

# Ethical Standard Policy

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## 1. PURPOSE / DOEL

Since the democratization of the Local Government in 1995, municipalities have been faced with a lot of challenges in the sphere of fraud and corruption. Councillors and officials have become more exposed to the dangers of corrupt activities and emphasis was placed on an administration devoid of any suspicion involving unscrupulous behaviour.

The purpose of the policy is to ensure independence and impartiality in the execution of duties. Functions must be conducted in a manner which is free from undue influence.

## 2. DEFINITIONS / DEFINISIE

The Webster's Pocket Dictionary 2002, describes ethics as the accepted standard of morality.

The Oxford Complete Wordfinder 1994, describes ethics as the science of morals in human conduct, moral principles and rules of conduct.

Ethical standard can also be defined as follow:

- Receiving gifts can create perceptions of bias. This could unduly influence the independence and reputation of the municipality in serving the community in an impartial and transparent manner.
- There is a need to recognize and encourage the principle of volunteerism amongst municipal employees.
- Volunteerism encourages the principles of humanity and a caring society.
- There are employees who render a loyal and supportive service to the municipality and immediate community.
- The principles of Batho Pele recognize the awarding the rewards to employees who have executed loyal, dedicated and unselfish service to the municipality.

### **3. APPROVED / GOEDGEKEUR**

*Council Meeting – 2 November 2009*

### **4. POLICY / BELEID**

#### Legal requirements:

Local Government (municipalities) derive its powers and functions from the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996). Chapter 7 and Parts B of Schedules 4 and 5 are important to note.

The Code of Conduct for Municipal officials and Councillors are contained in Schedule 1 and 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

A Councillor must perform the functions of office in good faith, honestly and in a transparent manner. Councillors and officials must at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

Councillors must disclose to the Municipal Council, or to any committee of which that Councillors is a member, any direct or indirect personal or private business interest that, that Councillor, or any spouse, partner or business associate of the Councillor may have in any matter before the Council or the Committee.

In such a case the relevant Councillor is to withdraw from the proceedings of the Council or Committee, when that matter is considered by the Council or Committee. Council may decide that such direct or indirect interest is trivial or irrelevant.

A staff member of a municipality must at all times:

- Loyal execute the lawful policies of Council;
- Perform the functions of office in good faith, diligently, honestly and in a transparent manner;
- Act in the best interest of the municipality and in such a way that the credibility of the municipality is not compromised.

Parliament has shown its commitment to erase corrupt activities from the public sector, by the promulgation of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004). Chapter 2 of the act in question refers to general

offence of corruption. Any public officer who, directly or indirectly accepts or agrees or offers to accept any gratification from any other person or gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person.

In such case the behaviour of such person amounts to the illegal, dishonest, unauthorized, misuse or selling of information or material acquired. It also amounts to the abuse of a position of authority, a breach of trust or the violation of a legal duty or a set of rules. In these instances such a person is guilty of an offence of **corruption**.

Any person who directly or indirectly attempts to improperly influence, in any way, the promotion, execution or procurement of any contract with a public body, private organization, corporate body or any her institution of fixing of the price, consideration or other monies stipulated in any such contract, is guilty of the offence of **corrupt activities** relating to contracts.

In terms of Section 4 of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), where an administrative action will materially and adversely affect the rights of the public, an administrator, in order to give effect to the right to “procedurally fair administrative action” must take into account all relevant factors including:

- The objects of the empowering provision;
- The nature and purpose of and the need to take, the administrative action;
- The likely effect of the administrative action;
- The urgency of taking the administrative action or the urgency of the matter; and
- The need to promote an efficient administration and good governance.

The administrator must provide reasons for any action, within ninety days to any person whose rights have been materially and adversely affected, by administrative action. Within this legalistic framework the birth of the new Municipal Finance Management Act, 2003 (Act 56 of 2003) has brought about extraordinary measures into the management of the financial affairs of municipalities. The act aims to enable managers to manage, but make them more accountable, by introducing regular and consistent reporting requirements.

The challenge facing Councillors and officials is to improve the efficiency and effectiveness of the municipality through the best use of management information.

## 5. PROCESS / PROSES

### Guidelines for accepting rewards / gifts and favours:

- A staff member of a municipality may not request, solicit or accept any reward, gift or favour for:
  - a) persuading the Council or any structure of the municipality, with regard to the exercise of any power or the performance of any duty;
  - b) disclosing any privileged or confidential information
  - c) doing or not doing anything within the staff member's powers or duties;
- A staff must without delay report to a superior official, or to the Speaker of the Council any offer, which, if accepted by the staff member, would constitute a breach of the Code of Conduct for officials;
- Gifts with the value from R0,00 to R350,00 must be declared and each Director should inform the Municipal Manager of the following detail:
  - a) description of the gift;
  - b) value of the gift;
  - c) reason and purpose of the gift (for example token of appreciation);
  - d) beneficiary and relationship with donor.
- The Municipal Manager must record all gifts declared, in a register. This register will be submitted to the Executive Mayor once a quarter;
- No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of, may either directly or through a representative or intermediary promise, offer or grant
  - a) any inducement or reward to the municipality for or in connection with the reward of a contact;
  - b) any reward, gift, favour or hospitality to any official, or any other role player involved in the procuring of goods and services;
  - c) any person or public body or private institution who has willfully acted in an improper way, will be reported to the National Treasury, by the Chief Financial Officer or his nominee;
  - d) any person who contravenes this policy will be charged with misconduct and will be dealt with in terms of Council's Disciplinary Code;

- e) gifts in excess of R350,00 is prohibited in terms of the Supply Chain Regulations as promulgated in the Government Gazette No. 27636 dated 30 May 2005.

## **6. APPLICABLE FORMS / TOEPASLIKE VORMS**