

KGATELOPELE LOCAL MUNICIPALITY



Fraud Response Plan 2024-2026 FY

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1. Purpose

The purpose of this Fraud Response Plan is to facilitate the development of controls, which will aid in the prevention of Fraud and Corruption against the Kgatelopele Local Municipality (KLM). It is the intent of Kgatelopele Local Municipality to promote consistently organizational behaviour by providing guidelines and assigning responsibility for the development of controls and conduct of investigations.

2. Scope of the Plan

This Fraud Response Plan applies to the investigation of any fraud, corruption, theft and maladministration or suspected irregularities of this nature involving the following persons or entities:

- a) All employees of Kgatelopele Local Municipality;
- b) Consultants, supplier, contractors and other service providers to the Kgatelopele Local Municipality;
- c) Non – Governmental Organisations and other parties receiving benefits from the Municipality.
- d) Our communities
- e) Political office bearers and Councillors;

3. Definitions

Accounting Officer	The head of Administration and also the Municipal Manager of the Municipality
Corruption	<p>It is defined according to the Prevention and Combating of Corrupt Activities Act No 12 of 2004 of South Africa;</p> <p>Any person who directly or indirectly -</p> <ul style="list-style-type: none">a. Accept / Agrees / Offer to accept any gratification from any other person, whether for the benefit of himself / herself for the benefit of another person;b. Gives / agrees / offer to give any other person any gratification, whether for the benefit of that person / for the benefit of that person/ for the benefit of another person in order to personally / by influencing another person so to act in a manner- <p>i. That amounts to:</p>

	<p>aa. Illegal, dishonest, unauthorised, incomplete or biased.</p> <p>bb. misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of constitutional statutory, contractual or any other legal obligation</p> <p>ii. That amounts to:</p> <p>aa. the abuse of a position of authority</p> <p>bb. a breach of trust</p> <p>cc. The violation of a legal duty of a set of rules.</p> <p>iii. Designed to achieve unjustified results.</p> <p>iv. That amounts to any other unauthorised or improper inducement to do / not to do anything is guilty of the offence of corruption.</p> <p><i>Actions constituting corruption are:</i></p> <p>a. Bribery</p> <p>b. Extortion</p> <p>c. Abuse of power</p> <p>d. Conflict of Interest</p> <p>e. Favouritism</p> <p>f. Nepotism</p>
Councillor	Any member of the municipal council, as provided for in the chapter 3 of the Municipal Structures Act 117 of 1998
Fraud	<p>In South Africa, the Common Law Offence of Fraud is defined as “the unlawful and intentional act or omission by which misrepresentation is made which causes actual and or potential prejudice to another, whether or not there is a personal benefit to the perpetrator.</p> <p><i>Action constituting fraud are:</i></p> <p>a. Embezzlement</p> <p>b. Misappropriation</p> <p>c. Falsification and Forgery</p> <p>d. Overstatement of assets and income to conceal unauthorised transactions;</p> <p>e. Understatement of liabilities and expenses to conceal illegal transactions; and</p> <p>f. False or omitted disclosure.</p>
Irregularity	The state or quality of being irregular.
Maladministration	Inefficient or dishonest administration; mismanagement

Theft	The unlawful and intentional misappropriation of another's property or property which is in his/her lawful possession, which the intention to deprive the owner of its rights permanently
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4. Plan Statement

Fraud represents a significant potential risk to the Kgatelopele Local Municipality assets, service delivery efficiency and reputation. Kgatelopele Local Municipality will not tolerate fraudulent or corrupt activities, whether internal or external to the Municipality, and will vigorously pursue and prosecute any parties, by all legal means available, which engage in such practices or attempt to do so.

Appropriate prevention and detection methods will be applied. These include the existing controls and checking mechanisms as prescribed in existing policies, procedures and other relevant prescripts to the activities of the municipality and systems of internal control.

5. Reporting procedure and resolution of reported incidents

5.1 *What should employees do if they suspect fraud?*

- a. It is the responsibility of all employees to immediately report all allegations or incidents of fraud to their immediate manager or, if the employee has reason to believe that his/her immediate manager is involved, to the next level of management or Risk Unit or Internal Audit. All managers must report all incidents and allegations of fraud to the Accounting Officer. Employees are not expected to prove the truth of an allegation and that they will only need to demonstrate to the person contacted that there are sufficient grounds for concern.
- b. The Accounting Officer will then communicate the allegation to the Risk Management Services (Forensic Investigations) or internal Unit and initiate an investigation into the matter. The Accounting Officer should be answerable to the municipality providing reasons for not fulfilling such duty where criminal charges may be laid against the offending party.

5.2 *What should a member of the public do if they suspect fraud impacting Kgatelopele Local Municipality?*

- a. Should members of the public wish to report allegations of fraud anonymously, they can contact any member of Management, the Accounting Officer, internal unit or

the Risk Management Unit (P O Box 43, Danielskuil ,8405) and/or the Fraud Hotline on the toll-free number: 0800 701 701

5.3 Kgatelopele Local Municipality encourages members of the public who suspect fraud impacting on the Municipality to contact the Accounting officer, Internal Audit unit or the Risk Management Unit or the Fraud Hotline on the toll-free number using the contact details provided in paragraph 5.2 above.

5.4 How will allegations of fraud be dealt with by Kgatelopele Local Municipality?

For issues raised by employees or members of the public, the action taken by the Municipality will depend on the nature of the concern. The matters raised may:

- a. Be investigated internally; or
- b. Be referred to the SAPS

5.5 All supervisors and management within Kgatelopele Local Municipality have the advisory and supporting assistance from units which include the following:

- a. Internal Audit Unit;
- b. Risk Management Services (Forensic Investigations);
- c. Human Resources;
- d. Labour Relations;
- e. The Office of the Auditor – General; and
- f. The Public Protector.

5.6 The Risk Management Unit provides a mechanism for a more integrated strategic effort to:

- a. Support policy-making and the co-ordination of fraud prevention policy;
- b. Conduct investigations; and
- c. Co-ordinate processes among law enforcement agencies involved in combating fraud within the Province, including Kgatelopele Local Municipality.

5.7 Any fraud committed by an employee of Kgatelopele Local Municipality will be pursued by thorough investigation and to the full extent of the law, including consideration of the following:

- a. The disciplinary hearing on a date not less than five (5) days or more than fifteen (15) calculated from the date of Notice of Misconduct on the employee;
- b. Instituting recovery of financial losses, including formal civil action;
- 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.

5.8 The Accounting Officer and respective managers are also required to ensure that losses or damages suffered by Kgatelopele Local Municipality as a result of all reported acts of fraud 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.

5.9 Kgatelopele Local Municipality or the delegated representative will, upon receiving a report of fraud from an external person, write to the person (unless the report has been made anonymously):

- a. Acknowledging that the concern has been received;
- b. Informing such a person whether any further investigations will take place, and if not, why not.

5.10 Kgatelopele Local Municipality 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.

5.11 The Municipality will regularly review the matters reported and actions taken

6. Confidentiality

5.1 All information relating to fraud and corruption that is received and investigated will be treated with confidentiality. 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 persons is authorised to supply any information with regard to allegations or incidents of fraud and corruption to any external person or the media without the express permission of the Municipal Manager.

6. Publication of sanctions

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

7. Protection of whistle blowers

- 7.1 The Protected Disclosure Act, 26 of 2000 makes provision for the protection of employees who make a disclosure that is protected in terms of the Act.
- 7.2 An employee who reports suspected dishonest activity of any such activity that he/she has witnessed may remain anonymous should he/she require.
- 7.3 No person will suffer any harassment and victimisation when reporting in good faith, any suspected or actual incident of fraud.
- 7.4 Managers should discourage employees or other parties from making allegations, which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations will be subjected to firm disciplinary or other appropriate action.

8. Application of prevention controls and detection techniques

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

9. Training, Education, and creating awareness

- 9.1 It is the responsibility of all unit managers to ensure that all employees are made aware of and receive appropriate training and education with regard to this policy.
- 9.2 The management is responsible for communicating relevant sections of this policy to employees and members of the public or other stakeholders of Kgatelopele Local Municipality

11 Administration

- 11.1 The custodian of this plan is the Accounting Officer who is supported in its implementation by all managers within Kgatelopele Local Municipality.
- 11.2 The Audit, Risk and Performance Management Committee are responsible for the administration and revision of this plan. And should be sent to Council for Approval.

11.3 Every official in the Municipality who has delegated functions in terms of the Local Government: MFMA, 2003 shall ipso facto (by the very fact or act) champions of the Fraud Response Plan.

12 Plan Review

12.1 This plan shall be reviewed very two years or when the needs arise to reflect the current stance on fraud prevention.

13 Approval by Accounting Officer:

Accounting Officer's Signature: _____

Date: _____

Council Resolution no: _____

Date: _____