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# ELIAS MOTSOLEDI LOCAL MUNICIPALITY-MASEPALA WA SELEGAE



## COMPLIANCE MANAGEMENT POLICY AND FRAMEWORK

VERSION	COUNCIL RESOLUTION NO	APPROVED DATE	IMPLEMENTATION DATE
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## **1. DEFINITIONS.**

- 1.1. Compliance means – adhering to the requirements of legislation and organisational standards and codes, principles of good governance and accepted community and ethical standards.  
  
“EMLM” – Elias Motsoaledi Local Municipality.  
“MFMA” – Municipal Finance Management Act.  
External Stakeholders – Service Providers and Community Members
- 1.2. Compliance culture means – the values, ethics and beliefs that exist throughout EMLM and interact with EMLM 's structures and control systems to produce norms that are conducive to compliance outcomes.
- 1.3. Compliance Management Framework means – a mechanism through which EMLM can monitor, review and comply with legislation, regulations, statutes, codes, standards, policies and procedures.
- 1.1. Compliance breach or failure means – an act or omission whereby EMLM has not met its compliance obligations, processes or behavioural obligations.
- 1.2. Senior Management or Management means - EMLM staff at a management level who are normally managing different departments and are responsible for the facilitation, monitoring, coordination and communication to EMLM staff their departments on compliance matters.
- 1.3. Obligations means – legislation, regulations, statutes, codes, policies, procedures and service standards to which EMLM must comply.

## **2. INTRODUCTION, SCOPE AND GENERAL.**

- 2.1. Compliance means that EMLM is meeting its obligations in adhering to the requirements of relevant legislations, rules and regulations, service standards, codes of practice, EMLM policies and procedures of good governance and accepted community and ethical standards.
- 2.2. Policies and procedures to achieve compliance should be integrated into all aspects of how EMLM operates with financial, risk, quality, environmental, administrative, Planning and strategic management systems and its operational requirements and Procedures. Compliance should not be seen as a standalone activity, but should be aligned with EMLM's overall strategic objectives.
- 2.3. Effective compliance processes within EMLM will enable Municipality to demonstrate its commitment to overall compliance. Failure to support these values at all levels exposes EMLM to the risk of compliance failure and subsequent risks.

## **3. PURPOSE:**

The purpose of this policy is to:

- 3.1. Outline EMLM's position on and approach to the management of compliance and verification;
- 3.2. To outline roles and responsibilities of key role players and stakeholders;

- 3.3. To facilitate the detection and prevention of non-compliance to regulatory requirements on municipal policies;
- 3.4. To provide for processes and systems that facilitates the management of compliance and enhances regulatory compliance assurance.

#### **4. SCOPE OF APPLICATION**

- 4.1. This policy is designed to provide an outline of the compliance management framework operating within EMLM and to provide a guidance facility to enable all Senior Managers, Managers and Staff to find the advice and tools to enable EMLM 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.
- 4.2. External stakeholders should comply with legislative framework of the Municipality.

#### **5. COMPLIANCE POLICY STATEMENT:**

- 5.1. Elias Motsoaledi Local Municipality (EMLM) is committed to integrity based performance that protects and enhances its stakeholder value and reputation.
- 5.2. It recognises the essential role that compliance, with applicable regulatory requirements plays in the governance and sustainability of its business.
- 5.3. EMLM 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.
- 5.4. To this end, EMLM 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.
- 5.5. Although the task of designing, implementing and monitoring the process of risk management remains the responsibility of management, the Council of EMLM 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.
- 5.6. The management of compliance forms part of the overall compliance 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 within EMLM, rests with all employees. All significant compliance must be assessed, managed and reported using a standardized methodology and a uniform compliance framework.
- 5.7. The Compliance Management department is responsible for advising Management in, designing and implementing appropriate compliance management policies and procedures; awareness and training programs; assessing, monitoring and reporting on the EMM'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 management process.

- 5.8. All instances of non-compliance shall be reported and employees have the option to report such non-compliances or potential non-compliances to the compliance management unit.
- 5.9. It is EMLM's policy to independently investigate all instances of non-compliance and to take the appropriate steps to mitigate the consequences of non-compliance.
- 5.10. Our commitment to compliance management is an expression of our commitment to Batho-Pele principles and good governance.

## **6. 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. EMLM takes cognizance of compliance best practice guidelines and standards as outlined by the King IV as well as compliance requirements as per applicable legislation.

### **6.1 MANDATE OF COMPLIANCE FUNCTION:**

The King VI Code on Corporate Governance recommends that the Council of EMLM take overall accountability for compliance within EMLM, 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 managers 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 that the provisions MFMA, to the extent applicable to that senior manager or official, including any delegations in terms of section 79, are complied with.

### **6.2 GOVERNANCE STRUCTURE:**

EMLM has established a centralized, independent Compliance Function, headed by the manager compliance and verification, who is responsible for the management of the general mandate of the Compliance Function and compliance processes, controls and systems are applied consistently in all departments in order to provide absolute assurance that EMLM complies with all applicable laws and that all non-compliance with applicable legislative requirements / laws are reported.

## **7. ROLES AND RESPONSIBILITY**

- 7.1 The EMLM Council, Mayor and all levels of Management should actively demonstrate commitment to inculcate compliance culture within EMLM.
- 7.2 The EMLM Council and Mayor has an oversight responsibility for compliance management and for approving the compliance policy.
- 7.3 Audit Committee: -
  - 7.2.1 Ensuring that they receive regular reporting on compliance activities, risks and other related issues.
  - 7.2.2 Identifying and requesting follow – up actions were necessary.
- 7.4 The Municipal Manager (Accounting Officer) is responsible for:-
  - 7.4.1 Implementing the compliance policy, compliance strategy and compliance management framework.
  - 7.4.2 Ensuring that he/she receives adequate reporting on compliance.
  - 7.4.3 Fostering and encouraging a compliance culture within EMLM.
  - 7.4.4 Ensuring that compliance issues escalated to his /her attention and considered and actioned accordingly.
- 7.5. All Senior Managers and Managers are responsible for: -
  - 7.5.1. Fostering and encouraging a compliance culture, by example, within EMLM and integrating compliance processes into normal business practices.
  - 7.5.2. Remaining aware of the compliance obligations within their departments/areas of control.
  - 7.5.3. Cooperating with and supporting the compliance management unit and encouraging all staff to do the same in relation to the development and implementation of a compliance framework.
  - 7.5.4. Encouraging all the staff to participate in relevant compliance induction programs.
  - 7.5.5. Identifying, documenting and communicating compliance obligations and risks within their areas of responsibility/departments, with the support of the compliance management unit, and developing relevant processes to meet those obligations.
  - 7.5.6. Actively participating in the management and resolution of compliance related complaints, incidents and issues.
  - 7.5.7. In conjunction with the compliance management unit, developing and implementing systems for reporting, feedback mechanisms and complaints management, and monitoring compliance performance.
  - 7.5.8. Reporting of all compliance-related complaints and compliance failures within their areas of control, to the compliance management unit.

7.6. All staff are responsible for:-

- 7.6.1. Adherence to the compliance relevant to their position.
- 7.6.2. Undertaking training in accordance with the compliance program.
- 7.6.3. Reporting and escalating compliance concerns, issues, complaints and failures.
- 7.6.4. Performing their duties in an ethical, lawful and safe manner.

7.7. Compliance Management Unit is responsible for:-

- 7.7.1. Developing, implementing and continuously improving a compliance management framework.
- 7.7.2. Identifying compliance obligations and risks with the support of relevant Managers, Staff and EMLM's legal services and developing control or minimisation strategies/actions.
- 7.7.3. Integrating compliance obligations into existing practices and procedures.
- 7.7.4. Ensuring compliance is factored into position descriptions and performance management processes.
- 7.7.5. Identifying compliance training needs and organising ongoing training support for Directors, Managers and staff on compliance issues.
- 7.7.6. Developing and implementing a compliance reporting and documenting system.
- 7.7.7. Monitoring and measuring compliance performance and analysing performance to identify the need for corrective action.
- 7.7.8. Ensuring the compliance management framework is reviewed on regular basis.
- 7.7.9. Assisting with the implementation and maintenance of the compliance management process.
- 7.7.10. Reporting of compliance concerns, issues, complaints and failures on regular basis.
- 7.7.11. Assessing and reporting results of compliance efforts.
- 7.7.12. Ensuring that all Municipal activities comply with legislation, rules and regulations applicable to Local Government.
- 7.7.13. Ensuring that the Municipality's policies and procedures are adhered to.
- 7.7.14. Ensuring compliance to Batho Pele principles
- 7.7.15. Providing compliance reports on regular basis and as directed or requested.
- 7.7.16. Providing guidance to Senior Management on matters relating to compliance.

7.8. Internal Audit is responsible for:

- 7.8.1. To provide risk -based internal audit services Functions.
- 7.8.2. To provide internal audit services.
- 7.8.3. To monitor compliance to rules and regulations.
- 7.8.4. To provide a pre-investigation service.

7.9. Other Stakeholders are responsible for:

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

## **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 EMLM may include Council resolutions, Departmental service standards, Batho Pele principles, statutes and codes, Guidelines and Frameworks.
- 8.1.3. The compliance management unit will, in conjunction with Senior Managers, Managers and key staff systematically identify EMLM'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 EMLM policies and other obligations to which EMLM must be compliant, including but not limited to:

- 8.2.1. Statutory requirements that affect EMLM operations.
- 8.2.2. EMLM processes that are affected by statutory obligations.
- 8.2.3. Risks associated with compliance failures by EMLM 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 EMLM 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. TRAINING, ADVICE AND SUPPORT**

### **9.1 Objectives of Compliance training:**

- 9.1.1. To ensure that employees understand regulatory obligations and compliance requirements that impact on their jobs
- 9.1.2. To ensure that employees understand consequences of non-compliance.
- 9.1.3. To promote a culture of compliance

### **9.2 Training Needs Identification**

- 9.2.1. A generic compliance-training program will be developed by the compliance management unit in conjunction with Senior Managers; Managers and key staff. This training program will be included in the induction of all new staff and a program for delivery to existing staff will be developed.
- 9.2.2. The compliance management unit throughout the compliance process will undertake continuous assessment of other compliance training needs. Training needs assessments will be based upon:
  - Identified gaps in employee knowledge and competence.
  - Changes in staff position or responsibilities.
  - Changes in internal processes, policies or procedures.
  - Changes in statutory obligations.
  - Issues arising out of monitoring, auditing, reviews, complaints and incidents.

## **10 PROVISION OF TRAINING PROGRAMS**

Where considered applicable, and in conjunction with Senior Manager; Managers and key staff, compliance training programs will be delivered in the format considered most appropriate and cost effective to maximise delivery. Education and training programs will be:

- 10.1. Part of the induction where applicable.
- 10.2. On-going from time to time.
- 10.3. Aligned to EMLM's training system.
- 10.4. Relevant to the day to day work of the staff and illustrative of the compliance needs of EMLM.
- 10.5. Sufficiently flexible to accommodate the differing needs of departments and staff.
- 10.6. Assessed for effectiveness
- 10.7. Updated as required
- 10.8. Practical and readily understood by staff.
- 10.9. Attendance monitored and recorded.
- 10.10. Monitoring of training attendance will be undertaken to ensure that key staff are receiving guidance to maximise compliance.

## **11 ADVICE AND SUPPORT FROM THE COMPLIANCE OFFICE**

Advice and Support will continuously available from the compliance and verification office.

## **12 MONITORING; VERIFICATION AND REPORTING**

### **12.1 Monitoring and Consultation**

- 12.1.1. Compliance is a dynamic environment with constant changes occurring both in statutory obligations and internal processes.
- 12.1.2. On-going communication between directors, managers, manager compliance and verification and all staff is essential to ensure that EMLM continues to adhere to all its obligations.
- 12.1.3. Effective monitoring aims to check that people are doing what they ought to be doing and that the system is operating satisfactorily.
- 12.1.4. Monitoring is what frequently identifies problems and one aspect that is present in all monitoring processes is an examination of all EMLM activities to obtain reasonable assurance that these activities are conducted in compliance with relevant regulatory requirements.

### **12.2 Compliance monitoring processes will be conducted by:**

- 12.2.1. EMLM Council
- 12.2.2. Mayor
- 12.2.3. Audit Committee
- 12.2.4. The Municipal Manager (Accounting Officer)
- 12.2.5. Senior Managers and Managers
- 12.2.6. Internal and External Audit
- 12.2.7. Compliance Management Unit

### **12.3 Verification Processes:**

The verification processes shall be in line with MFMA section 78(1) (a-e) but not limited to: -

- 12.3.1. To verify if the system of financial management and internal control established for the municipality is carried out diligently prior implementation.
- 12.3.2. To verify if the financial and other resources of the municipality are utilised effectively, efficiently, economically and transparent.
- 12.3.3. To verify if any unauthorised, irregular or fruitless and wasteful expenditure and any other losses are prevented.
- 12.3.4. To verify if all revenue due to the municipality is collected.
- 12.3.5. To verify if the assets and liabilities of the Municipality are managed effectively and that assets are safeguarded and maintained to the extent necessary.

## **12.4 Compliance/non-compliance reporting**

Compliance/Non Compliance report will contain the following: -

- 12.4.1. Purpose
- 12.4.2. Background
- 12.4.3. Requirements of the Act / Regulation or Policy
- 12.4.4. Findings
- 12.4.5. Recommendations

## **13 COMPLIANCE RISK ASSESSMENT REVIEWS**

The risk of compliance failure should be assessed by relevant managers, key staff in conjunction with the compliance management unit whenever there are: -

- 13.1. New or Major changes to the EMLM activities or services.
- 13.2. Changes to the structure and EMLM strategy.
- 13.3. Significant external changes.

## **14 FEEDBACK MECHANISMS OR INDICATORS**

Processes will be developed to seek and receive feedback on EMLM's compliance, Performance from a range of sources including:

- 14.1. Staff – through feedback surveys
- 14.2. Customers – through analysis of compliance related complaints.
- 14.3. Issues and non-compliance reported by type and departments.
- 14.4. Percentage of staff trained effectively

## **15 REMEDIAL ACTION**

Any breach/violation of this compliance policy is considered serious and remedial action would be instituted, and proper sanctions will be effected (upon guilty verdict/ if found guilty)

## **16 REVIEW OF COMPLIANCE MANAGEMENT POLICY AND FRAMEWORK**

This Policy shall be reviewed as and when required.

## **17 IMPLEMENTATION OF THE COMPLIANCE MANAGEMENT POLICY AND FRAMEWORK**

Implementation of this Compliance Management Framework Policy will take effect from the day approval by council.

<b>18 APPROVAL</b>
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**REVIEWED BY:**

**M.M KGWALE  
MUNICIPAL MANAGER**

**DATE: 29 JUNE 2023**

**APPROVED BY:**

**M.D TLADI  
MAYOR OF COUNCIL**

**DATE: 29 JUNE 20203**

**COUNCIL RESOLUTION NO: C22/23-56**