

# SOL PLAATJE MUNICIPALITY



## **Fraud Prevention and Anti-Corruption Policy**

*Final Approved Version of October 2020*

*Reviewed and Approved by Council on the 14<sup>th</sup> October 2020  
in terms of Council Resolution C175/10/20*

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## 1. Definitions

Employee	According to the conditions of service definition of an “employee” means— (a) any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and (b) any other person who in any manner assists in carrying on or conducting the business of an employer
Municipality	The Sol Plaatje Local Municipality.
Unauthorized Persons	Any person who is not authorised or given official permission in Sol Plaatje Municipality to do something, or have access to a particular place.
Line manager	Any employee who is employed by the municipality as a supervisor, manager, general manager, senior manager, and executive director.  Line manager loosely used to refer to the manager the employee is reporting as per definition of employee above.
Public	Member of public including a person acting in own personal capacity or on behalf of an entity including suppliers contracted conducting business with the municipality
Whistleblowing	The Protected Disclosures Act, Act 26 of 2000 (“the Act”), makes provisions for employees and workers to report unlawful or irregular conduct by employers and fellow employees.  <i>In terms of the Act “the term “workers”, as distinct from “employees”, has been introduced throughout the amended Act to extend protection to employees of third-parties contracted to provide your organisation with services: temporary employment services (labour brokers), independent contractor, consultants and agents. An employer and their client (e.g. a temporary employment service) will now be jointly and severally liable for occupational detriment suffered by the client’s employee where the disclosure related to their employer’s customer.”</i>

Conflict of interest	<p>The public services commissions rules defines conflict of interest as <i>“Any financial or other private interest or undertaking that could directly or indirectly compromise the performance of the public servant’s duties or the reputation of a public servant’s department in its relationship with stakeholders”</i></p> <p>The institute for securities studies defines conflict of interest as <i>“A situation in which a public official has a private interest which influences, or appears to influence a public decision”</i>.</p>
Bribery	<p>Bribery is regulated by the Prevention and Combating of Corruption Activities Act (PRECCA) No. 12 of 2004, where the concept of bribery is referred to as corruption. Section 12 of the Prevention and Combating of Corruption Activities Act (PRECCA) No. 12 of 2004 defines bribery in terms of three elements:</p> <ol style="list-style-type: none"> <li>1. a giver,</li> <li>2. an acceptor,</li> <li>3. a gratification.</li> </ol> <p>where <i>“The purpose of the gift is to induce the other party to do or not to do anything which is not authorised.”</i></p> <p>and <i>“Gratification includes but is not limited to money, loans, donations, gifts, employment, avoidance of loss or liability and any other valuable consideration, or benefit of any kind.”</i></p>
Nepotism	<p>Favouritism shown to relatives or friends in conferring offices or privileges.</p> <p>Nepotism is also defined as a form of corruption where jobs and other business favours are given based on the family relationships.</p>
Electronic fraud	<p>The act of using a computer or a computer based system to alter electronic data or gain unlawful use of the computer. Electronic fraud includes perpetuating scams using electronic tools to steal money and/or information.</p>
Contractor	<p>A person or company that undertakes a contract to provide goods or services. This also includes a person employed by to municipality to provide a specific service over a certain period.</p>
Suppliers of goods and services	<p>A person or company that undertakes a contract to provide goods or services.</p>

External Stakeholders	Any person or groups outside the employ of the municipality who are affected by the business of the municipality, as such includes ordinary members of the public.
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## 2. Introduction

Sol Plaatje Municipality is a service orientated public entity whose legislated mandate is to in the main, provide services to residents, and in pursuit of this mandate follow various legislated process.

The fraud and prevention anti-corruption policy seeks to provide the municipality stance in terms of fraud and corruption as well as a structured approach to the detection, prevention, response and where possible, treatment of fraud and corruption in the municipality.

Fraud and corruption in the municipality can be identified through actions that create suspicion and/or may be deemed criminal and/or contrary to regulation governing the municipality. These actions can be grouped into:

- i. Someone internal/external to the municipality, gives or offers with the intent to gain certain favours
- ii. Someone internal/external to the municipality receiving or agreeing to receive in order to gain or provide certain favours
- iii. Someone in a position of power using power illegally or unfairly
- iv. Someone internally receiving or agreeing to receive by way of gratification

Criminal and other irregular conduct is detrimental to good, effective, accountable, and transparent governance and can hamper the service delivery capacity of the municipality.

This policy is provided so that employees and councillors may without fear of reprisal, disclose information relating to suspected or alleged criminal or other irregular conduct.

## 3. Purpose

It is the policy of the municipality that fraud, corruption, theft, and maladministration or any other dishonest activities of a similar nature will not be tolerated.

As such, the purpose of this policy is to ensure that Sol Plaatje Municipality is in a pre-emptive position to respond to allegations and activities of fraud and corruption. This entails providing municipal employees, councillors, contractors, suppliers of goods and services, and external stakeholders, with clear guidelines on how to prevent, detect, and respond to fraud and corruption.

The municipality must make provisions for the establishment of a fraud desk or a fraud incident report structure.

## 4. Intended Audience

To prevent and combat fraud and/or corruption and other acts of theft and maladministration or any other dishonest activities of a similar nature, this policy applies to:

- i. All employees
- ii. Councillors
- iii. Contractors
- iv. Suppliers of goods and services
- v. External stakeholders

## 5. Legal Framework

Fraudulent and corrupt practices undermine the basic values and principles governing public administration. The following legislation apply to fraud and corruption in the South African context and therefore to Sol Plaatje Municipality:

- a) The Constitution of South Africa Act 108 of 1996
- b) The Competition Act No. 89 of 1998
- c) Prevention and Combating of Corruption Activities Act (PRECCA) No. 12 of 2004
- d) Prevention of Organised Crime Act (POCA) No.121 of 1998
- e) The Criminal Procedure Act No. 51 of 1997
- f) The Protected Disclosures Act No.26 of 2000
- g) The Promotion of Access to Information Act No.2 of 2000
- h) The Promotion of Administrative Justice Act No.3 of 2000
- i) The Public Finance Management Act and Regulations No.1 of 1999
- j) The Municipal Finance Management Act and Regulations 56 of 2003
- k) The Municipal Systems Act and Regulations 32 of 2000
- l) The Public Service Act No.103 of 1994
- m) The Witness Protection Act No.112 of 1998
- n) National Treasury Regulations

## 6. Related Policies

The following policies must be applied in conjunction with this policy:

- a) Supply Chain Management Policy
- b) ICT Information Security Policy

## 7. Scope

The municipality aims to address fraud and corruption through the following key focus areas:

- i. Financial
- ii. Electronic
- iii. Infrastructure

The following actions constitute fraud, corruption, theft, maladministration and or any other dishonest activities of a similar nature:

- a) Any dishonest, fraudulent or corrupt act;
- b) Theft of funds, supplies, or other municipality assets;
- c) Disclosing confidential or proprietary information to external parties without consent or authority;
- d) Deliberately and dishonestly altering documents, records, or vouchers;
- e) Creating false invoices or credit notes;
- f) Creating fictitious supplier accounts; creating false purchase invoices or destroying supplier credit notes;
- g) Purchasing items for private use on the municipality accounts;
- h) Submitting false claims for remuneration of expenses;
- i) Creating fictitious employees on the payroll system;
- j) Falsely selling leave days, i.e. selling leave days you do not have;
- k) Unauthorised use of municipality vehicles and facilities;
- l) Irregularly accepting or requesting anything of material value from contractors, suppliers, or other persons providing goods or services to the municipality;
- m) Irregularly offering or giving anything of material value to contractors, suppliers, or other persons providing goods or services to the municipality;
- n) Irregularly offering special favours or concessions to service providers or contractors or other third party(s) in exchange for remuneration in the form of cash or benefits;
- o) Participating in the recruitment process of family members and/or people whom you feel favourable to without making full disclosure;
- p) Destruction, removal, or misuse of records, furniture or equipment;
- q) Deliberately omitting to report or act upon reports of any such irregular or dishonest conduct;
- r) Acts of financial misconduct contemplated in terms of section 171 to 173 of the MFMA;
- s) Incidents of unauthorised, irregular or fruitless and wasteful expenditure as defined in section 32 of the MFMA;
- t) Any similar or related irregularity as prescribed by the legislation listed as applicable in this policy.



The municipality shall subject those employees who make allegations with a malicious intent to a disciplinary enquiry. Employees and councillors are advised to refrain from submitting complaints of a malicious nature.

## 8. Policy Application

The following key prevalent elements of fraud are also covered:

- 8.1 Whistle blowing
- 8.2 Conflict of interest
- 8.3 Bribery
- 8.4 Nepotism
- 8.5 Electronic fraud

### 8.1 *Whistle blowing*

- a) The Protected Disclosures Act No.26 of 2000 makes provision for the protection of employees or councillors who make a disclosure in terms of the provisions of this Act.
- b) Any employee, councillor, contractor, supplier of good and services, or external stakeholder who makes a disclosure should be afforded the opportunity to remain anonymous if required.
- c) Any disclosure made in terms of the conditions outlined in this policy is considered a protected disclosure.
- d) Where the identity of an employee, councillor, contractor, supplier of good and services, or external stakeholder who has made a disclosure anonymously is somehow disclosed, the accounting officer bears the burden of providing reasonable protection for the employee, councillor, and advising the contractor, supplier of good and services, or external stakeholder in terms of the protection measures available.
- e) The municipality must safeguard the identity of anonymous disclosures.
- f) Any employee or councillor making a disclosure is protected from being subjected to an occupational detriment.
- g) Any employee, councillor, contractor, supplier of good and services, or external stakeholder, who makes a disclosure and is subjected to victimization, recrimination, or threats to self or property shall be protected by council and should report such incidents to the accounting officer who in turn must report to initiate an investigation, report to the MEC, and report to the SAPS.

## 8.2 Conflict of interest

- a) The employee or councillor must at all times observe the conditions of the supply chain management policy.
- b) The employee or councillor must at all times comply with the conditions of the supply chain management policy.
- c) Employees and councillors must declare their business interests in terms of the disclosure of business interests whether such business interests are registered or not and regardless of the status of the entity, active or dormant.
- d) The disclosures of business interests must be conducted annually.
- e) An employee or councillor must be allowed to make a new disclosure or amendment to the disclosure of business interest anytime of the year.
- f) The human resources directorate is the custodian of the process. Human resources must monitor the controls in place for the effectiveness of the disclosures.
- g) The employee or councillor who finds themselves in a position that is of conflict (recruitment of a relative, acquisition of goods and services from a relative, etc.) must recuse themselves from the process. In such an instance, the employee or councillor must submit a letter, to the responsible executive, indicating conflict. Failure to do so will be deemed an act of fraud due to any perceived intent to benefit.
- h) The employee or councillor failing to recuse themselves or failing to declare the conflict will be in contravention of this policy and the supply chain management policy conditions.
- i) If an employee or councillor is found to be in contravention of this policy or the supply chain management policy by failing to disclose the conflict of interest or by failing to recuse themselves from the process due to the conflict of interest, such an incident must be reported to the accounting officer. The accounting officer must initiate an investigation to determine the merits of the alleged transgression before referring the matter accordingly to the appropriate authorities.
- j) All of the above applies except where councillors have to participate as per certain legislative requirements.

## 8.3 Bribery

- a) The employee or councillor who finds themselves in a position that involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of the employee or councillor, must report such promise, offering or giving of a benefit to the relevant body (line manager), following the applicable process (human resources or supply chain management if applicable).

- b) The municipality will deem the following as elements or acts of bribery:
  - i. Any undisclosed gifts and/or donations, in various forms (e.g. facilitation fees, school fees, travel expenses, social events/performances/sporting events etc.);
  - ii. Cash received including in the form of various loan type (e.g. cash, property, credit extension, etc.);
  - iii. Offering or receiving of employment in the municipality in exchange for a favour (temporary, EPWP, internship, permanent, and contract);
- c) The municipality prohibits employees or councillors from receiving, offering, paying, soliciting or accepting bribes.
- d) If any employee or councillor receives an unexpected gift, then such as gift must be disclosed through the disclosure of interest process to ensure transparency.

#### **8.4 Nepotism**

- a) An employee or councillor who finds themselves in a position where they are inclined to show favouritism to another employee or group(s), including nepotism will be deemed in contravention of this policy.
- b) Any employee or councillor who is in a position to be accused of nepotism (by working with family member(s)) must recuse themselves from the processes to avoid allegations of favouritism.
- c) Any employee or councillor must maintain impartiality in the appointment of family members.

#### **8.5 Electronic fraud**

- a) Fraud committed through electronic means (using computer based systems and/or applications) must be reported immediately on suspicion.
- b) The employee or councillor who has reported suspicious activity on a municipality issued computer or device must confirm with IT whether it is safe to continue to use the computer or device.
- c) In case an incident has been reported, and the accounting officer has approved institution of an investigation, all municipal employees and councillors, must allow authorised personnel to collect information from their computers. The authorised personnel must include an authorised employee from IT.
- d) A municipal employee or councillor from whose computer information is being collected, must ensure that the authorised IT employee signs the chain of evidence form to confirm authenticity of the collected evidence.

## 9 Roles and Responsibilities

### *Accounting Officer*

- a) The accounting officer, through the risk manager is responsible for the implementation of the policy and for its review.
- b) The accounting officer shall report all instances of prima facie criminal conduct to the appropriate authorities observing applicable legislation.
- c) The accounting officer shall institute disciplinary proceedings in terms of the municipality disciplinary process against an employee or councillor for allegations of fraud, corruption, maladministration, any dishonest activity, and any suspected irregularities.
- d) The accounting officer shall report for investigation by the SAPS all cases of fraud, corruption, maladministration, any dishonest activity, and any suspected irregularities.
- e) The accounting officer will, through the office of the chief financial officer, recover financial losses or damaged incurred by the municipality from any employee or councillor who due to deliberate or negligent unlawful actions is liable for such financial losses.
- f) The accounting officer, through the office of the chief financial officer, may utilise the amendments to the Pension Fund Act, which allows an employer, on registration of a criminal docket with the SAPS, to request the pension fund to freeze the employee's or the councillor's benefit payments who has been allegedly involved in financial misconduct, pending finalisation of the criminal prosecution. Thereafter, if the employee or councillor is convicted, any losses caused by the employee or councillor concerned shall be deducted from the benefits due to the employee or councillor concerned or shall be recovered from the assets owned by the person concerned.
- g) According to Section 34 of PRECCA, the accounting officer is required to report, as soon as is aware of, or suspects, offences of theft, fraud extortion, forgery or uttering of a forged document, involving R100 000 or more, to the SAPS. Failure to comply with this obligation is subject to an offense punishable by imprisonment of between 3 to 10 years.
- h) Provision (g) above applies to employees acting in this capacity.

### *Council*

- a) Council must report disciplinary outcomes, charging the accounting officer, of fraud, corruption, maladministration, any dishonest activity, and any irregularities, to the SAPS.

### ***Chief Audit Executive***

- a) When performing an audit, the chief audit executive must report suspected incidents of fraud, corruption, theft, and maladministration or any dishonest activity to the relevant body of authority.
- b) The chief audit executive shall monitor, on a regular basis, system access level and segregation of duties for all municipality employees and councillors.
- c) According to Section 34 of PRECCA, the chief audit executive is required to report, as soon as is aware of, or suspects, offences of theft, fraud extortion, forgery or uttering of a forged document, involving R100 000 or more, to the SAPS. Failure to comply with this obligation is subject to an offense punishable by imprisonment of between 3 to 10 years.
- d) Provision (b) above applies to employees acting in this capacity.

### ***Senior Manager***

- a) According to Section 34 of PRECCA, a senior manager is required to report, as soon as is aware of, or suspects, offences of theft, fraud extortion, forgery or uttering of a forged document, involving R100 000 or more, to the SAPS. Failure to comply with this obligation is subject to an offense punishable by imprisonment of between 3 to 10 years.
- b) Provision (b) above applies to employees acting in the capacity of a senior manager.

### ***Risk Manager***

- a) The risk manager is the champion of the policy.
- b) The risk manager is responsible for the review of the policy as and when required.

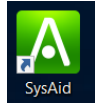
### ***Line Manager***

- a) Line managers or any recipient of a complaint must report all allegations of fraud, corruption, theft, maladministration or any dishonest activity by following the municipality disciplinary process.

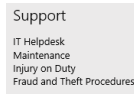
### ***Employees and Councillors***

- a) All municipality employees, and councillors must report suspected incidents of fraud, corruption, theft, and maladministration or any dishonest activity.
- b) Municipality employees, and councillors must perform the necessary due diligence in ensuring the mandatory checks and balances are confirmed for the acquisitions, payment, and maintenance of goods and services.

- c) All municipality employees, and councillors are responsible for the physical security of municipality issued computer devices.
- d) All municipality employees, and councillors should lock and log off a computer when leaving their work space.
- e) All municipality employees, and councillors must adhere to the provisions of the municipality information security policy.
- f) All municipality employees, and councillors should inform IT immediately when a computer is behaving “suspiciously”/unusually/not as expected through the IT call log process:



- i. Call log system SysAid



- ii. Municipality Intranet
- iii. IT Help Desk: (053) 830 6655
- iv. Email: [ITsupport@solplaatje.org.za](mailto:ITsupport@solplaatje.org.za)

- g) All municipality employees, and councillors are must adhere to the conditions of their functions by ensuring that access allowed on computer systems is not in contravention with their responsibilities and thus maintain segregation of duties at all levels.
- h) All municipality employees and councillors must report unauthorised access to computer systems and applications.

### **Human Resources**

- a) It is the responsibility of the human resources manager to manage municipality employee and councillor movement and must inform IT of such changes to immediately effect the applicable system access requirements.
- b) The human resources manager must send IT an email to [ITsupport@solplaatje.org.za](mailto:ITsupport@solplaatje.org.za) , with the relevant forms and other necessary documentation attached, to ensure unauthorised access is prevented timeously.
- c) The human resources manager must ensure that appointments of family members are procedurally and substantively fair.

### **Information Technology**

- a) IT shall effect system access changes at a minimum immediately and at most within a day (not more than 8 hours) of receiving the instruction to do so.
- b) For computer related investigations, the accounting officer shall provide the IT network administrator, through the chief information officer, written approval to release specific information for the purposes of an investigation.

- c) The network administrator is responsible for coordinating the collection of information required when an incident has been reported.
- d) In cases where a suspicious incident is reported, or IT becomes aware of a suspicious incident, the chief information officer shall request the network administrator to secure the related information.
- e) IT shall recommend necessary equipment required to physically secure municipal issued devices.

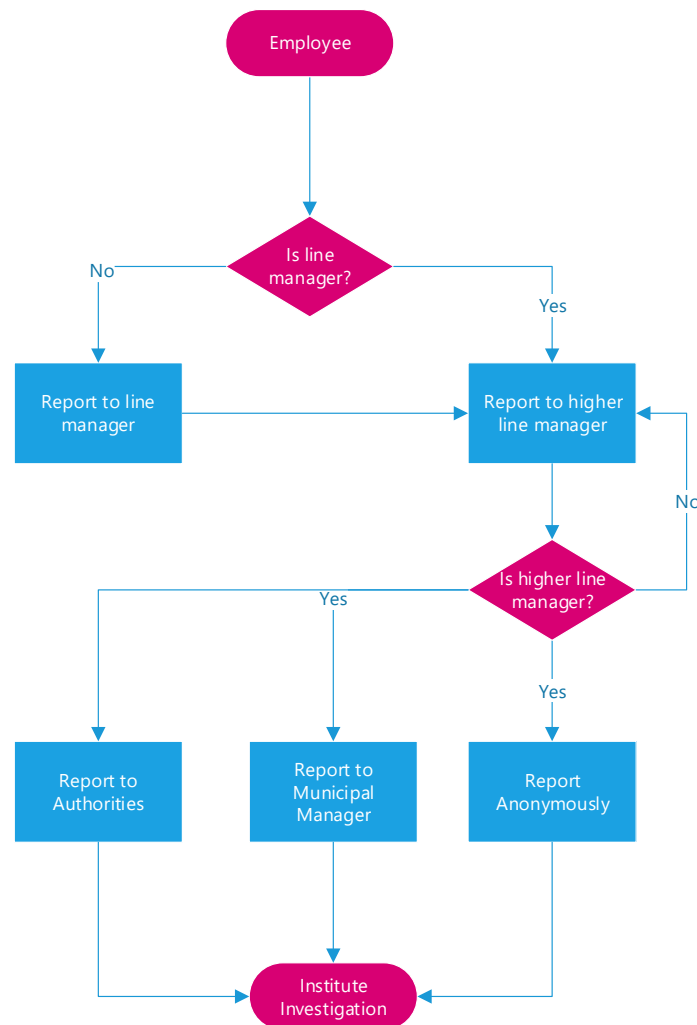
## 10 Reporting Procedure

The following reporting procedures have been included as guidelines for the various reporting streams within the municipality.

- a) Ultimately, incidents, complaints or allegations of fraud, corruption, theft, and maladministration or any dishonest activity can be reported:
  - i. Anonymously.
  - ii. To the office of the municipal manager.
  - iii. To the relevant authorities.
  - iv. Must be recorded in a register by Municipal Manager.
- b) Compulsory critical information to be provided when reporting:
  - i. Identification (includes anonymous);
  - ii. Contact details;
  - iii. Position of authority;
  - iv. Allegation(s);
  - v. Details of person(s) involved in the alleged commission of offence(s).
- c) The following report lines can be used to promote confidentiality, but more specifically for anonymous reporting and where supporting documents are to be provided:
  - i. **Fraud line (X6999 – voicemail enabled) will be confirmed with service provider. (still testing).**
  - ii. Email: [fraud@solplaatje.org.za](mailto:fraud@solplaatje.org.za).

The diagram below shows reporting procedure to be followed by an *employee*:

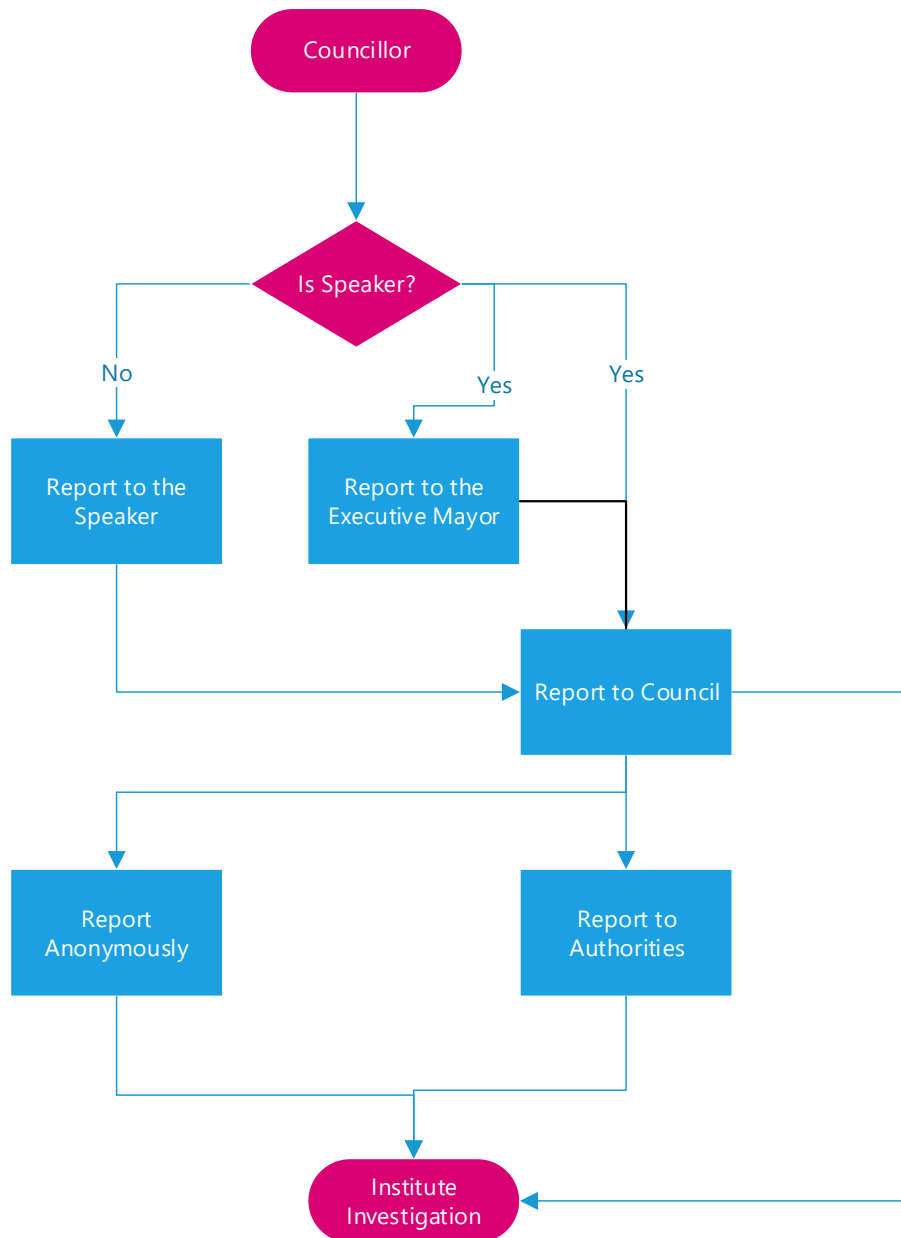
1. An employee can report to their line manager.
2. If the line manager is the suspected of the allegation or report cannot be made to the line manager for any reason, the employee may report to the line manger's manager.
3. Reporting procedure to line manager must be maintained. The level of reporting may only be escalated if the line manager is suspected or not available.
4. An employee must have the ability to report anonymously, to the municipal manager, or to the relevant authorities.
5. An employee should only make a report to authorities once the internal process has been exhausted.





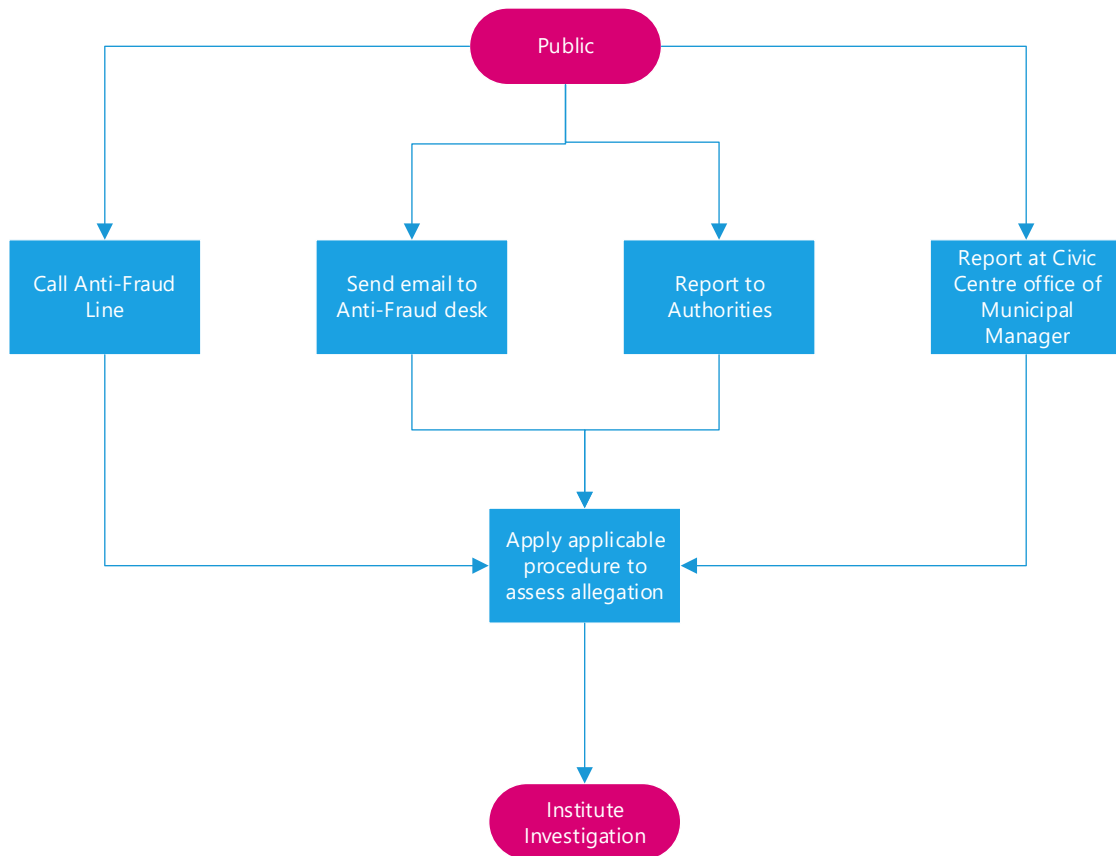
The diagram below shows reporting procedure to be followed by a *councillor*:

1. A councillor can report to the speaker.
2. If the speaker is suspected of the allegation or report cannot be made to the speaker for any reason, the councillor can report to the executive mayor and/or to council.
3. Reporting procedure must be maintained.
4. A councillor must have the ability to report anonymously, or to the relevant authorities.
5. A councillor should only make a report to authorities once the internal process has been exhausted.



The following diagram shows reporting procedure to be followed by a *member of the public*:

1. Any member of the public of legal age can make a report.
2. A member of the public can make a report to the national anti-fraud hotline 0800 601 011, or send an email to the municipality fraud desk [fraud@solplaatje.org.za](mailto:fraud@solplaatje.org.za), or call the municipality fraud line (X6999), or the office of the municipal manager, or the local authorities.



## 11 Violations and Penalties

Employees who are found to be in violation of this policy may be subject to disciplinary action and depending on the severity of the offence, even criminal action as stipulated in the policy.

## 12 Policy review

This policy shall be reviewed as and when required.