



Dr Nkosazana Dlamini-
Zuma Municipality
Loss Control Policy

2023 - 2024

Contents

1. PREAMBLE AND PURPOSE OF THE LOSS CONTROL POLICY	3
2. KEY DEFINITIONS.....	3
3. SCOPE AND APPLICATION	3
4. ESTABLISHMENT AND LEGISLATIVE BASIS	4
5. OTHER APPLICABLE LEGISLATIONS	6
LOCAL GOVERNMENT ANTI-CORRUPTION STRATEGY	6
LOCAL GOVERNMENT INTEGRITY MANAGEMENT FRAMEWORK	6
PREVENTION AND COMBATTING OF CORRUPT ACTIVITIES ACT NO. 12 OF 2004.....	6
6. OBJECTIVES OF THE LOSS CONTROL POLICY.....	7
7. FRAMEWORK FOR LOSS CONTROL	8
TYPES OF LOSSES, DAMAGES AND FRAUD.....	8
MANAGEMENT OF LOSSES INCURRED.....	9
CALCULATION, WRITE-OFF AND RECOVERY PROCESSES	11
8. ETHICAL STANDARDS	13
9. COMPLIANCE AND ENFORCEMENT	13
10. OBJECTIONS AND COMPLAINTS.....	13
11. EFFECTIVE DATE	13

1. PREAMBLE AND PURPOSE OF THE LOSS CONTROL POLICY

The loss control policy provides a framework within the municipality will prevent limit or reduce unnecessary losses. It also serves as a basis for the development of our loss control strategies and plans. Furthermore, the policy forms part of the Dr Nkosazana Dlamini Zuma local municipality's strategies to reach the IDP objective of ensuring good governance and institutional development.

2. KEY DEFINITIONS

- Loss – the fact or process of losing value in something
- Loss control - the act of reducing severity of the loss by identifying the factors that aggravate or increase the loss and taking proactive measures to lessen the effects of those factors.
- Fruitless and wasteful expenditure - "Expenditure that was made in vain and would have been avoided had reasonable care been exercised."
- Criminal offence - This refers to any act as described in the Criminal Procedure Act 51 of 1977.
- Internal controls - The process designed, implemented and maintained by those charged with governance, management and other personnel to provide reasonable assurance about the achievement of an entity's objectives with regard to reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations. The term "controls" refers to any aspects of one or more of the components of internal control.

3. SCOPE AND APPLICATION

This policy is applicable on all councilor's, officials and service providers of Dr Nkosazana Dlamini Zuma Local Municipality.

It covers all circumstances where staff and service providers are performing work, duties or functions on behalf of the municipality, as well as related activities, such as work related social functions, travel, conferences and any circumstances where a Councillor, official or service provider is representing the Dr Nkosazana Dlamini Zuma Local Municipality.

4. ESTABLISHMENT AND LEGISLATIVE BASIS

In terms of section 62(a) the Municipal Financial Management Act No. 56 of 2003, states that “The accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure that the resources of the municipality are used effectively, efficiently and economically.

In terms of section 62(d) the Municipal Financial Management Act No. 56 of 2003, states that “The accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure that that unauthorized, irregular or fruitless and wasteful expenditure and other losses are prevented.

In terms of section 62(d) the Municipal Financial Management Act No. 56 of 2003, states that “The accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure that that disciplinary or, when appropriate, criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 15.

It is stated in Section 32(1) of the MFMA that: “Unauthorised, irregular or fruitless and wasteful expenditure: Without limiting liability in terms of the common law or other legislation:

- a) a political office-bearer of a municipality is liable for unauthorised 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 unauthorised expenditure, instructed an official of the municipality to incur the expenditure
- b) the accounting officer is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer, subject to subsection (3);
- c) any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorised an irregular expenditure, is liable for that expenditure; or
- d) any political office-bearer or official of a municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.

It is stated in Section 32(2) of the MFMA that: “Unauthorised, irregular or fruitless and wasteful expenditure. A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure:

in the case of unauthorised expenditure, is authorised in an adjustments budget; or certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and

in the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.

It is stated in Section 32(3) of the MFMA that: “Unauthorised, irregular or fruitless and wasteful expenditure. If the accounting officer becomes aware that the council, the mayor or the executive committee of the municipality, as the case may be, has taken a decision which if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided that the accounting officer has informed the council, the mayor or the executive

committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.

It is stated in Section 32(4) of the MFMA that: “Unauthorised, irregular or fruitless and wasteful expenditure. The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of:

- a) any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality;
- b) whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and
- c) the steps that have been taken to recover or rectify such expenditure; and to prevent a recurrence of such expenditure.

It is stated in Section 32(5) of the MFMA that: “Unauthorised, irregular or fruitless and wasteful expenditure. The writing off in terms of subsection (2) of any unauthorised, irregular or fruitless and wasteful expenditure as irrecoverable, is no excuse in criminal or disciplinary proceedings against a person charged with the commission of an offence or a breach of this Act relating to such unauthorised, irregular or fruitless and wasteful expenditure.

It is stated in Section 32(6) of the MFMA that: “Unauthorised, irregular or fruitless and wasteful expenditure. The accounting officer must report to the South African Police Service all cases of alleged irregular expenditure that constitute a criminal offence; and theft and fraud that occurred in the municipality.

It is stated in Section 32(7) of the MFMA that: “Unauthorised, irregular or fruitless and wasteful expenditure. The council of a municipality must take all reasonable steps to ensure that all cases referred to in subsection (6) are reported to the South African Police Service if the charge is against the accounting officer; or the accounting officer fails to comply with that subsection.

It is stated in Section 32(8) of the MFMA that: “Unauthorised, irregular or fruitless and wasteful expenditure. The Minister, acting with the concurrence of the Cabinet member responsible for local government, may regulate the application of this section by regulation in terms of section 168.”

5. OTHER APPLICABLE LEGISLATIONS

The loss control policy is also in line and works in conjunction with the following legislation:

LOCAL GOVERNMENT ANTI-CORRUPTION STRATEGY

The Strategy sets out the strategic objectives to be pursued by municipalities in terms of preventing and combating corruption. The Municipal Integrity Management Framework sets out municipalities responsibilities in terms of implementing the strategy.

LOCAL GOVERNMENT INTEGRITY MANAGEMENT FRAMEWORK

This Local Government Integrity Management Framework sets out the responsibility of municipalities in implementing the 2015 Local Government Anti-corruption Strategy

PREVENTION AND COMBATTING OF CORRUPT ACTIVITIES ACT NO. 12 OF 2004

The Prevention and Combating of Corrupt Activities Act 12 of 2004 intends to provide for the strengthening of measures to prevent and combat corruption and corrupt activities; to provide for the offence of corruption and offences relating to corrupt activities; to provide for investigative measures in respect of corruption and related corrupt activities; to provide for the establishment and endorsement of a Register in order to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts; to place a duty on certain persons holding a position of authority to report certain corrupt transactions; to provide for extraterritorial jurisdiction in respect of the offence of corruption and offences relating to corrupt activities; and to provide for matters connected therewith.

6. OBJECTIVES OF THE LOSS CONTROL POLICY

The Loss Control Policy has the following objectives:

- All officials including management are held accountable for losses in their respective area of responsibility.
- Assist officials to create a climate that is conducive to internal control, risk management and prevention of losses.
- Contribute towards creating respect for the resources entrusted to the Department for use in the best way possible.
- Encourage officials to perform their duties in a responsible manner and to avoid unlawful conduct that may result in unnecessary losses in general of claims for compensation being instituted against the municipality in particular.
- Uniform reporting procedure will not only ensure that the record of losses is kept more efficiently and effectively, but will also contribute to the promotion of greater efficiency in the management of losses and the establishment of an effective risk prevention strategy.

7. LOSS CONTROL COMMITTEE

In terms of section 62(1)(a) of the MFMA, The accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure that the resources of the municipality are used effectively, efficiently and economically.

This section establishes the loss control committee, its powers and functions:

- To resolve cases of resources within the working environment and to determine accountability and liability with regards to cases of any loss and/or damage through criminal acts or omissions.
- To thoroughly examine all evidence presented by the Loss Control Manager as per guidelines.
- To make recommendations regarding the recovery of losses where possible.
- To make recommendations for write-offs to the Accounting Officer or to the delegated official.
- To refer cases of negligence to Legal Services to investigate the matter where necessary

8. FRAMEWORK FOR LOSS CONTROL

TYPES OF LOSSES, DAMAGES AND FRAUD

- a. Loss, theft and damage of immovable assets:
 - Municipal buildings through weather elements and/or a negligence of maintaining official buildings.
 - Vandalisms
 - Rent paid for offices not in use fully
 - Inefficient use of purchased space
- b. Loss, theft and damage of moveable assets:
 - Pool vehicles through thefts, high-jacks, accidents and other damage costs
 - Fines (not speeding and parking) e.g. noisy un-roadworthy vehicles, storage charges for vehicles and penalties for late submission to Department of Transport.
 - Official cell phones through thefts and negligence.
 - Furniture in official houses, office furniture, computers, printers, faxes, photocopiers, air conditioners and other electronic equipment through thefts and other damage costs,
 - Minor equipment such as tools and maintenance equipment through thefts and other damage costs.
- c. Loss, theft and damage of inventory stores items:
 - Stationary, maintenance, electrical material, cleaning material through thefts and other damage costs.
- d. Loss, theft and damage of state monies and face value forms
 - Cash – theft and shortages on petty cash, rental and bidding revenue collected.
- e. Claims against the State through acts or omissions against said person(s).
 - Notices of intended civil action served on the MEC.
- f. Claims by the State against other person(s)
 - Overpaid salaries-after death or termination.
 - Salaries paid for staff under suspension.
 - Irrecoverable- rates and taxes, electricity
 - Irrecoverable- rental
 - Irrecoverable- fees for any other service.
 - State guaranties
 - Ex-Gratia payments
- g. Fraud cases with loss implications
 - Criminal/negligence
 - Stolen cheque cashed
 - Fraudulent credit transfers

- Unauthorized orders
 - Ghosts in salary system
- h. Fruitless and wasteful expenditure
- Late payment to a creditor for which interest is charge and for which we have been invoiced and obligated to pay.
 - Any payment to a service provider for which the full value was not received, e.g. paying for 2 officials booked for training when only 1 actually attended.
 - Wasteful Expenditure made in vain and would have been avoided had reasonable care been taken. E.g. paying for 10 chairs when 5 is actually necessary and needed.
 - Losses due to poor tender/bids allocation.
- i. Other losses
- Poor management actions
 - Attempted fraud (no actual loss)
 - Departmental write-offs

MANAGEMENT OF LOSSES INCURRED

Step 1: Registration of damages and losses

- a) All units and departments within the municipality must keep registers for all incidents reported.
- b) When notified of a loss, the Manager responsible for loss control must register such case/loss within two (2) working days of receiving a report/notice of such case/loss to the Loss Control Official.
- c) After notified of losses/damages/fruitless expenditure/claims, these are to be handled in manner and follow the steps detailed in this policy.

Step 2: Gathering of information

- a) The Manager reports the losses to the Loss Control Officer
- b) The Loss Control Officer must seek legal advice as widely as possible; consult parties broadly as possible consult experts; advice widely; follow and note (in writing) events systematically as swiftly as possible and compile final reports for future reference containing the following:
 - Detailed description of incidents and;
 - Investigator's observations and recommendations

Step 3: Collection of documents and evidence to determine liability

- a) Liability investigation is mainly to determine the circumstances under which a loss Occurred and to determine whether any official could be held liable for such loss. This type of investigation is done completely apart from any criminal or misconduct investigator. It is self-evident that the investigator shall also communicate with the criminal and misconduct investigator for the purpose of obtaining information.

- b) There is nothing that prohibits that documents, which were used in a liability investigation, can also be used in a case of misconduct or neglect of duty for disciplinary steps.
- c) The Loss Control Officer shall acquaint himself/herself of specific instructions that might be applicable to the case, determine the official version of the occurrence by checking initial reports.
- d) Depending on the nature of the loss, it shall be ascertained who was responsible for Specific responsibilities or duties.
- e) The collection of job descriptions and the proof that a certain official/s was/were aware of his/her/their responsibility is of importance. Proof that a duty was performed or neglected, shall be obtained. If relevant copies of specific instructions should be made, it should be included in the investigation.
- f) If, for certain reasons, it is necessary to confiscate a certain register, the person giving the instruction (for investigation) should be consulted. Certified copies of a register of specific entry/entries are usually sufficient.
- g) If any problems were encountered with a reluctant witness or with the destruction or withholding of documentation or information, the investigator should not hesitate to make use of provisions of Disciplinary Regulations.
- h) Obtain certified copies of all the original documents and use only the copies relating to the investigation. Keep the original documents in a safe place. No inscription, deletions, changes or corrections should be made on original documents, as this would negatively influence its evidential value with a view to possible legal action.

Evaluate data integrity of gathered information. Should any uncertainty exist regarding the data integrity exist of such information, steps must be taken in consultation with the stakeholders concerned in order to rectify the situation and to ensure the said data is accurate and reliable.

Step 4: Identify possible causes and trends

- a) If shortages/losses/theft/damages/ misuse of state property or state money, or fruitless expenditure, especially with regard to accommodation, or wasted, unauthorized or irregular expenses are involved, or the right of recovery of the state has become prescribed, which gave rise to a loss for the state, a liability investigation shall be taken by the Loss Control Officer with the purpose of impartiality and transparency.
- b) It should however be noted that a liability investigation is mainly conducted to determine the circumstances under which the loss occurred. The circumstances of the loss and facts that came to light during the investigation, can eventually lead to a decision whether an official can be held legally liable for a loss in terms of the 6 applicable Treasury Regulation. If any neglect of duty or other circumstances may have negative implications for the AO of the institution, the investigator ought to complete his/her investigation.
- c) The Loss Control Officer shall display own initiative and shall display own initiative and shall be conversant with all the relevant instructions, which may be applicable to the loss in question.
- d) When a liability investigation is considered necessary, it is important that it be instituted immediately after the reporting of the loss, as evidence that might be of interest could be changed or simply disappear.

Step 5: Compilation of a report

- a) To compile a report regarding losses, which have to be referred to Loss Control Committee and Legal Services at Head Office, one must determine liability and comply with certain provisions of the MFMA.
- b) The report includes all gathered statements, documentary proof and recommendations.

CALCULATION, WRITE-OFF AND RECOVERY PROCESSES

CALCULATION OF LOSSES

With the recovery of any damage or loss it is of vital importance that the total extent of the state's loss be determined beforehand and substantiated by means of documentation.

For the purpose of calculating the recoverable amount when equipment, stock or other state property are lost or become damaged by an official or other person, such equipment, stock and state property shall be classified as such.

Items with a long life, where almost no depreciation occurs, against replacement value, ie, the cost price of a new or similar item;

Items for which there is an accepted basis of depreciation against the depreciated value (e.g. a certain percentage per year).

In order to determine depreciation values loss/damaged items should be calculated as follows:

- a. Items described as "NEW", 75% of the replacement value.
- b. Items described as "GOOD", 50% of the replacement value.
- c. Items described as "REASONABLE" 30% of the replacement value.
- d. Items described as "POOR" 10% of the replacement value.

The basic of depreciation and percentage reduction does not apply in instances where the loss is written off as a loss against the state., In such instances the loss is calculated against the replacement value at all times.

For the purpose of calculating the recoverable amount in instances where the loss in Respect of lost-damaged personal equipment items must be recovered from responsible official, the amount of the state's loss or damage must be obtained via three quotations.

As far as the damage/loss of state equipment or items are concerned; the recoverable Amount of the loss must be collected from the accountable official. Only in exceptional cases where the accountable official does not have any funds to Compensate for the full recoverable amount in a once-off amount, Salary Payments may be requested to recover the amount due from the salary of the official concerned, or in the event of leaving the service from the official's outstanding pension or other monies he/she is entitled to.

In instances of damage to state or leased buildings and fences, Building unit must certify that any quotation that has been obtained, are in line with actual costs.

WRITE-OFF PROCESS

An Accounting Officer may only write off debts owed to the state if he or she is satisfied that:

- All reasonable steps have been taken to recover the debt and the Debt is irrecoverable or, he or she is convinced that recovery of the debt would be uneconomical;
- He or she is convinced that recovery of the debt would be uneconomical;
- Recovery would cause undue hardship to the debtor or his/her dependants; and
- Or it would be to the advantage of the state to effect a settlement of its claim or to waive the claim.

RECOVERY PROCESS

Recovery and claims are implemented in terms of the current value of the loss and payment thereof in terms may accrue interests in terms of the Treasury Regulations. Recovery can be made from the said person or the private party.

Recovery implementation procedures may involve a series of legal action between the affected private person and the affected private party.

PROCESS OF RECOVERY

It may happen depending on the outcome of investigation that the relevant officer involved is approached to compensate for the loss/damaged, undertakes to pay the loss/damaged suffered by the state. Under such circumstances:

- Should the person, personally offer to pay off the debt in a once-off payment, or to pay monthly instalments so that the total loss is redeemed within 24 months, an undertaking must be obtained from him/her and submitted to the delegated official for his/her approval.
- Should a person make an offer as set out in sub-paragraph (a) above, and the recovery of the loss/damage exceeds 24 months, a statement of his/her assets and liabilities together with his/her undertaking must be submitted to the delegated official in order to obtain approval.

9. ETHICAL STANDARDS

A code of good of conduct is established by the Dr NDZLM code of conduct for municipal employees and must be adhered to all officials and other role players in the system in order to promote:

- Loyally execute the lawful policies of the municipal council;
- Perform the functions of office in good faith, diligently, honestly and in a transparent manner;
- Act in such a way that the spirit, purport and objects of section 50 are promoted;
- Act in the best interest of the municipality and in such a away that the credibility and integrity of the municipality are not compromised;
- Act impartially and treat all people, including other staff members equally without favour or prejudice.

10. COMPLIANCE AND ENFORCEMENT

- Violation of or non-compliance with this policy will give a just cause of disciplinary steps to be taken.
- It will be the responsibility of Chief Financial Officer to enforce compliance with this policy.

11. OBJECTIONS AND COMPLAINTS

Persons aggrieved by decisions or actions taken in the implantation of the loss control policy, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

12. EFFECTIVE DATE

The Policy shall come to effect on the 1st of July 2023 subject to the approval by Council of Dr Nkosazana Dlamini-Zuma Local Municipality and remain in place until withdrawn.

N.C. Vezi
Municipal Manager

Date