



**GREATER TZANEEN MUNICIPALITY
GROTER TZANEEN MUNISIPALITEIT
MASIPALA WA TZANEEN
MASEPALA WA TZANEEN**



Tropical Paradise

P.O. BOX 24

TZANEEN

0850

TEL: 015 307 8000

CONSEQUENCE MANAGEMENT POLICY

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Stuba

[Signature]

Notwithstanding the review date herein, this policy shall remain effective until such time approved otherwise by Council and may be reviewed on an earlier date, if necessary.

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CONSEQUENCE MANAGEMENT POLICY

1. PREAMBLE

The constitution provides that a Municipal administration as a public administration must be governed by democratic values and principles which amongst other include the promotion of efficiently, economic and effective use of resources, accountable municipal administration and fostering of transparency.

As an organ of state, the Greater Tzaneen Municipality collect revenue from the public in the form of rates, taxes, levies, surcharges, duties and service charges. The Municipality also receive grants from National and Provincial spheres of government. The municipality also borrow for Capital expenditure or bridging finance for short term purposes.

In terms of section 4 (2) (a) of the Municipal Systems Act, Council has a duty to use the resources of the Municipality in the best interest of the community. In order to realise the above cited legislative sentiment as expressed by the Act, internal control must be strengthened and applicable legislation complied with.

The Greater Tzaneen Municipality has in successive financial years incurred unauthorised, irregular, fruitless and wasteful expenditure whereas some of which could have been avoided.

Chapter 15 of the MFMA enables accountability for both political office bearers and municipal officials and provides the framework through which municipalities must implement consequence management for failure to adhere to the prescripts of the MFMA as well as its regulations.

This policy is intended to promote good governance and to achieve consequence management with a view of prevention of; implementation of remedial measures and taking of disciplinary actions in regard to instances of unauthorised, irregular, fruitless and wasteful expenditure.

2. DEFINITIONS

2.1. Councillors

- Councillors means ordinary councillors including whips of opposition parties.

2.2. Disciplinary Charge

- Disciplinary Charge is a charge initiated in terms of, MSA Code of Conduct for Councilors; the Disciplinary Regulations for Senior Managers, Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, SALGBC Disciplinary Procedure.

2.3. Fruitless and wasteful expenditure

- Fruitless and wasteful expenditure is expenditure which was made in vain and would have been avoided had reasonable care been exercised. This refers to a transaction, event or condition which was undertaken without value or substance and which did not yield any desired results or outcome.

2.4. Irregular expenditure

- Irregular expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation and policies, including –
 - Municipal Finance Management Act (MFMA)
 - MFMA Regulations and Instructions (and circulars)
 - Greater Tzaneen Municipal Supply Chain Policy; and
 - All other applicable legislation and policies

2.5. Unauthorised expenditure

Unauthorised expenditure in relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11(3) of MFMA, and includes —

- (a) overspending of the total amount appropriated in the municipality's approved budget;
- (b) overspending of the total amount appropriated for a vote in the approved budget;
- (c) expenditure from a vote unrelated to the department or functional area covered by the vote;
- (d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;
- (e) spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of "allocation" otherwise than in accordance with any conditions of the allocation; or
- (f) a grant by the municipality otherwise than in accordance with the MFMA.

2.6. Manager

For purpose of this policy manager means Municipal Manager, Directors, Managers and Supervisor

2.7. Political Office Bearer means the Mayor, Speaker, Whip, Head of Portfolios, Chairpersons of Portfolio Committees and Municipal Public Accounts Committee.

3. LEGISLATIVE FRAMEWORK

This policy has been developed in line with the following enabling legislation and policy documents:

- (a) The Constitution of the Republic of South Africa, 1996, Act No 108 of 1996;
- (b) The Municipal Finance Management Act, 2003, No 56 of 2003;

- (c) Municipal Systems Act, 2000, Act No 32 of 2000
- (d) Municipal Structures Act 3 of 2021 as amended
- (e) MFMA Circular 68 October 2021
- (f) Greater Tzaneen Supply Chain Management Policy
- (g) Financial Advisory and Intermediary Services Act, 2002, Act 37 of 2002
- (h) Financial Intelligence Centre Act, 2001, Act 38 of 2001.
- (i) Prevention and Combating of Corrupt Activities Act No 12 of 2004
- (j) Financial Misconduct Regulations
- (k) Public Audit Amendment Act 25 of 2004
- (l) Criminal Procedure Act 51 of 1977
- (m) Labour Relations Act 66 of 1995
- (n) Consequence Management and Accountability Framework – 2022

4. APPLICABILITY OF THIS POLICY

This policy applies to all officials and councillors of Greater Tzaneen Municipality. The application of this policy must take into consideration relevant legislation and policy documents.

5. POLICY OBJECTIVES

- 5.1 To prevent the occurrence of unauthorised, irregular, fruitless and wasteful expenditure.
- 5.2 To provide measures for identification and investigation of unauthorised, irregular, fruitless and wasteful expenditure.
- 5.3 To respond appropriately with remedial measures in accordance with the law.
- 5.4 To address instances of authorised, irregular, fruitless and wasteful expenditure through implementation of disciplinary policy and procedures.
- 5.5 To address related matters which may lead to incurring of loss by the municipality.

6. MEASURES TO PREVENT UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE.

6.1 Council will implement measures to prevent unauthorized, irregular, fruitless and wasteful expenditure as follows:

- (a) Conduct training on Supply Chain Management for all employees who are in one way or another involved or whose duties entail Supply Chain processes.
- (b) Conduct yearly induction and / or re-induction course to all employees involved or whose duties entail supply chain processes.
- (c) Employees must be made to fully understand their responsibilities and training programmes will be implemented to ensure that they are properly capacitated.
- (d) Managers must ensure that expenditure, with special emphasis on issues of unauthorized, irregular, fruitless and wasteful expenditure, is discussed in Departmental and Divisional meetings.
- (e) Managers must share best practices in prevention of unauthorized, irregular fruitless and wasteful expenditure.
- (f) The Municipality must raise awareness of fraud and/or corruption and adherence to policies of council in order to enforce the principles of consequence management.

7. IDENTIFICATION OF AND DEALING WITH UNAUTHORIZED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE.

- 7.1 The Risk and Compliance Office must in their daily activities ensure identification of cases of unauthorized, irregular, fruitless and wasteful expenditure.
- 7.2 Managers must scrutinise procurement processes within their department, division and units with a view to identify unauthorized irregular, fruitless and wasteful expenditure.
- 7.3 Once an unauthorized, irregular, fruitless and or wasteful expenditure is identified, the relevant manager must ensure that the matter is submitted to Council for consideration.
- 7.4 Once an unauthorized, irregular, fruitless and or wasteful expenditure is identified, it may be investigated by risk and compliance and audit divisions and/or appropriate structure established for such purposes.
- 7.5 Council will be guided by the Municipal Finance Management Act, Act 56 of 2003 in dealing with unauthorized, irregular fruitless and wasteful expenditure.
- 7.6 Council may authorize an unauthorized expenditure after consideration of various factors relating to the unauthorized expenditure.
- 7.7 Unless the unauthorized expenditure has been authorized by council in an adjustment budget, it must be recovered from liable official or political office-bearer.

- 7.8 Council may write off irregular expenditure if after an investigation by Council Committee the irregular expenditure is certified as irrecoverable.

8. ROLE PLAYERS IN IMPLEMENTING THE CONSEQUENCE MANAGEMENT POLICY

8.1 Accounting Officer/Municipal Manager

The Municipal Manager must lead the municipality and take final responsibility for prudent financial management, which includes proper implementation of the Consequence Management Policy.

8.2 Chief Financial Officer

The CFO should be pro-active in submitting any information about any non-compliance with the MFMA (or other financial wrongdoing) to the appropriate receiving party. If disciplinary proceedings result, those proceedings must be conducted in terms of the applicable agreement or regulations.

8.3 Human Resources

One of the core functions of HR is to ensure the proper application of discipline within the organisation. This means ensuring that disciplinary processes are instituted, that the correct legal and procedural processes prevail and that cases are concluded expeditiously.

HR must play a role in ensuring that where disciplinary infractions are established, appropriate reports are made to ensure that the culprits' details are captured in the database to prevent them being re-employed by the municipality for the applicable period. HR should also play a leading role in ongoing education of all staff about the Consequence Management Policy and its operations.

8.4 Disciplinary Board

The primary task of the Board is to assist the municipality with the investigation of allegations of financial misconduct and based on the outcomes of its investigation, make recommendations on appropriate steps to be taken regarding disciplinary proceedings, criminal charges, and/or any other relevant steps that may need to be taken; and monitor the execution of steps taken against an implicated person.

8.5 Municipal Public Accounts Committee (MPAC)

The MPAC should not be involved in municipal consequence management except insofar as it may supply the Board with information on possible cases for investigation, and follow-up where recovery of funds is recommended.

8.6 The Mayor

The Mayor should ensure that conflicts of interest are pro-actively managed in the municipality. And further ensure that supporting systems and processes are developed for declarations of interest in line with Sec. 7 of the Code of Conduct for Municipal Councillors in the amended Municipal Structures Act, and Ss 5 and 5A of the Code of Conduct for Municipal Staff Members in the Municipal Systems Act.

8.7 The Speaker

The Speaker must ensure compliance with the Code of Conduct for Councillors in terms of the Municipal Structures Amendment Act 3 of 2021, and if the Speaker is of the opinion (based on a reasonable suspicion) that a breach has occurred, must do the following: first, authorize an investigation; second, give the councillor a reasonable opportunity to reply in writing to the allegations and finally, (and only after doing those two things), report the matter to Council.

8.8 Officials

All officials should report all information they have about financial misconduct in terms of the MFMA by other official/s in line with the policy for confidential reporting of allegations of financial misconduct as required by the Financial Misconduct Regulations and the Code of Conduct for Municipal Officials.

The recipient of the information must ensure that the allegation is processed consistent with the reporting framework in the Financial Misconduct Regulations. Officials should note that it is a criminal offence in terms of the Prevention and Combating of Corrupt Activities Act (PRECCA) for an official, in a position of authority (as contemplated in the Act) and who is (or ought reasonably to be) aware of financial wrongdoing within the municipality not to report this to the relevant authorities.

9. OTHER MEASURES FOR CONTROL AND TO ENSURE CONSEQUENCES FOR MISCONDUCT

9.1 Internal Audit

Other roles of Internal Audit include, but are not limited to:

- 9.1.1 Examining root causes of the control breakdown to determine if similar exposure remains elsewhere in Greater Tzaneen Municipality; and
- 9.1.2 Assist in strengthening controls to help prevent and detect similar instances of fraud and/or misconduct in future and to prevent and detect such incidents in other units/departments.

9.2 Legal

- 9.2.1 The Legal division must consider recovering any losses as required by section 32 of the Municipal Finance Management Act 56 of 2003 (Stipulated in section 1.14) via alternative means, such as:

- (a) Recovering the loss from any monies due to the individual on termination if the perpetrator is an employee, including the individual's accrued benefits in GTM's Pension Fund/Scheme;
- (b) If the individual will not voluntarily make good the loss, consideration should be given to taking civil action to recover the loss;
- (c) Asset forfeiture procedures; or
- (d) In the event of criminal proceedings, an application for an order in terms of section 300 of the Criminal Procedure Act No 51 of 1977.

9.2.2 It is also the responsibility of the Legal division to ensure, where applicable, that compliance with the terms of section 34 of the Prevention and Combating of Corrupt Activities Act No 12 of 2004.

9.3 Accounting Officer

All fraud losses must be reported to the Municipal Manager immediately in order to be recorded and reported as "Fruitless and Wasteful expenditure" in line with the requirements of section 32 of the Municipal Finance Management Act 53 of 2003.

9.4 Case management

Greater Tzaneen Municipality will maintain a fraud and/or corruption reporting system to enable the Council and Municipal Manager to:

- (a) Fulfill its corporate governance responsibilities;

(b) Appraise itself as well as senior management of the full impact of fraud and/or corruption; and

(c) Identify trends of suspicious activity, areas of particular risk or malicious non-adherence to policies of council.

This system is inter alia, utilized to record suspicion/incident reporting, case registration, case monitoring, and investigation results in a uniform manner.

9.5 Recoveries and liabilities

Recoveries should be made in line with the requirements of Section 32 of the Municipal Finance Act 53 of 2003, as follows:

9.6 Public Relations

The accounting officer must periodically communicate to the wider employee population about appropriate actions taken against employees who committed acts of fraud and/or corruption or omitted or disregarded adherence to policy.

10 DISCIPLINARY CHARGES FOR UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

9.1. Every investigation will take into consideration the role played by any official or political office bearer in the procurement process leading to an unauthorized, irregular, fruitless and wasteful expenditure.

9.2. If, after having investigated and considered unauthorized, irregular, fruitless and wasteful expenditure, council concludes that an official or political office bearer or councillor did not act in good faith in permitting or authorizing irregular expenditure, the municipality must consider instituting disciplinary action and/ or criminal charges against liable persons.

9.3. When disciplinary actions are taken against an official or political office bearer or councilor, the following must be taken into account:

- (a) the circumstances of the transgression;
- (b) the extent of the expenditure involved; and
- (c) the nature and seriousness of the transgression.

9.4. In an event where disciplinary actions are taken, depending on the position of the person involved, whether is a political office bearer, senior manager or other officials, the Code of Conduct for Councilors, the Disciplinary Regulations for Senior Managers, 2010, contained in Government Notice 344 as published in the Government Gazette No. 34213 of 21 April 2011, Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, Government Gazette No. 37682 of 30 May 2014 and SALGBC Disciplinary Procedure.

10. POLICY IMPLEMENTATION AND REVIEW

This policy will be implemented immediately after Council approval and be reviewed every after three years unless the legislative or policy environment dictate otherwise.