



MSINGA MUNICIPALITY

Consequence Management Policy: Directives on Financial Misconduct

Policy Number	CMP 01/2017
Policy Name	Consequence Management Policy : Directive On Financial Misconduct
Policy status	Approved
Version	No. 1
Date of approval	27 May 2020
Date of next review	May 2021
Policy custodian	Chief Financial Officer
Approving Authority	Council
Applicability	This policy and implementation strategy applies to all permanent and contract employees as well as councilors of Msinga Municipality
Policy Benchmark and References	The constitution of the Republic of South Africa , 1996: The Municipal System Act , 2000(Act 32 of 2000) :

**POLICY DIRECTIVES ON FANANCIAL MISCONDUCT
UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE**

PURPOSE

A policy directive on unauthorized, irregular or fruitless and wasteful expenditure: and how to deal with cases which are considered financial misconduct under the Municipal Finance Management Act, No. 56 of 2003, and section 29, 32 and 62.

BACKGROUND

As a result of various reasons very often municipality have found themselves faced by situations of unauthorized , irregular or fruitless and wasteful expenditure. To address the situation, the Municipal finance Management Act, No.56 of 2003, Section 29, 32 and 62 stipulates regulations to be followed to ensure effective financial management.

Definition

For the purposes of this policy, the following definitions apply:

“Irregular Expenditure”: Expenditure, other than unauthorized expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including:

- a. The MFMA:
- b. Msinga Municipality Supply Chain Management Policy drawn in Terms of Chapter 11 of the MFMA : and

- c. Any provincial legislation providing for procurement procedures in that provincial government.

“Unauthorized Expenditure”

- a. Overspending of a vote or a main division within a vote :and
- b. Expenditure not in accordance with the purpose of a vote or, in the case of a main division, not in accordance with the purpose of the main division.

“Fruitless and Wasteful Expenditure”: Expenditure which was made in vain and would have been avoided had reasonable care been exercised.

“Vote”: One of the main segments into which a budget of a municipality is divided for the appropriation of money for different departments or functional areas of the municipality: and which specifies the total amount that is appropriated for the purpose of the department or functional area concerned.

“Overspending”: When expenditure under the vote exceeds the amount appropriated for that vote or when the expenditure under the department exceeds the amount appropriated for that department.

“Unforeseen and unavoidable expenditure” (section 29, MFMA):

- In terms of section 29 of the MFMA the mayor of a municipality may in emergency or other exceptional circumstances authorize unforeseeable and unavoidable expenditure which no provision was made for it in an approved budget.
- Any such expenditure must not exceed a prescribed percentage of the approved annual budget (Refer to Budget Guidelines for percentage). The expenditure must be reported by the Mayor to council in its next meeting. It must be appropriated in the next budget adjustments.

- If such budget adjustments are not passed by Council within 60 days the expenditure shall be considered unauthorized.

“Unauthorised, irregular or fruitless and wasteful expenditure” (section 32, MFMA):

- A political office – bearer is liable for unauthorized expenditure if that office bearer knowingly or after having been advised by the accounting officer of the municipality that the expenditure is likely to result in unauthorized expenditure, instructed an official of the municipality to incur the expenditure.
- The accounting officer is liable for unauthorized expenditure deliberately or negligently incurred by the accounting officer. The accounting officer is however not liable if he informed the mayor, council or the executive committee in writing that the expenditure is likely to be unauthorized, irregular or fruitless and wasteful should it be incurred.
- Any political office bearer or official who deliberately or negligently commit, made or authorize an irregular, fruitless and wasteful expenditure is liable for that expenditure.

Actions following discovery of unauthorized, irregular or fruitless expenditure (section 32, SS 2, 3,4,5,6 and 7)

- The municipality shall recover unauthorized, irregular or fruitless and wasteful expenditure from the person or persons liable for that expenditure.
- The accounting officer must promptly inform the mayor, the MEC for local government and housing in the Northern Cape and the Auditor-General, in writing of any unauthorized, irregular or fruitless and wasteful expenditure, whether any person is responsible or under investigation for such expenditure and the steps taken to recover or rectify such expenditure and prevent a recurrence of such expenditure.
- The accounting officer must report to the South Africa Police Service all cases of alleged irregular expenditure that constitute a criminal offence and cases of theft and fraud that occurred in the municipality.

- The council of the municipality must take all reasonable steps to ensure that cases of fraud and theft are reported to SAPS if the charge is against the Accounting Officer or if the Accounting Officer fails to report such cases against any official of the municipality.

Consultation: Municipal Manager: was discussed and approved.


Contact Person: Chief Financial Officer – 033 493 0761 / 2

RECOMMENDATION

In the events of unauthorized, irregular or fruitless and wasteful expenditure being incurred at Msinga Municipality the following will apply in line with the provisions of the MFMA:

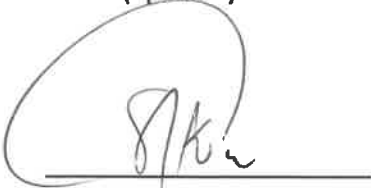
- Investigation of alleged financial misconduct:
- The municipality shall investigate allegations of unauthorized , irregular or fruitless and wasteful expenditure against any political office bearer, the accounting officer, the chief financial officer, a senior manager or other official of the municipality:
- If the investigation warrants such a step, institute disciplinary proceedings against the political office bearer, the accounting officer, chief financial officer or that senior manager or other official in accordance with the MFMA and systems and procedures referred to in section 67 of the Municipal Systems Act, read with schedule 2 of that Act.
- If anybody is found guilty of financial misconduct, such person(s) shall be liable to legal action with regard to recovery of the money.

Approval of the policy



**Mr. TL Kunene
(Speaker)**

Resolution No: 23/2020 FC



**Mr. SL Sokhela
(Accounting Officer)**

Approval Date:27/05/2020