MOLEMOLE LOCAL MUNICIPALITY

Molemole Municipality

FRAUD PREVENTION STRATEGY 2018/19

Council resolution	SC/5.3/30/04/18
Financial year	2018/19
Council approval	30 April 2018

Molemole Local Municipality
Fraud Prevention Strategy

Molemole Municipality

MOLEMOLE LOCAL MUNICIPALITY FRAUD PREVENTION STRATEGY 2018/19

Table of Contents   **Page**

Molemole Local Municipality
Fraud Prevention Strategy

1. Introduction

Molemole municipality subscribes to the principles of good governance which requires conducting of its business in an honest and transparent manner. Fraud represents a significant potential risk to the Municipality's assets and reputation. The Municipality is committed to protecting its funds, resources and other assets. The Municipality will not tolerate corrupt or fraudulent activities whether internal or external, and will vigorously pursue and prosecute any parties, by all legal means available, which engage in such practices or attempt to do so.

The Fraud Risk Management strategy has been designed to provide a consistent framework to assist the management and staff members of municipality in mitigating the diverse Fraud risks facing the municipality.

This Fraud Prevention Plan has been developed as a result of the expressed commitment to fight corruption. It is also an important contribution to the National Anti-Corruption Strategy of the and supplements both the Public Service Anti-Corruption Strategy and the Local Government Anti-Corruption Strategy.

1.1 Legislations and best practices relevant in addressing Fraud and Corruption

1.1.1 The Municipal Finance Management Act of No 56 of 2003;

In terms of section 62 of the MFMA, General financial management functions. 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

a) that the resources of the municipality are used effectively, efficiently and economically;

b) that full and proper records of the financial affairs of the municipality are kept with accordance with any prescribed norms and standards.

c) that the municipality has and maintains effective, efficient and transparent systems-
   i,   of financial and risk management and internal control; and
   ii,   of internal audit operating in accordance with any prescribed norms and standards.

d) that unauthorised, irregular or fruitless and wasteful expenditure and other losses are prevented;

e) that disciplinary or, when appropriate ,criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 15.

Section 173 of the MFMA states that "The accounting officer of a municipality is guilty of an offence if the accounting officer

a) deliberately or in a grossly negligent way

iv) fails to take steps to all reasonable steps to prevent to prevent corruptive practices

aa) in the management of the municipality's assets or receipts of money; or

bb) in the implementation of the municipality's supply chain management policy.

1.1.2 The Local Government Anti-Corruption Strategy

The Local Government Anti-Corruption Strategy (LGACS), which is modelled around the Public Service Anti-Corruption Strategy. The main principles upon which the strategy is based:

a) Creating a culture within municipalities, which is intolerant to unethical conduct, fraud and corruption;

b) Strengthening community participation in the fight against corruption in municipalities;

c) Strengthening relationships, with key stakeholders, that are necessary to support the actions required to fight corruption in municipalities, for example, South African Local Government Association (SALGA), Employee Representative Unions, and Communities;

d) Deterring and preventing of unethical conduct, fraud and corruption;

e) Detecting and investigating unethical conduct, fraud and corruption;

f) Taking appropriate action in the event of irregularities, for example, disciplinary action, recovery of losses, prosecution, etc. and

g) Applying sanctions, which include redress in respect of financial losses.

1.1.3 The Prevention and Combating of Corrupt Act.

The objectives of the Act is to provide for the strengthening of measures to prevent and combat corruption and corrupt activities.

i, To provide for investigative measures in respect of corruption and related corrupt activities;

ii, To provide for the establishment and endorsement of a Register in order to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts;

iii, To place a duty on certain persons holding a position of authority to report certain offences of corruption and offences relating to corrupt activities.

Other prescribed legislation dedicated to combating fraud and corruption activities include;

a) The Prevention of Organised Crime Act.

b) Protected Disclosure Act.

c) The Promotion of Administrative Justice Act.

1.2   Responsibility for Fraud Risk Management

The Municipal Manager is responsible for the design and implementation of fraud prevention strategy and plan.

The success of the fraud prevention strategy and plan will require acceptance and commitment by all role players. Every official of the Municipality needs to be held accountable for assets and activities under their control.

It must be emphasized that the understanding of the overall risk (Cumulative effect of inherent risk, detection risk and control risk) in relation to fraud is critical to the success of the fraud prevention strategy and plan. Every line manager therefore needs to be aware of the relationship between risk and fraud.

2.   Definitions

2.1   Fraud

Fraud is defined as "the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another".

2.2   Actions constituting fraud and corruption

Fraud manifests itself in a number of ways and varying degrees of intensity. These include, but are not limited to:

i,   Unauthorised private use of municipal assets, including vehicles;
ii,   Falsifying travel and subsistence claims;
iii, Operating a private business in working hours;
iv,   Taking unrecorded leave;
v,   Substituting new goods with old.

2.3   Corruption

Corruption in its wider meaning, and as referred to in this document, includes any conduct or behaviour where a person accepts, agrees or offers any gratification for him/her or for another person where the purpose is to act dishonestly or illegally. Such behaviour also includes the misuse of material or information, abuse of a position of authority or a breach of trust or violation of duty.

2.4   Forms of corruption

Corruption takes various forms in the public service and elsewhere in society. The following are examples of different types of corruption.

i,   Bribery

Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of public servants.

ii,   Fraud

Any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

iii,   Abuse of power

The use by a public servant of his or her vested authority to improperly benefit another public servant, person or entity (or using vested authority to improperly discriminate against another public servant, person or entity).

iv,   Conflict of interest

The failure by a public servant to act or to consciously fail to act on a matter where the public servant has an interest or another person or entity that has some form of relationship with the public servant has an interest.

v,   Abuse of privileged information

This involves the use, by a public servant of privileged information and knowledge that a public servant possesses as a result of his/ her office to provide unfair advantage to another person or entity to obtain a benefit.

vi,   Nepotism

A public servant ensuring that family members are appointed to public service positions or that family members receive contracts from the state is regarded as nepotism.
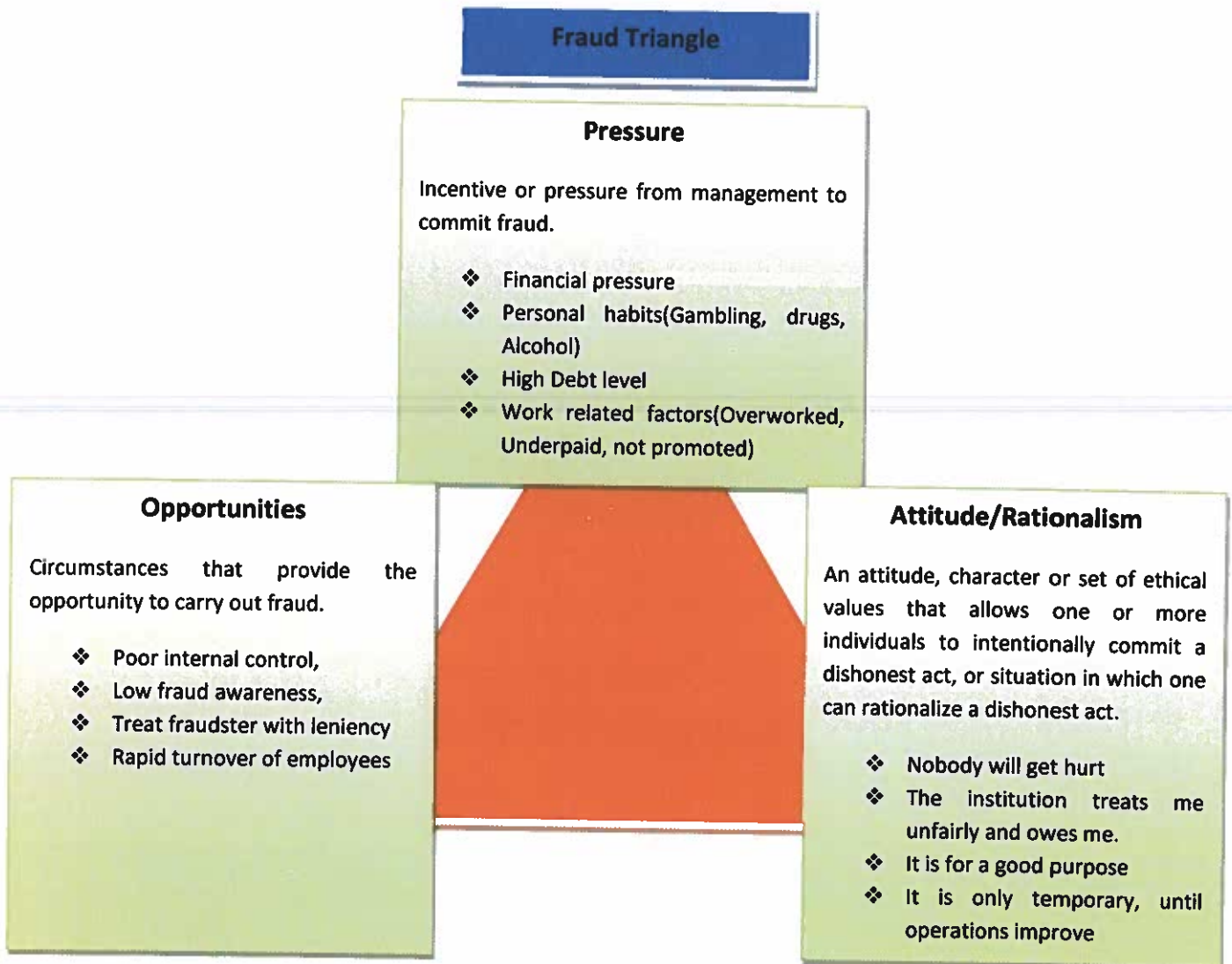
These manifestations are by no means exhaustive as corruption appears in many forms and it is virtually impossible to list all of these.

3. Characteristics of Fraud

3.1 Objectives

To provide a broader understanding of the environment in which fraud is likely to occur.

Three conditions are generally present when fraud occurs – Incentive/pressure, opportunity and attitude/rationalism.

Fraud Triangle

Pressure

Incentive or pressure from management to commit fraud.

- ❖ Financial pressure
- ❖ Personal habits(Gambling, drugs, Alcohol)
- ❖ High Debt level
- ❖ Work related factors(Overworked, Underpaid, not promoted)

Opportunities

Circumstances that provide the opportunity to carry out fraud.

- ❖ Poor internal control,
- ❖ Low fraud awareness,
- ❖ Treat fraudster with leniency
- ❖ Rapid turnover of employees

Attitude/Rationalism

An attitude, character or set of ethical values that allows one or more individuals to intentionally commit a dishonest act, or situation in which one can rationalize a dishonest act.

- ❖ Nobody will get hurt
- ❖ The institution treats me unfairly and owes me.
- ❖ It is for a good purpose
- ❖ It is only temporary, until operations improve

3.2 Understanding fraud triangle

Deciding on the appropriate strategy to address fraud, Risk Management committee of the Municipality shall consider the context of fraud as outlined above in **context example.**

3.2.1 Incentive/Pressure

This is to a greater extend not responsive to managements interventions. Management can however through increase focus on the control environment and internal control increase the incentive/pressure threshold. Incentive/Pressure threshold is the cut-off before a person will commits fraud. Although we acknowledge that each person will have a different incentive/pressure threshold, management can raise the average threshold of an entity by his/ her attitude and response towards the occurrence of fraud.

3.2.2 Opportunity

Opportunity to commit from within a municipality is under the control of management. The implementation of internal control (both detective and prevention) is one of the mechanisms available to management. Occurrence of fraud within a department should call for a redesign, or if appropriate reestablishment of related internal controls.

3.2.3 Attitude/Rationalism

Attitude/Rationalism is to a lesser extend under the control of management. Incorporation a zero percent tolerance attitude and culture within the municipality will act as a powerful deterrent towards fraud.

Leading by example will be one of the tools used by management to create such a culture of zero tolerance towards fraud.

4. Fraud strategy

4.1 Building fraud strategy

Deciding on the appropriate strategy to address fraud, Risk Management committee of Molemole Municipality shall consider the context of fraud as outlined above in context example.

4.1.1 Incentive/Pressure

This is to a greater extend not responsive to managements interventions. Management can however through increase focus on the control environment and internal control increase the incentive/pressure threshold. Incentive/Pressure threshold is the cut-off before a person will commits fraud. Although we acknowledge that each person will have a different incentive/pressure threshold, management can raise the average threshold of an entity by his/ her attitude and response towards the occurrence of fraud.

4.1.2 Opportunity

Opportunity to commit from within a municipality is under the control of management. The implementation of internal control (both detective and prevention) is one of the mechanisms available to management. Occurrence of fraud within a department should call for a redesign, or if appropriate reestablishment of related internal controls.
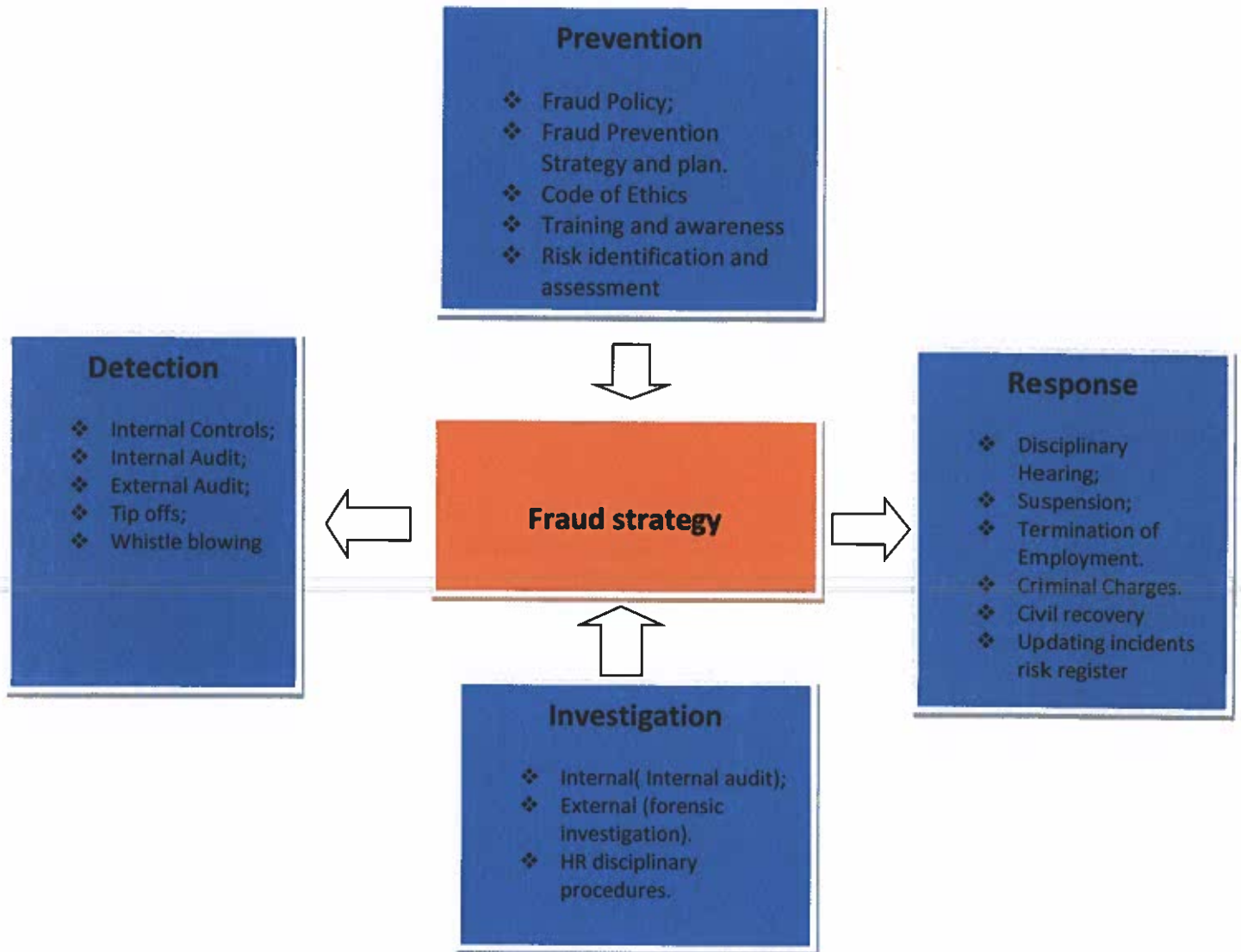
4.1.3 Attitude/Rationalism

Attitude/Rationalism is to a lesser extend under the control of management. Incorporation a zero percent tolerance attitude and culture within the municipality will act as a powerful deterrent towards fraud.

Leading by example will be one of the tools used by management to create such a culture of zero tolerance towards fraud.

4.2 Components of fraud strategy

Components of the municipality fraud strategy comprise of prevention, detection, investigation and response as depicted in the diagram below.

Prevention

- ❖ Fraud Policy;
- ❖ Fraud Prevention Strategy and plan.
- ❖ Code of Ethics
- ❖ Training and awareness
- ❖ Risk identification and assessment

Detection

- ❖ Internal Controls;
- ❖ Internal Audit;
- ❖ External Audit;
- ❖ Tip offs;
- ❖ Whistle blowing

Fraud strategy

Response

- ❖ Disciplinary Hearing;
- ❖ Suspension;
- ❖ Termination of Employment.
- ❖ Criminal Charges.
- ❖ Civil recovery
- ❖ Updating incidents risk register

Investigation

- ❖ Internal(Internal audit);
- ❖ External (forensic investigation).
- ❖ HR disciplinary procedures.

5. Reporting procedure and resolution of reported incidents.

5.1 What should an employee do when he/she suspects fraud and/or corruption?

5.1   Step one: It is the responsibility of all employees to report all allegations and incidents of fraud and corruption to their immediate manager/supervisor. This may be done verbally or in writing.

5.2   Step two: If an employee feels unable to raise the matter with his / her manager, for whatever reason, an employee may raise the matter either with:

      (i)   Other member of management;

      (ii)   The Municipal Manager;

      (iii)   Risk Officer

Employee should indicate as to whether he / she wish to raise the matter in confidence.

5.3   Step three: If the above mentioned steps have been followed and the whistle - blower still has concerns, or feel that the matter is so serious that he / she cannot discuss it with any of the above, the whistle - blower may raise the matter in good faith with:

      (i)   The Mayor;

      (ii)   The Speaker

      (iii)   Member of the Executive Committee;

      (iv)   Risk Management Officer and /or;

      (v)   The Chairperson of the Risk Committee.

      (vi)   The Chairperson of the Audit Committee

      (vii)   The District Anti Fraud Hotline

5.4   Step four: Should the whistle - blower have exhausted these internal mechanisms or where the whistle - blower have substantial reason to believe that there would be a cover-up or that evidence will be destroyed or that the matter might not be handled properly, the whistle - blower may report the matter in good faith to:

      (i)   Presidential Hotline: 17737 (1PRES)

      (ii)   Corruption Watch: 0800 023 456

      (iii)   National Anti-Corruption Hotline: 0800 701 701.

5.2 What should members of the public or service providers do if they suspect fraud and Corruption?

Molemole Municipality encourages members of the public or service providers who suspect fraud and corruption to contact any member of management and or the Municipal Manager, the Mayor and the district Anti Fraud hotline.

> ## DISTRICT ANTI FRAUD HOTLINE
>
> ## 0800 205 053

6. How will allegations of fraud and corruption be dealt with

6.1. For issues raised by employees, ratepayers, members of the public or providers of goods and services, the action taken will depend on the nature of the concern. The matters raised will be screened and evaluated and may subsequently:

6.1.1. Be investigated internally

6.1.2. Be referred to another law enforcement agency

6.1.3. Be referred to the Financial Disciplinary Board appointed by Council.

6.2. Any fraud and corruption committed by an employee or any other person will be pursued by through investigation and to the full extent of the law, including where appropriate consideration of :

6.2.1. In case of employees taking disciplinary action within a reasonable period of time after the incident has been reported.

6.2.2. Instituting civil action to recover losses

6.2.3. Initiating criminal prosecution by reporting the matter to the SAPS or any other relevant law enforcement agency

6.2.4. Any other appropriate and legal remedy available and applicable.

7. Feedback to reports of fraud

The Municipal Manager will upon receiving a report of fraud from an external person, write to the person making the report:

7.1.1. Acknowledging that the concern has been received,

7.1.2. Giving an indication of how long it will take to provide final response.

7.1.3. Informing them whether any further investigation will take place, and if not provide reason.

11

8. Confidentiality

All information received and investigated relating to fraud and corruption will be treated confidential. The progression of the investigation will be handled in a confidential manner and will not be disclosed or discussed to any person(s) other than those who have legitimate right to such information. This is important in order to avoid harming the reputation of the suspected person who is subsequent found innocent of wrong doing.

No person is authorized to supply any information regarding allegations or incidents of fraud and corruption other than the Accounting Officer.

9. Publication of Sanction.

The Accounting Officer will decide whether any information relating to corrective actions taken or sanctions imposed, regarding incident of fraud and corruption should be brought to direct attention of any person or should be made public through any other means.

10. Application of prevention controls and detection mechanisms.

In respect of all reported incidents of fraud and corruption, management is required to immediately review, where possible improve the effectiveness of the controls, which have been breached in order to prevent similar irregularities from taking place in the future.

11. Approval

The policy shall be reviewed annually to reflect the current stance on fraud risk management and adopted by Council.

REVIEWED BY: _____

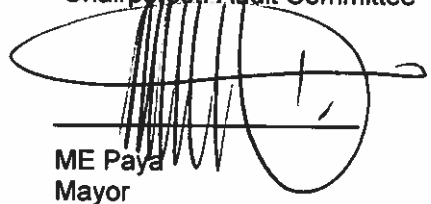M.L Mosena
Municipal Manager

30/04/2018
Date

RECOMMENDED BY: _____

MW Mokwele
Chairperson Risk Management Committee

30/04/2018
Date

_____

SAB Ngobeni
Chairperson Audit Committee

30/04-2018
Date

ADOPTED BY: _____

ME Paya
Mayor

30/04/2018
Date