs:

- a) Anonymous reports
- b) Tip-offs

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- c) Whistle blowing
- d) Internal reporting
- e) Fraud & audit programme
- f) Computer imaging, analysis and data mining tools

9.3. Investigations

In the case where there are fraudulent and corrupt activities; investigations must be initiated. Anonymous reports may warrant a preliminary investigation before any decision to implement an independent investigation is taken. Investigations will be undertaken by appropriate experienced officials. All investigations performed and evidence obtained will be in accordance with acceptable practices and legal requirements. Any investigations initiated must be concluded by issuing a report by the person appointed to conduct such investigations. Reports will be disseminated to Accounting Officer to have access in order to implement whatever action is deemed appropriate as a result of investigation.

Investigations may involve one or more of the following activities:

- i. Interviews, internal or external
- ii. Reviewing and collating documentary evidence
- iii. Forensic investigations
- iv. Examinations of telephone records
- v. Enquiries from banks and other financial Municipalities
- vi. Enquiries with other third parties
- vii. Data search and seizure
- viii. Expert witness and specialised testimonies
- ix. Tracing funds/assets/goods
- x. Liaison with police or other law enforcement or regulatory agencies
- xi. Interviewing persons suspected of involvement in fraud and corruption and report preparation.
- xii. Disciplinary procedure
- xiii. Audit Investigations
- xiv. Internal Audit Regulations

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Investigation Procedure

The investigation procedure should focus on the following:

- i. Way incidents should be reported.
- ii. There must be structures in place to allow employees to report incidents of fraud and corruption, e.g., fraud hot line.
- iii. Roles and responsibilities in the process
- iv. Procedure should be clear on who is responsible for what, e.g., preliminary investigations to be carried out by line managers or risk management unit.
- v. Procedure in carrying preliminary investigations.
- vi. Since every incident must be investigated, preliminary investigation will help to establish reasonable grounds on whether investigation is justified or not.
- vii. Procedure in taking resolutions after preliminary findings.
- viii. This is the reviewing of preliminary investigation findings. There must be a procedure on who decides on escalation of cases to internal and/or external investigating units. It is important that other law enforcement agencies are involved as early as possible. In deciding to involve other law enforcement agencies the Municipality can look at:
 - a) the nature of fraudulent act (criminal or misconduct).
 - b) internal capacity.
 - c) amounts involved (potential loss).
 - d) likelihood of asset forfeiture; and
 - e) likelihood of criminal prosecution.

Involvement of other law enforcements

Depending on the facts of the incidents, investigations can immediately be referred to internal and/or external investigating units.

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9.4. Response

Involves post-investigation activities such as the following:

a) **Disciplinary actions**

The disciplinary actions will be a result of the findings from internal investigations. Allegations of theft, fraud or corruption against employees are examples of potential gross misconduct and as such will be investigated in accordance with disciplinary procedures. Such cases will be reported immediately to the Accounting Officer for the appropriate action to be taken. Where there is evidence of theft, fraud, corruption and bribery, the Council will investigate the matter promptly, and will take all appropriate actions to deal with the perpetrators.

This includes, but is not confined to, taking disciplinary action against employees and elected members, and pursuing criminal prosecution on all possible occasions.

b) **Civil Recovery**

The Municipality must recover losses suffered during fraudulent, corrupt and/or misconduct act.

c) **Decision on controls to be developed / reviewed.**

This requires involvement of other functions in the Municipality to avoid re-occurrence.

d) **Awareness and communications**

As a preventive measure and for transparency purpose, all incidents reported and investigated must be communicated to all employees.

e) **Lesson learned.**

This is part of ensuring that the Municipality is not hit by one scheme more than once.

f) **Updating incidents database for future reference**

All information pertaining to the incident must be recorded and kept, i.e. nature of the incident, how it was investigated, and the resolution taken.

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g) Reporting

Information about cases investigated maybe required by other bodies such as Auditor General and others.

10. Forms And Characteristics of Corruption

10.1. Forms of Corruption

10.1.1. Bribery

Bribery is the improper use of gifts and favours in exchange for personal gain. This is also known as kickbacks which is, payments made by suppliers to representatives of the procurement processes in exchange for contracts secured through unfair means. It is the most common form of corruption. The types of favours given are diverse and include money, gifts, sexual favours, company shares, entertainment, employment, and political benefits. Bribery can sometimes be part of the systemic use of corruption for other ends, for example to perpetrate further corruption. Bribery can make officials more susceptible to blackmail or extortion.

10.1.2. Abuse of power

When municipal officials in positions of authority are corrupt, the municipality and the systems are rendered weak and ineffective which potentially stakes public trust. The causes to this form of corruption are weak recruitment system for leadership positions (wrong people being appointed), discretionary power, poor accountability, weak oversight, general failure in the implementation of Code of Conduct and Ethics etc.

10.1.3. Nepotism and Favouritism

These two forms by nature involve abuse of power. It happens when someone who is closely linked to a municipal official through family, friends, marriage, party, or communal association is given undue preferential treatment. It normally prevails in personnel matters such as recruitment, promotion, training, transfer and administrative sanctions, service delivery and award of contracts.

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10.1.4. Avoiding liability for rates and taxes as well as other costs

E.g. Officials who work for or supervise revenue collecting agencies such as tax or customs authorities may be bribed to reduce or eliminate tax customs tax customs amounts or other revenues.

10.1.5. Personal gain

Personal gain can be anything from actively giving preferential treatment to having indiscretion or crime overlooked.

10.1.6. Embezzlement, theft, and fraud

Embezzlement and theft involve someone with access to funds or assets illegally taking control through deception, breach of trust, forgery, fraud and falsification or tampering of documents and information. Embezzlement normally occurs in accounts, procurement and revenue sections, project payments and in human resources divisions. Fraud involves using deception to convince the owner of funds or assets to give them up to an unauthorized party. Examples include the misdirection of company funds into "shadow companies" (and then into the pockets of corrupt employees), the skimming, scams, and other corrupt activity.

The **causes** of embezzlement are non-compliance of financial norms, general failure in the implementation of code of conduct and ethics, poor moral values, lack of proper check, poor accountability.

10.1.7. Extortion and blackmail

While bribery is the use of positive inducements for corrupt aims, extortion and blackmail centre on the use of threats. This can be the threat of violence or false imprisonment as well as exposure of an individual's secrets or prior crimes. This includes such behaviour as an influential person threatening to go to the media if they do not receive speedy medical treatment (at the expense of other patients), threatening a public official with exposure of their secrets if they do not vote in a particular manner, or demanding money in exchange for continued secrecy.

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10.1.8. Collusion

Collusion is a secret deal between parties to deceive government or somebody through a dishonest act of their benefits. This normally happens in government procurements through bid sittings, i.e., leakage of privileged information and unprofessional bid assessment.

The main causes of collusions are lengthy procedures for manipulation, discretionary powers, weak oversight and monitoring, lack of accountability and professionalism, general failure in the implementation of Code of Conduct and Ethics and an efficient service delivery.

10.1.9. Fronting

Fronting is an agreement executed between a legitimate licensed companies and unlicensed individuals for running the business for a consideration. The main causes of fronting are weak systems, absence of effective monitoring systems and absence of Code of Conduct and Ethics.

10.1.10. Money Laundering

Money laundering is the practice of disguising illegally obtained funds so that they seem legal. The criminals disguise the origin of money that they obtained through illegal means. The main causes of money laundering are lack of adequate legislation and law enforcement.

10.1.11. Conflict of interest

Employee acts or fails to act in a manner where he/she has an interest because of a relationship with the municipality or another person having the same interest, e.g., the employee awards a contract to a company of which a relative or his/her spouse is the owner/member/director.

10.2. Characteristics of anti-corruption

The following conditions normally happen when fraud is about to occur
Incentive/Pressure or pressure, opportunity, and attitude.

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10.2.1. Incentive/Pressure

Incentive or pressure to commit fraud is not limited to misappropriation of assets but also manipulating information regarding key performance with the aim of receiving financial rewards.

10.2.2. Opportunity

This may arise due to lack of internal controls may lead to the likelihood of fraud occurring.

10.2.3. Attitude/Rationalisation

A work culture that embraces and rewards dishonesty can create an environment for fraudulent activities.

11. MUNICIPALITY ANTI-CORRUPTION STRATEGY

Developing the ethical content

Greater Tzaneen Municipality does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor will it accept bribes or improper inducements, or allow employees or elected members to do so.

Using third parties as a conduit to channel bribes to others is also a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery, nor does it wish to be associated with any organisation that does or has done so. Specifically, this extends to the municipal agents, suppliers, contractors, and partner organisations, whether such criminal conduct is associated with business on the Council's behalf or not.

The Council will not be deterred by threats of adverse publicity or to persons or property and will publicise cases of successful legal action against perpetrators.

12. Review of the strategy

The strategy will be reviewed bi-annually on the basis that there are changes in the legislative framework in Local Government.

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APPROVAL

Strategy APPROVED by the Municipal Manager on the day of 20.....

.....

Mr. D. Mhangwana

Municipal Manager

.....

Date

FINAL ADOPTION BY COUNCIL

Strategy ADOPTION by Council on the day of 20.....

Council Resolution No.....

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