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POLICY TITLE : POLICY ON IRREGULAR, FRUITLESS, WASTEFUL AND
UNAUTHORISED EXPENDITURE

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1. ACRONYMS

ACSR: Arts, Culture, Sport and Recreation

CFO: Chief Financial Officer

HOD: Head of Department

AO: Accounting Officer

AA: Accounting Authority

EA: Executive Authority

PFMA: Public Finance Management Act

UIF&W: Unauthorised, Irregular, Fruitless and wasteful expenditure

IYM: In year Monitoring

SA: State Attorney

2. DEFINITION OF CONCEPTS

The following definitions are applicable:-

Irregular expenditure: means expenditure other than unauthorized expenditure, incurred in contravention of or that is not accordance with a requirement of any applicable legislation, including the Public Finance Management Act, the State tender board Act of 1968 (Act 86 of 1968) or any regulations made in term of that Act or any provincial legislation providing for the procurement procedures in that provincial government

Fruitless and wasteful expenditure: means expenditure which is made in vain and would have been avoided had reasonable care been exercised.

Vain: means an expenditure which was undertaken without value or substance and which did not yield any desired or objective

Unauthorised expenditure: means the overspending of a vote or a main division within a vote, or expenditure that was not made 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.

Assessment: means a test conducted by a Loss Control Function or another relevant function to identify possible irregularities in transactions processed and to confirm the



allegations of irregular expenditure or whether the expenditure meets the definition of fruitless and wasteful expenditure.

Checklist: means a list of transgression and alleged cases of irregular, fruitless and wasteful expenditure that are in the process of being dealt with.

Condonation: means a process whereby the relevant authority acknowledges the irregular expenditure and pardons the action that has resulted in the incurrance of irregular expenditure.

Determination: means an informal assessment conducted by the Loss Control Function or another relevant function to examine or analyse the particulars of non-compliance in order to establish the facts and to determine the loss (es) related to the transactions or an analysis of particulars of the expenditure and qualify amount(s) of fruitless and wasteful expenditure.

Investigations: means a formal probe conducted by a function performing investigations to analyse the particulars of a non-compliance in order to establish the facts about the transactions and to determine whether any fraudulent, corrupt or criminal act has taken place.

Lead schedule: means a summary of irregular expenditure to be disclosed in notes to the financial statements and progress related thereto.

Non-compliance: means the failure to comply with legal requirements

Removal: means the process of eliminating the irregular, fruitless and wasteful expenditure from notes to the annual financial statements if it was not condoned by the relevant authority.

Reasonable care: means applying due diligence and exercising control (careful application, attentiveness, caution) to ensure that the probability of a transaction, event or condition not being achieved as planned is being managed.

Relevant authority: means –

- a) The National Treasury, in the case where an employee or the accounting officer of a National department or constitutional institution, or an employee or the accounting authority of a Schedule 2, 3A, or 3B public entity, was responsible for irregular expenditure and
- b) The relevant Provincial Treasury, in the case where an employee or the accounting officer of a provincial department or an employee or the accounting authority of a Schedule 3C or 3D public entity, was responsible for the irregular expenditure.



3. PREAMBLE

This document sets out the North West Department of Arts, Culture, Sport and Recreation policy on the process of identification, recording and disclosure of irregular, fruitless, wasteful and unauthorised expenditure in terms of sections 38(1)(c)(ii) and g of the Public Finance Management Act, 1999 (Act 1 of 1999).

4. SCOPE OF APPLICATION

This policy is applicable to all officials of the department of Arts, Culture, Sport and Recreation and its Trading entities.

5. POLICY STATEMENT

There are gaps in the internal controls systems of the department as a result the department is experiencing cases of irregular, fruitless and wasteful expenditure.

6. POLICY OBJECTIVES

- 6.1 The main objective of the policy is to establish and ensure effective, efficient and transparent systems of financial and risk management and internal control in the department
- 6.2 This *document also* provides clarity on the procedures to be followed when dealing with the identification and application of *irregular expenditure*, fruitless, wasteful and unauthorised expenditure defined in section 1 of the Public Finance Management Act (PFMA),
- 6.3 Furthermore this serves policy is to:-
- a) Enhance and strengthen internal control and compliance in the department
 - b) Provide direction on relevant legislation and regulations applicable to irregular, fruitless, wasteful and unauthorized expenditure
 - c) Increase awareness of officials in terms of section 45 (c) of the PFMA to detect, report and prevent irregular, fruitless, wasteful and unauthorised expenditure in the department.
 - d) Ensure consequence management implementation by implementing disciplinary measures where there is transgressions identified.

7. POLICY FRAMEWORK

The following legislations governs this policy:-

- ❖ Constitution of the Republic of South Africa 1996 and Regulations

- ❖ Public Finance Management Act 1999 (Act no.1 of 1999)
- ❖ Treasury regulations
- ❖ State tender board Act 1968 (Act no.86 of 1968)
- ❖ National Treasury instruction note no 4 of 2008/2009
- ❖ National Treasury instruction note no 8 of 2007/2008
- ❖ National Treasury Instruction note no.2 of 2019/20- Irregular expenditure framework
- ❖ National Treasury Instruction note no. 3 of 2019/20- Fruitless and wasteful Expenditure Framework

8. POLICY PRINCIPLES

Accountability: Public funds should be accounted for.

Transparency: Public funds should be utilised in a transparent manner.

9. POLICY CONTENT

9.1 SECTION A: IRREGULAR EXPENDITURE

9.1.1 Principles for the timing and recognition of irregular

Irregular expenditure is incurred when the resulting transactions is recognised in the financial records of a department, constitutional institution or public entity in accordance with the relevant Accounting Framework.

- a) For a department or government component applying the modified cash standards (MCS) to incur irregular expenditure, the transgression must be linked to a financial transaction. Although a transaction, condition or an event may trigger irregular expenditure, a department will only record irregular expenditure when a payment pertaining to the non-compliance is actually made (i.e. when the expenditure is recognised in accordance with the recognition principles contained in the Modified Cash Standard).
- b) For a government component, a constitutional institution, a trading entity or a public entity listed in Schedules 2, or 3 to the PFMA applying Generally Recognised Accounting Practices (GRAP) or International Financial Reporting Standards (IFRS) to incur irregular expenditure, the non-compliance must be linked to a financial transaction. Although a transaction may trigger irregular expenditure, a constitution, government component, trading entity or public entity will only record irregular expenditure when a transaction is recognised as expenditure in the Statement of Financial Performance in accordance with GRAP or IFRS, whichever is applicable.

For the purposes of determining whether irregular expenditure has been incurred, there must first be a transgression of a provision contained in:-

- a. the PFMA;
 - b. the Treasury Regulations;
 - c. a National Treasury Instruction, issued in terms of section 76 of the PFMA;
 - d. a Provincial Treasury Instruction issued in terms of section 18(2)(a) of the PFMA; or
 - e. any other applicable legislation.
- c) When applying the test to determine whether irregular expenditure has been incurred, it must be clear that the contravention must relate to how the transaction, condition or event was entered into and by whom as opposed to when the transaction, condition or event was entered into. For example, non-compliance with the requirement to pay an invoice within 30 days from its receipt (Treasury Regulation 8.2.3) shall not be regarded as irregular expenditure unless the expenditure itself was incurred in contravention of relevant legislation or was not authorized by a duly delegated official.
- d) In addition to paragraph 10 above, such a transaction, condition or event must have been incurred in contravention of the relevant legislation and must also have a financial implication for it to constitute irregular expenditure.
- e) The expenditure resulting from non-adherence to the financial delegation of authority is regarded as irregular expenditure.

Figure 1: Identification and Recognition of Irregular Expenditure

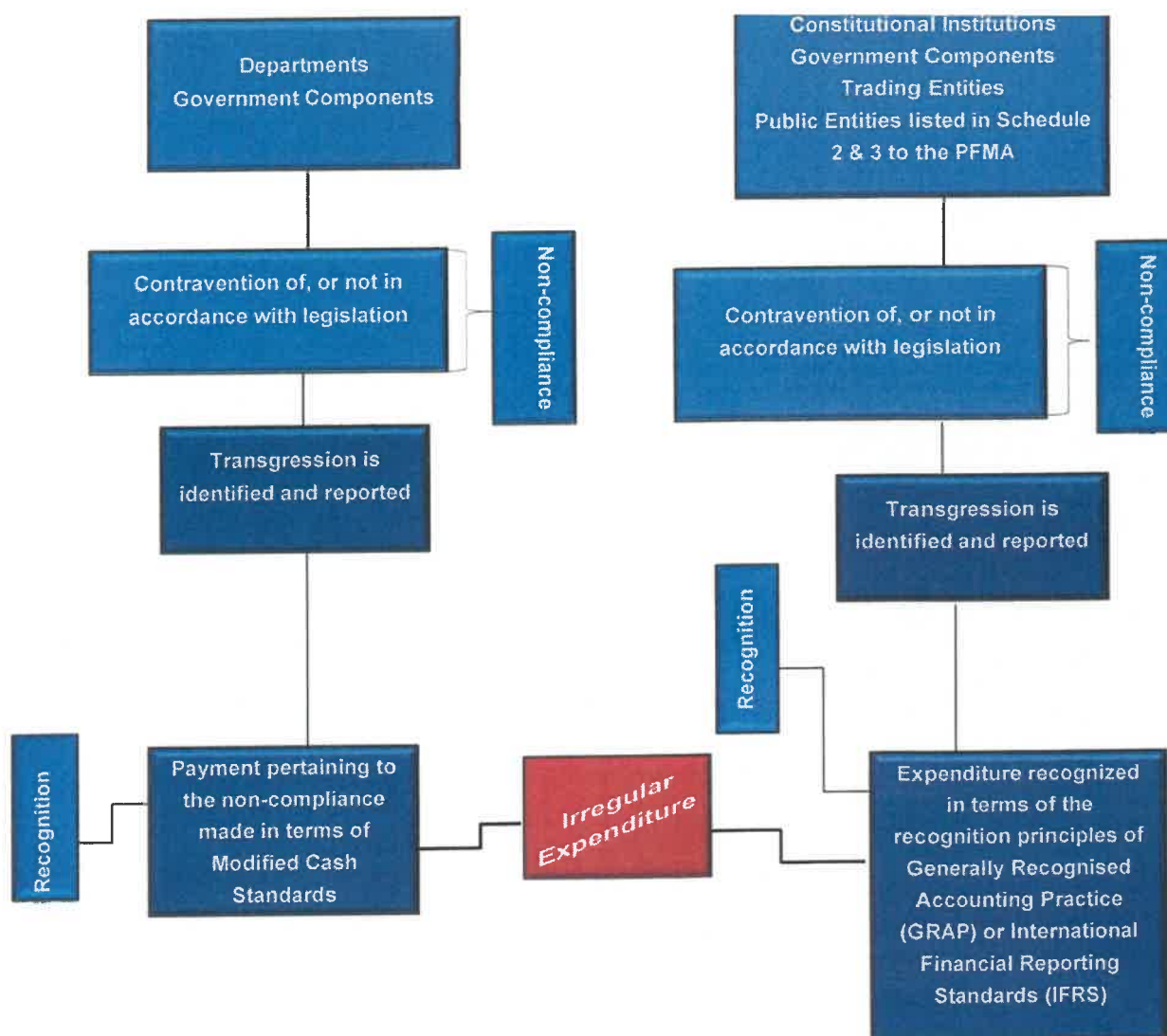


Figure 1 above indicate that for a transaction to constitute irregular expenditure, it must meet the following conditions:-

- it must be incurred in contravention of, or not in accordance with legislation and
- it must be incurred upon recognition of a financial transaction

9.1.2 Root causes of irregular expenditure

- The following are **the root causes** of irregular expenditure
- Non-compliance with Supply Chain Management legislations related to:
- Procurement without competitive bidding or quotation process,
- Non-compliance with procurement processes;
- Preference point system not applied or incorrectly applied
- Inadequate contract management; and
- Awards to close family members of employees.

9.1.3 Other root causes

- a) Slow response in addressing/resolving irregular expenditure from prior years;
- b) Lack of addressing/improving the control environment;
- c) Lack of regular monitoring and reporting;
- d) Incomplete or delayed outcome of investigations;
- e) Understatement of irregular expenditure due to on-going investigations
- f) All irregular expenditure cases taken for investigations;
- g) Lack of identifying losses incurred vs. value for money achieved;
- h) Lack of assessing and categorizing the nature of the transactions that led to the irregular expenditure (error, criminal conduct, fraud, corruption & etc.)
- i) Lack of consequence management in dealing with the transgressors.

9.1.4 Risks leading to increased irregular expenditure

9.1.5 The main causes of reducing balances of recorded irregular expenditure

- a) Slow response in addressing issues raised in previous years;
- b) Lack of improving the control environment;
- c) Lack of regular monitoring and reporting;
- d) Investigations taking long to complete;
- e) All irregular expenditure taken through the investigation process which should not be case;
- f) Lack of identifying the extent of losses incurred vs. goods received or service delivered (value for money achieved);
- g) Lack of assessing and categorizing the nature that led to the non-compliance and irregular expenditure (error, criminal acts & etc.)
- h) Lack of consequence management in with dealing with the transgressors.

9.1.5 Responsibility of management

- a) Regular assessments to identify possible transactions that may be irregular - Loss control function or another relevant function in institutions;

- b) Determination of transactions recognised as irregular expenditure to identify losses incurred- Loss control function or another relevant function in institutions;
- c) Investigations of transactions emanating from criminal activities- Internal Audit/ forensic unit or another relevant unit

9.1.6 Assessment of irregular expenditure

STEP 1:-

- a) Assessment of the compliance universe and linking to transactions processed to identify any possibilities of irregularities in transactions processed (on-going process)
- b) Ongoing assessments to identify:
 - transgressions leading to possible irregular expenditure; &
 - confirm non-compliance against the definition of irregular expenditure.

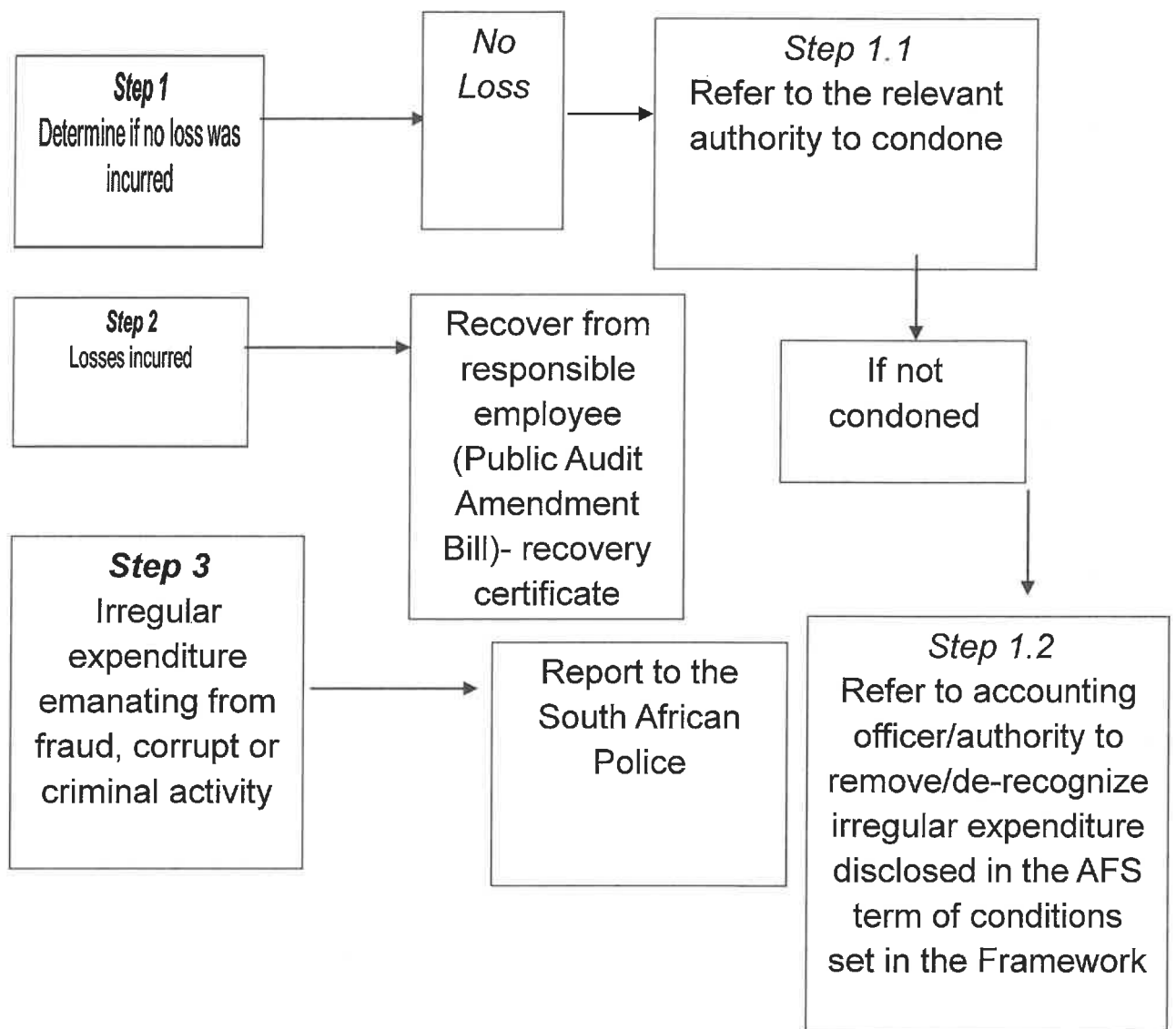
STEP 2:-

- a) The Loss Control function or another relevant function to determine losses incurred from irregular expenditure transactions
- b) Information after the determination of losses to provide information on:
 - root causes that led to the contravention of the legislation;
 - Any losses incurred and amounts thereof;
 - Breakdown in set internal controls
 - employee(s) responsible for the irregular expenditure;
- c) Determination of losses to be conducted started within 30 days from the date that the irregular expenditure was reported to the accounting officer/authority.

STEP 3:-

- a) Internal Audit function/forensic unit or another relevant function must upon the receipt of information from the loss control function on matters related suspicions criminal act conduct an investigation
- b) Results of the investigation must provide the accounting officer/authority with:
 - Nature and extent of the criminal act;
 - impact of the criminal act;
 - Other information on fraudulent, corrupt or criminal related activities;
 - employee(s) responsible for the irregular expenditure;
 - Recommend whether to report such to the South African Police Services.
 - The investigation must start within 30 days after confirmation of irregular expenditure.





9.1.7 Loss control determination condonation process

STEP 1:-

Where there is a condonation request

- a) Formal requests seeking condonation of irregular expenditure to the relevant authority (*condoning authority*).
- b) Request must at least contain:
 - confirmation of determination of losses and confirmation that no losses were incurred; and
 - findings and recommendations of the Loss Control function or another relevant function;
 - confirmation that the matter is addressed through e.g. developmental needs & etc.; and
 - remedial actions taken to prevent the recurrence of irregular expenditure in similar circumstances re-designing/revisiting internal controls.

**STEP 2:-
Where loss has been incurred**

Figure2

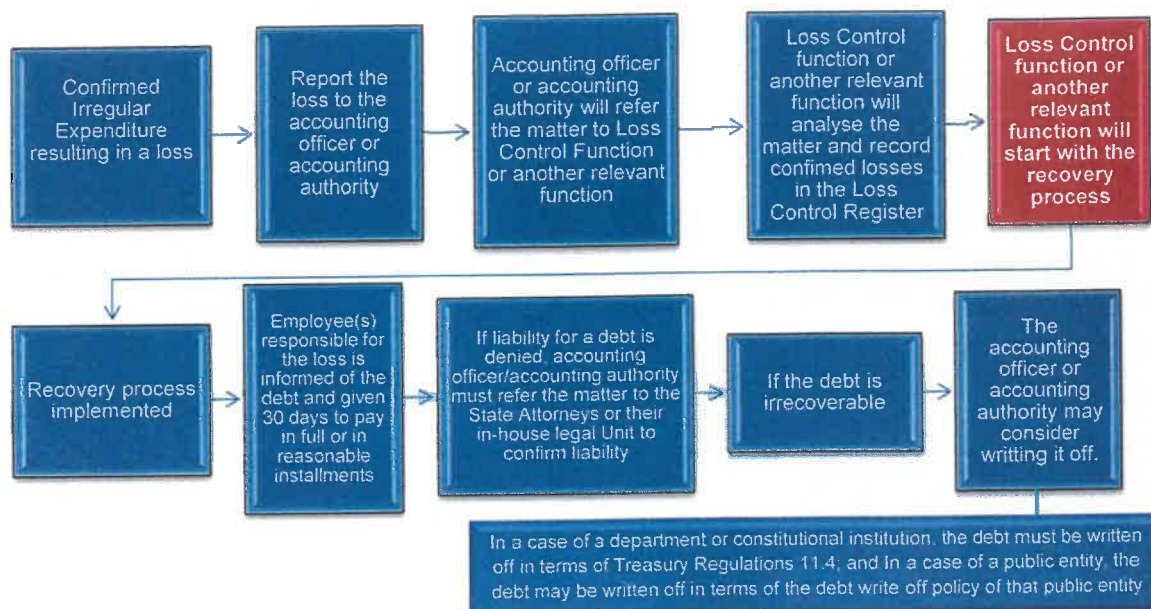


Figure 2:- above demonstrates that, if the results of the determination and investigations confirms that the department, constitutional or public entity suffered a loss from the incurrence of irregular expenditure, the accounting officer or authority must take necessary steps.

**STEP 3:-
Removal and de-recognition of irregular expenditure from AFS**

- a) Accounting officer/authority may consider removing irregular expenditure not condoned from amounts disclosed in the financial statements.
- b) Removal to only take place upon existence of:
 - transactions that are free from criminal activities;
 - disciplinary action was taken against the responsible employee(s) and process of addressing capacity constraints;
 - No losses were suffered;
 - the non-compliance has been addressed and internal controls revisited; and

9.1.8 Accounting policy for irregular expenditure

The following is the recommended accounting policy for irregular expenditure:-

- a) Irregular expenditure is recorded in the notes to the financial statements when confirmed. The amount recorded is equal to the value of the irregular expenditure incurred, unless it is impractical to determine, in which case reasons therefore must be provided in the notes.”
- b) Irregular expenditure receivables are measured at the amount that is expected to be recovered and are de-recognised when settled or written-off as irrecoverable.”
- c) *Irregular expenditure must be removed from the balance of the irregular expenditure notes when it is either*
 - i. *condoned by the relevant authority if no official was found to be liable in law;*
 - ii. *recovered from an official liable in law;*
 - iii. *written-off⁶ if it's irrecoverable from an official liable in law; or*
 - iv. *written-off⁷ if it's not condoned and not recoverable.*
- d) Debt is written off **“against savings”** if an official was found to be liable in law and a debtor was recorded for the recovery of such a debt.
- e) Irregular expenditure is **“NOT written off against savings”** but de-recognised from the balance of the irregular expenditure in the notes to the annual financial statements if an official of the institution was not found liable in law for the transgression.

9.1.9 Reporting of irregular expenditure

- a) Accounting officer`s to report monthly to the relevant treasury in terms of the In-Year-Monitoring Report
- b) Accounting authority to report quarterly to the relevant treasury in terms of the In-Year-Monitoring Report
- c) Reporting of a prescribed template – from April 2019

9.1.10 Provincial Government

(a) Lease contracts arranged by the Provincial Department of Public Works

- (i) If a lease contract is arranged by the Provincial Department of Public Works and expenditure on such lease is incurred and recognised by the client, any irregular expenditure emanating from such a lease contract will be disclosed in the register and the notes to the annual financial statements of the client.

- (ii) However, if expenditure on such lease is incurred and recognised by the Provincial Department of Public Works, any irregular expenditure emanating from such a lease contract will be disclosed in the register and the notes to the annual financial statements of the Provincial Department of Public Works

(b) Construction contracts arranged by the provincial Department of Public Works

- i. If a construction contract is arranged by the Provincial Department of Public Works and payment on such a construction contract is effected by the client demonstrates that any irregular expenditure emanating from such a construction contract will be disclosed in the register and the notes to the annual financial statements of the client.
- ii. However, if payment on a construction contract is effected by the Provincial Department of Public Works on behalf of the client demonstrates that any irregular expenditure emanating from such a construction contract will be disclosed in the register and the notes to the annual financial statements of the Provincial Department of Public Works.
- iii. Where institutions are mandated in terms of the law to make use of other organs of state to procure goods and/or services, the institution receiving the goods and/or services must, **where possible**, ensure that it has supply chain management representatives on the mandated institution's bid committee to confirm that appropriate supply chain management procedures have been followed.
- iv. If supply chain management transgressions are identified in the procurement processes of the mandated institution, the supply chain management representatives of the institution that is going to receive the goods and/or services must immediately inform the accounting officer or accounting authority of the institution that he or she represents.
- v. In line with paragraphs 55 and 56 above, the procuring institutions (Client) must always be represented in the bid committees of the mandated institutions for the procurement goods or services procured on their behalf, unless there are justifiable reasons for not being represented in the bid committees and such reasons must be in writing. This can further be explained as follows:

9.1.11 Transversal term contracts arranged by Treasury or State Information Technology Agency (SITA)

(a) Institutions that are not represented in the Bid Committees



- i. Institutions (client) that are not represented in the bid committees will not bear any irregular expenditure emanating from transgressions with the laws and regulations.
- ii. Disclosure of Irregular expenditure

<i>Agent (Mandated Institution)</i>	<i>Client (Procuring Institution)</i>
Non-Compliance	No disclosure

(b) Institutions that are represented in the Bid Committees

- (i) Institutions that are represented in the bid committees of the mandated institution will record the irregular expenditure in the registers and notes to their annual financial statements if there were any non-compliance matters with the laws and regulations emanating from such transversal contracts.
- (ii) The amount of the irregular expenditure to be disclosed must relate to the portion of the procurement costs of the institution (Client) that was represented in the bid committee.
- (iii) Disclosure of irregular expenditure

<i>Agent (Mandated Institution)</i>	<i>Client (Procuring Institution)</i>
Non-Compliance	Irregular Expenditure

9.1.12 Contracts which are specific to the procuring Institution (Client)

- a) Paragraph 13 of the State Information Technology Agency (SITA) regulation and paragraph 4.2.2 of practice note 5 of 2009/2010 requires a procuring institution (client) to be involved in the bid evaluation process and make recommendations for the award to the Recommendation Committee including the identification of all risks associated with the recommendation and the rating of all the risks.
- b) Any irregular expenditure emanating from such specific contracts must be recorded in the registers and the notes to the annual financial statements of the procuring institutions (client).
- c) Disclosure of irregular expenditure

<i>Agent (Mandated Institution)</i>	<i>Client (Procuring Institution)</i>
No disclosure	Irregular Expenditure

- d) Other contracts which are specific to the procuring institution (Client) including capital projects performed through the Department of Public Works, Independent Development Trust and other Mandated Institutions
- (i) Such institutions must be represented in the bid committees of the mandated institutions and any irregular expenditure emanating from such contracts will be recorded in the register and notes to the annual financial statements of the procuring institutions (Client).
- (ii) Disclosure of irregular expenditure

<i>Agent (Mandated Institution)</i>	<i>Client (Procuring Institution)</i>
No disclosure	Irregular Expenditure

9.2 SECTION B: FRUITLESS AND WASTEFUL EXPENDITURE

- a) Fruitless and wasteful expenditure: means expenditure which is made in vain and would have been avoided had reasonable care been exercised.
- b) Fruitless and wasteful expenditure is recognised as expenditure in the statement of financial performance according to the nature of the payment and not as a separate line item on the face of the statement. If the expenditure is recoverable it is treated as an asset until it is recovered from the responsible person or written off as irrecoverable in the statement of financial performance.
- c) The following are examples of fruitless and wasteful expenditure:-
- i. Expenditure due to negligence, eg. Cancellation fees incurred for missing a flight
 - ii. No show at hotels for accommodation
 - iii. Interest charged on overdue accounts
 - iv. Penalties paid on non -submission of log sheets
 - v. Non -attendance of workshops
 - vi. Catering at workshops for less number of confirmed attendees
 - vii. Making an official local call from a cellular phone while in your own office or in a colleague's office.
 - viii. Renting of equipment for an extended period of time instead of buying it.
 - ix. Ordering letterheads only to discover that the wording is incorrect and are of no use.
 - x. Paying interest on court claims
 - xi. Buying colour printer for ordinary office work.



9.2.1 Discovery

- a) An employee of a department, constitutional institution or public entity who becomes aware or suspects the occurrence of fruitless and wasteful expenditure must immediately in writing, report such expenditure to the accounting officer in terms of Treasury Regulations 9.1.2 and (in case of public entities) to the accounting authority in terms of the reporting policy of that public entity.

9.2.2 Evaluation

- a) Fruitless and wasteful expenditure is incurred when the resulting expenditure is made in vain and no value for money was derived from the expenditure or the use of other resources.

Table 1:- Evaluation of incident into circumstance that could lead to fruitless and wasteful expenditure

Evaluation of an incident	An evaluation of an incident may lead to the unintended occurrence of fruitless and wasteful expenditure
Exercising reasonable care	Action procedure or operations undertaken by the employee(s) or another relevant function in responding to the possibility of incurring fruitless and wasteful expenditure
Examination of negligence	Confirmation of whether the action, procedure or operation of exercising reasonable care was disregarded by employee(s) or another relevant function to prevent fruitless and wasteful expenditure

Fruitless and wasteful expenditure must fulfil the following conditions in the definition:

- a) Expenditure must be made in vain
- b) Such expenditure would have been avoided had reasonable care been exercised

9.2.3 Assessment

- a) For an employee or another relevant function in a department, constitutional institution or public entity to exercise reasonable care in an effort to prevent fruitless and wasteful expenditure, that employee or relevant function must evaluate incidents of that particular transaction that may lead to fruitless and wasteful expenditure



- b) Once it has been evaluated that an incident may lead to fruitless and wasteful expenditure, the employees(s) or another relevant function must immediately take action to eliminate the occurrence of fruitless and wasteful expenditure.
- c) Section 38c(ii) and 51(1)(b)(ii) of the PFMA require accounting officers and accounting authorities to amongst others, take effective and appropriate steps to prevent fruitless and wasteful expenditure
- d) Upon detection of alleged fruitless and wasteful expenditure, the loss control function or another relevant function must conduct an assessment to confirm whether expenditure incurred meets the definition of fruitless and wasteful expenditure.

9.2.4 Determination

- a) The loss Control Function or another relevant function must conduct a determination test to examine or analyses particulars of the expenditure and quantify the amounts of the fruitless and wasteful expenditure.
- b) The Loss control function or another relevant function must atleast collect information on :-
 - i. The root cause that led to the fruitless and wasteful expenditure
 - ii. The employee responsible
 - iii. Confirmed amounts of fruitless and wasteful expenditure to be recovered
 - iv. Confirmed amount of fruitless and wasteful expenditure that are assess and irrecoverable and
 - v. Any breakdown in the designed internal control
- c) The determination test referred must commence within 30 days after the fruitless and wasteful expenditure was reported to the accounting officer or accounting authority.

9.2.5 Recovery

- a) If it has been confirmed that the expenditure is fruitless and wasteful, the accounting officer or accounting authority must recover such amount of fruitless expenditure from the responsible employee (s).



Figure 3: Process for recovery of fruitless and wasteful expenditure

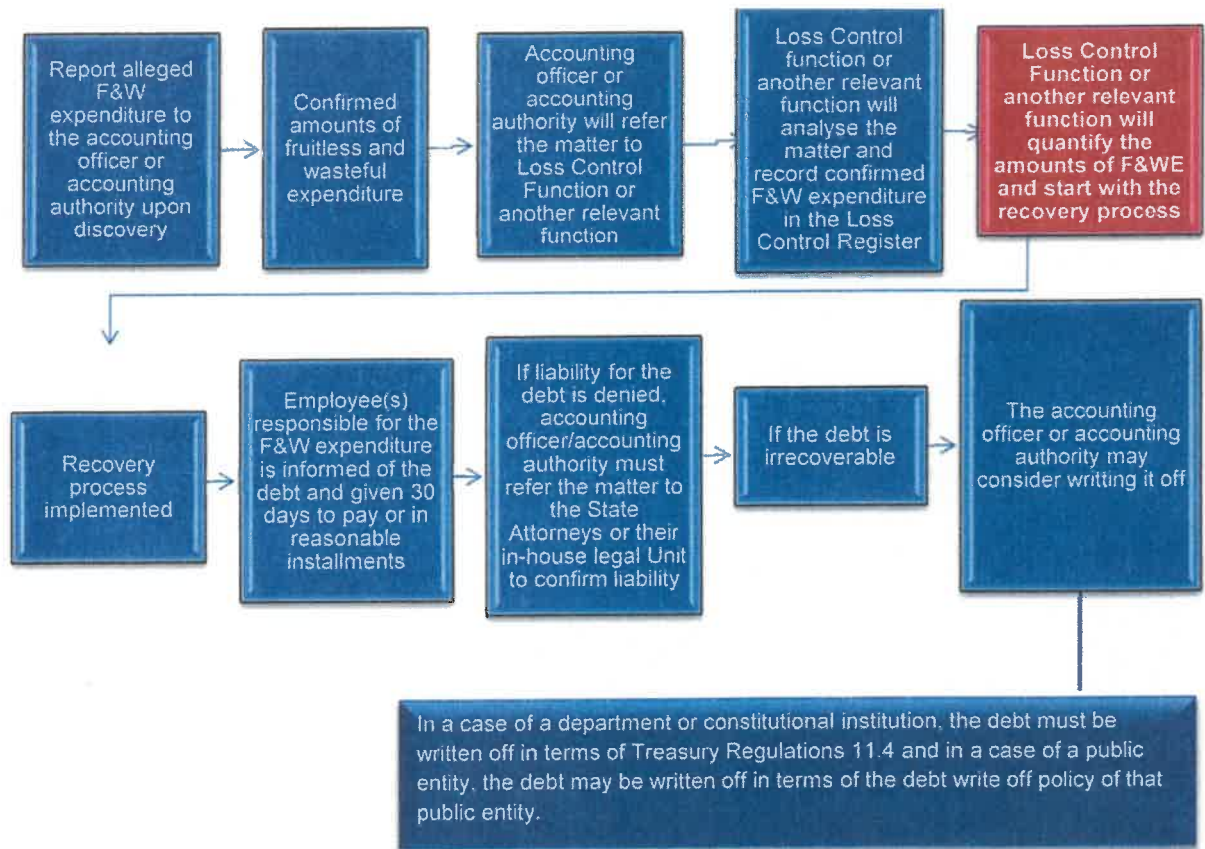


Figure 3 above demonstrates that, if the results of the determination tests conducted confirms that a department, constitutional institution or public entity has incurred fruitless and wasteful expenditure, the accounting officer or accounting authority must take the necessary steps as outlined above.

9.2.6 Accounting policy for fruitless expenditure

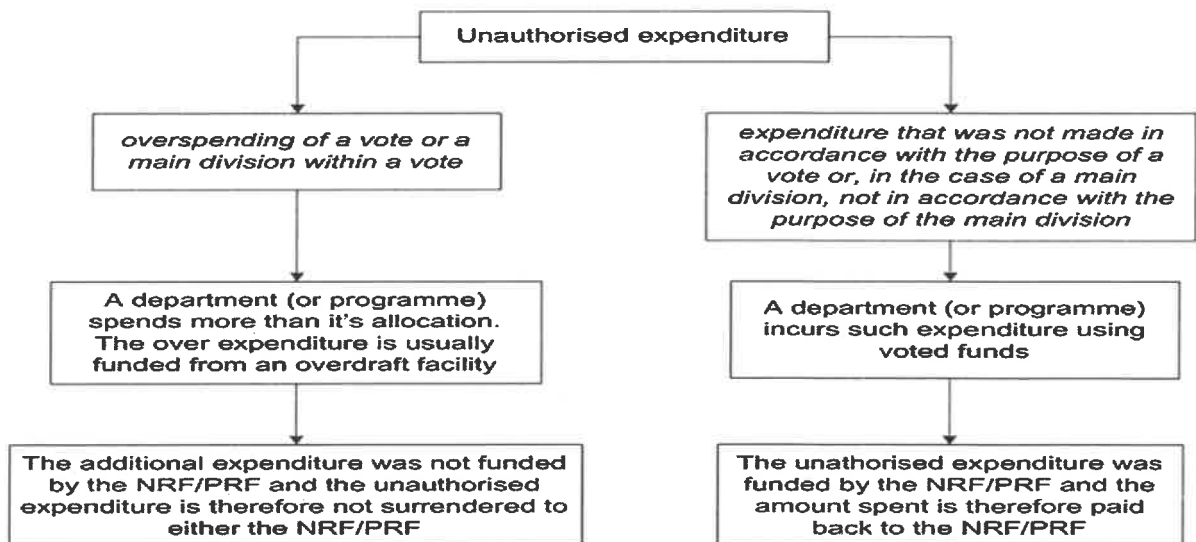
- a) Fruitless and wasteful expenditure is recognised as expenditure in the statement of financial performance according to the nature of the payment and not as a separate line item on the face of the statement. If the expenditure is recoverable it is treated as an asset until it is recovered from the responsible person or written off as irrecoverable in the statement of financial performance.
- b) Movement in balance obtained from the note to the Annual Financial Statement (AFS).
- c) Expenditure for the year is not reduced when the F&W is discovered



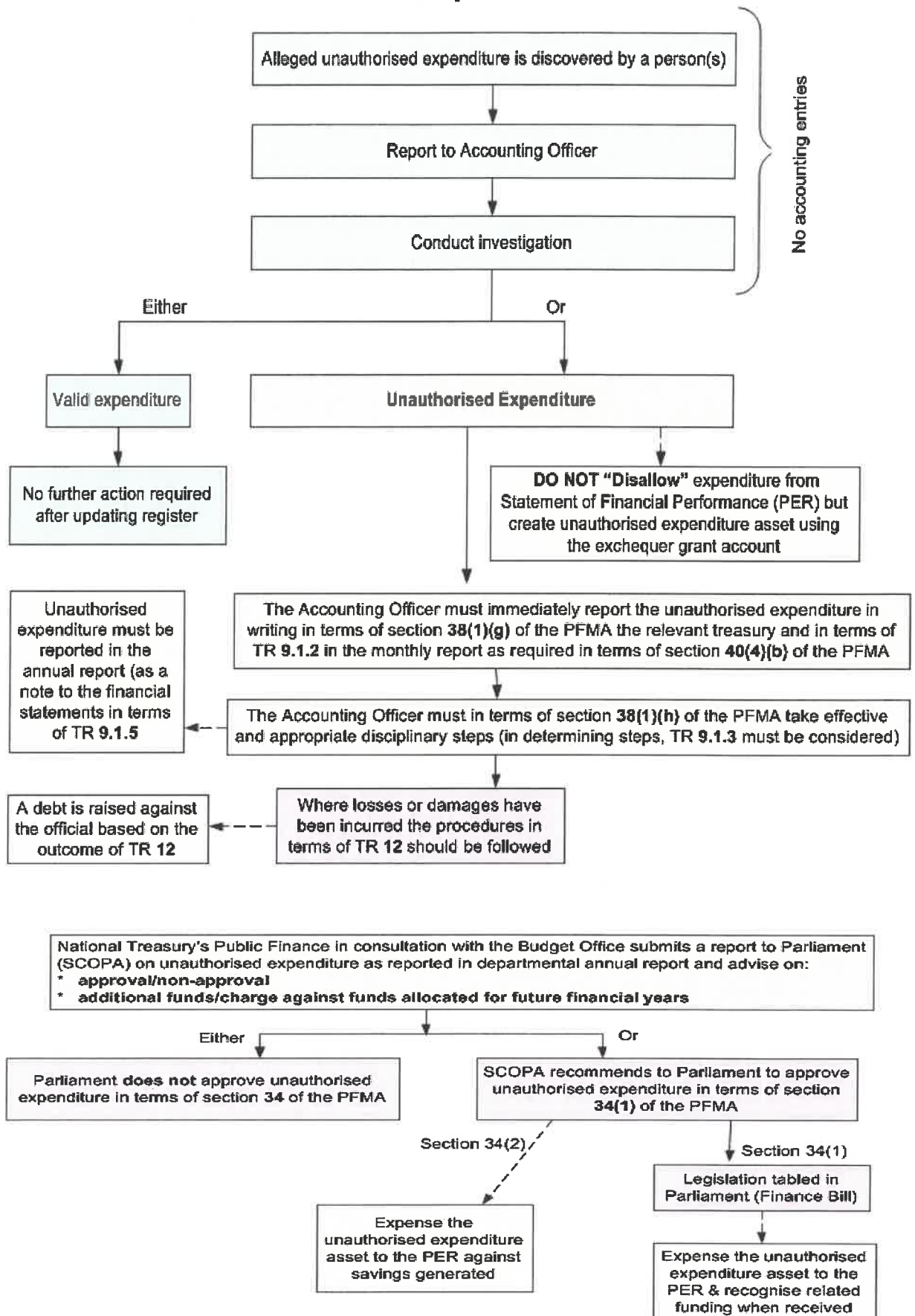
9.3 SECTION C: UNAUTHOURISED EXPENDITURE

9.3.1 Unauthorised expenditure versus irregular expenditure

- a) If a department incurs expenditure that contravenes any applicable legislation as indicated in paragraph 9 above, this expenditure meets the definition of irregular expenditure and must be classified as such.
- b) Should the irregular expenditure in paragraph 19 above relate to an expenditure being incurred not in accordance with the purpose of the main division/vote or which results in the overspending of the main division/vote, such expenditure also meets the definition of unauthorised expenditure.
- c) Transactions such as those indicated in paragraphs 19 and 20 above may not both be recognised as irregular expenditure and unauthorised expenditure. Considering that irregular expenditure is defined as expenditure other than unauthorised expenditure, this means that unauthorised expenditure shall take precedence over irregular expenditure.
- d) The following are examples of unauthorised expenditure
 - i. Overspending on total vote (budget)
 - ii. Earmarked funds used for other purposes
 - iii. Funds used outside the mandate of the department



9.3.2 Procedure for unauthorised expenditure



9.3.3 Accounting Policy of unauthorised expenditure

- a) Unauthorised expenditure approved with funding is derecognised in the statement of financial position when the unauthorised expenditure is approved and the related funds are received.
- b) Where the amount is approved without funding it is derecognised as expenditure in the statement of financial performance on the date of approval
- c) Recommendation when the UA is approved without finding should specify period of time over which the amount is derecognized.

9.4 INVESTIGATIONS

- a) The accounting officer or accounting authority must conduct an investigation if it is suspected that there is a possibility of fraudulent, corrupt or other criminal conduct emanating from the incurrence of irregular, fruitless and wasteful expenditure.
- b) The accounting office or authority must, upon suspicion of a fraudulent, corrupt or other criminal conduct, refer the irregular, fruitless and wasteful expenditure to a function performing investigations in order to establish the facts about the transaction and to obtain recommendations on the next step(s) to be taken.
- c) The investigation must provide the accounting officer or accounting authority with at least the following in the case of **irregular expenditure**
 - i. Root cause that led to the transgression
 - ii. Impact of the transgression
 - iii. Fraudulent, corrupt or other criminal conduct
 - iv. Employee(s) responsible for the irregular expenditure
 - v. Whether the department , constitutional institution or public entity suffered a loss
 - vi. Whether the matter must be referred to the South African Police services and
 - vii. Any breakdowns in the designed internal control and the impact thereof
- d) The investigation must provide the accounting officer or accounting authority with at least the following in the case of **fruitless and wasteful expenditure.**
 - i. Root cause that led to the fruitless and wasteful expenditure
 - ii. Employees(s) responsible for incurring the fruitless and wasteful expenditure
 - iii. Fraudulent, corrupt or other criminal conduct
 - iv. Whether the matter was referred to the South African Police Service and
 - v. Any breakdown in the designed internal controls and the impact thereof.



- e) The investigations above must commence within 30 days after the determination test

9.5 RECOVERY OF EXPENSES FROM OFFICIALS LIABLE IN LAW

9.5.1 Quantifying a debt (loss)

- a) The amount of debt recoverable from the responsible employee(s) may equate to
 - i. The value of the debt incurred as a consequence of his or her actions that led to incurrence of the irregular, fruitless and wasteful expenditure
 - ii. A lesser amount, determined by the AO or AA in accordance with the debt management policy of the institution.
- b) In case where the AO or AA is responsible for the debt, the relevant Treasury,
 - i. Must determine the value of the debt incurred as a consequence of his or her actions that led to the incurrence of irregular, fruitless and wasteful expenditure or
 - ii. May determine a lesser amount

9.5.2 Raising a debt

- a) Treasury Regulations 11.2 requires AO or AA of a department or constitutional institution to take effective and appropriate steps to timeously collect all money due to their relevant institutions.
- b) A debt must be identified, reported and recorded in the books of a department, constitutional institution or public entity where such debt arose from losses incurred as a result of irregular, fruitless and wasteful expenditure.

9.5.3 Informing the responsible of the debt

- a) As per the departmental debt policy

9.5.4 Liability in law

- a) If the employee responsible for the debt is still in the employ of the department and denies the liability for the debt, the accounting officer must refer the matter to the State Attorney to confirm the debtors's liability in law. In the case of a constitution or a public entity, the accounting officer or accounting authority



may refer the matter to their in house legal division, if applicable or to an external legal service provider to confirm the debtors's liability in law.

- b) If the person responsible for the debt has left or is not in the employ of the department and denies liability for the debt, the AO must refer the matter to the SA for confirm the debtor's liability in law.
- c) If the amount of a debt is irrecoverable from a responsible employee, the AO of a department may write off the debt in terms of Treasury Regulations 11.4 and the debt policy.
- d) If the AO is responsible for the debt and is unable to re-pay the debt, the AO must report the inability to the relevant Treasury in order for the relevant Treasury to consider approving the writ off, is such a debt is considered to be irrecoverable.

9.6 FINANCIAL MISCONDUCT

- a) Section 38(1)(c)(ii) and section 51(1)(b)(ii) of the PFMA, requires an accounting officer or accounting authority to take effective and appropriate steps to, amongst others, prevent irregular, fruitless and wasteful expenditure and losses resulting from criminal conduct.
- b) In terms of section 81(1)(b) and 83(1)(b) of the PFMA, an accounting officer or accounting authority shall commit an act of financial misconduct if that accounting officer or accounting authority makes or permits irregular, fruitless and wasteful expenditure.
- c) Similarly, section 81(2) and 83(3) of the PFMA provides that employees of the PFMA compliant institutions to whom power or duty is assigned to in terms of section 44 and 56 of the PFMA commit an act of financial misconduct if that official wilfully or negligently fails to exercise that power or perform that duty to, amongst others take appropriate steps to prevent to prevent irregular expenditure within that official's area of responsibility as required in terms of section 45(c) and section 57(c) of the PFMA.
- d) In terms of sections 38(1)(h)(iii) and 51(1)(e)(iii) of the PFMA, the accounting officer or accounting authority must take effective and appropriate disciplinary steps against any official in the service of their respective institutions who makes or permits irregular, fruitless and wasteful expenditure.
- e) If an allegation of financial misconduct is confirmed, the AO or AA must ensure that disciplinary processes are initiated against the employee concerned in



accordance with the relevant prescripts and agreements regulating the employment of the applicable category of employees.

- f) Treasury Regulation 4.1.3 provides that, if an accounting officer is alleged to have committed financial misconduct, the relevant treasury, must, as soon as it becomes aware of the alleged misconduct, ensure that the relevant executive authority initiates an investigation into the matter and if the allegations are confirmed, holds a disciplinary hearing in accordance with the prescripts and agreements applicable in the public service.
- g) Similarly, if an accounting authority or any of its members is alleged to have committed financial misconduct, the relevant executive authority must initiate an investigation into the matter and if the allegations are confirmed, must ensure that appropriate disciplinary proceedings are initiated immediately as required by the Treasury Regulation 33.1.3.
- h) The relevant Executing Authority (EA) must initiate an investigation into the matter within 30 days from the date of discovery of the alleged financial misconduct and if the allegations are confirmed, ensure that appropriated disciplinary processes are initiated immediately.

10. NON-COMPLIANCE

Non-compliance to this policy will result in appropriate disciplinary procedures instituted against the relevant officials.

11. POLICY REVIEW

This policy will be reviewed on an annual basis and or when extenuating circumstances occur, such as a pronouncement or change in legislation and/ or regulations.

12. APPROVAL AND COMMENCEMENT

This policy is hereby approved on this day 17 of FEBRUARY year 2020



MS. S.R BAPELA
HEAD OF DEPARTMENT

