



FRAUD AND ANTI-CORRUPTION POLICY

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DEFINITIONS AND TERMS

No.	Term	Definition
1.	Accounting Officer	<ul style="list-style-type: none"> a) In a Constitutional Institution: The Chief Executive Officer; b) In a National Department: The Director-General c) In a Provincial Department: The Head of Department
2.	Executive Authority	<ul style="list-style-type: none"> a) In a National Department: The Cabinet member who is accountable to Parliament for that Department b) In a Provincial Department: The Member of the Executive Council of province who is accountable to the Provincial Legislature for that department
3.	Audit Committee	An Independent committee constitute to review the control, governance and risk management within the Department established in terms of section 77 of PFMA
4.	Chief Risk Officer	A senior official who is the head of Risk Management unit.
5.	Fraud	Fraud is an intentionally deceptive action designed to provide the perpetrator with an unlawful gain, or to deny a right to a victim.
6.	Corruption	Corruption is a form of dishonesty undertaken by a person entrusted with a position of authority, often to acquire personal benefit.
7.	Theft	Theft is an unauthorized taking of property from another with the intent to permanently deprive them of it.
8.	Maladministration	Is an inefficient and dishonest administration
9.	Country	Republic of South Africa
10	Risk	An unwanted outcome, actual or potential, to the department's services delivery and other performance objectives, caused by the presence of risk factors.
11	Department	Department of Social Development Eastern Cape
12	Tolerance level	Is the amount risk that the department is willing to accept
13	Senior Management Services	Are all official that appointed in the Senior management posts in the department in terms of Public Service Act
14	Whistle Blower	The person that has blown the whistle in relation to misconduct in the department.

15	Risk, Ethic & Anti-Corruption Management Committee	A committee appointed by the Accounting Officer to review the Department's system of risk management, Ethics management, and Anti-corruption strategies implemented by the Department.
	Occupational Detriment	Means in working environment: a) Being subjected to any disciplinary action b) Being dismissed, suspended, demoted, harassed, intimidated c) Being transferred against his/her will d) Being refused transfer or promotion e) Being subjected to a term or condition of employment or retirement which is altered or kept altered to his or disadvantage f) Being refused a reference or being provided with an adverse reference, from his or her employer g) Being denied appointment to any employment, profession or office h) Being subjected to any civil claim for the alleged breach of duty of confidentiality or a confidentiality agreement arising out of the disclosure of criminal offence, i) Being threatened with any of the actions referred above.
	Extortion	is a crime in which one person forces another person to do something against his will, generally to give up money or other property, by threat of violence, property damage, damage to the person's reputation, or extreme financial hardship
	Forgery	the action of forging a copy or imitation of a document, signature, banknote, or work of art.
	Public official	Any person who is a member, an officer, an employee or servant of a public body.
	Public Body	Any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government
	Position of authority	Only the following the holds a position of authority: 1. Head of the Department 2. Any public officer in the Senior Management Service of the public body 3. Any person in an acting or temporary capacity of the (1) & (2)
	ACRONYM	
	PFMA	Public Finance Management Act 1 Of 1999
	PRECCA	Prevention and Combatting of Corrupt Activities Act 12 of 2004
	SAPS	South African Police Services
	MEC	Member of the Executive Council
	DPCI	Department of Priority Crime Investigations

LEGISLATIVE FRAMEWORK

- I.** Public Finance Management Act 1 of 1999 as amended by Act 29 of 1999, Section 38(a)(1) and Section 45
- II.** Treasury Regulations 3.2.1 and 12.5.1
- III.** Chapter 4 of the King III Code of Corporate Governance, Principle 3.8 and 7.1
- IV.** Prevention and Combatting of Corrupt Activities Act 12 of 2004
- V.** Public Services Regulations, 2016
- VI.** National Anti-Corruption Strategy
- VII.** Criminal Procedure Act 51 of 1977
- VIII.** Code of Conduct for public service
- IX.** Disciplinary Code and Procedure for the Public Services as amended by 2 of 1999
- X.** NPO Act

1. PREAMBLE

- 1.1 The adoption and maintenance of high standards is a core principle of the Department of Social Development, which is also committed to operating its business in compliance with all applicable laws and policies. The Department of Social Development developed this policy in line with National Anti-Corruption Strategy as amended to fight fraud, theft, maladministration, corruption or any other dishonest activities of a similar nature in the department.

“Ultimately, the struggle against corruption depends upon our sense of morality which tells us that our own egotistic interests do not come before those of public interest. We can take all kinds of preventative measures, and they can be broken down and subverted. But if the moral fibre of our public servants in the delivery of public services is high, then no amount of corruption can subvert our preventative measures” Dr. Dullar Omar (Fighting Corruption: Strategies for Prevention).

- 1.2 This policy maps out the stance of the Department of Social Development to fraud and corruption as well as consolidating the enforcement capacity of existing regulations aimed at preventing, detecting, investigating and reducing the impact of fraud, corruption, theft and maladministration where these dishonest acts occur.
- 1.3 The Department has a responsibility to comply with all applicable laws in South Africa. This include anti-Corruption laws such as the Prevention and Combating of Corrupt Activities Act 12 of 2004.

2. PURPOSE

The purpose of this policy is to articulate the Social Development’s philosophy on fraud prevention in the department. It is also seeks to develop and foster a climate within the Department where all

employees strive for the ultimate eradication of fraud, corruption, theft and maladministration by means of the application of the full spectrum of both pro-active and reactive measures at their disposal.

3. OBJECTIVES

The objective of this policy is to:

- a) To enforce the Department's commitment to fraud and anti-corruption.
- b) To provide the foundation for the development of procedures to manage corruption risk;
- c) To provide mechanism for fraud and corruption in investigations.
- d) To indicate resolution types of fraud and corruption cases.
- e) To provide reporting procedures of fraud and corruption to the law enforcement agencies available in the Country.

4. SCOPE OF APPLICABILITY

This policy applies to all fraud, corruption, theft, maladministration or suspected irregularities involving the following person or entities:

- a) All employees and political head of the Department of Social Development
- b) Consultants, suppliers, contractors, agents/representatives, clients and other providers of goods or services to the department; and
- c) Non-Profit Institutions and other parties receiving benefits from the department.

5. PRINCIPLES AND VALUES

The Department subscribed to the following principles and values in all times:

- a) Integrity
- b) Accountability
- c) Trustworthy
- d) Value for money
- e) Fairness
- f) Humanity
- g) Dignity

6. POLICY STATEMENT

Department of Social Development commits and adopts Zero tolerance approach to fraud and corruption in the department and is committed to carry out business fairly, honestly and openly without improper influence. The departmental officials will not, either directly or indirectly, through intermediaries or third parties solicit, receive/offer, promise or provide an undue financial or other advantage in the execution of their duties. All employees and other stakeholders required to

comply with this policy and are responsible for ensuring that business is undertaken with the utmost integrity.

The Department of Social Development will vigorously pursue and prosecute any parties, by all legal means available which engage in such practice or attempt to do so.

The Department is Zero tolerance in all offences (but not limited to) that are listed under Annexure A attached to this policy.

6.1. ACTIONS CONSTITUTE FRAUD, CORRUPTION, THEFT AND MALADMINISTRATION

The term fraud, corruption, theft and maladministration refer to, but is not limited to:

- a. Any dishonest, fraudulent and corrupt act which may result to / cause harm or prejudice to another party or state resources.
- b. Theft of funds, suppliers, or other assets
- c. Maladministration or financial misconduct in handling or reporting of money or financial transactions.
- d. Making a profit from inside knowledge
- e. Disclosing confidential or proprietary information to outside parties.
- f. Irregularly accepting or requesting anything of material value (which may otherwise not be accessible by proper means) from contractors, suppliers or other persons providing services/goods to the department
- g. Irregularly offering or giving anything of material value improperly to contractors, suppliers or other persons providing services/goods to the department
- h. Destruction, removal or abuse of records, furniture and equipment as a way of defeating the ends of justice or weakening of evidence
- i. Deliberately omitting to report or to act upon reports of any such irregular, corrupt, fraudulent or dishonest conduct which is punishable through prosecution in terms of section 34(1) of PRECCA ACT.
- j. Acts of financial misconduct contemplated in terms of section 81 and 85 of the PFMA
- k. Incidents of unauthorized, irregular or fruitless and wasteful expenditure as defined in the PFMA
- l. Any similar or related irregularity.

6.2. RESPONSIBILITY TO CONDUCT INVESTIGATION

The responsibility to conduct investigations relating to the actions listed in this policy resides with the Risk Management and Anti-Corruption Directorate within the Department who have the advisory and supporting assistance from the units/departments which include the following:

- a) Office of the Premier
- b) The Public Service Commission
- c) External Investigating Agencies, for example SAPS

- d) External consultants, for example Forensic Accounting consultants
- e) Office of the National Director of Public Prosecutions
- f) Special Investigating Unit established under any law
- g) The Public Protector

6.3. AUTHORIZATION FOR INVESTIGATING SUSPECTED FRAUD

Members of the Risk Management and Anti-Corruption Directorate will have:

- a) Free and unrestricted access to all department of Social Development records, premises whether owned or leased and employee and political head of the department; and
- b) The authority to examine, copy, and /or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge of consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation.
- c) Interview privileges either written or oral with management staff, all employees and MEC and office of the MEC staff.

6.4. INVESTIGATION PROCESS

Department of Social Development has developed investigation process to ensure uniformity in the reporting and investigation of incidents of fraud and corruption in the department:

- a) Reporting of suspicious misconduct and other wrongdoing;
- b) Initiation of Investigation
- c) Preliminary Investigation
- d) Full Forensic Investigation
 - i. Planning
 - ii. Execution
 - iii. Reporting
 - iv. Reflection
- e) Involvement of other law enforcement agencies and
- f) Investigation shall take 45 working days in average to conclude and reported on to the Accounting Officer.

6.4.1. Reporting of suspicious misconduct and wrongdoing

It is the responsibility of all employees to report all incidents of fraud, corruption, theft, maladministration or any other dishonest activities of similar nature to his/her manager. If the employee is not comfortable reporting such matters to his/her manager, he/she must report the matter to his/her manager's superior or to Risk Management & Anti-Corruption Unit, with final recourse to the Accounting Officer, at least within 48 hours of discovering such incident.

Other reporting mechanism that can be utilized by employee, service providers, business partners and other stakeholders for suspicious misconduct and wrongdoing:

- ✓ National Anti-Corruption Hotline, administered by PSC -: 0800 701 701
- ✓ Presidential Hotline -: 17737

- ✓ Risk Management & Anti-Corruption Unit -: reportcorruption@ecdsd.gov.za 043 605 5297/5399/5453

Receipt of Allegation

On receipt of the allegations, Risk Management & Anti-Corruption unit must record allegations on a summary of allegation template and assign a Case Number or on Case Management System with the following details:

- i. Implicated person(s) and entity(s) alleged
- ii. Alleged misconduct or other wrongdoing and amount involved
- iii. Witnesses and /or other information received

Acknowledgement of Receipt: Unless a complaint is received anonymously, an acknowledgement will be sent in writing to the complainant.

6.4.2. Entrance meeting to establish client expectation

Complainants /Clients goals and outcomes must be identified in terms of the followings:

- ✓ Feedback reporting and investigations
- ✓ Register of criminal cases or not
- ✓ Disciplinary steps or Civil recovery

Timeframes, milestones and acceptable outcomes must be documented and agreed upon with the client where practical.

Terms of reference/Engagement letter for the investigation must be formally drafted and accepted by both parties.

6.4.3. Case Initiation: Predication, evaluate merits of the case and perform pre-compliance [conflict checks, and resources needed]

6.4.4. Preliminary Investigation: to establish the merits of the case and to determine whether it is worth expending on the investigation by evaluating the chances of success of the investigation. The information obtained in the preliminary step will determine whether a full forensic investigation must be initiated.

6.4.5. Full Forensic Investigation

The following steps must be followed for full forensic investigation:

- ✓ **Planning**
Assemble investigation team to the project, determine resource need to perform the investigation and timeframes and reporting deadlines on the project.
- ✓ **Execution**

Interviewing of person of interest to obtain information, Request and obtain relevant documentary evidence, Indexing and paginating evidence and preserving & safe keeping evidence, Profile person and entities and involve other relevant experts where necessarily.

✓ **Reporting**

Reporting stage is the most important stage of forensic investigation. The report must reflect the quality of the investigation and all findings must be supported by evidence. The forensic investigation report must contain, Background, Mandate, Scope, Purpose and Objective of the Report, Procedure followed, Period under review, Factual findings, Summary of findings, Conclusion, Recommendation and list of Annexures. **All forensic investigation report will be submitted to the Accounting Officer for approval**

✓ **Client Feedback**

After the approval of the report by the accounting officer, a report will be disseminated to the client that reported the matter for feedback, unless it is necessarily to avoid prejudice to the prevention, detection or further investigation of criminal offence.

✓ **Reflection**

Client feedback must be performed into all forensic investigation completed through client survey developed by Risk Management & Anti-Corruption unit.

To all alleged misconduct or wrong doing, Risk Management & Anti-Corruption unit, will firstly perform preliminary investigation to determine the merits of the case reported prior performing full forensic investigation on the case.

6.4.6. Involvement of other law enforcement agencies

If the allegations reported could lead to the laying of criminal charges, the following procedures must be adhered to in reporting to SAPS:

6.4.6.1 Accounting Officer/ any official in the Senior Management Service of the department must report the following offences, if they amount to R100 000 or more to a police official in the DPCI & Commercial Crimes Unit of SAPS as required by section 34(1) of the PRECCA

- ✓ Corruption;
- ✓ Theft;
- ✓ Fraud;
- ✓ Extortion;
- ✓ Forgery; and
- ✓ Uttering of a forged document

6.4.6.2 To any other offence and that is less than R100 000.00, the Director: Risk management & Anti-Corruption shall assist the person has blown the whistle in reporting the case to SAPS, after exercising due diligent on the allegations reported to him/her where there is a prima facie evidence for criminal charge.

6.4.6.3 The Risk Management & Anti-Corruption may transfer reported alleged cases of fraud and corruption to other law enforcement agencies available in South Africa for investigation where an internal capacity is lacking in terms of expertise/ and Director of the Risk Management & Anti-Corruption is conflicted in the case to be investigated.

The department shall take appropriate legal recourse to recover losses or damages arising from fraud, corruption, theft or maladministration.

6.4.7. Investigation of Assets lost in the Department

Asset Management has got an ultimate responsibility to ensure that Departmental assets are safeguarded through implementation of adequate and effective safeguarding controls for loss and theft of departmental assets. All employees are expected to utilize all safeguarding mechanism in place for the assets in their area of responsibility:

- a) When there is a loss or theft of assets in the department, the official that the assets were attached to must report the incident to SAPS with 24 hours of noticing the loss/theft.
- b) Forward a detailed report to Asset Management in the Provincial Office and Asset management must conduct a preliminary investigation on the incident.
- c) If the matter is seen by asset management that is complex and needs investigation expertise, a detailed report must be forward to Risk Management & Anti-Corruption to conduct such full investigation.
- d) All incidents of lost/theft of assets forwarded to Risk Management & Anti-Corruption must not be month old (31 days) from the day of the incident as this makes it impossible to investigate the loss and theft of assets and results to waste of state resources.
- e) All incidents of lost/theft of assets that are month older (above 31 days) shall be rejected by Risk Management & Anti-Corruption and will be handled by Asset Management unit and conclude.
- f) After a detailed report is received by Risk Management & Anti-Corruption unit, a full investigation will be conducted to determine whether official concern was negligent or not
- g) Investigation report with recommendations will be forwarded to the Accounting Officer for approval and an approved report will be forwarded to Asset Management unit to inform the official concerned about the outcomes of the investigation.
- h) Where an official has been found to be negligent and is liable to pay the lost/stolen asset, shall be given **fourteen working days (14)** to appeal in writing such decision to the **Accounting Officer**.
- i) The Accounting Officer will evaluate the appeal and make a decision which will be final.
- j) In lapse of the **fourteen working days (14)**, no appeals will be entertained.

6.4.8. Investigation of Damaged ICT and related assets

Investigation of the damaged ICT and related assets shall not be investigated by Risk Management & Anti-Corruption, however ICT unit and Asset Management unit will conduct investigation and conclude on those assets.

6.5. PROTECTION OF WHISTLE BLOWERS

- 6.5.1.** The Protected Disclosure Act 26 of 2000 as amended by Act no 5 of 2017 makes provision for the protection of employees /workers who makes a disclosure in terms of this Act.
- 6.5.2.** Any disclosure made in good faith and substantially in accordance with any procedure prescribed by the employee's employer for reporting is considered a protected disclosure under this Act. An employee making such a protected disclosure is protected from being subject to an occupational detriment on account of having made a protected disclosure
- 6.5.3.** An employee who suspects or reports suspected dishonest activity or such activity which he/she has witnessed shall be afforded an opportunity to remain anonymous should he/she so require.
- 6.5.4.** Allegations made by employees who are false and made with malicious intentions, must be discouraged by managers. Where such malicious or false allegations are discovered, the person who made the allegations must be subjected to firm disciplinary action. Such malicious disclosures are not protected by the Protected Disclosure Act as amended.

The policy must be read in conjunction with Whistle blowing policy of the Department.

6.6 FRAUD & CORRUPTION PREVENTION STRATEGIES

The department has committed to eradicate fraud and corruption in the department. In order to achieve curbing of the fraud and corruption the following proactive measures will be implemented:

- i. Appropriate prevention, management and detection controls will be applied in line with the Fraud Prevention Plan of the department. These include the existing controls and checking mechanisms as prescribed in the existing policies, procedures and other relevant prescripts to the activities of the Department of Social Development.
- ii. Fraud and Corruption risk vulnerability assessment will be conducted to ensure adequate exposure of the fraud and corruption risks facing the department for development of adequate fraud response plans which must be incorporated in the Departmental Risk Profile.
- iii. Quarterly monitoring of the fraud/corruption risk register will be done and report submitted to the Risk, Ethics & Anti-Corruption Management Committee.

6.7 TRAINING, EDUCATION AND AWARENESS

- i. This policy shall be communicated to all stakeholders
- ii. 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

- iii. Risk Management & Anti-Corruption unit shall facilitate the awareness and training to staff of the department including induction of newly appointed staff
- iv. Ethics training shall form a critical part of the awareness program.
- v. The policy shall be accessible to the Departmental website.

6.8 RISK, ETHICS & ANTI-CORRUPTION MANAGEMENT COMMITTEE

The Committee will perform an oversight on the implementation of this policy and report to the Audit Committee of the Department.

6.9 DISCIPLINARY ACTION

Employees who violate this policy are subject to disciplinary action, up to and including dismissal and also may be subject to individual criminal and /or civil prosecution in relevant jurisdictions. Business partners, Consultants, Suppliers, agents/representatives and any other providers of goods and services who violate this policy are subject to termination of all commercial relationships with Department of Social Development and report to Provincial Treasury.

7. APPROVING AUTHORITY

Executive Authority shall be responsible for the approval of this policy

8. ADMINISTRATION OF THE POLICY

The custodian of this Policy shall be the Accounting Officer who is supported in its implementation by the Risk Management & Anti-Corruption unit

9. ACCOUNTABILITIES AND RESPONSIBILITIES

9.1 Accounting Officer

Head of the Department is legally the accountable person for this policy

9.2 Risk Management & Anti-Corruption

The head of Risk Management & Anti-Corruption unit as delegated by the Accounting Officer as investigating officer and departmental advisor in fraud and corruption in the department.

9.3 Officials

Responsible for management, prevention, detection and control of fraud and corruption acts.

9.4 Civil Society, Social Partners and other Stakeholder

Are the public eyes for this policy and have duty to report acts of fraud and corruption to the Department for action

9.5 Risk, Ethics & Anti-Corruption Committee

The Committee shall be responsible for assisting the Accounting Officer in addressing his/her oversight requirements on fraud and corruption risk management and evaluate and monitor the Department performance with regarding in managing the risk of fraud and corruption.

10. EFFECTIVE DATE OF THE POLICY

This policy shall be effective from the date of approval by the Executive Authority.

11. PROCEDURES FOR IMPLEMENTATION

A detailed plan on implementation procedures will be compiled to include but not limited to the followings:

- a) Capturing of received cases into the investigation register
- b) Facilitate the appropriate fraud /corruption risk assessment in the department
- c) Monitoring mechanism of fraud risk register
- d) Investigation processes to be followed
- e) Training and Awareness on fraud and corruption for both new and old staff
- f) Development of fraud and corruption risk monitoring tool

12. MONITORING MECHANISMS

The monitoring of the policy will be carried out through the following mechanism:

- a) Management

13. REVIEW OF THE POLICY

This policy will be reviewed after three (3) years and whenever a need arises e.g. change in legislation, new directives or national mandates had been given.

14. POLICY RECOMMENDATION & APPROVAL

_____	_____
Head of Department: Dept. of Social Development	Date
Approved/ Not Approved	
_____	_____
MEC: Dept. of Social Development	Date