UTHUKELA DISTRICT MUNICIPALITY COMPLIANCE POLICY 2016/2017

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INTRODUCTION

Enterprise Risk Management (ERM) forms a critical part of any institution's strategic management. It is 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 recognized 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 III 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 Uthukela District Municipality (Council) has established this process. The ERM function was established to position the UDM 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 UDM's compliance risks are identified and effectively managed on a continual basis.

PURPOSE

The purpose of this policy is to:

- Outline UDM'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;
- To provide for processes and systems that facilitate the management of compliance risk and enhance regulatory compliance assurance.

SCOPE OF APPLICATION

This policy shall apply throughout the municipality in as far as Compliance Management is concerned.

COMPLIANCE POLICY STATEMENT

Uthukela District Municipality (UDM) 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 fulfill the expectations of employees, communities and other stakeholders in terms of corporate governance. To this end, UDM will conduct its business in accordance with the letter 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 UDM 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 UDM, 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 UDM'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 process.

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 UDM'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 Charter sets out UDM's approach to managing compliance risks. Further guidance and procedures can be found in the Compliance Manual.

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. UDM takes cognizance of compliance best practice guidelines and standards as outlined by the King III as well as compliance requirements as per applicable legislation.

MANDATE OF COMPLIANCE FUNCTION

The King III Code on Corporate Governance recommends that the Council of UDM take overall accountability for compliance within UDM, 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.

Governance Structure:

UDM has established a Compliance Function, in The Office of The Municipal Manager headed by the Chief Risk & Compliance Officer / Manager Risk & Compliance Management within the Risk & Compliance 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 UDM 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 & Compliance Management Unit and the Risk and Compliance Committee (RCC)

Compliance Roles and Responsibilities

- 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 UDM.
- The Accounting Officer (Municipal Manager) of the UDM is ultimately responsible for implementation of the ERM and compliance policy in UDM.
- All Heads of Departments (HODs) are responsible for implementing ERM and the compliance policy in their respective Departments.
- 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.
- All employees of the UDM are responsible for implementing the compliance policy in accordance with established directives and protocols.

Compliance Function: Risk & Compliance 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 the municipality through inter alia, the following:

- Ensuring that the compliance policy is in line with enterprise wide risk management strategy and framework which is underpinned by the organizational Growth and Development Strategy and the Integrated Development Plan;
- Developing and implementing the compliance policy and manuals;
- Ensuring that standard risk based regulatory compliance processes, including processes to identify the relevant regulatory frameworks; controls and systems are based on international compliance best practice;
- Developing and reviewing the Compliance policy and processes;
- Implement and managing the standard risk based compliance processes, controls and systems across UDM;
- Developing and implementing compliance management techniques, templates and systems for gathering risk information, monitoring compliance management activities, information sharing and reporting.
- Providing technical advice to the accounting officer/council, heads of departments and senior management on compliance risk management strategies;
- Developing and facilitating compliance risk management training and awareness programs at appropriate levels within the UDM to inculcate a compliance culture;
- Ensuring that the Heads of Departments and Senior Management are trained in the application of the various elements of the group compliance process and in the various roles and responsibilities;
- Consolidating the UDM compliance risk profile and escalate critical risks to Risk & Compliance Committee, MANCO, EXCO, Audit Committee and Council.
- Reviewing reports of non-compliance incidents and major frauds and corruption (both potential and actual) including the evaluation of the effectiveness of the response in investigating any loss and preventing future occurrences;
- Assisting departments in facilitating compliance risk assessments and developing compliance risk mitigation strategies;
- Benchmarking the performance of the risk management process to the risk management processes adopted by other municipalities both within South Africa and abroad; and

- Reviewing all compliance reports prior to approval and submission to the relevant stakeholders;
- Developing and monitoring the implementation of the compliance reporting.
- Ensuring that designated UDM employees undergo compliance training and to provide written certification of their compliance with legal requirements and compliance policies and procedures annually.

UDM Compliance Function: Corporate Legal Department

- Identification of the regulatory universe applicable to the UDM and ensuring that it is updated periodically and communicated.
- Conduct or arrange information sessions or workshops to educate on legal compliance requirements and changes to important legislation;
- Provide advice on legal compliance to departments and committees;
- 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 or the Information Officer (as the case may be);
- Compiling PAIA/POPI Manual and coordinate annual statistics and reporting to the Information Regulator and/or any other chapter nine Constitutional Institutions where required;
- Design framework and standards for By-law promulgation and enforcement;
- 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
- Provide a Legal library as an information/research desk available throughout the organization;
- Legal updates - Scrutinize Gazettes for new legislation, notices, etc. and ensuring that all relevant departments and stakeholders are informed;

UDM Departmental Compliance Functions:

- Ensure effective implementation of the standard risk based compliance processes, controls and systems for each respective UDM department;
- Ensure that compliance risk assessments are held annually to review and/or update the regulatory universe applicable and to assess and prioritise compliance risk;
- Ensure that compliance processes and controls relating to material compliance risks are documented in a systematic and standard manner;
- Ensure consistent monitoring and reporting on all compliance risks, assessing that the control environment is adequate and effective.
- 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;

- Establishing and maintaining a compliance culture, in conjunction with management which contributes to the overall objective of prudent risk management of the municipality.
- 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 compliance programs;
- Ensuring that the appropriate staff members are involved and engaged in the application of the various elements of the general compliance process and in implementing compliance programs;
- Ensuring the ongoing monitoring of the implementation of the general compliance process, mitigating steps (i.e. the detailed implementation of compliance programs in the department) and reporting to appropriate governance structures.

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 the 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 Uthukela District Municipality (UDM) in many ways. The mere hint of illegal conduct may alter public opinion and adversely affect the behavior of our community, customers, suppliers, business partners or shareholders.

Remedial Action

Any breach of this compliance policy is considered serious and remedial action will result in disciplinary action taken against the defaulter.

References

- King M.E., 2009 "The King Report on Corporate Governance" by King Committee on Corporate Governance.
- Compliance Institute Compliance Handbook
- UDM Risk Management Framework
- Municipal Finance Management Act, Act No. 56 of 2003
- Municipal Structures Act, Act No. 117 of 1998
- Municipal Systems Act, Act No. 32 of 2000

- COSO, 2004 ERM – Integrated Framework
- ISO 31000:2009 Risk Management
- OHSAS 18001:2007: 2007, Occupational Health and Safety Management Specifications
- Public Sector Risk Management Framework: National Treasury

Review of the policy

The compliance policy and charter shall be reviewed annually to reflect the current stance on compliance and risk management.

Compiled by :

A DOMUN
RISK OFFICER

Date : 30/06/2016

Reviewed by :

BH KHOZA
CHAIRPERSON: RISK, COMPLIANCE & FRAUD PREVENTION

Date : 30/06/2016

Recommended by :

SN KUNENE
MUNICIPAL MANAGER

Date : 30/06/2016

Approved by Council

Date Approved : 30/06/2016

Item Number : A36/06/2016

Resolution : 1. Council adopted the Compliance Policy.
2. A workshop be conducted to Council.
3. Conduct awareness to all employees.