

<b>Our Ref: DC Board R02/2020</b>	<b>Your Ref: Council 74.1–7/08/2020</b>
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**To: THE SPEAKER**

Item to Council

**RE: COUNCIL RESOLUTION TO REFER A MATTER FOR INVESTIGATION TO THE DISCIPLINARY BOARD**

In response to your letter received on the 04<sup>th</sup> September 2020 about the above mentioned matter, the Board would like to bring the following to your attention:

The Disciplinary Board was established in term of the Local Government Municipal Finance Management Act: Regulations: Financial Misconduct Procedures and Criminal Proceedings.

Section 4(1) of the regulations states that "*a municipal council must establish a disciplinary board to investigate allegations of financial misconduct in the municipality and to monitor the institution of disciplinary proceedings against an alleged transgressor*".

Section 4(2) further states that "*a disciplinary board is an independent advisory body that assists the Council with the investigation of the financial misconduct, and provide recommendation of further steps to be taken regarding disciplinary proceeding, or any other relevant steps to be taken*".

With reference to the above mentioned sections of the regulation it is clear that the Disciplinary Board mandate is to investigate the element of financial misconduct.

Section 5(1) of the regulations also states that "*On receiving a report in terms of regulation 3(1), if the municipal Council is satisfied that there is reasonable cause to believe that an act of financial misconduct has been committed, it must within seven days refer the matter to the DC Board to conduct preliminary investigation into the allegation as envisaged in terms of section 171(4)(a) and 172(3)(a) of the Act*".

In this case it is of importance for the Council to have a clear distinction on whether the matter reported relates to financial misconduct or non-compliance before the decision can be taken to refer the matter to the Disciplinary Board.

In respect of the matter at hand, the Disciplinary Board have read through your referral letter and it is indicated that the matter which is referred to the DC Board under paragraph 3 is as follows:

- Tabling of the 2018/19 Annual Report (Non-Compliance with the MFMA requirement).

The DC Board would like to indicate that this matter is outside our scope as it is a clear non-compliance matter which can be dealt through internal structures.

**Submitted by:**



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**Nozuko Mdaka**

**CHAIRPERSON: DISCIPLINARY BOARD**

Date: 16/09/2020