



KWADUKUZA LOCAL MUNICIPALITY
ETHICS, FRAUD AND RISK
MANAGEMENT COMMITTEE

TERMS OF REFERENCE

FINANCIAL YEAR 2020/2021

INTRODUCTION

Section 62(1)(c)(i) of the Municipal Finance Management Act, 2003 requires that:

- The accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure:
 - (c) that the municipality has and maintains effective, efficient and transparent systems:
 - (i) of financial and risk management and internal control

Section 3.2.1 of the Treasury Regulations states the following:

“The accounting officer must ensure that a risk assessment is conducted regularly so as to identify emerging risks of the institution. A risk management strategy which must include a fraud prevention plan, must be used to direct internal audit effort and priority, and to determine the skills required of managers and staff to improve controls and to manage these risks”

In terms of **section 78 of the Municipal Finance Management Act**, Risk management responsibilities are extended to all Executive Directors and other officials of municipalities. This implies that responsibility for risk management vests at all levels of management and personnel and is not limited to only the Municipal Manager, the Risk Management Unit or Internal Audit Division.

The Ethics, Fraud and Risk Management Committee is a Committee appointed by the Accounting Officer (Municipal Manager) as an oversight Committee.

PURPOSE

The Ethics, Fraud and Risk Management Committee is an oversight and support committee which assists the Accounting Officer in discharging his responsibility for ethics, fraud and risk management by reviewing the effectiveness of the Municipality's ethics, fraud and risk management systems, practices and procedures and providing recommendations for improvement.

COMPOSITION

Members of the Committee shall be appointed in writing by the Accounting Officer:

The committee shall consist of the following members

- All executive Directors
- Accounting Officer of the municipality and
- Independent person as Chairperson of the committee

An external independent person as Chairperson of the committee shall be appointed by the municipal council.

Internal Audit, Performance Management, Legal, Risk Management and Risk Champions shall be a standing invitees in the Ethics, Fraud and Risk Management committee meetings

The municipality shall provide Secretariat to the committee

ROLES AND RESPONSIBILITIES

The duties of the Committee shall be to:

- ❖ Ensure that ethics, fraud and risk assessments are conducted regularly to identify emerging risks for the Municipality.
- ❖ Ensure that a Ethics and fraud Management Strategy/plan, which includes fraud prevention plan, be used to direct internal audit effort and priority and to determine the skills required of Managers and staff to improve controls and to manage these risks.
- ❖ Ensure that the Risk Management strategy/ plan is clearly communicated to all officials and it is incorporated into a language and culture of the Municipality, and that it is embedded in the behavior and mind-set of its staff.
- ❖ Ensure the alignment of the organizational risks with the strategic plan and objectives of the Municipality.
- ❖ Review and recommend to the Accounting Officer the following:
 - Risk Management Policy
 - Risk Management strategy

- Ethics and Fraud implementation plan
 - Risk Management implementation plan
 - Determine the Municipalities Risk Appetite
 - Determine the Municipalities Risk Tolerance level,
- ❖ Review the Municipalities risk identification and assessment methodologies to obtain reasonable assurance of the completeness and accuracy of the risk register.
 - ❖ Review the results of the ethics, fraud and risk assessment to determine material risks to which the Municipality may be exposed to and to evaluate strategies to mitigate those risks.
 - ❖ Review any material findings and recommendations by assurance providers on the system of Risk Management and internal audit to ensure that risks emanating from audit findings and forensic investigations are included in the risk register and that relevant mitigating plans are put in place timeously.
 - ❖ Review reports of significant incidents and major frauds (both potential and actual) including the evaluation of the effectiveness of the response in investigating any loss and preventing future occurrence.
 - ❖ Monitor progress on implementation of action plans developed as part of the risk management process.
 - ❖ Monitor the management of significant risks to the Municipality, including emerging and prospective impacts
 - ❖ Monitor the reporting of risk by management with particular emphasis on significant risks or exposures and the appropriateness of the steps management has taken to reduce the risk to an acceptable level.
 - ❖ Recommend to the Accounting Officer appropriate remedial action where it is found that any Manager has failed to execute his responsibilities with regard to risk management.
 - ❖ Monitor Progress on action taken in order to ensure full compliance with management regulations that will contribute to the improved Municipal performance and service delivery outcomes.

- ❖ make recommendations to the Council on the development of strategy, policy, procedures and processes on ethical matters;
- ❖ make recommendations to the Council on steps to be taken to establish a culture of integrity and honesty in all of the Municipalities business dealings;
- ❖ review and monitor policies and procedures for the identification, assessment, management and reporting of ethical risk;
- ❖ review and monitor the policies and procedures to prevent persons associated with the Municipality from engaging in bribery;
- ❖ review and monitor the development and adoption of, and compliance with, the Municipalities ethical due diligence policies and procedures covering:
 - (a) business relationships and activities, including the Municipalities agents and intermediaries;
 - (b) mergers, acquisitions or major new projects;
- ❖ make recommendations to the Council on the establishment of, review of and monitoring compliance with the Municipalities ethical policies and procedures, and in particular;
 - (a) responsibility for implementation of such policies and procedures;
 - (b) communication, both internally and externally of such policies and procedures;
 - (c) provision of training in relation to such policies and procedures;
 - (d) reporting of progress to Council in respect of the implementation and compliance with such policy and procedures;
 - (e) as required, engage external auditors and obtain external reports;
 - (f) receive and review, internal and external, audits of such policies and procedures and assess performance;
 - (g) the consequences of breaches of those policies and procedures,
- ❖ liaise with the Audit Committee and Ethics, Fraud and Risk Committee on the mechanisms for employees to raise ethical concerns in confidence;

- ❖ review regular reports from the Municipalities team responsible for Compliance and keep under review the adequacy and effectiveness of the Municipalities compliance function with regard to ethical matters;
- ❖ at least once a year, review its own performance, constitution and terms of reference to ensure it is operating at maximum effectiveness and recommend any changes it considers necessary to the Council for approval;
- ❖ exercise oversight over any investigation of any matter in its sole and unfettered discretion; and
- ❖ carry out its duties and responsibilities for the Municipality,

POWERS AND AUTHORITY

In terms of Section 62(1)(i) of the Municipal Finance Management Act, 2003 in conjunction with paragraph 3.2.1 of Treasury regulations, the Accounting officer must ensure that the Municipality has and maintains an effective, efficient and transparent system of financial and risk management and internal control.

By appointing the Ethics, Fraud and Risk Management Committee the Accounting Officer has delegated the above responsibility to the said Ethics, Fraud and Risk Management Committee.

The Chairperson of the Committee shall escalate all Ethics, Fraud and Risk Management issues to the Accounting Officer, timeously through formal reports which include the minutes, resolutions and action plans of the committee.

MEETING PROCEDURES

The Committee shall meet at least four (4) times per annum.

The Chairperson of the committee or a majority of the permanent members of the Committee may convene additional meetings as circumstances may dictate.

QUORUM OF MEETINGS

Quorum shall be constituted by 50% plus one of the Committee members.

REVIEW OF THE TERMS OF TERMS OF REFERENCE

The Committee shall review the terms of reference annually or when the need arises to ensure that they remain relevant with the Committees authority, objectives and responsibilities.

All changes and or amendments to the terms of reference shall be approved by the Ethics, Fraud and Risk Management Committee.

FORMAL APPROVAL

The Ethics, Fraud and Risk Management committee Terms of Reference is formally approved by Municipal Council and implemented by KwaDukuza Municipality with effect from date of signature.

Terms of Reference Approval by:	
_____	_____
N.J Mdakane	
Accounting Officer	Date
Terms of Reference adopted by KDM Council:	
C428	04/08/2020
_____	_____
Resolution No	Date