



MADIBENG LOCAL MUNICIPALITY
INTEGRITY MANAGEMENT FRAMEWORK

Part B – Conflict of Interest Policy Statement

Principle 1: Conflict of Interest

Principle 2: Gifts and Entertainment



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Integrity Management Framework - Integrity Principle 1

CONFLICT OF INTEREST

1. Introduction

The Madibeng Local Municipality (MLM) is committed to fostering a culture that is devoted to the principles of ethics and integrity. MLM further seeks to employ and work with business and social partners who share these values. The Integrity Management Framework ('the Framework') seeks to confirm MLM's position and to uphold the values and principles through high standards of ethics and integrity. The framework makes it clear that the MLM is implacably opposed to corruption and unethical behaviour. It sets out the behaviours that underpin the policy, processes and procedures for the work of MLM. It is designed to highlight integrity as a key consideration in decision making and in our dealings with ourselves and others.

A key consideration in upholding the principles of ethics and integrity is the avoidance of any conflict of interest which may arise, and to promptly declare any personal, financial or business interest or that of a Family Member.

This policy is to read in conjunction with the Integrity Management Framework as it forms an integral part thereof.

2. Purpose and Objectives

The purpose of this policy is to ensure that all Employees of MLM demonstrate the highest ethical standards in the conduct of MLM affairs and in their relationships with Clients and potential Clients as well as with Suppliers and potential Suppliers. This policy sets a framework to ensure that Employees adhere to the MLM's acceptable business principles in respect of



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personal and professional conduct and ensures that Employees exhibit a high degree of personal and professional integrity at all times.

The objective of this policy is to regulate and clarify conflict of interest within the workplace for all Employees and to set guidelines in how they deal with conflicts of interest. The policy further sets the benchmark as far as all Employees must avoid personal activities or interests which conflict or may conflict with their duty and loyalty to the MLM.

3. Scope

This policy shall apply to all Employees as defined as well as Employee's employed by any of the entities within MLM.

In cases where a particular department has adopted a more stringent policy relating to conflict of interest, the more stringent policy take precedence over this policy in respect of Employees in that particular department.

4. Definitions

Term	Definition
Clients	Any person (including a legal entity) to which MLM provides or intends to provide Goods or Services including residence, property owners, developers, tenants, shareholders and persons or legal entities associated with such Clients.
Conflict of Interest	A conflict between the public duties and private interests of an employee, in which the Employee has private interests which could improperly influence the performance of his/her official duties and responsibilities



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Term	Definition
Employees	Any person who works for the Council and who receives, or is entitled to receive, any remuneration; and any other person who in any manner assists in carrying on or conducting the business of the Council. For purposes of this policy, employee includes independent contractors, labour broker employees, persons seconded from other local, provincial or national government, or seconded from any entity belonging to a local, provincial or national government.
Family Members	This may be a spouse, children, parents, grandparents, brothers and sisters, parents-in-law, cousins, brothers and sisters-in-law, and any other family of an Employee of MLM. This also includes adopted and step-children. Spouse also includes those married under customary and traditional law and live-in partners of such an Employee.
Financial Interest	A financial interest is any advantage an Employee of MLM receives as a result of his/her dealings with a Supplier or Client, such as money, services, vouchers, discounts, more business, accommodation, gifts, entertainment, shares, travel, sponsorships and so forth.
Private or Personal Interest	A Financial Interest, ownership interest or any relationship with a third party and any other entity
Services	Any intangible activities such as cleaning, consultancy, legal etc.
Supplier	Any supplier or potential supplier (including a legal entity) and includes any contractor, sub-contractor, consultant, specialist,



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Term	Definition
	vendor etc who provides Goods and Services to MLM or acts on its behalf.

5. **Applicable Laws, Regulations and Codes.**

A copy of the applicable laws, regulations and codes can be obtained from HR or legal / risk departments.

What follows hereunder is only a brief summary of some of the provisions contained therein.

Common law

Every Employee has, in common law, a duty of good faith towards his / her employer. This duty of good faith includes the duty to avoid a Conflict of Interest and this policy explains and clarifies these obligations.

Prevention and Combating of Corrupt Activities Act 12 2004 (PRECCA)

The PRECCA prohibits members of public bodies from holding private interests in contracts with that body, unless the exceptions in the Act apply. That is, any public officer who acquires a private interest in a contract connected with the public body in contravention of the Act, is guilty of an offence.

Municipal Systems Act 32 of 2000

Schedule 1 – Code of Conduct for Councillors



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Disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee

Schedule 2 – Code of conduct for Municipal Staff Members

Should a staff member have a business interest in any number of companies or close corporations he/she shall declare such business interest/s as required in terms of the Municipal Systems Act (Act 32 of 2000) under section 4 of *Schedule 2 – Code of conduct for Municipal Staff Members*

Where a staff member who or whose business associate or family member acquired or stands to acquire any direct benefit from a contract concluded with the municipality, he/she must disclose in writing, full particulars of the benefit to Council as required by the Municipal systems Act. Interests to be declared, which may give rise to a conflict of interest with the staff member's relationship with Council, include:

- shares and securities in any company;
- membership of any close corporation;
- interest in any trust;
- directorships;
- partnerships;
- consultancies and retainerships
- other financial interests in any business undertaking;
- other employment and remuneration;
- interest in property;
- pension; and
- subsidies, grants and sponsorships by any organisation



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6. Policies and Work Place Rules

The rules below should not be seen as exhaustive and is supplementary to the Code of Conduct.

- An Employee is prohibited from being a party to a contract for the provision of goods or services to the MLM; or to do business with any other municipality or municipal entity.
- MLM requires mandatory disclosure of all confirmed offers of employment by Employees in a managerial role. As part of the contractual terms, the MLM will also require such disclosure from Suppliers and prospective Suppliers in the Municipality's standard bidding documents.
- Any Employee of MLM may not use the position or privileges of an Employee, or confidential information obtained as an Employee, for private gain or to improperly benefit another person.
- An Employee may not take a decision on behalf of MLM concerning a matter in which that Employee or that Employee's Family Member, business associate or friend, has a direct or indirect Private or Personal Interest.
- Furthermore, an Employee may not secure, source, canvass or promote any business or business activities for an external company, supplier or contractor within the Municipality where such Employee stands to gain directly or indirectly as friends, Family Members, or in any other way which may be deemed to be personal or unethical;
- An Employee may also not mislead or attempt to mislead the Council, a structure of Council, in its consideration of any matter.
- Any Employee considering outside directorships must obtain prior approval from their line manager or the Ethics Office.



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- Employees must not have any competing interests with MLM.
- Employees must not make secret profits
- Employees should not influence, be involved in or coerce any Employee or representative of the MLM or the MLM's potential or current Suppliers or Clients to employ the Employee's Family Member or friends is prohibited.
- Senior public officials shall not act, in such a manner as to take improper advantage of their previous public office and to minimise the possibilities of:
 - Allowing prospects of outside employment to create a real, potential or apparent conflict of interest for public office;
 - Taking personal advantage of information obtained in the course of official duties before it becomes generally available to the public; and
 - Using public office to unfair advantage in obtaining opportunities for outside employment.
- An Employee should never invest in a Supplier if they have any involvement in the selection or assessment of, or negotiations with, the Supplier or if they supervise anyone who has such a responsibility. An Employee should never invest in a Supplier if they are responsible for dealings with that Supplier, or supervise anyone with such responsibility.
- Any substantial interest in a Supplier requires the prior written approval of the employee's line manager. For the purpose of this policy a substantial interest means any economic interest that might influence or appear to influence an Employee's judgement. If in doubt, Employees should consult their line manager.



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- Under no circumstances should an employee be assigned to, accept or find him or herself in a situation with the responsibility to supervise or evaluate a Family Member, or person with whom he or she has an intimate relationship. It is the responsibility of all Employees to immediately disclose to Human Resources the existence of any such situation, or the possibility that such a situation may arise. Human Resources will deal with it appropriately.
- Employees should not be in a position where they are able to hire, affect terms and conditions of employment or influence the management of any Family Member, regardless of whether that person is an MLM staff member or employed by an MLM Supplier. Exceptions require specific approval by the relevant Employee's line manager or any person designated for this purpose.
- An Employee of MLM may not engage in any of the following without the prior written consent of the Accounting Officer:
 - The performance of any work for MLM otherwise than as an employee,

7. Obtain a financial interest in any business of the MLM. **Identification, Disclosure and Managing Conflict of Interests**

Identification of Conflict of Interest

On-going training, awareness and induction of new Employees on this Conflict of Interest policy will be provided.

Methodology to identify Conflict of Interest include declaration of conflicts and the monitoring of conflicts disclosed and gifts received.

All Employees and Suppliers, will be subject to screening, vetting and probity checks upon employment or application to provide services. This requirement may be applied to all 'at risk'



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Employees already in the employ of MLM where necessary. These individuals will be required to sign a consent form authorising such checks.

Appointments will be made once screening has been completed and the candidate has a clear criminal, academic and professional record. Defaulting individuals or companies will be placed into a database and restricted from doing business with MLM or other organs of state. The Registrar of Companies will be informed of defaulting directors or companies through the office of the Commissioner of Integrity.

Conflict of interest may arise when:

- Financial or personal considerations may influence, or appear to influence, the judgement of an Employee in conducting his/her duties
- Private Interests and company interests are mixed
- Business decisions are based on Private Interests
- The other interest/activity is so intensive as to distract an Employee from effective fulfilment of his/her duties

When deciding whether an investment might create a conflict of interest an Employee should consider the following questions:

- Would the investment affect any decisions I will make on behalf of MLM?
- How would my investment look to others inside MLM – would they think it might affect how I do my job?
- How would my investment look to someone outside MLM, such as a resident?

Conflicts of interest can arise where Employees are offered or accept gifts, hospitality or other favours, which may be perceived as attempts to influence their judgement in relation to



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business transactions such as the placing of orders and awarding of contracts. Employees should refer to Integrity Principle 2 - Gifts, entertainment and hospitality Policy.

Disclosure of Conflict of Interest

As soon as an Employee, or through an intermediary, or through a legal entity he or she has a direct or indirect financial or business interest becomes aware of an actual or possible conflict of interest, the Employee must immediately in writing disclose full particulars of such conflict or direct or indirect financial or business interest to the Accounting Officer or his duly authorised delegate and the Ethics Office.

An Employee who, or whose business associate or Family Member acquires or stands to acquire any direct benefit from a contract concluded with the MLM must disclose in writing full particulars of the benefit to Council through his/her line manager and the Ethics Office.

MLM requires a mandatory disclosure of all confirmed offers of employment by staff members in a managerial role; and similarly require such disclosure from suppliers and prospective suppliers in the Municipality's standard bidding documents.

In addition to the disclosure of direct or indirect financial or business interests, and irrespective of any other provision contained in this policy, an Employee must disclose without delay the following, when the circumstances mentioned below comes to his or her knowledge –

- Any personal relationship (i.e. friendship, kinship, social relationship) which does not originate from the employee and such other person's association through MLM); and/or
- Any prior or current business relationship (irrespective of whether the business relationship still exists or not) of whatever kind, which did not originate from the employee and other person's association through MLM) -



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In the event where an Employee needs advice or seeks permission from the Municipality such request or information will be writing and will be forwarded to the reporting structure outlined above.

All Conflicts or potential Conflicts of Interest must be disclosed within 24 hours of detecting the Conflict of Interest.

A failure to disclose a Conflict of Interest will be regarded as non-compliance and/or a breach of this policy.

Employees, who are required to do declare/disclose any actual or perceived conflict of interest must complete a declaration of Conflict of Interest, see Appendix A.

Declaration of Interests

Declarations are required by law and are essential in order to avoid possible conflict of interest.

WHAT must be disclosed?

All **direct or indirect financial or business interests** of an employee or Board member must be disclosed, as prescribed in this policy.

For purposes of this section of this Policy, MLM defines –

- **Business interest** as any status, membership or directorship (executive or non-executive) in any company or legal entity as defined in the Companies Act, any Trust as defined in the Trust Property Control Act, 57 of 1988, or any other legal entity;
- **Financial interest** as any shareholding, other profit share arrangement (other than shareholding), or any arrangement where an employee may gain financial benefit from any legal entity or person (including extraneous employment); or from any contract concluded with MLM or the Municipal Entity (whichever applies); but with regard to shareholding, excluding shares held in a Public Interest Company as defined



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in the Companies Act; membership of any company; interest in any trust; directorships, partnerships; interest in property; or subsidies, grants and sponsorships by any organisation.

- **Direct interest** as a business or financial interest of which an employee is the beneficial owner, or with respect to financial interests, where an employee may influence the application or disbursement of the financial benefit in any way (i.e. through his or her position as trustee in a trust, although he or she is not a beneficiary of the trust or a beneficial owner)
- **Indirect interest** as -
 - a business or financial interest held through an intermediary, agent, attorney, accountant or any other person; where such interest is substantively held on behalf of an employee
 - a business or financial interest held by a family member, paramour, spouse, business partner or associate of an employee; irrespective of whether such a business or financial interest is not substantively held on behalf of the employee.
- **Family member** as a spouse, children, parents, grandparents, brothers and sisters, parents-in-law, cousins, brothers and sisters-in-law, and any other family of an Employee of MLM. This also includes adopted and step-children. Spouse also includes those married under customary and traditional law and live-in partners of such an Employee.
- **Paramour** as any person with whom an employee has a romantic, intimate or sexual relationship, including but not limited to live-in partners, lovers, etc.
- **Intimate relationship** as any relationship in which dependence, affection or loyalty by the employee to that person may impair objective decision-making, or create the actuality or perception of favouritism or discrimination.



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- **Person** as any natural person
- **Legal entity** as any association of persons registered or formalised in terms of any law, regulation or rule, including but not limited to trusts, any company registered in terms of the Companies Act, a Close Corporation etc., but for purposes of this policy excludes social, sport or personal associations, i.e. golf or tennis club, parent body of a school, governing body of a church etc.

WHEN must a direct or indirect financial or business interest be disclosed?

All employees are encouraged to, when in doubt as to whether to disclose an interest or not or when to disclose in terms of this Policy, rather disclose such interest as prescribed below.

At commencement of service

All employees must disclose complete and accurate particulars of his or her **direct or indirect financial and business interests immediately** when commencing with services for MLM, or by existing employees, within three months after the commencement date of this policy.

Annual updates of direct or indirect financial or business interests

An employee must update the abovementioned interests as and when it changes as soon as practicable, but not later than 30 working days after such changes come to his or her attention, in the Register of Interests referred to below. In addition, employees who have made disclosures in the Register of Interests, will on an annual basis be required to complete and sign a declaration that no interests have changed, if that is the case.

When a declared interest ceases to be relevant, employees must inform the MLM designated official no later than 30 working days after it comes to his or her attention so that it can be removed from the register as soon as practicable.



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All employees are responsible and accountable to ensure that the information he or she discloses to MLM regarding his or her direct or indirect financial or business interests in terms of this policy, are up to date, accurate and complete at all times. All financial interests that are compliant with the law will be acceptable once declared. The individual will be notified where information declared contravenes the laws governing local government and necessary steps will be taken to ensure compliance.

HOW must it be disclosed?

The Registers of Interests

For MLM, one Register will be kept – declaration of interest forms must be completed and submitted annually to the Office of the Chief Risk Officer. All registers must be in a standard format approved by the Employer.

Confidentiality of the Register of Interests

Access to the respective Registers of Interests for Employees (and Board Members where appropriate) are restricted.

No person who has access to any of the above Registers of Interests shall disclose any information contained in the disclosure or the register, to any person other than those persons who may access the Register of Interest concerned, except where such disclosure is required for enforcement of this policy.

Procedures for disclosure of interest

Individuals covered by this policy at first appointment will be asked to read and comply with this policy and complete and sign the Disclosure of Interest form.



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Existing employees will similarly be asked to read and comply with this policy and complete and sign the Disclosure of Interest form, within 3 months after this policy's commencement date.

Who is required to disclose interest?

All MLM employees are required to make disclosures upon commencement of employment with MLM and must update changes to the register as and when necessary.

The Municipal manager, all s57 employees, Deputy Directors, Assistant Director / Manager, professionals (level 4 to 6) and all supply chain employees are required to disclose their financial interests annually by submitting the Financial Declaration Form to the Risk Management Department.

A staff member of a municipality who, or whose spouse, partner, business associate or close family member acquired or stands to acquire any direct benefit from a contract concluded with the municipality must disclose in writing full particulars of the benefit to the council. Such declarations must be submitted to the office of the Chief Risk Officer as soon as he/she is aware of such contract/transaction.

Managing Conflict of Interest

Conflict of Interest situations must be avoided.

Where it is not possible to avoid a Conflict of Interest, the Employee must take appropriate steps to mitigate the impact (for example to remove him-or herself from any decision making process) and, in addition, the Employee must immediately disclose the conflict in writing to the relevant reporting structure.

Whether that Employee must recuse him or herself from executing the official task, will be in the discretion of that person to whom the Employee reports or duly authorised delegate, provided that –



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- Where there is any possibility that any person may reasonably perceive the continued involvement of the employee concerned as a conflict of interest), that Employee **must** recuse him or herself from any continued involvement;
- Where any stipulation in the legislative framework applicable to MLM and the Municipal Entity concerned prescribes mandatory recusal, recusal shall occur; and
- Where the interest disclosed pertains to an interest in a contract entered into with MLM or the Municipal Entity, the Employee concerned may not be involved in, or influence in any way; the contract concerned.

Any disclosure and recusal must be recorded completely and accurately in any MLM documentation relating to the official task from which the Employee recuses him or herself, to ensure an audit trail of such recusal.

In managing Conflict of Interests, any approval given, post written disclosure, may be subject to conditions specified by MLM. Any failure to adhere to these conditions will be regarded as non-compliance and/or a breach of this policy.

Departments and Entities should ensure that they have robust consultation/advice, disclosure and approval processes in place and that these processes are clearly communicated to employees/directors



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8. Contravention

Compliance with this policy is mandatory for all Employees of MLM. Non-compliance and/or breach of this policy will be viewed as serious misconduct which can result in disciplinary action that may include the termination of employment or the termination of any independent contractor, secondment or labour broker agreement.

9. Policy Review

This policy will be reviewed annually and revised as necessary.

10. Roles and Responsibilities

The AO or his duly authorised delegate(s) accepts overall responsibility for implementation and monitoring of this Policy.

11. Reporting

Every Employee has a duty to report all suspected incidents of a breach of this policy to the Office of the Chief Risk Officer. If an Employee wishes to remain anonymous, the Employee may call the Fraud Hotline 0800 555 774. All enquiries can be directed to the Ethics Office on ethics@madibeng.gov.za



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Some examples of conflicts of interest

Conflict	Explanation
Outside jobs and affiliations	Examples include an employee having a second job, performing services, serving as a director or consultant or holding a financial interest in a third party organisation which is a customer, competitor, potential business partner or a supplier of goods or services to MLM – or seeking to become so. These situations may give rise to a conflict of interest or the appearance of a conflict of interest.
The jobs and activities of close relatives	The activities of close relatives performing services for customers, potential or actual business partners, competitors or suppliers of MLM may also give rise to actual or perceived conflicts of interest. For the purpose of this Integrity Principle, a 'close relative' means someone who is related to the person by blood and/or marriage to the second degree (for example spouse, including life partner, child or step-child, dependant, parent or step-parent, sibling or step-sibling, grandparents, grandchildren, nephew, niece, first cousin, and grandchild (including in-laws) etc.
Serving on the board of directors of another organisation	In certain situations, employees may be asked to serve on the board of directors of another organisation, either commercial or not for profit. This may give rise to conflicts of interest.
Investments held by employees or their close relatives	Conflicts of interest can occur if investments are held by an employee in competitors, potential or actual business partners, suppliers or contractors of MLM which are sufficiently material to the net worth of the individual to impair, or be perceived to impair, the ability of employees to make objective decisions on behalf of MLM.



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Dos and don'ts



Avoid situations where your personal interest conflicts with the interest of MLM.



Inform your line manager if an unsolicited conflict of interest arises.



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Integrity Management Framework - Integrity Principle 2

Gifts, hospitality and other gratification Policy

1. Introduction

Corruption, misconduct and unethical behaviour among public officials represents serious threats to the basic principles and values of government, undermining public confidence in democracy and threatening to erode the rule of law. Unethical behaviour leads to a corrupt society in which economic and political decisions become distorted, slowing social progress, hampering economic development and obstructing service delivery. Appropriate ethical behaviour in providing services to our community is essential to creating and maintaining a healthy, fair and just environment of value and benefit to all

MLM Employees have a responsibility to ensure that their dealings with MLM's business partners are based on objective decisions and are not influenced by any form of Gratification.

This policy is to read in conjunction with the Integrity Management Framework as it forms an integral part thereof.



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2. Purpose and Objectives

The purpose of this policy is to strengthen measures and principles for managing ethical behaviour, to promote and embed an ethical culture at all levels within the MLM and to prevent fraudulent and corrupt activity within MLM.

This policy is aimed at setting out the standard of behaviour that is expected from all Employees in order to promote transparency and avoid Conflict of Interest situations, to provide the mechanism for dealing with the accepting and receipt of gifts and to comply with governance and legislative requirements relating to the prohibition of corruption.

The underlying objective and outcome which is desired from implementation of this Policy is to foster a culture of good governance and ethical conduct within MLM. The use of an ethical and value based approach in decision making reduces inefficiencies and counters dishonesty, bribery and corruption.

3. Scope

This policy shall apply to all Employees, as defined, and where applicable.

In cases where a particular department has adopted a more stringent policy relating to conflict of interest, the more stringent policy take precedence over this policy in respect of Employees in that particular department.

This policy forms part of the terms and conditions of employment. The MLM reserves the right, at its sole discretion, to amend, modify or waive any term or condition in this policy, subject to obtaining relevant input from affected employees.

This policy is effective from _____ and remains in force until amended, replaced or repealed.



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Definitions

Family Member	This may be a spouse, children, parents, grandparents, brothers and sisters, parents-in-law, cousins, brothers and sisters-in-law, and any other family of an Employee of MLM. This also includes adopted and step-children. Spouse also includes those married under customary and traditional law and live-in partners of such an Employee.
Conflict of Interest	A conflict between the public duties and private interests of an employee, in which the employee has private interests which could improperly influence the performance of his/her official duties and responsibilities
Corruption	Any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004).
Ethics	Broadly defined as well based standards of right and wrong that prescribe our rights, obligations and benefits to society. Ethics is about how we ought to live, treat others, run or manage our lives and organisations.
Employee	Any person who works for the Council and who receives, or is entitled to receive, any remuneration; and any other person who in any manner assists in carrying on or conducting the business of the Council. For purposes of this Framework, employee includes independent contractors, labour broker employees, persons seconded from other local, provincial or national government, or seconded from any entity belonging to a local, provincial or national government.
Employment	Appointment in, or secondment to, the MLM for which the appointee receives remuneration or is rewarded for performance of work.
Financial misconduct	Is financial misconduct as contemplated in the MFMA and regulations
Gift	A token which is bestowed voluntarily without any expectation of tangible compensation, and for which no direct or indirect contractual obligation are imposed.
Gratuity / Gratification	Includes— <p style="margin-left: 40px;">(a) money, whether in cash or otherwise;</p> <p style="margin-left: 40px;">(b) any donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, or any other similar advantage;</p>



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	<p>(c) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage;</p> <p>(d) any office, status, honour, employment, contract of employment or services, any agreement to give employment or render services in any capacity and residential or holiday accommodation;</p> <p>(e) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;</p> <p>(f) any forbearance to demand any money or money's worth or valuable thing;</p> <p>(g) any other service or favour or advantage of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and includes the exercise or the forbearance from the exercise of any right or any official power or duty;</p> <p>(h) any right or privilege;</p> <p>(i) any real or pretended aid, vote, consent, influence or abstention from voting; or</p> <p>(j) any valuable consideration or benefit of any kind, including any discount, commission, rebate, bonus, deduction or percentage</p>
Hospitality	Food, drink, entrance to events, accommodation or entertainment provided free of charge or heavily discounted and for which no direct or indirect contractual obligations are implied.
Bribery	Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of an MLM employee. This includes sexual bribery.
Integrity Management Committee / IMC	The committee appointed by Council to manage; oversee and /or monitor ethics and integrity and related conduct at MLM

4. Applicable laws, Regulations and Codes

A copy of the applicable laws, regulations and codes can be obtained from HR or legal / risk departments.

What follows hereunder is only a brief summary of some of the provisions contained therein.



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a. The Prevention and Combating of Corrupt Activities Act of 2004 applies to all Employees of MLM

In summary, if a person accepts, agrees or offers to accept any gratification to influence the actions of that person or the actions of another person, this person will be **guilty of corruption**.

The Act further provides that any person in an employment relationship, who accepts, agrees or offers to accept any unauthorised gratification whether for the benefit of that person or another in respect of that person doing any act in relation to the exercise, carrying out or performance of that person's powers, duties or functions within the scope of the person's employment relationship is **guilty of receiving an unauthorised gratification**.

Should MLM become aware of any contravention or suspected contravention of this Act, it is **legally obligated to report the matter** to the relevant authorities and criminal prosecution may follow.

A contravention of this Act could result in a fine and/or imprisonment.

Where MLM is of the view that such conduct has occurred, irrespective of whether or not the relevant authorities are pursuing the matter, it may institute disciplinary action which could lead to the termination of employment.

Senior Managers have a duty to ensure that their relevant departments comply with applicable laws and regulations relating to corruption.

b. Municipal Systems Act 32 of 2000

Schedule 1 – Code of Conduct for Councillors (SEE Part C of the Framework)



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A councillor may not request, solicit or accept any reward, gift or favour for -

- (a) voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member;
- (b) persuading the council or any committee in regard to the exercise of any power, function or duty;
- (c) making a representation to the council or any committee of the council; or
- (d) disclosing privileged or confidential information.

Schedule 2 – Code of conduct for Municipal Staff Members

A staff member of a municipality may not request, solicit or accept any reward, gift or favour for -

- (a) persuading the council of the municipality, or any structure or functionary of the council, with regard to the exercise of any power or the performance of any duty;
- (b) making a representation to the council, or any structure or functionary of the council;
- (c) disclosing any privileged or confidential information; or
- (d) doing or not doing anything within that staff member's powers or duties.

A staff member 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.



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5. Policies and Workplace rules

The rules below should not be seen as exhaustive and is supplementary to the code of conduct.

MLM acknowledges that in executing its mandate and day to day operations, Employees within the organization may have to deal with offers of Gifts, Hospitality and other forms of Gratification. In this regard, Employees are sensitized that a lack of transparency and full disclosure in the acceptance of Gifts, Hospitality and other forms of Gratification may result in -

- A perception of bias which could discredit the impartiality of MLM; and
- A perception of Corruption or Conflicts of Interest.

The Gratification must be offered or received in relation to the position / function / capacity the recipient holds in MLM. Thus, a gift offered by friends because of one's birthday is excluded, because it is not given in relation to the recipient's official capacity in the workplace.

The gratification must be unauthorised – if for instance it is not against MLM' gift policy to accept a gift during the December period from a supplier to MLM, as long as you disclose the gift, such receipt of the gift is not illegal.

Gifts, Hospitality and Gratuities of the following nature may not, under any circumstances, be accepted, irrespective of its value:

- Money, whether in cash or other payment methodology;
- Any Gifts, Hospitality or Gratification offered in circumstances where –
 - The intended recipient knows, or ought reasonably to know or suspect, that the intention of the offeror of the benefit is to influence the intended recipient to do something he should not do, or not do something he should, as required in terms of his or her Employment with MLM; or



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- A reasonable person on objective grounds may perceive or suspect the offering of the Gift, Hospitality or Gratuity as a step to influence the intended recipient to do something he should not do, or not do something he should, as required in terms of his or her Employment with MLM;
- May create a sense of obligation;
- May influence or be perceived to influence their business judgement;
- May create, or appear to create, a conflict between an Employee's personal interests and those of their employer, MLM;
- If it became public, would adversely affect MLM's reputation;
- The soliciting or receiving of inappropriate Gifts, Hospitality or Gratuity may cause embarrassment to MLM and damage its reputation. Particular concerns arise when the offering of Gifts, Hospitality or Gratuities may be connected in some way with an actual or potential business transaction. Even if the intent is not corrupt, there is still a risk that an objective third party may perceive this to be an attempt to gain an undue advantage

Exceptions

MLM acknowledges that in fulfilling its mandate, Employees within the organisation may be required to consider accepting Gifts, Hospitality or Gratuities as a means of gratitude, cultural diplomacy, or tokens that may be accepted within normal standards of courtesy or protocol. Such tokens may include conference packages (pens, bags, t-shirts, etc.) and any promotional materials or Gifts that are often offered at functions and events.



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In situations where employees cannot decline a token of appreciation because it might be considered culturally disrespectful, such tokens must be declared and registered in the gift register.

Meals may only be accepted if they relate to MLM business or if they form a venue for business discussions. Frequent meals with the same supplier or contractor should be avoided.

Invitations

Invitations to entertainment events or general invitations based on Hospitality may only be accepted if all of the following criteria are present:

- The costs are not objectively seen as being exorbitant; **and**
- There is no reasonable grounds for a suspicion that the intention of the person submitting the invitation is to influence the intended recipient to do something he or she should not do, or not do something he or she should, as required in terms of his or her Employment with MLM; **and**
- The requisite process of disclosure and obtaining permission has been obtained.

6. Identification, Disclosure and Managing of Gifts, Hospitality and Gratuities

Identification

On-going training, awareness and induction of new Employees on this policy will be provided.

Methodology to identify unauthorised and inappropriate Gifts, Hospitality and Gratuities include the disclosures in the gift register.



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Gifts, Hospitality and Gratuities are or appear to be linked to a forthcoming regulatory or commercial decision

Offers of Gifts, Hospitality and Gratuities received at a time when the relevant supplier contract is about to expire or is up for renewal

Frequent/repeated offers of Gifts, Hospitality and Gratuities from the same supplier

Offers of personal favours or other treatment of a preferential nature (for example, goods or services free of charge or at artificially reduced prices, holidays or other accommodation of any nature, payment of travelling costs, personal loans).

Offers from suppliers or contractors to use products for a trial-period. Once the trial period is over you will have the option to purchase or return the item. For example, cellular phones, laptops etc.

The value of the gift or entertainment is lavish or disproportionate.

Thus when considering the receipt of Gifts, Hospitality and Gratuities, the following factors need to be taken into account:

- Is the proposed Gifts, Hospitality and Gratuities legal?
- The intention behind the Gifts, Hospitality and Gratuities? Is it merely a gesture of general goodwill or has it been offered with the intention or expectation of receiving a specific business advantage in return?
- What is the value or the cost thereof? Does it genuinely represent something, in the given context, of modest value which could not reasonably be construed as having been given with an improper intention?
- The risk that it could be misconstrued by an objective third party as an attempt to gain an improper advantage.



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Disclosure

- This policy to be read in conjunction with the approved Supply Chain Management Policy of MLM.
- All Gifts, Hospitality and Gratuities, of any amount must be disclosed and documented in the departments gift register. This includes gifts of any amount.
- Employees should consult with their line manager when they are in doubt as to the appropriateness of any proposed Gifts, Hospitality and Gratuities.
- It remains the responsibility of the Employee to ensure that the relevant information is captured upon accepting a Gifts, Hospitality and Gratuities.
- Permission from your line manager must be sought where the gift/hospitality exceeds R350. Where permission must be sought, it must be done as soon as reasonably practicable **after** the offer has been made, and **before** the offer is accepted or received but no later than 2 days of the offer. Such permission must be sought from the offeree's line manager, or in the case of a Non-Executive Board Member, from the Chairperson of the Audit Committee.
- Gifts below the value of 350 shall only be allowed once a year.
- Gifts/hospitality of the value of R1 000 – R1 500 must be approved by the Head of Department.
- Line management, on receipt of the application for permission, must apply the prescripts contained in this policy when assessing the application for permission. Whether the line manager rejects or approves the application for permission, his or her decision **must** be communicated.
- No cash may be accepted
- Exorbitant gifts/hospitality may not be allowed i.e. gifts/hospitality in excess of R1500.

It is the offeree's responsibility to, where an application for permission is approved, abide with the disclosure requirements reflected below.



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Management

Gift registers shall be managed and maintained by each MLM department.

A monthly report will be produced by each department to the Integrity Management Committee (IMC) for consideration.

No person who has access to any of the above gift registers shall disclose any information contained in the disclosure or the register, to any person other than a person who has access to the registers, except where such disclosure is required for the enforcement of this policy.

7. Contravention

A contravention of this gift policy may also amount to a criminal offence. Section 10 of PRECCA states that it is a criminal offence to accept 'unauthorized gratification' for anything you do relating to your workplace.

Compliance with this policy is mandatory for all Employees of MLM. Non-compliance and/or breach of this policy will be viewed as serious misconduct which can result in disciplinary action that may include the termination of employment or the termination of any independent contractor, secondment or labour broker agreement.

8. Policy Review

This policy will be reviewed annually and revised as necessary.



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9. Roles and Responsibilities

The Accounting Officer or his duly authorised delegate(s) accepts overall responsibility for implementation and monitoring of this Policy.

10. Reporting

Every Employee has a duty to report all suspected incidents of a breach of this policy to the Head of Risk. If an Employee wishes to remain anonymous, the Employee may call the independent Fraud Hotline.



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Dos and don'ts



Do not solicit gifts from any third party.
Do not solicit a personal advantage of any kind from any third party.



Do not encourage or solicit entertainment from any third party.



You may accept unsolicited gifts that do not go beyond common courtesy and accepted local business practice, and does not raise any question of an obligation on your part.



You may accept unsolicited entertainment if it occurs infrequently and arises out of the ordinary course of business, and is reasonable, not lavish, expenditure