



SUMMARY OF PROCESSES 28TH JANUARY 2020

1. The following document provides an outline of the process that needs to be followed in a given scenario.
2. **Criminal Prosecution**
 - 2.1 Duty to report corruption in terms of the **Prevention and Combatting of Corrupt Activities Act 12 of 2004** – the process to be followed is set out in **Annexure A**;
 - 2.2 Duty to report alleged financial offences in terms of the **Municipal Finance Management Act 56 Of 2003** and regulations therewith – the process to be followed is set out in **Annexure A**.
3. **Breaches of the Codes of Conduct**
 - 3.1 Schedule 1 (Code of Conduct for Councillors) of the Municipal Systems Act 32 of 2000 – **Annexure B** sets out the procedure to deal with breaches of the Code of Conduct for Councillors
 - 3.2 Schedule 2 (Code of Conduct for Municipal Staff Members) of the Municipal Systems Act 32 of 2000 (the Systems Act) – **Annexure C** sets out the procedure to deal with breaches of the Code of Conduct for Municipal employees.
4. **Breaches of the Municipal Finance Management Act 2003**
 - 4.1 It is important to note that most of the allegations contained in the forensic report deal directly with breaches of the MFMA.
 - 4.2 The Local Government Municipal Finance Act, 2003 and the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings 2014 – **Annexure D** sets out the procedure to deal with breaches of the Municipal Finance Management Act.



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- 4.3 This must this read with the **MFMA Circular No. 68 and 76** and particularly **Annexure D4 (the diagram which sets out the process to implement Financial Misconduct Regulations)** which is attached hereto for ease of reference due to its importance. **(annexures D2, D3 and D4).**
- 4.4 The disciplinary board provides the Council with a vital avenue to investigate breaches of the MFMA internally before further investigators are appointed.
- 4.5 The Disciplinary Board must conduct a preliminary investigation into each allegation referred to it by Council to ensure compliance with the MFMA regulations.
- 4.6 The Disciplinary board is thereafter obliged to provide Council with recommendations relating to the various allegations of financial misconduct and breaches of the MFMA.
- 4.7 The objectives of the Disciplinary Board are to conduct an independent preliminary or full investigation in terms of the regulations to establish:
- 4.7.1 Whether the allegation of financial misconduct has any substance; and
- 4.7.2 If it has substance, whether enough grounds exist for instituting disciplinary proceedings against the alleged transgressor.
- 4.8 The purpose of the Disciplinary Board is restricted to alleged offences of financial misconduct related to municipal officials as per sections 171 and 172 of the Municipal Financial Management Act 56 of 2003.
- 4.9 Any allegations relating to the conduct of Councillors must be dealt with in terms of the Code of Conduct of Councillors as per items 13 and 14 of Schedule 1 of the Municipal Systems Act 32 of 2000 (as per **Annexure D**).
- 4.10 Council approved the establishment of a Disciplinary Board on 27 May 2015, under Council Resolution C/1/104/05/15 and subsequent to this resolution the members were appointed during 2018.



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- 4.11 **Annexure G** sets out the procedure in relation to the Disciplinary Board and its powers.
5. **Breaches of the Bitou Municipality Supply Chain Management Policy Code of Conduct**
- 5.1 A breach of the code of conduct adopted by the Municipality must be dealt with in accordance with Schedule 1 (code of Conduct for Councillors) and Schedule 2 (Code of Conduct for Municipal Staff Members) of the Municipal Systems Act, No 32 of 2000, **Annexures B and C** respectively.
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