
Your Ref:
Room 201, Bram Fischer Building

Our Ref:
Date: 16 October 2018

The Speaker
Cllr. Mxolisi Siyonzana

COUNCIL ITEM: ESTABLISHMENT OF A DISCIPLINARY BOARD AS PER THE MUNICIPAL REGULATIONS OF FINANCIAL MISCONDUCT PROCEDURES AND CRIMINAL PROCEEDINGS

1. Purpose

To provide a report to Council for the establishment of a disciplinary board to investigate allegations of financial misconduct in the municipality and to monitor the institution of disciplinary proceedings.

2. Background

The Constitution of the Republic of South Africa states the developmental objectives

Both the MSA and the MFMA deal with internal systems, consultative processes, performance systems and reporting and mechanisms that are aimed at enhancing municipal accountability and good governance. The MFMA and the MSA are central to improving the financial governance framework within a municipality by clarifying and separating the roles of mayors, councillors and officials, and developing a system of accountability and oversight that is a part of the overall administration of municipal affairs.

3. Discussion

3.1 Establishment of Disciplinary Board

In terms of the Municipal Regulations of Financial Misconduct Procedures and Criminal Proceedings a municipal council or board of directors of a municipal entity must establish a disciplinary board to investigate allegations of financial misconduct in the municipality or municipal entity, and to monitor the institution of disciplinary proceedings against an alleged transgressor. A disciplinary board is an independent advisory body that assists the council or the board of directors with the investigation of allegations of financial misconduct, and provide recommendations on further steps to be taken regarding disciplinary proceedings, or any other relevant steps to be taken.

3.2 Composition of the Disciplinary Board

A disciplinary board must consist of maximum five members appointed on a part-time basis by the council or board of directors for a period not exceeding three years, in accordance with a process as determined by the municipal council or board of directors. The following persons are disqualified from membership of a disciplinary board:

- (a) a person who has been convicted of an offence in terms of this regulation or any other legislation;
- (b) a person who, whether in the Republic or elsewhere, has been convicted of theft, fraud, forgery, the uttering of a forged document or any offence of which dishonesty is an element;
- (c) a person who has at any time been removed from any office of trust on account of misconduct or dishonesty;
- (d) an accounting officer of a municipality or municipal entity; (e) a political office-bearer or a member of a board of directors; and (f) a person who is an office-bearer in a political party.

A member of a disciplinary board must-

- (e) be a natural person;
- (f) be a citizen or permanent resident of the Republic and resident in the province where the municipality is situated; and
- (g) not be disqualified under sub-regulation (5).

A disciplinary board may consist of-

- (a) the head of the internal audit unit within the municipality or municipal entity or representative of an organisation performing internal audit functions for the municipality or municipal entity if the internal audit function is outsourced;
- (b) one member of the Audit Committee of the municipality or municipal entity;
- (c) a senior manager from the legal division in the municipality or municipal entity;
- (d) a representative of the National Treasury or the provincial treasury; and
- (e) any other person as may be determined by the municipal council or board of directors of a municipal entity.

If an official referred to above is implicated in the financial misconduct, the municipality or municipal entity may co-opt a senior manager in another unit, who does not have a conflict of interest.

4. Recommendations

It is hereby recommended that:

- (a) That Council, in terms of the Regulation Municipal Regulations of Financial Misconduct Procedures and Criminal Proceedings establishes a disciplinary board.
- (b) That a disciplinary board consist of-

- i. the head of the internal audit unit within the municipality or municipal entity or representative of an organisation performing internal audit functions for the municipality or municipal entity if the internal audit function is outsourced;
- ii. one member of the Audit Committee of the municipality or municipal entity;
- iii. a senior manager from the legal division in the municipality or municipal entity;
- iv. a representative of the provincial treasury; and
- v. any other person as may be determined by the municipal council or board of directors of a municipal entity.

Recommended for approval



Adv. Tankiso Mea
City Manager

24/10/2018