ELIAS MOTSOALEDI LOCAL MUNICIPALITY- MASEPALA WA SELEGAE

COMPLIANCE MANAGEMENT POLICY AND FRAMEWORK

FINANCIAL YEAR
2019/2020

VERSION	COUNCIL RESOLUTION NO	APPROVED DATE	IMPLEMENTATION DATE
1	M 18/19-43	29 OCTOBER 2019	29 OCTOBER 2019

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 heading 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 it 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;

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 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.

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 chief compliance officer.

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
(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.

6.2 GOVERNANCE STRUCTURE:

EMLM has established a centralized, independent Compliance Function, headed by the Chief Compliance and Verification Officer, 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 Mayor, EMLM Council and all levels of Management should actively demonstrate commitment to inculcate compliance culture within EMLM.

7.2 The Mayor and EMLM Council has an oversight responsibility for compliance management and for approving the compliance policy.

7.3 The Municipal Manager (Accounting Officer) and the Senior Managers are responsible for:-
   7.3.1. Endorsing the compliance policy, compliance strategy and compliance management framework.
   7.3.2. Ensuring that they receive adequate reporting on compliance.
   7.3.3. Fostering and encouraging a compliance culture within EMLM.
   7.3.4. Ensuring that compliance issues escalated for their attention are considered and actioned accordingly.

7.4. Audit Committee: -
   7.4.1. Ensuring that they receive regular reporting on compliance activities, risks and other related issues.
   7.4.2. Identifying and requesting follow – up actions were necessary.

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 Chief Compliance and Verification Officer 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 Chief Compliance and Verification Officer, 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 chief compliance and verification officer, 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 chief compliance and verification officer.

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. Chief Compliance and Verification Officer 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 chief compliance and verification officer 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 chief compliance officer 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. Continuous assessment of other compliance training needs will be undertaken by the Chief Compliance Officer throughout the compliance process. 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, chief compliance and verification officer 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.   The Municipal Manager (Accounting Officer)
12.2.3.   Senior Managers and Managers
12.2.4.   Audit Committee
12.2.5.   Internal and External Audit
12.2.6.   Chief Compliance and Verification Officer

12.3   Verification Processes:

The verification processes include the following but not limited to: -

12.3.1.   Compliance check list(s) shall accompany all the tender specifications; section 32 tender processes; 2/3 quotations and payments before approval to prevent any possible unauthorised, irregular; fruitless and wasteful expenditure and shall be verified by the Chief Compliance and Verification Officer before approval by Municipal Manager (Accounting Officer).
12.3.2.   Tender(s); RFQ(s) and Vacancies advertisements shall be verified before approval by Municipal Manager (Accounting Officer).
12.3.3.   Deviation or Ratification and variation orders shall be verified before recommendation by Chief Financial Officer and before approval by Municipal Manager (Accounting Officer).

12.4   Compliance/non-compliance reporting

Compliance/Non Compliance report will contain the following: -

12.4.1.   Executive Summary
12.4.2.   Formal Acknowledgement
12.4.3.   Responsibility for compliance
12.4.4.   Objectives, Terms of reference and scope
12.4.5.   Issues, Recommendations and action plan
12.4.6.   Conclusion

13   COMPLIANCE RISK ASSESSMENT REVIEWS

The risk of compliance failure should be assessed by relevant managers, key staff in conjunction with the Chief Compliance and Verification Officer 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 suctions will be effected (upon guilty verdict/ if found guilty)

16 REVIEW OF COMPLIANCE MANAGEMENT POLICY AND FRAMEWORK

The Compliance Management Framework Policy will be reviewed annually from the date of its approval or when a need arises unless determined by the EMLM Council.

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.

18 COUNCIL RESOLUTION FOR THE APPROVAL OF THE POLICY

M18/19-43   **COMPLIANCE MANAGEMENT POLICY AND FRAMEWORK 2019/2020:**

RECOMMENDATIONS

1. That Council approve the 2019/2020 Compliance Management policy and Framework

ORDINARY COUNCIL MEETING: 29 OCTOBER 2019
RESOLVED

1. That Council approves the 2019/2020 Compliance Management policy and Framework