METSIMAHOLO LOCAL MUNICIPALITY

COMPLIANCE MANAGEMENT

POLICY

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1. INTRODUCTION

Enterprise Risk Management (ERM) forms a critical pad of any institution's strategic management. It the process whereby an institution both methodically and intuitively addresses the risk attached to their activities with the goal of achieving sustained benefit within each activity and across the portfolio of activities. ERM is therefore recognised as an integral part of sound organizational management and is being promoted internationally and in South Africa as good practice applicable to the public and private sectors.

Globally, corporate governance, risk management and compliance (GRC) has emerged as a discipline that needs to be thoroughly understood and effectively implemented by an organisation in order to optimally enable the achievement of its strategic direction and to guide operational conduct. There is a need to develop and apply sound GRC principles and institute high ethical values for the benefit of investors, our stakeholders and the communities in which we operate.

The Municipal Finance Management Act of 2003 (MFMA) and the King IV Code on corporate governance in South Africa require the municipality, including municipal entities to effect a process of ERM and as such the Council of Metsimaholo Local Municipality (Council) has established this process. The ERM function was established to position the MLM to mitigate any material risk through a system of knowledge and planned controls. The municipality has developed and will implement an ERM system that will ensure that the MLM's compliance risks are identified and effectively on a continual basis.

2. PURPOSE

The purpose of policy is to:

- Outline MLM'S position and approach to the management of compliance risk;
- To outline roles and responsibilities of key role players and stakeholders;
- To facilitate the detection and prevention of non-compliance to regulatory requirements; and
- To provide for processes and systems that facilitate the management of compliance risk and enhance regulatory compliance assurance.

3. SCOPE OF APPLICATION

3.1. This policy is designed to provide an outline of the compliance management framework operating within MLM and to provide a guidance facility to enable all Senior Managers, Managers and Staff to find the advice and tools to enable MLM processes to comply fully to all relevant legislation, service standards, policies and procedures as well as generally accepted principles of good governance and ethical standards.

3.2. External stakeholders should comply with legislative framework of the Municipality.

4. COMPLIANCE POLICY STATEMENT

Metsimaholo Local Municipality (MLM) is committed to integrity-based performance that protects and enhances its stakeholder value and reputation. It recognises the essential role that compliance with applicable regulatory requirements plays in the governance and sustainability of its business.

We subscribe to the fundamental principles that all resources will be applied economically to ensure compliance with relevant legislation, and fulfil the expectations of employees, communities and other stakeholders in terms of corporate governance. To this end, MLM will conduct its business in accordance with the latter and spirit of applicable regulatory requirements and to ensure that we implement appropriate processes to promote a culture of compliance within the organisation.

The municipality will do so with integrity and maintain the highest ethical standards. Although the task of designing, implementing and monitoring the process of risk management remains the responsibility of management, the Council of MLM is ultimately accountable for the overall governance of risk and compliance and is accountable to its stakeholders for overseeing the management of compliance within the organisation.

The management of compliance risks forms part of the overall risk management framework of the organisation. Management is responsible to ensure that legal compliance programs are implemented and adhered to in their areas of accountability. Notwithstanding the above. the responsibility to ensure effective management of compliance risk within MLM rests with all employees. All significant compliance risks must be assessed managed and reported using a standardized methodology and a uniform compliance framework.

The Risk Management Unit is responsible for advising and assisting the Council and Management in designing and implementing appropriate compliance management policies and procedures; awareness and training programs; assessing, monitoring and reporting on the MLM's compliance programs and practices; in implementing strategies that reinforce a safe, transparent and ethical working environment, in ensuring consistent management of these policies, standards and procedures and for the overall management and implementation of the compliance risk management

All instances of non-compliance shall be reported and employees have the option to report such non-compliances or potential non-compliances to the Risk Management Unit. It is MLM's policy to independently investigate all instances of non-compliance and to take the appropriate steps to mitigate the consequences of non-compliance.

Our commitment to compliance risk management is an expression of our commitment to Batho Pele principles and good governance.

This policy sets out MLM’s approach to managing compliance risks. Further guidance and procedures can be found in the Compliance Manual.

5. COMPLIANCE PHILOSOPHY

The principles, standards and guidelines recommended by the Compliance Institute SA are applied wherever appropriate to ensure adherence to both regulatory and supervisory requirements. MLM takes cognizance of compliance best practice guidelines and standards as outlined by the King IV as well as compliance requirements as per applicable legislation.

5.1. Mandate of Compliance Function

The King IV on Corporate Governance recommends that the Council of MLM take overall accountability for compliance within MLM to delegate to management the implementation of an effective compliance process and to ensure that an approved compliance policy and framework has been implemented by management.

MFMA Sec 78(1) Each senior manager of a municipality and each official of a municipality exercising financial management responsibilities must take all reasonable steps within their respective areas of responsibility to ensure-

(a) that the system of financial management and internal control established for the municipality is carried out diligently;

(b) that the financial and other resources of the municipality are utilised effectively, efficiently, economically and transparently;

(c) that any unauthorised, irregular or fruitless and wasteful expenditure and any other losses are prevented;

(f) that all information required by the accounting officer for compliance with the provision of this Act is timeously submitted to the accounting officer and

(g) of the MFMA – that the provisions of this act, to the extent applicable to that senior manager or official, including any delegations in terms of section 79, are complied with.

Governance Structures

MLM has established a Compliance Function, in The Office of The Municipal Manager headed by the Chief Risk Officer/Manager Risk & Compliance within the Risk Management Unit. The unit is responsible for the management of the general mandate of the Compliance Function which is to ensure that standard risk-based compliance processes, controls and systems are applied consistently in all departments. This will provide reasonable assurance that MLM complies with all applicable laws and that the risk of non-compliance with applicable laws is minimised in an effective and efficient manner across the municipality.

The compliance function shall be supported by Departmental Heads. who shall be responsible for facilitating and implementing the compliance processes, controls and systems within their respective departments and reporting to the Risk Management Unit and the Risk Management Committee (RMC).

Compliance Function: Oversight & Monitoring

a) Council is responsible for providing political guidance, monitoring and overseeing the exercise of responsibilities assigned to the Accounting Officer for governance of compliance risk in the MLM.

b) The Accounting Officer (Municipal Manager) of the MLM is ultimately responsible for implementation of the ERM and compliance policy in Metsimaholo Local Municipality.

c) All Heads of Departments (Directors) are responsible for implementing ERM and the compliance policy in their respective Departments.

d) Departmental Heads support the compliance policy, risk management framework, promote compliance within our risk appetite and manage risks within their spheres of responsibility consistent with set risk tolerances.

e) All employees of the MLM are responsible for implementing the compliance policy in accordance with established directives and protocols.

Compliance Function: Risk Management Unit

The compliance function has the ultimate responsibility to provide direction, technical expertise, guidance, support, build capacity and to monitor Departments' in implementing the compliance management process.

The primary role of the compliance function is to assist with enable, facilitate and monitor the effective management of the compliance risk of municipality through inter alia, the following:

i. Ensuring that the compliance policy is in line with enterprise-wide risk management strategy and framework which is underpinned by the organizational Integrated Development Plan;

ii. Developing and implementing the compliance policy and manuals;

iii. Ensuring that standard risk based regulatory compliance processes, including processes to identify the relevant regulatory frameworks; controls and systems are on international compliance best practice;

iv. Developing and reviewing the Compliance policy and processes;

v. Implement and managing the standard risk-based compliance processes, controls and Systems across MLM;

vi. Developing and implementing compliance management techniques, templates and systems for gathering risk information, monitoring compliance management activities, information sharing and reporting;

vii. Providing technical advice to the accounting officer/council, heads of departments and senior management on compliance risk management strategies;

viii. Developing and facilitating compliance risk management training and awareness programs at appropriate levels within the MLM to inculcate a compliance culture;

ix. Ensuring that the Heads of Departments and Senior Management are trained in the application of various elements of the group compliance process and in the various roles and responsibilities;

x. Consolidating the MLM compliance risk profile and escalate critical risks to Risk Management Committee, Senior Management, Mayoral Committee, Audit Committee and Council;

xi. Reviewing reports of non-compliance incidents and major fraud and corruption (both potential and actual) including the evaluation of the effectiveness of the response in investigating any loss and preventing future occurrences;

xii. Assisting departments in facilitating compliance risk assessments and developing compliance risk mitigation strategies;

xiii. Benchmarking the performance of the risk management process to the risk management processes adopted by other municipalities both within South Africa and abroad; and

xiv. Reviewing all compliance reports prior to approval and submission to the relevant stakeholders;

xv. Developing and monitoring the implementation of the compliance reporting;

xvi. Ensuring that designated MLM employees undergo compliance training and to provide written certification of their compliance with legal requirements and compliance policies and procedures annually.

Compliance Function: Legal Department

a) Identification of the regulatory universe applicable to Metsimaholo Local Municipality and ensuring that it is updated periodically and communicated;

b) Conduct or arrange information sessions or workshops to educate on legal compliance requirements and changes to important legislation;

c) Provide advice on legal compliance to departments and committees;

d) Consider and advise on any matter that has legal, legal compliance and litigation consequences to the Municipality – including but not limited to matters referred through PAJA, Consumer Protection Act, Public Protector Act, PAIA and POPI; and provide responses on behalf of the municipality (as the case may be);

e) Compiling PAIA/POPI Manual and coordinate annual statistics and reporting to the Information Regulator and/or any other chapter nine Constitutional Institutions where required;

f) Design framework and standards for By-Law promulgation and enforcement;

g) Enhance legal awareness and legal information research resources in the organization through, inter alia, the provision of municipal website or by an electronic legal library and the provision of legal compliance registers such as the approved Municipal Code, System of Delegations, Register of Tariffs and Policies, and provide legal interpretation;

h) Provide a Legal Library as an information/research desk available throughout the organization;

i) Legal updates - Scrutinize Gazettes for new legislation, notices, etc. and ensuring that all relevant departments and stakeholders are informed.

Departmental Compliance Functions

i. Ensure effective implementation of the standard risk-based compliance processes, controls and systems for each respective department;

ii. Ensure that compliance risk assessments are held annually to review and/or update the regulatory universe applicable and to assess and prioritise compliance risk;

iii. Ensure that compliance processes and controls relating to material compliance risks are documented in a systematic and standard manner;

iv. Ensure consistent monitoring and reporting on all compliance risks, assessing that the control environment is adequate and effective;

v. Ensure that the adequacy of compliance processes and the outcomes of such processes are systematically reported in a standardised manner to the appropriate management and governance forums;

vi. Establishing and maintaining a compliance culture, in conjunction with management which contributes to the overall objective of prudent risk management of the municipality;

vii. Setting a tone at the top in the department that is supportive of the effective implementation of all the elements of the general compliance process and in implementing compliance programs;

viii. Ensuring that appropriate staff members are involved and engaged in the application of the various elements of the general compliance process and in implementing compliance programs;

ix. Ensuring the ongoing monitoring of the implementation of the general compliance process, mitigating steps (i.e. the detailed implementation of compliance in department) and reporting to appropriate governance structures.

6. COMPLIANCE ROLES AND RESPONSIBILITY

6.1 The Mayor, MLM Council and all levels of Management should actively demonstrate commitment to inculcate compliance culture within MLM.

6.2 The Mayor and MLM Council has an oversight responsibility for compliance management and for approving the compliance policy.

6.3 The Municipal Manager (Accounting Officer) and the Senior Managers are responsible for: -

6.3.1. Endorsing the compliance policy, compliance strategy and compliance management framework.

6.3.2. Ensuring that they receive adequate reporting on compliance.

6.3.3. Fostering and encouraging a compliance culture within MLM.

6.3.4. Ensuring that compliance issues escalated for their attention are considered and actioned accordingly.

6.4. Audit Committee: -

6.4.1. Ensuring that they receive regular reporting on compliance activities, risks and other related issues.

6.4.2. Identifying and requesting follow – up actions were necessary.

6.5. All Senior Managers and Managers are responsible for: -

6.5.1. Fostering and encouraging a compliance culture, by example, within MLM and integrating compliance processes into normal business practices.

6.5.2. Remaining aware of the compliance obligations within their departments/areas of control.

6.5.3. Cooperating with, supporting the Chief Risk Officer / Manager Risk & Compliance, and encouraging all staff to do the same in relation to the development and implementation of a compliance framework.

6.5.4. Encouraging all the staff to participate in relevant compliance induction programs.

6.5.5. Identifying, documenting and communicating compliance obligations and risks within their areas of responsibility/departments, with the support of the Chief Risk Officer / Manager Risk & Compliance, and developing relevant processes to meet those obligations.

6.5.6. Actively participating in the management and resolution of compliance related complaints, incidents and issues.

6.5.7. In conjunction with the chief compliance and verification officer, developing and implementing systems for reporting, feedback mechanisms and complaints management, and monitoring compliance performance.

6.5.8. Reporting of all compliance-related complaints and compliance failures within their areas of control, to the chief compliance and verification officer.

6.6. All staff are responsible for: -

6.6.1. Adherence to the compliance relevant to their position.

6.6.2. Undertaking training in accordance with the compliance program.

6.6.3. Reporting and escalating compliance concerns, issues, complaints and failures.

6.6.4. Performing their duties in an ethical, lawful and safe manner.

6.7. Chief Risk Officer / Manager Risk & Compliance is responsible for: -

6.7.1. Developing, implementing and continuously improving a compliance management framework.

6.7.2. Identifying compliance obligations and risks with the support of relevant Managers, Staff and MLM's legal services and developing control or minimisation strategies/actions.

6.7.3. Integrating compliance obligations into existing practices and procedures.

6.7.4. Ensuring compliance is factored into position descriptions and performance management processes.

6.7.5. Identifying compliance training needs and organising ongoing training support for Directors, Managers and staff on compliance issues.

6.7.6. Developing and implementing a compliance reporting and documenting system.

6.7.7. Monitoring and measuring compliance performance and analysing performance to identify the need for corrective action.

6.7.8. Ensuring the compliance management framework is reviewed on regular basis.

6.7.9. Assisting with the implementation and maintenance of the compliance management process.

6.7.10. Reporting of compliance concerns, issues, complaints and failures on regular basis.

6.7.11. Assessing and reporting results of compliance efforts.

6.7.12. Ensuring that all Municipal activities comply with legislation, rules and regulations applicable to Local Government.

6.7.13. Ensuring that the Municipality`s policies and procedures are adhered to.

6.7.14. Ensuring compliance to Batho Pele principles

6.7.15. Providing compliance reports on regular basis and as directed or requested.

6.7.16. Providing guidance to Senior Management on matters relating to compliance.

6.8. Internal Audit Unit is responsible for:

6.8.1. To provide risk-based internal audit services functions.

6.8.2. To provide internal audit services.

6.8.3. To monitor compliance to rules and regulations.

6.8.4. To provide a pre-investigation service.

6.9. Other Stakeholders are responsible for:

6.9.1. All other stakeholders should comply with all the legislative requirements of compliance.

7. COMPLIANCE RISK

Compliance is the process that actually records and monitors the daily business activities of an organisation to make sure that it is complying with the law, industry mandates and internal policies.

Compliance risk is threat posed to an organisations earnings, capital or reputation as a result of violation or non-conformance with laws, regulations, or prescribed practices. Organisations that fail to comply with the necessary standards may be subjected to fines, payment of damages and voided contracts This, in turn, can lead to diminished reputation and limited business opportunities as the organisations face decreased stakeholder trust.

Illegal conduct may prejudice Metsimaholo Local Municipality (MLM) in many ways. The mere hint of illegal conduct may alter public opinion and adversely affect the behaviour of our community, customers, suppliers, business partners and/or shareholders.

8. COMPLIANCE MANAGEMENT FRAMEWORK

8.1. Identification and Implementation

8.1.1. Sources of compliance and obligations will include: the Constitution of the Republic of South Africa, Legislation, rules and regulations applicable to Local Government, directives, policies and procedures.

8.1.2. Additional compliance obligations within MLM may include Council resolutions, Departmental service standards, Batho Pele principles, statutes and codes, Guidelines and Frameworks.

8.1.3. The chief compliance and verification officer will, in conjunction with Senior Managers, Managers and key staff systematically identify MLM's compliance obligations and the way in which they impact on Municipal activities and services.

8.2. Register of Compliance Obligations

Develop and maintain a register of identified Acts, Regulations, Codes, internal MLM policies and other obligations to which MLM must be compliant, including but not limited to:

8.2.1. Statutory requirements that affect MLM operations.

8.2.2. MLM processes that are affected by statutory obligations.

8.2.3. Risks associated with compliance failures by MLM processes.

8.2.4. Internal policies currently in place to ensure compliance and gaps where additional policies are required, and where additional resources, advice or training may be obtained.

8.3. Compliance Risk Identification

Review current risk registers for individual MLM departments in conjunction with relevant Managers and key staff to incorporate:

8.3.1. Identification and analysis of compliance risks.

8.3.2. Identification of current processes in place to ensure compliance.

8.3.3. Identification of gaps where additional processes are required.

8.3.4. Development of operational plans to improve compliance processes where required and inclusion of compliance risks within the relevant risk registers.

8.4. Departmental Compliance Monitoring Plans

Develop Compliance monitoring plans for different departments in conjunction with relevant Managers and key staff. The plans will detail the compliance obligations and actions required to improve compliance within the designated areas and provide a basis for future.

9. REMEDIAL ACTION

Any breach of this Compliance Management Policy is considered serious and remedial action will result in disciplinary action taken against the defaulter.

10. REPORTING

Reporting arrangements is as follows:

Reporting Type	*Report Submitted to*	*Frequency*
Monthly Compliance Report	Senior Management	Monthly
Quarterly Compliance Report	Risk Management Committee	Quarterly

11. REVIEW OF THE POLICY

The Compliance Management Policy shall be reviewed annually to reflect the current stance on compliance and risk management.

Recommended by the Risk Management Committee:

Signature: ________________

Date: **12 MARCH 2024**

Approved by the Council:

Date: **03 JULY 2024**