



GAUTENG PROVINCE

HUMAN SETTLEMENTS
REPUBLIC OF SOUTH AFRICA

CONSEQUENCE MANAGEMENT POLICY FOR IRREGULAR EXPENDITURE

Version 1
October 2023

1.POLICY INFORMATION

Document Title	Consequence Management Policy for Irregular Expenditure	
Document Owner	Office of the CFO	
Type of Policy	Administration Policy	
Annexures	Annexure A: Irregular Expenditure Flow Chart	
Recommended By	Policy Review Committee	
Approved By	Head of Department	
Date Developed	October 2023	
Distribution	All GDHS employees	
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New or existing policy	New	
Date of revision	June 2023	
Version of the policy	1.0	
Effective Date of the policy	Upon signature	
Author	Policy and Research Unit	
Remarks	This is a new policy	

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1. ACRONYMS

NO.	ACRONYMS	MEANING
1.1	AGSA	Auditor General of South Africa
1.2	CFO	Chief Financial Officer
1.3	CCMA	Commission for Conciliation, Mediation and Arbitration
1.4	HOD	Head of Department
1.5	LRA	Labour Relations Act No 1 of 1995 as amended
1.6	MEC	Member of Executive Council
1.7	PFMA	Public Finance Management Act No 1 of 1999 as amended
1.8	PSCBC	Public Service Co-Ordinating Bargaining Council

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2. DEFINITIONS

NO.	TERMS	DEFINITIONS
2.1	Accounting Officer	Head of the Gauteng Department of Human Settlements.
2.2	Assessment	A test conducted by a loss control function or another relevant function to identify possible irregularities in transaction processed and to confirm the allegations of irregular expenditure.
2.3	Checklist	A list of non-compliance and alleged cases of irregular expenditure in progress.
2.4	Condonation	A process whereby the relevant authority acknowledges the irregular expenditure and pardons the incurrance thereof.
2.5	Consequence Management	A process where proactive and reactive measures are implemented to ensure accountability in incidences of irregularity and/or financial loss.
2.6	Investigation	A formal probe conducted by internal audit function or another relevant function to analyse the particulars of non-compliance to establish the facts about the transaction related to any fraudulent, corrupt, or criminal act.
2.7	Irregular Expenditure	An 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 public Finance Management Act 1 of 1999

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		<p>(b) The national Treasury Regulations</p> <p>(c) The national Treasury Instruction issued in terms of sec 76 of PFMA.</p> <p>(d) Any applicable legislation</p> <p>Irregular expenditure is incurred when the resulting transaction is recognised as expenditure in the Statement of Financial Position of the Department in accordance with the International Financial Reporting Standards.</p>
2.8	Transgression	Any act or omission not in line with relevant policy and/or legislation.
2.9	Treasury	Gauteng Provincial Treasury
2.10	Senior Managers	Senior Managers appointed by the Department in line with the Public Service Act.

3. PREAMBLE

The management of spending in public service has always been a risk management factor in state organs and state institutions. There has since been a myriad of regulatory frameworks in the form of legislative enactments, regulations, and policy frameworks to guide and enjoin the public finance management. Of importance is the Public Finance Management Act of 1999 which sets in place processes and procedures in dealing with the handling of Public Finances and expenditure thereof.

The PFMA has defined the concept of Irregular Expenditure as any expenditure other than unauthorized expenditure that is incurred in contravention of and not in accordance with a requirement of any applicable legislation.

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In line with the Public Finance Management Act , the National Irregular Expenditure Framework has been developed and promulgated as a guideline on process and procedure. The following are, inter alia, the key elements flowing from the National Irregular Framework:

1. The framework applies to all departments and came into effect from 1 December 2018 in terms of the National Treasury Instruction no 1 of 2018/2019.
2. According to the National Framework, Accounting Officers of departments must deal with previous cases of irregular expenditure that were not condoned or removed from the notes in the annual financial statements.
3. The National Framework affirms the requirements for assessment, determination or investigation to be undertaken on identified matters of irregular expenditure.
4. The National Framework makes provision for recovery, condonation, or removal of irregular expenditure.

The Accounting Officer together with the Chief Financial Officer play a central role of financial management. Such findings of irregular expenditure must be reported with the Provincial Treasury as required by the Framework on Irregular Expenditure issued by the National Treasury. Some of those reported irregularities in expenditure are condoned for various reasons and considerations.

The Department seeks to establish an internal framework for dealing with matters due for condonement of irregular expenditure by Provincial Treasury from an organisational perspective thereby managing internal controls and compliance by officials of the Department. The approach of consequence management will be applied to ensure that irregular expenditure is avoided and/or accounted for in the Department. The department has since realized that the absence of consequence management manifests a culture of impunity and complacency, intimidation in disciplinary processes as well as scanty application of available framework tools by management.

4. PURPOSE

The Policy is to-

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- 4.1 Inform the process of dealing with consequence management as it emanates from and/or in cases of irregular expenditure.
- 4.2 Bolster the necessary financial controls and other related accountability measures.
- 4.3 Guide the department on how to deal with irregularities in managing departmental expenditure and compliance therewith.
- 4.4 Determine the procedure and processes to be followed in dealing with consequence management in cases that do not need disciplinary action and not having fraud and or financial loss implications.
- 4.5 Currently there is a need for the Department to bridge the gap between the Irregular expenditure cases and consequence management exercise required for condonement of minor cases that do not attract financial or fraudulent activities. **5.**

5. POLICY OBJECTIVES

The objective of this Policy is to-

- 5.1 Provide clarity and directive on the procedure to be followed in dealing with consequence management as it relates to and result from irregular expenditure.
- 5.2 To provide a framework for dealing with irregular expenditure transgressions that do not have fraud, loss and/or financial implications.
- 5.2 Advise the Department on all matters that require further investigations and/or referral to the law enforcement agencies.
- 5.3 Take a risk management approach to deal with inappropriate behaviour resulting from irregular expenditure in the Department.
- 5.4 the Policy seeks to empower the HOD to take proactive action to deal with consequence management for irregular expenditure.

6. POLICY STATEMENT

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This Policy is for addressing and managing issues of irregular expenditure and consequence management as well as related accountability imperatives in the Department. This policy framework outlines the Department’s approach in managing compliance and mitigating compliance risk in relation to irregular expenditure and thereby limiting the occurrence of negative audits.

Considering the vast nature and the extent of issues of irregular expenditure and minor miscellaneous transgressions that attract irregular expenditure findings, it has become necessary for the Department to develop the consequence management framework to motivate for their condonation with the relevant authority. The consequence management Policy is guided by the available legislation.

It is the vision of the Department to ensure that irregular expenditure in the Department is avoided. The overt and subtle culture of non-accountability should be managed and eradicated. The enforcement of consequence management is a management measure to ensure that vision.

7. SCOPE OF APPLICATION

This policy applies to all circumstances of irregular expenditure in the Department and consequence management connected and incidental therewith.

The application of this Policy is universal in the Department on all those transactions and/or omissions that result in irregular expenditure that can be condoned by the Department. The application of this Policy shall exclude all the cases of unauthorised, wasteful, and fruitless expenditure. This policy doesn’t purport to supersede any legislative prescript that relate to the management of irregular expenditure and guidelines dealing with disciplinary processes and procedures.

8. LEGISLATIVE FRAMEWORK

NO.	FRAMEWORK	APPLICATION
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8.1	<i>RSA Constitution of Act 108 of 1996.</i>	<p>Chapter 10 of the act provides for the establishment of a public administration with basic values and principles governing the administration: -</p> <p>-- of high importance for the context of this framework are sec 195 (a) and (g): high standard of ethics and accountability that enjoins all public servants inclusive of political executives and senior management by purposive interpretation.</p> <p>-- Sec 196 (4) (b) empowers the Public Service Commission to investigate to investigate and evaluate the administration and <i>personnel practices</i>.</p> <p>-- Sec 216 enjoins the Treasury to enforce compliance with the measures ensure transparency and expenditure control in each sphere of Government.</p>
8.2	<i>The Public Service Act No 1 of 1995 as amended.</i>	<p>-- the Act provides for the organization and administration of the public service: -</p> <p>-- Sec 28 of the Act imposes obligations on employees to fulfil those obligations imposed by this act and any other law.</p> <p>--the Public Service Regulations of 2016 provides for a code of conduct, in 11 (d), requiring an employee to abide by and strive to be familiar with legislation and other lawful instructions applicable to their conduct and official duties:</p> <p>-</p> <p>-- Sec 14 (f) requires of an employee to be honest and accountable in dealing with public funds, efficiently and effectively PSBC Resolution 1 of 2003 prescribes the disciplinary procedure for public service, procedural and substantive fairness. It also outlines the informal</p>

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		procedure that may be followed in less serious misconducts.
8.3	<i>The Public Finance Management Act No1 of 1999 as amended.</i>	<p>-- it regulates financial management in government to ensure that the expenditure is efficiently and effectively managed.</p> <p>-- Sec 18 (f) empowers a provincial treasury to investigate any system of financial management and internal control applied by a provincial department.</p> <p>--sec 51 (1) (b) (ii) requires the accounting officer to take effective and appropriate steps to inter alia to prevent irregular expenditure</p> <p>--Sec 51 (b) (e) (iii) requires the Accounting Officer to take effective and appropriate disciplinary steps against any official in the service of a public entity who makes or permits irregular expenditure</p> <p>-- Sec 57 (c) requires an official of a public entity to take effective and appropriate steps to prevent irregular expenditure within that official's areas of responsibility</p> <p>-- Sec 81 (b)makes it an act of financial misconduct on the part of an accounting officer if they wilfully and negligently make or permits an irregular expenditure. The same is expected from the officials regarding assigned duties in terms of sec 44 by the Accounting Officer. Sec 51(1)(b)(ii) requires the Accounting Officer to take effective and appropriate steps to, amongst others, prevent irregular expenditure.</p> <p>-- Sec 44 empowers the accounting officer with delegatory power in writing to an official of the department. The delegated powers may vary or revoke</p>

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		<p>any decision taken by an official as a result of the Sec 51(1)(b)(ii) requires the Accounting Officer to take effective and appropriate steps to, amongst others, prevent irregular expenditure. delegation not barring the rights accrued as a result of the decision.</p> <p>-- the Guideline for Accounting Officers: Public Finance Management act states responsibilities of accounting officers as regards financial staff and expenditure management. Regarding the irregular expenditure the accounting officer must implement effective, efficient, and transparent processes of financial and risk management.</p>
8.4	<i>Public Administration Management Act of 2014.</i>	<p>-- the Act seeks to promote the values and principles in sec 195 (1) of the constitution in promoting high standards of ethics, eradication, and prevention of unethical practices in the public administration.</p> <p>-- Sec 15 provides for technical assistance, capacity building and support to institutions in all spheres of government regarding the management of disciplinary matters.</p>
8.5	<i>Labour Relations Act of 1995.</i>	<p>-- Sec 189 and Schedule 8 of the Labour Relations Act (the "LRA") provides Guidelines of the factors which the CCMA and Bargaining Council Commissioners must consider when making decisions on the fairness of dismissals for misconduct.</p> <p>Matters related to irregular expenditure must be reported to the following authorities, if recommendations of the Loss Control function or another relevant function confirms that no loss was incurred during the</p>

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		<p>contravention of the legislation or policies and that value for money was achieved -</p> <ul style="list-style-type: none"> - For Referral of irregular expenditure where no losses were reported. - Human Resource function within their respective institutions to assist the accounting officer or accounting authority with any disciplinary process. - (b) Relevant Authority for condonation of the irregular expenditure if no losses were reported and where the transaction is not related to fraudulent, corrupt, or criminal acts; or - (c) Accounting officer or accounting authority for removal of the irregular expenditure if such irregular expenditure was not condoned by the relevant authority. <p>--- If a misconduct is found to have occurred and dismissal is the only remedy – the HOD must ensure that all dismissal processes in terms of the LRA are followed – namely, that the dismissal is both substantively and procedurally fair. (Section 189 of LRA).</p>
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9. POLICY PRINCIPLES

NO.	PRINCIPLE	DISCRIPTION
9.1	Accountability	Reporting and answering on work done.
9.2	Transparency	Coherence of role players and adequate communication.
9.3	Rapidity in process	Fair, reasonable, and timeous turnaround times in line with the prescripts

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9.4	Due diligence	Adequate compliance with relevant policies and legislation.
9.5	Portfolio of evidence	Accessible and clear record keeping and management
9.6	Confidentiality	To protect the rights and safety of the persons involved.

10. The Policy Pillars

The policy is hinged on the following principled pillars:

10.1 **COMPLIANCE** -legislative imperatives and compliance thereto in line with the definition of irregular expenditure

10.2 **RISK AND CONTROL**- strict monitoring of expenditure and avoidance of financial loss

10.3 **ACCOUNTABILITY AND DISCIPLINE** – overseeing and preventing financial misconducts that bring about negative audit outcomes.

10.4 **PROCESS DISPENSATION** – process flow guide, implementation plan and structural support, i.e condonement committee and its coordination and interface with all line functions of the department

11. POLICY IMPLIMENTATION APPROACH

The approach by this Policy is integrated, collaborative and inclusive and all business units and line functions of the Department are required to ensure compliance and enforcement therewith. Central to this integrated approach, are the respective roles that must be played by the various Departmental Functionaries, i.e., the respective business unit managers in the Department in the management of Irregular Expenditure.

Item 36 in the Guideline on Irregular Expenditure acknowledges that in certain circumstances the accounting officer has the power to condone irregular expenditure that was incurred as a result of transgressions by their respective officials. The table in item 35 enunciates those categories of irregular expenditure that can be condoned

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by an accounting officer, to wit, resulting from the procuring of goods through the bids process, noncompliance with delegations of authority in terms of the PFMA and noncompliance with a provision contained in any applicable legislation.

The Credit Control Function shall report to the Accounting Officer via Chief Financial Officer all matters of consequence management due for condonement dealt with and handled by his or her office. The Credit Control Function shall keep a register of all Irregular Expenditure including those that require condonement. The Credit Control Function shall liaise with the Labour Relations Officer on all matters that require consequence management in line with the approval of the HOD on all similar matters. Notwithstanding the above delegations, the Accounting Officer is empowered by the relevant legislative prescripts to take decisions on his/her own in the best interest of the department.

12 DEALING WITH TRANSGRESSIONS

The Accounting Officer must ensure that senior managers apply the following measures consistently in the spirit of the Labour Relations Sanctioning Guidelines for the Public Service issued by the Department of Public Service and Administration in a circular of 24 December 2015.

The following steps as provided in the Framework on irregular expenditure by the National Treasury should also assist the Accounting Officer in dealing with condoned irregular expenditure matters to ensure compliance and risk management in expenditure:

12.1 Subject to different contextual circumstances and the nature of the incident/s, financial transgressions maybe considered serious or less serious as an output by an Assessment process.

12.2 Subsequent to the Accounting Officer receiving a report on Irregular Expenditure, the Credit Control Function must report cases to the Labour Relation Officer for corrective action. The Labour Relations Officer shall coordinate the management of the implementation of the consequence management as delegated by the HOD.

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13 SANCTIONS FOR TRANSGRESSION

The impact and the extent of the transgression, as emanating from the investigation, determines the consequences management steps to be followed and the following steps or a combination thereof may be taken-

An informal disciplinary hearing between the employee transgressor and the supervisor. If a misconduct has been found and confirmed by the supervisor, depending on the nature and extend, may:

- (i) conduct corrective counselling and keep a record.
- (ii) verbal warning in a form of a letter.
- (iii) final written warning A formal disciplinary hearing in terms of PSCBC resolutions and/or SMS Handbook with a potential sanction of:
 - (i) recorded corrective counselling.
 - (ii) written verbal warning.
 - (iii) final written warning.
 - (iii) suspension without pay no longer than 3 months.
 - (iv) demotion.
 - (v) a combination of the above.
 - (vi) dismissal.

13.1 If a financial loss has been determined an immediate process of recovery must be initiated with the Office of the State Attorney.

13.2 If a matter has a criminal element, it must immediately be lodged with SAPS especially matters of the value over R100 000 as is a requirement of the Prevention and Combating of Corrupt Activities of 2004 in Chapter 2.

13.3 If the matter needs a forensic or an investigation of any nature, it must be reported to the Anti-Fraud and Corruption for proper disposal.

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13.4 Any matter determined in the terms of the above investigative processes and require consequence management, the Deputy Director: Labour Relations shall immediately deal therewith.

13.5 The Deputy Director: Labour Relations shall provide to the Accounting Officer through the Chief Finance Officer, a report containing his or her recommendations for the approval by the Accounting Officer.

13.6 The Accounting Officer must on all intricate and complex matters refer the matter for legal advice and/or opinion.

13.7 Human resource unit must advise on the labour practice issues such as procedural unfairness.

13. NON-COMPLIANCE

Breach of any clause contained in this policy shall be subjected to Departmental disciplinary procedures. It is the responsibility of all employees in the Department to familiarize themselves with the contents of this policy.

14. DEVIATION

Any deviations from this policy must receive prior approval in writing from the Accounting Officer.

15. POLICY MONITORING AND EVALUATION

The Chief Finance Officer shall report on the progress and specific problems experienced in the implementation thereof.

16. POLICY CONTROL AND MANGEMENT

16.1 Policy Audit

Office of the CFO shall conduct periodic audits when deemed necessary or as required from time to time, to ensure appropriate application and compliance with the policy.

16.2 Policy Review

Internal Irregular Expenditure Framework shall be reviewed every three years or when the need may arise.

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16.3 Policy Amendment

No amendment(s) may be made to any section of this policy framework without approval by the Accounting Officer.

17 POLICY RECOMMENDATION

THE CONSEQUENCE MANAGEMENT POLICY ON Irregular Expenditure was recommended by the Policy Review Committee on this 1st (Day of October (Month) 2023 (Year) at Johannesburg (Place)



Deputy Chairperson of Policy Review Committee
Department of Human Settlements
Gauteng Provincial Government

18. POLICY APPROVAL

CONSEQUENCE MANAGEMENT POLICY ON Irregular Expenditure was approved by the Head of Department for Human Settlements on this 03 (Day) of OCTOBER (Month) 2023 (Year) at JHB (Place) and will be effective from the date hereof.



Ms. Phindile Mbanjwa
Head of Department
Department of Human Settlements
Gauteng Provincial Government

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ANNEXURE A: IRREGULAR EXPENDITURE FLOW CHART

