

GAUTENG PROVINCIAL GOVERNMENT

OFFICE OF THE PREMIER

FRAUD POLICY AND RESPONSE PLAN

(Annexure A to the Fraud Prevention Plan)



CONTENTS	Page
Glossary of terms	6
1. Background	6
2. Scope of the Policy	6
3. The Policy	6
4. Reporting procedures and resolution of reported incidents	7
5. Confidentiality	9
6. Publication of sanctions	10
7. Protection of whistle blowers	10
8. Application of prevention controls and detection mechanisms	10
9. Creating awareness	11
10. Administration	11
11. Adoption	11

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):

“Cabinet”	Parliamentary Cabinet of the Republic of South Africa
“GPG”	Gauteng Provincial Government
“OoP”	Office of the Premier
“Premier”	The Premier of Gauteng Provincial Government
“MEC”	Member of the Executive Council: Gauteng Department of Finance
“DG”	Director General: Office of the Premier
“CFO”	Chief Financial Officer: Office of the Premier
“Code”	Code of Conduct for the Public Service
“Constitution”	Constitution of the Republic of South Africa dated as adopted on 8 May 1996 and amended on 11 October 1996 by the Constitutional Assembly
“DPSA”	Department of Public Service and Administration
“Committee”	Gauteng Provincial Anti-Corruption Coordinating Committee
“Plan”	Fraud Prevention Plan, 2012/2013
“Fraud Policy”	Fraud Policy and Response Plan, 2012/2013
“FSU”	Forensic Services Unit
“GAS”	Gauteng Audit Services
“Strategy”	2009 Gauteng Anti-Corruption Strategic Framework
“The Department”	Office of the Premier

“Fraud and corruption” : The following are legal definitions:

- (i) **Fraud** is an unlawful and intentional making of a misrepresentation which causes actual and/or potential prejudice to another.
- (ii) **Theft** is the unlawful appropriation of movable corporeal property which belongs to and is in the possession of another provided that the intention to appropriate the property includes an intention to permanently deprive the person entitled to the possession of the property
- (iii) **Corruption**, any person who, directly or indirectly accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of that other person or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner that amounts to illegal, dishonest, unauthorized, abuse of power, breach of trust, violation of a legal duty or set rules, and designed to achieve an unjustified result.

Corrupt activities in relation to:

- Public officials;
- Foreign public officials;
- Agents;
- Judicial officers;
- Members of the prosecuting authority;
- Unauthorised gratification received or offered by or to a party in an employment relationship;
- Witnesses and evidential material during certain proceedings;
- Contracts;
- Procuring and withdrawal of tenders; and
- Auctions.

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

- Acquisition of private interests in contract, agreement in or investment in public body;
- Unacceptable conduct relating to witnesses; and

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- Intentional interference with, hindering or obstruction of investigation of offence.
 - Other offences relating to corrupt activities, viz:
 - Accessory to or after an offence;
 - Attempt, conspiracy and inducing another person to commit offence; and
 - Failure to report corrupt transactions.

“Gratification” includes-

- Money, whether in cash or otherwise; and
- Any donation, gift, loan, fee, reward, valuable security, property movable or immovable, or any other similar advantage.

Actions constituting fraud and corruption

- Embezzlement;
- Misappropriation;
- Theft;
- Falsification & forgery;
- Overstatement of assets & income to conceal unauthorised transaction;
- Understatement of liabilities & expenses to conceal irregular transactions; and
- False and omitted disclosure, etc.

Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of a public servant.

Insider trading/ Abuse of privileged information involves the use of privileged information and knowledge that an official has as a result of his/her office to provide unfair advantage to another person or entity to obtain a benefit, or to accrue a benefit himself/herself.

Fraudulent and corrupt acts may include:

Systems issues: where a process/system exists which is prone to abuse by employees, the public or other stakeholders, e.g.:

- Collusion in the awarding of tenders or orders for goods and/or services;

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- Deliberate non-compliance with tender and procurement policy and procedures;
 - Inadequate verification of supplier credentials;
 - Deliberate non-compliance to recruitment policy and procedures; and
 - Ghost employees.

Financial issues: i.e. where individuals or companies have fraudulently obtained money from the Office of the Premier, e.g.:

- Unauthorised sale of assets;
- Theft of funds;
- Fraudulent mileage and subsistence claims; and
- Payments made to contractors for work not carried out.

Equipment and resource issues: i.e. where Office of the Premier's equipment utilised for personal benefit or stolen, e.g.:

- Abuse of time management systems;
- Theft of assets, e.g. vehicles, IT equipment, Office furniture, etc;
- Personal use of resources, e.g. telephones, internet, e-mail, GG vehicles;
- Irregular destruction, removal, or abuse of records (including client files); and
- Disclosing confidential proprietary information discovered during the performance of audits or investigations to outside parties.

Other issues: i.e. activities undertaken by employees of Office of the Premier, which may be against policies or fall below established ethical standards, e.g.:

- Soliciting gifts or favours from applicants, consultants or other suppliers, e.g. acceptance of "kick-backs";
- Pursuing private business interests without permission;
- Non-disclosure of personal interests;
- Nepotism; and
- Favouritism.

1. BACKGROUND

- 1.1 This policy is intended to set down the stance of the Department to fraud and corruption and to reinforce existing systems, policies and procedures of the Department aimed at deterring, preventing, detecting, reacting to and reducing the impact of fraud and corruption.
- 1.2 Furthermore, the purpose of this document is to confirm that the Department supports and fosters a culture of zero tolerance to fraud and corruption in all its activities.

2. SCOPE OF THE POLICY

- 2.1 This policy applies to all allegations, attempts and incidents of fraud and corruption impacting or having the potential to impact the Department.
- 2.2 All employees and management of the Department must comply with the spirit and content of the Policy.

3. THE POLICY

- 3.1 The policy of the Department 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 prevention controls include the existing financial and other controls and checking mechanisms as prescribed in the systems, policies and procedures of the Department.
- 3.2 The efficient application of Treasury Regulations issued in terms of the PFMA instructions contained in the policies and procedures of the Department, is one of the most important duties to be applied by every employee in the execution of their daily tasks.

4. REPORTING PROCEDURES AND RESOLUTION OF REPORTED INCIDENTS

What should an employee do if he/she suspects fraud and corruption?

- 4.1 It is the responsibility of all employees to immediately report all allegations or incidents of fraud and corruption to their immediate manager.
- 4.2 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 DG. The DG will initiate an investigation into the matter.
- 4.3 Should employees wish to report allegations of fraud and corruption anonymously, they can contact the National Anti-Corruption Hotline that is administered through the Office of the Public Service Commission on 0800 701 701. Alternatively, they can contact any member of management, the DG or the Chairperson of the Audit Committee for the Department.

What should a member of the public or providers of goods and/or services do if they suspect fraud and corruption?

- 4.4 The Department encourages members of the public or providers of goods and/or services who suspect fraud and corruption to contact the National Anti-Corruption Hotline that is administered through the Office of the Public Service Commission, the DG or any member of management.

How will allegations of fraud and corruption be dealt with by the Department?

- 4.5 For issues raised by employees, members of the public or providers of goods and/or services, the action taken by the Department will depend on the nature of the concern. The matters raised will be screened and evaluated and may subsequently:
 - Be investigated internally;
 - Be referred to Forensic Services; or
 - Be referred to another law enforcement agency.

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- 4.6 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:
- a) In case of employees, taking disciplinary action within a reasonable period of time after the incident;
 - b) Instituting civil action to recover losses;
 - c) Initiating criminal prosecution by reporting the matter to the SAPS or any other relevant law enforcement agency; and
 - d) Any other appropriate and legal remedy available.
- 4.7 Managers are required to ensure that losses or damages suffered by the Department as a result of all reported acts committed or omitted by an employee or any other person are recovered from such an employee or other person if he or she is found to be liable for such losses.
- 4.8 The DG will, upon receiving a report of fraud from an external person, write to the person making the report:
- Acknowledging that the concern has been received;
 - Indicating how he proposes to deal with the matter and whether any initial enquiries have been made;
 - Giving an estimate of how long it will take to provide a final response; and
 - Informing them whether any further investigations will take place, and if not, why not.
- 4.9 The Department accepts that those people, including employees who reported the alleged fraud need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, information about outcomes of any investigation will be disseminated on a "need to know" basis.
- 4.10 The Department will ensure that a fraud and corruption information system is developed for the following purposes:
- (a) Recording all allegations;
 - (b) Tracking progress with the management of allegations;

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- (c) To facilitate the early identification of systemic weaknesses and recurring risks, and inform managers and employees of systemic weaknesses/risks;
 - (d) Provide feedback to employees and other whistle blowers on the management of allegations; and
 - (e) To provide minimum information on fraud and corruption to designated stakeholders;
- 4.11 In line with Cabinet instructions, the Department will provide the DPSA, through the Forensic Services with the following minimum information at the end of each financial year:
- (a) Number of allegations of corruption received and corruption cases detected per defined categories as defined in the Prevention and Combating of Corrupt Activities Act, 2004 and service delivery areas;
 - (b) Number of allegations and cases referred to in (a) above:
 - (i) Handled in terms of disciplinary procedure;
 - (ii) Referred to law enforcement agency or other body;
 - (iii) Not investigated for disciplinary purposes or not referred;
 - (iv) Description of corruption risk areas; and
 - (v) Report on the performance of the minimum anti-corruption capacity as part of its annual report.

5. CONFIDENTIALITY

- 5.1 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.

- 5.2 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 DG.

6. PUBLICATION OF SANCTIONS

- 6.1 The DG will decide whether any information relating to corrective actions taken or sanctions imposed, regarding incidents of fraud and corruption should be brought to the direct attention of any person or made public through any other means.

7. PROTECTION OF WHISTLE BLOWERS

- 7.1 An employee who reports suspected fraud and corruption may remain anonymous should he/she so desire.
- 7.2 No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and corruption which occurred within the Department.
- 7.3 All managers should discourage employees or other persons from making allegations, which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations must be subjected to firm disciplinary, or other appropriate action.

8. APPLICATION OF PREVENTION CONTROLS AND DETECTION MECHANISMS

- 8.1 In respect of all reported incidents of fraud and corruption, management is 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.

9. CREATING AWARENESS

- 9.1 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.

10. ADMINISTRATION

- 10.1 The custodian of this policy is the DG and is supported in its implementation by all managers of the Department.
- 10.2 The DG is responsible for the administration, revision and interpretation of this policy. This policy will be reviewed annually and appropriate changes applied should these be required.

11. ADOPTION



Director General
Office of the Premier
Gauteng Provincial Government