



# FRAUD AND CORRUPTION PREVENTION STRATEGY AND POLICY

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| <b>Title:</b>          | OPFA Fraud and Corruption Prevention Strategy and Policy |
| <b>Custodian:</b>      | Pension Funds Adjudicator                                |
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# Contents

|   |           |
|---|-----------|
| 1. Introduction.....  | 8         |
| 2. Objective.....   | 8         |
| 3. Statement of attitude regarding fraud and corruption.....            | 8         |
| 4. Purpose .....  | 9         |
| 5. Definitions.....   | 9         |
| 5.1 Fraud.....  | 9         |
| 5.2 Corruption.....   | 9         |
| 6. Regulatory Framework.....  | 11        |
| <b>PART A .....</b>   | <b>12</b> |
| <b>Fraud and Corruption Prevention Policy.....</b>                      | <b>12</b> |
| 1. Introduction .....   | 13        |
| 2. Scope of the Policy.....   | 13        |
| 3. Policy .....   | 13        |
| 4. Roles and responsibilities .....                                     | 14        |
| 5. Actions constituting fraud and corruption .....                      | 15        |
| 6. Other inappropriate conduct .....                                    | 16        |
| 7. Investigation responsibilities .....                                 | 16        |
| 8. Confidentiality.....   | 16        |
| 9. Protection of whistle blowers .....                                  | 17        |
| 10. Authorisation for investigating suspected fraud or corruption ..... | 17        |
| 11. Results of the investigation .....                                  | 18        |
| 12. Application of prevention controls and detection mechanisms.....    | 18        |
| 13. Disciplinary action .....   | 18        |
| 14. Termination.....  | 19        |
| 15. Publication of sanctions .....                                      | 19        |
| 16. Awareness.....  | 19        |

|   |           |
|---|-----------|
| 17. Administration .....  | 19        |
| 18. Effective date .....  | 19        |
| <b>PART B .....</b>   | <b>20</b> |
| <b>Fraud and Corruption Prevention Plan.....</b>                                      | <b>20</b> |
| 1. Introduction .....   | 21        |
| 2. Background .....   | 21        |
| 3. Fraud and Corruption prevention approaches.....                                    | 21        |
| 3.1 Strategic Approach.....   | 22        |
| 3.2 Operational approach .....  | 24        |
| 3.3 Maintenance approach .....  | 31        |
| <b>PART C .....</b>   | <b>32</b> |
| <b>Fraud and Corruption Response Plan .....</b>                                       | <b>32</b> |
| 1. Introduction .....   | 33        |
| 2. Purpose.....   | 33        |
| 3. Protected disclosure .....   | 34        |
| 4. Reporting fraud and corruption .....   | 34        |
| 4.1 If an employee suspects fraud and corruption .....                                | 34        |
| 4.2 If a stakeholder, vendor or other third party suspects fraud and corruption ..... | 35        |
| 5. Response and investigation into fraud and corruption .....                         | 35        |
| 6. The investigation process .....  | 36        |
| 7. The disciplinary process .....   | 38        |
| 7.1 References for employees.....   | 39        |
| 7.2 Other matters .....   | 39        |
| 8. Reporting fraud and corruption to the SAPS and/or external parties .....           | 39        |
| 9. Liaison with the media .....   | 40        |
| 10. Recovery and other remedies .....   | 40        |
| 11. Review date .....   | 41        |

## Acronyms and abbreviations

| <b>Acronym / abbreviation</b> | <b>Meaning</b>                                       |
|-------------------------------|--|
| CFO                           | Chief Financial Officer                              |
| PFA                           | Pension Funds Adjudicator                            |
| RCO                           | Risk and Compliance Officer                          |
| OPFA                          | Office of the Pension Funds Adjudicator              |
| MANCO                         | Management Committee of the OPFA                     |
| Hotline                       | OPFA Fraud and Corruption Tip-offs Anonymous hotline |
| PFMA                          | Public Finance Management Act, Act 1 of 1999         |
| Plan                          | Fraud and Corruption Prevention Plan                 |
| Policy                        | Fraud and Corruption Prevention Policy               |
| Strategy                      | OPFA's Fraud and Corruption Prevention Strategy      |

## **1. Introduction**

In carrying out its functions, the Office of the Pension Funds Adjudicator (OPFA) adopted a culture of integrity, openness and fairness. As a statutory body established and constituted in terms of the Pension Funds Act 24 of 1956, the OPFA is a specialist tribunal tasked to resolve complaints in terms of the Pension Funds Act. The OPFA expects its oversight committee members, Pension Funds Adjudicator (PFA), Management Committee and employees at all levels to adopt the highest standard of honesty, propriety, personal integrity and accountability, and to be attentive and vigilant towards any irregular transactions and/or behaviour. It is therefore incumbent upon the OPFA's MANCO to articulate clearly and communicate the contents of the Fraud and Corruption Prevention Strategy and Policy (Strategy) to its employees, stakeholder's, vendors, contractors, members of the public, agencies conducting business with the OPFA, or any other parties with a business interest in, and relationship with, the OPFA.

Any investigation which is necessitated will be conducted to its fullest extent, without favour and regardless of the suspected wrongdoer's length of service, position/title, or relationship to the OPFA. Investigations into alleged financial misconduct will be conducted in accordance with Treasury Regulation 33, issued in terms of the Public Finance Management Act, Act 1 of 1999 (PFMA). This should be read together with chapter 10 of the PFMA and any other legislation applicable to such investigations.

## **2. Objective**

The main objective of this Strategy is to prevent fraud and corruption in the OPFA and to effect policies and procedures to curtail the risk of fraud and corruption to tolerable levels at all times.

## **3. Statement of attitude regarding fraud and corruption**

Fraud and corruption represent a significant potential risk to the OPFA's operations and assets, service delivery efficiency, reputation and overall sustainability. The OPFA will not tolerate corrupt or fraudulent actions in connection with its activities, whether by parties internal or external to the OPFA, and will vigorously pursue and prosecute any such parties by all legal means available.

## **4. Purpose**

This Strategy of the OPFA encompasses the following, which should be read collectively and in its entirety:

**PART A:** Fraud and Corruption Prevention Policy

**PART B:** Fraud and Corruption Prevention Plan

**PART C:** Fraud and Corruption Response Plan

This Strategy integrates the processes, policies and resources of the OPFA to minimise the risks inherent to fraud and corruption.

There can be no guarantee that the OPFA will not be impacted by attempts and incidents of fraud and corruption, but the Strategy is intended to serve as an additional measure to assist in the limitation of fraud and corruption risks with a particular focus on creating awareness and promoting ethical conduct.

## **5. Definitions**

### **5.1 Fraud**

In South Africa, the Common Law offence of fraud is defined as “the unlawful and intentional making of a misrepresentation which causes actual or potential prejudice to another”. The fraud statement of the South African Institute of Chartered Accountants (SAICA) is - “an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage”.

In this regard, the term “fraud” is used in this document in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty. This includes theft, embezzlement and forgery.

### **5.2 Corruption**

The generic offence of corruption is contained in section 3 of The Prevention and Combating of Corrupt Activities Act, Act 12 of 2004. This section provides that any person who accepts or agrees or offers to accept from, or gives or agrees or offers to give any gratification to, another person in order to influence such other person to act in a manner that amounts to:

- The illegal or unauthorised performance of such other person's powers, duties or functions;
  - An abuse of authority, a breach of trust, or the violation of a legal duty or a set of rules;
  - The achievement of an unjustified result; or
  - Any other unauthorised or improper inducement to do or not to do anything
- is guilty of the offence of Corruption.

Corruption in its wider meaning, and as referred to in this document, includes any conduct or behaviour where a person accepts or gives (or agrees to so give or accept) any gratification for them 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.

Corruption can take various forms. In this document the following examples of corruption and other irregular conduct are referred to as corruption:

- **Bribery:** Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of the OPFA employees.
- **Extortion:** Coercion of a person or entity to provide a benefit to the OPFA employee, another person or an entity, in exchange for acting (or failing to act) in a particular manner.
- **Abuse of power:** The use by the OPFA employee of his or her vested authority to improperly benefit another OPFA employee, person or entity (or using vested authority to improperly discriminate against another OPFA employee, person or entity).
- **Conflict of interest:** The failure by the OPFA employee to act or to consciously fail to act on a matter where the employee has an interest in another person or entity that has some form of relationship with the employee or the OPFA.
- **Abuse of privileged information:** This involves the use or unauthorised sharing, by the OPFA employee of privileged information and knowledge that the employee possesses as a result of his/ her office to provide unfair advantage to another person or entity to obtain a benefit.



- **Nepotism:** If a OPFA employee ensures that family members are appointed to positions within the OPFA or that family members receive contracts from the OPFA, this could be regarded as nepotism. Nepotism may also involve favouritism or cronyism where the provision of services or resources is distributed according to personal affiliation (for example the culture or religion) of an employee.

These manifestations are by no means exhaustive as corruption appears in many guises and it is not possible to list all of these.

In summary, corruption is an act done with the intent to give some advantage, inconsistent with an official duty, a set of rules and the rights of others in exchange for some form of gratification. It is wider than bribery, because it is not limited to the public sector only.

## 6. Regulatory Framework

This Fraud and Corruption Prevention Strategy should be read in conjunction with the following policies, procedures and relevant statutes, including but not limited to:

- The Constitution of the Republic of South Africa
- Pension Funds Act
- FSR Act
- Whistle Blowing Policy
- PFMA
- National Treasury Regulations and Guidelines
- Protected Disclosure Act, 26 of 2000
- Prevention and Combating of Corrupt Activities Act, 12 of 2004
- Labour Relations Act, 66 of 1995
- Basic Conditions of Employment Act, 75 of 1997
- Employment Equity Act, 55 of 1998
- King IV Report on Corporate Governance
- OPFA Human Resources Policies and Procedures
- Prevention of Organised Crime Act, 121 of 1998
- Broad Based Black Economic Empowerment Act, 53 of 2003
- Financial Sector Regulation Act, 7 of 2017

## **PART A**

### **Fraud and Corruption Prevention Policy**

## **1. Introduction**

This Fraud and Corruption Prevention Policy (Policy) is established to facilitate the development of controls, which will assist in mitigating the risks of fraud and corruption and forms the basis for the prevention and detection of fraud and corruption as well as provide guidelines as to how to respond when instances of fraud and corruption or alleged fraud and corruption are identified.

## **2. Scope of the Policy**

This Policy applies to all OPFA employees, stakeholders, consultants, vendors, suppliers, contractors, members of the public, agencies conducting business with the OPFA and any other party doing business with or interacting with the OPFA with the intention of doing business.

Therefore, the OPFA's MANCO will clearly articulate and communicate the contents of the Fraud and Corruption Prevention Policy to its employees, stakeholders, vendors, contractors, members of the public, agencies conducting business with the OPFA, or any other parties with a business interest in and relationship with the OPFA.

## **3. Policy**

It is the policy of the OPFA that fraud, corruption, maladministration or any other dishonest activities of a similar nature will not be tolerated. Such activities or allegations of such activities will be investigated, and actions instituted against those who are found to have been involved in irregular activities. Such actions may include the laying of criminal charges, disciplinary proceedings and civil actions which may in turn include recovery processes where applicable. In addition, such activities shall be followed-up by the implementation of appropriate prevention and detection controls. Such prevention controls include the existing financial and other controls and checking mechanisms as prescribed in the systems, policies, procedures, rules and regulations of the OPFA.

The MANCO is responsible for the detection and prevention of fraud, corruption, and other dishonest activities. Each member of the MANCO will be familiar with the types of misconduct that might occur within his or her area of responsibility and will be alert to any indication of irregularity.

It is the responsibility of all employees to report all incidents of fraud and corruption or any other dishonest activities of a similar nature that may come to his/her attention, immediately to Management or through the OPFA Fraud and Corruption Tip-offs Anonymous hotline or any of the other mediums of communications listed below. The contact details where anonymous tip-offs can be made are included below:

- Dedicated OPFA Fraud and Ethics hotline: 0800 111 667

Unique e-mail address which is [opfa@tip-offs.com](mailto:opfa@tip-offs.com)

Post address: KZN 138, Umhlanga Rocks, 4320

Generic Free Facsimile: 0800 00 77 88

- Generic Tip-offs Anonymous website which is [www.tip-offs.com](http://www.tip-offs.com)

A third party can also report all incidents of fraud and corruption or any other dishonest activities of a similar nature that may come to his/her attention by submitting a report through any of the above-mentioned communication mediums.

All reports received will be treated with the requisite confidentiality and will not be disclosed or discussed with parties other than those charged with investigating such reports.

The Pension Funds Adjudicator (PFA) will coordinate all investigations with the designated investigators, both internal and external, where appropriate.

#### **4. Roles and responsibilities**

The PFA, as the accounting authority, is responsible for amongst others, ensuring that fraud and corruption prevention strategy and policy is in place and is clearly communicated to all employees.

Management is responsible for the implementation of the strategy, and other related

policies and escalating identified fraud and corruption risks to an appropriate level and monitoring its effectiveness.

Employees must be trained in preventing and detecting fraud and corruption, and the significant role they play in the implementation of the fraud and corruption prevention strategy. All employees of the OPFA must comply with the spirit and content of the Policy.

## **5. Actions constituting fraud and corruption**

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

- Deception, forgery, theft, misappropriation
- Unauthorised private use of the OPFA's assets, including vehicles
- Falsifying travel and subsistence claims
- Conspiring unfairly with others to obtain a tender
- Accepting bribes or favours to process requests
- Accepting bribes or favours for turning a blind eye to the poor service delivery of a service provider who does not provide an appropriate service
- Disclosing proprietary information relating to a tender to outside parties
- Accepting inappropriate gifts from stakeholders and suppliers
- Employing family members or close friends without prior declaration
- Operating a private business during working hours without prior approval from the delegated authority
- Submitting or processing false invoices from contractors or other service providers
- Impropriety in the handling of money or reporting of financial transactions
- Abuse of power, or using official authority for any unauthorised purpose or personal gain
- Stealing equipment or supplies from work
- Any similar or related irregularity.

## **6. Other inappropriate conduct**

Suspected improprieties concerning an employee's moral, ethical, or behavioural conduct will be resolved by the OPFA's Risk and Compliance Officer together with MANCO and Human Resources. If there is any uncertainty as to whether an action constitutes fraud and / or corruption, the Chief Financial Officer should be contacted for guidance.

## **7. Investigation responsibilities**

The PFA has the primary responsibility for the investigation of all suspected fraudulent and/or corrupt acts. If the investigation substantiates that fraudulent and/or corrupt activities have occurred, the PFA will issue reports to appropriate designated personnel, including the Audit Committee, the Risk and Compliance Officer, National Treasury and Auditor General.

Please refer to Part C – Fraud and Corruption Response Plan, of this Fraud and Corruption Prevention Strategy for full details on the reporting and response to suspected fraud and corruption.

## **8. Confidentiality**

All complaints received and information relating to suspicions or knowledge of fraud and corruption which have been or are being investigated must be treated confidentially. The progression of investigations will be conducted in a confidential manner and will not be disclosed or discussed with any person(s) other than those who have a legitimate right to such information. This is important in order to avoid harming the reputations of suspected persons who may subsequently be found to be innocent of wrongful conduct and to protect the OPFA from potential civil lawsuits.

Employees, unless they are involved in the investigation, should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent and/or corrupt act.

No person is authorised to supply any information regarding allegations or incidents of fraud or details of internal disciplinary proceedings to the media or any unauthorised parties. All media enquiries will be referred immediately to the PFA.

## **9. Protection of whistle blowers**

Any disclosure of fraudulent and/or corrupt activities made by an employee would generally be a protected disclosure in terms of the Protected Disclosure Act (Act 26 of 2000), provided that such disclosure is made:

- In good faith and without any improper motives;
- To a legal practitioner or to a person whose occupation involves the giving of legal advice;
- To the OPFA in accordance with the prescribed procedure or procedure authorised by the OPFA;
- To a body or body of persons prescribed by the OPFA; or
- As a general protected disclosure.

An employee who reports suspected fraud or corruption may remain anonymous should he/she so require.

No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud or corruption.

There will be no reprisal by management against employees or officials who report a violation or suspected violation in good faith.

The Protected Disclosures Act provides remedies in section 3 for any employee who suffers any occupational detriment for good faith reporting.

All managers should discourage employees or other persons from making allegations, which are false and made with malicious intentions. Where such allegations are discovered, the person who made the allegations will be subjected to firm disciplinary, or other appropriate action.

## **10. Authorisation for investigating suspected fraud or corruption**

Great care must be taken in the investigation of suspected misconduct so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

The terms of reference/scope for an investigation should be in writing and signed by the PFA or a designated MANCO member.

Investigators will have:

- Free and unrestricted access to all OPFA's records and premises, whether owned or rented;
- The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities when it is within the scope of their investigation; and
- The right to interview MANCO members, employees, and other parties and to obtain statements from them in accordance with relevant legislation.

## **11. Results of the investigation**

The results of the investigation shall be reported to the PFA, unless the PFA is the subject of the investigation, in which case, the investigation will be conducted by the Ministry of Finance.

## **12. Application of prevention controls and detection mechanisms**

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

## **13. Disciplinary action**

If the disciplinary action involves employees below and other than the PFA, the PFA shall make the final determination of the disciplinary action and whether to institute disciplinary action or not. If and when disciplinary action involves the PFA, the Minister shall make the final determination of the disciplinary action and whether to institute disciplinary action or not. Such final determination should be consistent with the applicable policies of the OPFA, Public Finance Management Act, Treasury Regulations, as well as applicable labour legislation, concerning any employee who has been found guilty of fraud and/or corrupt activities.



#### **14. Termination**

If a disciplinary action results in a recommendation to terminate an individual's employment, and a sanction of the relevant policies provides for such a dismissal, the presiding officer/chairperson of the proceedings can advise the PFA of his/her views on the matter, but the sanction remains the discretion and prerogative of the PFA. All applicable legislation and OPFA Policies and Procedures should be taken into consideration during this process.

#### **15. Publication of sanctions**

The PFA will decide, in consultation with MANCO, whether any information relating to corrective actions taken or sanctions imposed, regarding incidents of fraud or corruption should be brought to the attention of any person or made public through any other means.

#### **16. Awareness**

It is the responsibility of all line managers to ensure that all employees are made aware of and receive appropriate training and education regarding this Policy. Awareness training will be done by the Risk and Compliance Officer in consultation with the CFO and HR Manager.

#### **17. Administration**

Overall, the PFA is responsible for the administration, revision, interpretation, and application of this policy.

This Policy will be reviewed every two years and revised as needed.

#### **18. Effective date**

This Policy shall come into effect immediately upon approval by the Accounting Authority.

## **PART B**

### **Fraud and Corruption Prevention Plan**

## **1. Introduction**

The purpose of this Fraud and Corruption Prevention Plan (Plan) is to provide an overview of the OPFA's approach to the prevention and detection of fraud and corruption. Fraud and corruption may originate in any organisation in the ranks of inter alia employees, customers, vendors and other service providers.

This Plan recognises basic fraud and corruption prevention measures, which are in place at the OPFA. The Plan is dynamic and it will continuously evolve as the OPFA makes changes and improvements in its drive to promote ethics, as well as to fight fraud and corruption.

Fraud and corruption risk management is a process that is adopted by the OPFA, by putting mechanisms in place, to manage OPFA's vulnerability to fraud and corruption. Such mechanisms are designed to prevent, deter and detect fraud and corruption.

OPFA's response to mitigate any exposure to fraud and corruption will focus on creating awareness and promoting ethical business conduct.

## **2. Background**

The MANCO is responsible for ensuring that the OPFA has and maintains an effective, efficient and transparent system of financial and risk management supported by appropriate internal controls.

Furthermore, the OPFA will conduct risk assessments (including fraud and corruption risks) on an annual basis and update the risk management strategy, which includes the fraud and corruption prevention plan, to be used to direct internal audit effort. The risk management strategy must be clearly communicated to all employees to ensure that risk management is incorporated into the language and culture of the OPFA.

### **3. Fraud and Corruption prevention approaches**

The approach regarding the controlling of fraud and corruption is focused on three areas, namely:

- Strategic Approach;
- Operational Approach; and
- Maintenance Approach.

#### **3.1 Strategic Approach**

The Strategic Approach represents the actions to be undertaken by the relevant parties indicated below in order to address fraud and corruption at a strategic level.

##### **3.1.1 Responsibilities for fraud and corruption risk management**

The following sections outline the fraud and corruption risk management responsibilities associated with different roles within the OPFA.

###### **3.1.1.1 *Pension Funds Adjudicator***

The PFA bears the ultimate responsibility for fraud and corruption risk management within the OPFA. This includes the coordination of risk assessments, overseeing the investigation of suspected fraud and corruption, and the facilitation of the reporting of such instances through the relevant channels.

###### **3.1.1.2 *Risk and Compliance Officer***

The role of the Risk and Compliance Officer is to oversee the OPFA's approach to fraud and corruption prevention, fraud and corruption detection strategies and its response to fraud and corruption incidents reported by employees or other external parties. The Risk and Compliance Officer reports to the PFA and the Chief Financial Officer.

The Risk and Compliance Officer shall report quarterly to the MANCO and Risk Committee and the report should include the following issues:

- Progress made in respect of implementing the Fraud and Corruption Prevention Strategy;
- Activities and plans to create awareness towards fraud and corruption –

specifically the prevention and detection thereof;

- Reports received by the institution regarding fraud and corruption incidents with the view to making any recommendations to the PFA and the Risk Committee;
- Reports on all investigations initiated and concluded; and
- All allegations received from the prescribed whistle blowing mechanism.

### **3.1.1.3      *Management Committee (MANCO)***

The MANCO is committed to eradicating fraud and corruption and ensuring that the OPFA strives to be perceived as ethical in all its dealings with the public and other interested parties. In this regard, the MANCO will ensure that they do not become complacent in dealing with fraud and corruption and that they will ensure the OPFA's overall Fraud and Corruption Prevention Strategy is reviewed and updated regularly. Furthermore, the MANCO will ensure that all employees and stakeholders are made aware of its overall Fraud and Corruption Prevention Strategy through various initiatives of awareness and training.

### **3.1.2    An ethical culture**

The employees of the OPFA are required to conduct themselves in an ethical and moral way.

Ethics are concerned with human character and conduct, and deal with questions of right and wrong, appropriate and inappropriate behaviour and what constitutes good or immoral/malicious behaviour. Ethical conduct is based on a set of principles referred to as values or norms. The collective ethical conduct of all the individual employees of the OPFA reflects the institution's ethical conduct. In this regard, the highest standards of ethics are required by employees when fulfilling their duties.

### **3.1.3    Assessment of fraud and corruption risk**

The OPFA, under the guidance of the Risk and Compliance Officer, will conduct annual fraud and corruption risk assessments to identify potential fraud and corruption risks to which the institution is exposed. This process will ensure that actions to address the identified fraud and corruption risks will be implemented to mitigate these risks.

The above will be formulated into a Fraud and Corruption Risk Assessment which will

provide an indication of how fraud and corruption risks are manifested and, a Fraud and Corruption Risk Register which will prioritise the fraud and corruption risks and allocate responsibility to appropriate individuals, with agreed actions by specific timelines, to mitigate these risks.

#### **3.1.4 Employee awareness**

The main purpose of fraud and corruption awareness workshops/training is to assist in the prevention, detection and reporting of fraud and corruption by raising the level of awareness as to how fraud and corruption are manifested in the workplace. In this regard, all employees will receive training on the following:

- Fraud and Corruption Prevention Strategy
- Relevant legislation
- Code of Conduct
- How to identify fraud and corruption (red flags); and
- How to respond to fraud and corruption.

The Risk and Compliance Officer is responsible for employee awareness. Awareness sessions will be scheduled and implemented when deemed appropriate.

### **3.2 Operational approach**

#### **3.2.1 Internal controls**

Internal controls are the first line of defence against fraud and corruption. While internal controls may not fully protect the institution against fraud and corruption, they are essential elements in the overall Fraud and Corruption Prevention Strategy.

All areas of operations require internal controls, for example:

- Physical controls (securing of assets)
- Authorisation controls (approval of expenditure)
- Supervisory controls (supervising day-to-day issues)
- Analysis of data
- Monthly and annual financial statements; and

- Reconciliation of bank statements, monthly.

Internal Audit will be responsible for implementing an internal audit program which will incorporate steps to evaluate adherence to internal controls.

### **3.2.2 Prevention strategies**

A number of combined initiatives result in an overall preventative environment in respect of fraud and corruption. These include the following:

#### **3.2.2.1 *Employee awareness***

Employee awareness of the OPFA's Fraud and Corruption Prevention Strategy, Code of Conduct and the manifestation of fraud and corruption in the workplace, assist in the creation of an environment which may be considered to be hostile to a would-be transgressor.

#### **3.2.2.2 *Pre-employment screening***

Pre-employment screening will be carried out for all appointments as also required by the OPFA's recruitment policy. Evidence of such screening will be maintained by the Human Resources Department. Consideration will be given to the following pre-employment screening:

- Verification of identity
- Police criminal history
- Reference checks with the two most recent employers – this will normally require telephonic contact
- A consideration of any gaps in employment history and the reasons for those gaps
- Verification of formal qualifications claimed.

Screening will be conducted in accordance with the classification of the employee or the levels of screening outlined below.

The levels of screening include:

Level 1 – All employees (including those with administrative functions or computer access)

The screening will be performed for all newly recruited employees. The screening will include:

- Verification of identity
- Verification of claimed educational qualifications
- Verification of employment history
- Reference checks with the two most recent employers – this will normally require telephonic contact
- A consideration of any gaps in employment history and the reasons for those gaps
- Criminal record checks (after authorisation has been obtained from the prospective employee
- Consumer enquiries filed when applying for financial support); and
- Verify and assess Declaration of Other Business Interests ( Reviewed at least annually)

In respect of all existing/current employees, the OPFA will perform the screening of employees on an ad hoc basis annually to determine any possible changes to the above status.

Level 2 – All Managers and above, IT and Finance staff

For all existing/current/new employees on a manager level and above, as well as IT and Finance staff, the OPFA may perform the screening, independent verification, and assessment of Other Business Interests, annually. The objective of the screening is to detect potential conflicts of interest in relation to any supplier/service provider used by the OPFA.

Where an employee is promoted into a management position and has not been screened during the course of the previous year, the employee will be re-screened on:



- Verification of claimed educational qualifications
- Criminal history checks (after authorisation has been obtained from the prospective employee)
- Directorship and membership searches, verify and assess against declaration of Other Business Interests (Reviewed at least annually)
- Insolvency searches; and
- Consumer enquiries filed when applying for financial support

Assessment and verification of Declaration of Other Business Interests is responsibility of Line manager. The line manager may refer a matter for verification to the Risk and Compliance Officer. Escalations of unmitigated risks shall be reported to the PFA as soon as practicable.

### **3.2.2.3      *Recruitment procedures***

Recruitment will be conducted in accordance with the recruitment policy and procedure. It will be a transparent process and all appointments will be confirmed only after due recommendation in line with the recruitment policy and procedure. Any person, involved in any decision-making process relating to the recruitment process, which may have a conflict of interest, must declare such a conflict in writing to the Human Resources Department and withdraw from any further procedures.

### **3.2.2.4      *Internal Audit plan***

A robust Internal Audit plan, which focuses on the prevalent high fraud and corruption risks, will serve as an effective preventative measure. Internal Audit will compile such a plan on an annual basis, which will also include “surprise audits”.

### **3.2.2.5      *Fraud and Corruption Prevention Plan***

The actions set out in this Plan are all focused at mitigating the risks of fraud and corruption at the OPFA.

### **3.2.2.6      *Disclosure of interest***

All managers and employees of the OPFA to whom this paragraph apply, will be

required to disclose their business interests, on an annual basis. This register will be kept with the HR Department. The results of the declaration process will be tested for completeness and will be compared to the suppliers/service providers used by the OPFA to determine any potential conflict of interest situation.

### **3.2.3 Detection approach**

Detection of fraud and corruption may occur through:

- Vigilance on the part of and subsequent reports of irregular activity by employees, including line management
- The Internal Audit function
- Ad hoc management reviews
- Anonymous reports
- Continuous monitoring of financial and non-financial data; and
- The application of detection techniques.

The Risk and Compliance Officer will be responsible for developing and updating detection strategies which will be submitted to the PFA for approval.

The OPFA will embark on a number of initiatives to detect fraud and corruption in the workplace.

#### **3.2.3.1 *Internal audit***

Similar to the prevention approach, a robust Internal Audit plan which focuses on the prevalent high fraud and corruption risks also serves as an effective detection measure. As part of the detection strategy, the Internal Audit plan will cover the following:

- Post-transaction reviews: A review of transactions after they have been processed and completed can be effective in identifying fraudulent or corrupt activity. In addition to the possibility of detecting fraudulent transactions, such a strategy can also have a significant fraud and corruption prevention effect as the threat of detection may be enough to deter a staff member, who would otherwise be motivated to engage in fraud and corruption, from pursuing such a course of action;

- Forensic data analysis and continuous monitoring: The OPFA’s computer system is an important source of information on fraudulent and corrupt conduct. Software applications will be used during internal audits, surprise audits and post-transaction reviews to assist in detecting fraud and corruption; and
- Management accounting reporting reviews: Using relatively straightforward techniques in analysing the OPFA’s management accounting reports, trends can be examined and investigated which may be indicative of fraudulent conduct. Some examples of the types of management accounting reports that will be utilised on a “compare and contrast” basis are:
  - Budget reports for each department / section
  - Reports comparing expenditure against public sector benchmarks; and
  - Reports highlighting unusual trends in bad or doubtful debts.

The OPFA will implement a strategy to ensure appropriate management accounting report reviews are conducted.

### **3.2.3.2 External audit**

The OPFA recognises that the external audit function is an important control in the detection of fraud and corruption. The CFO will hold discussions with the Auditor General to ensure that due consideration is given to the requirements of ISA 240 “The Auditors’ Responsibility to Consider Fraud in the Audit of a Financial Statement”. This specifically requires a focus on risks associated with revenue recognition and management override.

## **3.2.4 Response strategy**

### **3.2.4.1 Reporting fraud and corruption – a Whistle Blowing Policy**

One of the key obstacles to fighting fraud and corruption is the fear by employees of being intimidated for identifying or “blow the whistle” on fraudulent, corrupt or unethical practices witnessed in the workplace. Those who do “blow the whistle” often end up being victimised and intimidated. For this reason, the OPFA refers to the Whistle Blowing Policy which includes the whistle blowing processes, setting out the detailed procedure which must be followed in order to report any incidents of fraud and / or corruption in a safe and secure environment. This is designed to comply

with and give effect to the provisions of the Protected Disclosures Act.

Any suspicion of fraud and corruption will be treated seriously and will be reviewed, analysed, and if warranted, investigated. If an employee becomes aware of suspected fraud, corruption or any irregularity or unethical behaviour, such issues should be reported in terms of the designated reporting lines as prescribed in Part C (Fraud and Corruption Response Plan) of this Fraud and Corruption Prevention Strategy. Alternatively, such reports can be made by submitting a report through to the OPFA Fraud and Corruption Tip-offs Anonymous hotline or any of the other mediums of communications listed below. The contact details where anonymous tip-offs can be made are included below:

- Dedicated OPFA Fraud and Ethics hotline: 0800 111 667
- Unique e-mail address which is [opfa@tip-offs.com](mailto:opfa@tip-offs.com)
- Generic Free Post address: KZN 138, Umhlanga Rocks,4320
- Generic Free Facsimile: 0800 00 77 88
- Generic Tip-offs Anonymous website which is [www.tip-offs.com](http://www.tip-offs.com)

Please refer to Whistle Blowing Policy, for more detail.

#### **3.2.4.2 Investigating fraud and corruption**

*The response to the allegations of fraud and corruption is dealt with in detail in Part C (Fraud and Corruption Response Plan) of this document. Some of the salient aspects are summarised below:*

##### Dealing with Suspected Fraud and Corruption

In the event that fraud or corruption is detected or suspected, the facts will be reviewed and if warranted, investigated. The results of the investigation will determine whether disciplinary proceedings, prosecution or action aimed at the recovery of losses will be initiated.

##### Investigations

The substance of any reports of incidents of fraud and / or corruption will be confirmed by an independent review of the allegations. Anonymous reports may warrant a preliminary review of the allegations before any decision to implement an

independent investigation will be taken.

The person(s) appointed to conduct an investigation will issue a report at the finalisation thereof. Such reports will only be disseminated to those persons required to have access thereto in order to implement whatever action is deemed appropriate as a result of the investigation.

#### Disciplinary Proceedings

The ultimate outcome of disciplinary proceedings may involve a person receiving a written warning or the termination of his/her services. All disciplinary proceedings will take place in accordance with the OPFA's Disciplinary Policy and Procedures, Public Finance Management Act, applicable Treasury Regulations and Labour legislation.

#### Prosecution

Should investigations uncover evidence of fraud or corruption in respect of an allegation or series of allegations, the OPFA will review the facts at hand to determine whether the matter is one that ought to be reported to the relevant law enforcement agency for investigation and possible prosecution. The OPFA will be guided by common law, relevant legislation and any applicable statutory obligations which may arise in terms thereof.

#### Recovery Action

Where there is clear evidence of fraud or corruption and there has been a financial loss to the OPFA, the OPFA will attempt to recover such losses in terms of applicable legal provisions.

The costs involved in such actions will be considered to ensure that the cost of recovery is financially beneficial to the OPFA.

#### Internal control review after discovery of fraud

In each instance where fraud is detected, the line managers will reassess the adequacy of the current internal control environment (particularly those controls directly impacting on the fraud incident) to consider the need for improvement of the applicable controls.

### **3.3 Maintenance approach**

### **3.3.1 Review of effectiveness of Fraud and Corruption Prevention Strategy**

The OPFA will every two years conduct a review of the Fraud and Corruption Prevention Strategy, to determine the continuing effectiveness thereof. The PFA is ultimately accountable for this review.

### **3.3.2 Review and updating the Fraud and Corruption Prevention Strategy**

A central part of any fraud and corruption control programme will involve an on-going review of fraud and corruption risk exposures for which the PFA is ultimately accountable.

## **PART C**

### **Fraud and Corruption Response Plan**

## **1. Introduction**

The OPFA has adopted a policy in terms of which all reports of alleged fraud and corruption, or other improper conduct will be investigated. The investigation of fraud and corruption or other improper conduct can be a complex, time-consuming and, at times, technical process and employees should be aware of the consequences of a poorly conducted investigation, including:

- Denial of justice
- Claims for defamation
- Action against the OPFA for wrongful and unfair dismissal
- Inadmissible or poor control over the collection of evidence
- Destruction of physical evidence
- Wasted time and cost
- Unsuccessful actions (disciplinary, criminal and civil).

To ensure that there is reasonable assurance that investigations are performed and the results thereof reported properly, and recognising the limited resources within the OPFA, external consultants (e.g. forensic investigators) may be used to provide assistance to the OPFA when a fraud or corruption is reported. The external consultant may be assisted by experienced personnel within the OPFA who are sufficiently independent of the individual(s) or the subject matter under investigation. The PFA, within his/her delegated authority, will have the discretion to determine the appropriate external consultants and/or the OPFA's own personnel to conduct investigations.

## **2. Purpose**

The aim of the Fraud and Corruption Response Plan is to clearly indicate to each OPFA employee or third party the process to follow once the suspicion of fraud and corruption becomes known. It also provides guidance to the individual to whom the report of possible fraud or corruption is made.



### **3. Protected disclosure**

According to the Protected Disclosures Act (Act 26 of 2000), any disclosure of fraudulent and/or corrupt activities made by an employee would generally be a protected disclosure, provided that such disclosure is made:

- In good faith and without any improper motives;
- To a legal practitioner or to a person whose occupation involves the giving of legal advice;
- To the OPFA in accordance with the prescribed procedure or procedure authorised by the OPFA;
- To a body or body of persons prescribed by the OPFA; or
- As a general protected disclosure.

Great care must be taken when conducting investigations of suspected fraudulent and/or corrupt activities which fall within the definition as included in the Fraud and Corruption Prevention Strategy, so as to avoid unsubstantiated accusations or alerting individuals against whom an allegation has been levelled that the matter has been raised and an investigation is underway.

## **4. Reporting fraud and corruption**

### **4.1 If an employee suspects fraud and corruption**

Any employee, who suspects or becomes aware of any irregularity, should report his or her suspicion directly to either:

- OPFA Fraud and Corruption Tip-offs Anonymous hotline
- PFA
- CFO
- RCO
- Line Managers
- The Minister of Finance, if the PFA is the subject of the suspicion.

Employees should not discuss the suspected irregularity with colleagues as this might prejudice the success of the investigation.

Please refer to the Whistle Blowing Policy for more detail on how fraud and corruption can be reported.

#### **4.2 If a stakeholder, vendor or other third-party suspects fraud and corruption**

Any supplier or other external party who suspects or becomes aware of any irregularity affecting the OPFA is encouraged to report his or her suspicion directly to:

- OPFA Fraud and Corruption Tip-offs Anonymous hotline
- PFA
- CFO
- RCO
- The Minister of Finance, if the PFA is the subject of the suspicion.

For purposes of enabling such reporting, the OPFA has implemented an anonymous Fraud and Corruption Tip-offs Anonymous hotline.

The parties are encouraged not to discuss or disseminate any information regarding the suspected irregularity, with any other persons as this may prejudice the investigation and negatively affect the outcome thereof.

Please refer to the Whistle Blowing Policy for more detail on how fraud and corruption can be reported.

#### **5. Response and investigation into fraud and corruption**

All suspicions reported in terms of this policy will be investigated. Suspected fraudulent and/or corrupt activities will be investigated in an independent, open- minded and professional manner with the aim of protecting the interest of both the OPFA and the suspected individual. The investigation process will vary according to the circumstances of each case and this will be determined by the appointed independent forensic investigator/s.

## 6. The investigation process

The OPFA Fraud and Corruption Tip-offs Anonymous hotline administrator will forward reports to the Risk and Compliance Officer, who will perform a preliminary investigation to mainly determine whether it is an internal matter (involving OPFA employees or a MANCO member) or an external matter (involving external stakeholders, for example a supplier). Such investigation will be conducted discreetly so as not to arouse suspicion or reveal the identity of the person or entity reporting the suspected fraud, corruption or irregularity. The preliminary investigation will include:

- Screening of allegations or information to gauge their credibility, and
- Securing all evidence readily available.

The PFA will be notified of all reports received from the OPFA Fraud and Corruption Tip-offs Anonymous hotline and will be kept updated on the progress of the investigation, irrespective of whether it refers to an internal or external matter. The PFA will keep the oversight committee members and the Accounting Authority updated on material matters.

A preliminary investigation will be concluded with the drafting of a written interim report. Should the scope of the alleged fraud, corruption or irregularity implicate any OPFA employee other than the PFA or a MANCO member, such interim report will be made available to the PFA. However, should the scope of the alleged fraud, corruption or irregularity implicate the PFA or the MANCO; such interim report will be made available directly to the Accounting Authority.

Where the interim report has been made available to the PFA, the PFA shall, within 10 working days after having received and studied such interim report and where the facts warrant further action, refer the matter back to the Risk and Compliance Officer for further investigation and finalisation. Where no further action is required, the PFA will report back to the Accounting Authority and will keep them informed of material matters.

Where the interim report has been made available to the Accounting Authority, the Accounting Authority shall, within 10 working days after having received and studied such interim report and where the facts warrant further action, refer the matter to the Chairperson of the Risk Committee for further investigation and finalisation. Where no further action is required, the accounting authority will report back to the oversight committees

Further action such as an investigation will include:

- Securing all further evidence
- Interviewing suspects
- Interviewing witnesses;
- Taking statements; and
- Liaise with units or other agencies (including the relevant SAPS and/or State Security Agency or other appointed persons).

On completion of the investigation, the appointed forensic investigators shall prepare a full written report setting out:

- Background as to the basis for the investigation
- What action was taken in response to the allegation
- The facts that came to light and the evidence uncovered
- Action taken against any party where the allegations were proved
- Action taken to recover any losses; and
- Recommendations and/or action taken by management to reduce further exposure and to minimise or eradicate any recurrence (in both instances where allegations were proved or not).

Should the scope of the alleged fraud, corruption or irregularity implicate any OPFA employee other than the PFA or the MANCO, the abovementioned investigation report will be made available to the PFA. Should the scope of the alleged fraud, corruption or irregularity implicate the PFA or the MANCO; the abovementioned investigation report will be made available directly to the Accounting Authority. Such a final investigation report will generally be produced within 20 working days after receipt of the interim report and the final report will be studied by the PFA within 30 working days after receipt of the final report. Should this report be delayed for any reason, the PFA must be informed (in writing) as soon as possible of the delay, as well as the reason/s for the delay. Further, the PFA must be kept informed of the progress of the report.

The PFA will communicate the findings and recommendations of the report to a special session of the EXCO within 10 working days after receipt of the final report, where such findings are urgent, or at the next EXCO meeting, where such findings are not urgent.

The PFA will mandate specific action based on the findings contained in the final report.

Such action on findings may include:

- Prevention of further losses through:
  - Suspension of an employee or employees or board members
  - Changing of computer access codes and building access codes
  - Modification of affected systems, or
  - Reviewing systems in place and making necessary changes to enhance security.
- Instituting disciplinary proceedings
- Instituting civil action
- Instituting criminal action
- Reviewing of internal controls
- Recovering losses through:
  - Obtaining compensation orders in criminal cases
  - Pursuing civil proceedings in order to obtain a judgment
  - Making deductions from superannuation contributions
  - Making deductions from benefit payments
  - Making arrangements for voluntary payment.
- Considering an insurance claim; or
- Considering any other means of recovery.

In order to provide a deterrent to other staff members, a brief and anonymous summary of the circumstances shall be published and made known to the rest of the employees.

## **7. The disciplinary process**

The findings of all matters investigated by the appointed forensic investigator must be in writing and be reported to the either the PFA as indicated above.

If the disciplinary action involves employees other than the PFA, the PFA shall make the final determination of the disciplinary action and whether to institute disciplinary action or not. If and when disciplinary action involves the PFA, the Minister shall make the final determination of the disciplinary action and whether to institute disciplinary action or not. The decision whether disciplinary actions should be instituted should be done in consultation with the Manager: Human Resources.

All disciplinary processes and procedures will be in accordance with the Disciplinary Procedure Policy, as contained in the OPFA Employee's Human Resources Policies and Procedures manual.

The complaint as well as the staff member's explanation, any other documentation obtained, the findings of the appointed forensic investigator/s as well as the PFA's report shall then be referred to the Disciplinary Committee. The Disciplinary Committee shall notify the staff member that he will be subjected to a disciplinary process in terms of conditions of employment, where such action is warranted.

If no disciplinary proceedings are instituted against the staff or board member who was under investigation, the matter will be finalised with reasons furnished and the relevant parties shall be informed accordingly.

### **7.1 References for employees**

Any reference given in relation to a dismissed employee shall contain only a confirmation of the period during which the employee was employed by the OPFA.

### **7.2 Other matters**

In each instance where fraud, corruption or irregularity is detected, the Heads of Departments will reassess the adequacy of the internal control environment (particularly those controls directly impacting on the fraud, corruption or irregularity) and consider the need for improvements. Where improvements are required, they will be implemented as soon as practicable.

## **8. Reporting fraud and corruption to the SAPS and/or external parties**

The PFA will make appropriate arrangements to report cases of fraud or corruption to the South African Police

Services (SAPS), in circumstances in which there is evidence of fraud or corruption by:

- An employee of the OPFA
- A stakeholder of the OPFA
- A supplier to the OPFA.

Every matter involving fraud or corruption involving any OPFA employee, which is substantiated by evidence of criminal activity, shall be reported to the law enforcement

authorities. The OPFA will always consider and comply with the requirements by legislation to report matters to the SAPS.

Members of the public, consultants, vendors, contractors, outside agencies conducting business with OPFA employees and/or any other parties with a business relationship with the OPFA who on the available evidence defrauded the OPFA shall likewise be reported to the law enforcement authorities.

All employees shall co-operate fully with the SAPS. An internal investigation or disciplinary process may be conducted in conjunction with any SAPS investigation.

## **9. Liaison with the media**

Where the magnitude of the suspected fraud, corruption or irregularity committed may attract media attention, the PFA will make an appropriate press release to pre-empt media speculation. This will include making a decision as to who should speak to the media.

## **10. Recovery and other remedies**

The OPFA has adopted a Policy in terms of which it will actively pursue the recovery of any money or property lost through fraud and/or corruption, provided there is a strong prospect of a net benefit to the OPFA from such action.

Where it is considered appropriate that the matter not be reported to the SAPS, the OPFA reserves its right to pursue a range of other remedies including appropriate disciplinary action. The OPFA will always consider and comply with the requirements by legislation to report matters to the SAPS.

Exit interviews and exit checklist procedures should be performed in the event of dismissal from the OPFA for misconduct, fraud or corruption. This is necessary to

ensure that factors contributing to misconduct, fraudulent or corrupt activity by employees can assist the process to mitigate fraud and corruption risk.

## **11. Review date**

This Fraud and Corruption Response Plan shall be reviewed every two years or on an on-going basis where incidences of fraud, corruption or irregular activity warrant it.