

UMZIMVUBU LOCAL MUNICIPALITY



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LOSS CONTROL POLICY

1. INTRODUCTION

Council will bear its own damages and accident risks and be responsible for all claims and losses of Council owned property where these arise from council activities by an official who is liable in law and who is or was employed by council.

Section 78(1)(b-e) of the Municipal Finance Management Act places the onus on each official within the Department to take responsibility for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility. In particular, the official must take effective and appropriate steps to prevent, within that official's area of responsibility, any unauthorised, irregular, fruitless and wasteful expenditure and any under-collection of revenue due.

For the effective management of losses and potential losses, loss control, can be divided to the following main functions:

- Reporting all claims, losses, and damage
- Ensuring the correct format and content of reports with regard to which claims, losses, and damage are registered
- Following up and investigating any claims, losses and damage
- Keeping a losses register in which particulars of all losses are recorded
- Recovery of money and checking of cases to be finalised

The identification of actions or instances of neglect, which may result in potential claims against or losses for Council, is very important for instituting preventative control measures.

The accounting officer or his/her assignee must delegate the responsibilities attached to loss control as set out in the Municipal Finance Management Act in terms of section 79. This official can, where necessary, obtain the support of nominated officials on a decentralised basis.

2. DEFINITIONS

For the purposes of this policy the following definitions apply:

“Losses” - any material loss or damages or prejudice to Council or a said person and, without derogating from or limiting the concept, also shortages, damages, fruitless or wasteful expenditure and compensations.

“Claim” - a lawsuit, action, interdict, arbitration, inquest or dispute and also includes an intended lawsuit, action, interdict, arbitration, inquest or dispute.

3. OBJECTIVE

This document informs departmental officials of the policy on loss control within the Department. This policy applies to all departments of Umzimvubu Local Municipality.

4. RESPONSIBILITY FOR LOSSES

The Accounting Officer has in terms of departmental financial delegation delegated the acceptance of liability for any loss or damage suffered by another person, as for a claim against council, which arose from an act or omission of an official, to the Head of Department concerned

4.1 In terms of ULM Assets Management Policy:

Part 10 – Safekeeping of Assets:

Every head of department shall be directly responsible for the physical safekeeping of any asset controlled or used by the department in question. In exercising this responsibility, every head of department shall adhere to any written directives issued by the Chief Financial Office to the department in question, or generally to all departments, in regard to the control of or safekeeping of the municipality's assets.

Part 18 – General Maintenance of Assets:

Every head of department shall be directly responsible for ensuring that all assets are properly maintained and in a manner, which will ensure that such assets attain their useful operating lives.

REPORTING POTENTIAL CLAIMS, LOSSES AND DAMAGE

1. LOSS CONTROL OFFICERS AND THEIR DUTIES

- a) On account of the organizational composition of the assets & control, a central loss control officer (CLCO) must be appointed so that loss control can be applied in a regulated and effective manner.
- b) The central loss control officer ; will be responsible for loss control in all the directorates of the municipality..
- c) The Logistic Management Officer (LMO) in the Directorate: Budget and Treasury will assume the position of CLCO.

1.1 Appointment of the central loss control officer

1.1.1 The duties attached to loss control are delegated by the accounting officer to an officer in terms of delegation. These powers have been delegated to the Chief Financial Officer (CFO).

1.1.2 .

1.1.3 The letter of appointment or resolution of a CLCO, including particulars regarding his or her office address and telephone number, is attached. A copy of the letter of appointment must be sent to the CFO. This also applies when the appointed CLCO is replaced.

1.2 The duties of the central loss control officer

1.2.1 The following duties must be delegated to the CLCO in writing:

- Obtaining all details, statements, etc. in connection with claims and losses in a loss register
 - The timely reporting of all claims and losses to the Chief Finance Officer . Copies of the Departmental Losses must be submitted to the CLCO as soon as all documents are attached.
 - Liaising with the Legal Office
 - Monitoring claims to prevent prescription
 - Reminding all employees periodically, by means of departmental directives, instructions, etc. that everything possible must be done on a continuous basis to prevent claims against Council from arising, or to shield the Council against losses.
 - If there were no losses for the period, the CFO must be informed quarterly either by e-mail or in writing that there were no losses.
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- - Following up with Council Insurance broker and settling of such cases
 - Regular checking of losses registers and cases recorded therein
 - Checking all cases for authorization by Treasury, the accounting officer or directors
 - The reconciliation of written –off items with the respective lost items in the budgeting of expenditures in cases where book entries have been made for the accounting of the written-off items
 - Reporting all cases to the office of Auditor –General
 - Introducing preventative measures to avoid the recurrence of any losses

2. PROCEDURES FOR REPORTING ALL CLAIMS, LOSSES AND DAMAGE

2.1 Reporting cases to the CLCO

- 2.1.1 The HoD of a directorate must see to it that all cases (of the kind mentioned above), which arise in the relevant directorate and offices or institutions under its management, are reported to the CLCO.
- 2.1.2 Cases must be reported to the CLCO through the submission of a properly completed loss report
- 2.1.3 Upon receipt of the report, the CLCO must enter the case forthwith in the losses register and assign a unique loss register number to it. A case file must also be opened for each case.

2.2 Reporting cases to Chief Finance Officer

- 2.2.1 The CLCO informs the CFO of all cases that have arisen in a particular directorate and in the offices/institutions under its management. The loss report together with any other supporting documentation relevant to the case must be sent to the CFO , to be placed on the CFO's case file

2.2.2 The loss report consists of the following sections:

(a) B and C Sections

- The department/section where the losses took place completes these sections as soon as possible after the incident.
- The information concerning the incident as requested in this section is self-explanatory.
- As soon as the forms are received by the CLCO, the CLCO must allocate a losses register serial number to the case.
- After it has been completed and signed, the CLCO sends the notification report to the CFO.

(a) D Section

- The head of the relevant department/section is responsible for the completion of this section and must see to it that all the required declarations are attached. (Memorandum format)

2.3 General

2.3.1 The CLCO must ensure that cases as set out above are noted and reported to the CFO and the losses register serial numbers are allocated numerically to cases in the register

2.3.2 No recording of any losses, claims or damage will be dealt with by the Directorates. Rejection will be dealt with centrally by the CLCO.

2.3.3 As soon as it has been received from CLCO, the central losses register serial number will be entered in the losses register opposite the relevant case.

2.3.4 Cases involving more than one item may be reported and entered in the losses register as one case. The number of items and their value must however, be specified separately. The following are a few examples of possible cases:

- Various items, which went missing or were damaged during the same theft or other incident.
- Different items found, damaged or in deficit during the same stocktaking.
- Where more than one debit account (amounts of R100, 00 and less) are considered for writing-off.

2.3.6 After the cases are recorded by means of the above-mentioned process on the Central

Loss Control registers, the CLCO must see to it that the cases are followed up and finalized as soon as possible.

3. REPORTING TO THE OFFICE OF AUDITOR –GENERAL

If necessary, the CLCO will report to the office of the Auditor –General all items written off and all cases of financial crimes committed during the year by officials of the municipality. .

FOLLOWING UP AND INVESTIGATING ANY POTENTIAL CLAIMS, LOSSES AND DAMAGE

1. CASE FILES

- 1.1 The CLCO keeps a case file for each case entered in the Loss Control register. The correspondence concerning the case and final authorisation to write off the loss, deficit or payment is kept on the case file.
- 1.2 The CLCO will keep similar case files updated. CLCO must therefore as soon as a case has been finalized, provide the official who submitted the case with the relevant authorisation or decision leading to closure of the case. All addenda to the authorisation and/or decision by the Legal Service, if any, must be attached to the authorisation.
- 1.3 The case file kept by the CLCO is filed according to the serial number in the Loss Control register.

2. SAFE-KEEPING AND DISPOSAL OF CASE FILES

- 2.1 In terms of Section 13(4) of the National Archives of South Africa (Act No 43 of 1996), read with paragraph 1.4 of the Archives Instructions, loss control officers must ensure the safe keeping of all case files, registers and records in their care.
- 2.2 Disposal of the above-mentioned case files, registers and records will be in terms of paragraph 2 of the Archives Instructions.

3. FOLLOWING UP AND DEALING WITH CASES

- 3.1 The CLCO must ensure that all cases are followed up regularly and, where applicable, handed over to the South African Police Service.

- 3.2 If a legal opinion must be obtained for a particular case, it should happen via the CLCO. The CLCO must also ensure that the following information is given:
- Full particulars concerning the case and the circumstances that led to it,
 - Statements containing all relevant information by all persons involved,
 - All other documentation related to the case
- 3.3 The latest progress made with a case must be indicated in the “Follow – up” column of the Loss Control register. The most recent documentation must be filed and a copy sent to the CFO.
- 3.4 The CFO will regularly check departmental losses in order to ensure regular follow-up and full reporting to the Auditor –General

4. UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

4.1 According to Chapter 1 of the MFMA:

“Fruitless and wasteful expenditure” means expenditure, which was made in vain and which would have been avoided had reasonable care been exercised.

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

- (a) This Act; or
- (b) The Municipal Systems Act (Act 20 Of 1998)
- (c) The Public Office-Bearer Act, 1998
- (d) Any provincial legislation providing for procurement procedures in that provincial government:

“Unauthorized expenditure,” means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11 (3) and includes-

- (a) Overspending of the total amount appropriate in the municipality’s approved budget
- (b) Overspending of the total amount appropriated for a vote of the approved budget
- (c) Expenditure from a vote unrelated to the department or functional area covered by the vote
- (d) Expenditure of money appropriated for a specific purpose, otherwise than for the specific purpose

- 4.2 The above-mentioned expenditure must be dealt with according to the guidelines for the preparation of annual reports for national and provincial departments, issued by the National Treasury. These guidelines are updated annually and are available on the National Treasury website of the Office of the Accountant General (OAG) under the public link.

5 GENERAL

5.1 CLAIMS AGAINST THE MUNICIPALITY THROUGH ACTS OR OMISSIONS

Council shall accept liability for any loss or damage suffered by another person (Third Party), as for a claim against the municipality, arising from an act or omission of an official. Due cognisance must take place to ensure that claim exist its falls within stated regulations

5.2 CLAIMS BY THE MUNICIPALITY AGAINST OTHER PERSONS

The Accounting Officer has delegated the institution of legal action, where the Council suffers a loss or damage and the other person denies liability, to the Manager: Corporate Services. Should it be deemed economical, the matter may be referred to the Attorney, by the Manager: Corporate Services, for legal opinion.

5.3 CLAIMS BY OFFICIALS AGAINST THE MUNICIPALITY

The Accounting Officer has delegated the compensation of an official, who has suffered a loss or damage in the execution of official duties, to the Chief Financial Officer, who may make good the loss or damage provided that the official can prove such loss or damage.

5.4 LOSSES OR DAMAGES THROUGH CRIMINAL ACTS OR OMISSIONS

The Accounting Officer has delegate the recovery of losses or damages, through criminal acts or possible criminal acts, to the Manager: Corporate Services. The matter shall be reported, in writing, to the Accounting Officer and the South African Police Service. In the case of omission, the matter shall be reported, in writing, to the Accounting Officer. Whether or not the person is still in the employ of the Municipality, the Department shall recover the value of the loss or damage from the person responsible.

5.5 RECOVERY OF LOSSES AND DAMAGES

Losses and damages suffered by the municipality, because of an act committed or omitted by an official, shall be recovered from such an official if that official is liable in law.

Note: The Accounting Officer has delegated the recovery of losses or damages to the Manager: Corporate Services.

5.6 UNAUTHORISED, IRREGULAR, FRUITLESS ANS WASTEFUL EXPENDITURE

The recovery of losses or damages resulting from unauthorised, irregular or fruitless and wasteful expenditure must be dealt with in accordance with the MFMA Section (5).

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.

Section 32 (2) (MFMA) A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure—

- (a) In the case of unauthorised expenditure, is—
 - (ii) Certified by the municipal council, after investigation by a council

Committee, as irrecoverable and written off by the council; and
(b) 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.

6. MANAGEMENT REPORTING

The budget and Treasury Unit shall report on all losses and the status of losses to the Departmental Portfolio Committee monthly.

The Chief Financial Officer shall include the following particulars with the annual report and audited financial statements:

- (a) any material losses through criminal conduct, and any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure, that occurred during the financial year;
- (b) any criminal or disciplinary steps taken as a result of such losses, unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure;
- (c) any material losses recovered or written off; and
- (d) any other matters that may be prescribed.

KEEPING AN UPDATED STANDARDISED LOSSES REGISTER IN WHICH ALL PARTICULARS CAN BE ENTERED

1. The CLCO keeps a central register in which all claims, losses, etc. which arise in the Department are entered. This register is known as the Central Loss Control register.
- 2.
3. The losses registers must indicate the following particulars for each case:
 - 3.1 Date received: The date on which the case was received by the CLCO
 - 3.2 Central losses register serial The serial number allocated to the case by the CLCO number:
 - 3.3
 - 3.4 File number: The file number of the directorate/office where The case arose
 - 3.5 Date of the loss: The date on which the claim, loss, etc .arose or Was discovered (N.B. This is not the date on which the loss was reported to the CLCO.)
 - 3.6 Particulars of losses: A factual description of the claim losses If known, the place where it happened

and the person responsible must also be mentioned

- 3.7 Amount: The amount of the claim, losses.
- 3.8 Amount written off: The amount authorized to be written off.
- 3.9 Amount recoverable: The amount to be recovered from a person or an Institution
- 3.10 Authorised by: The rank of the person who, in terms of the delegated powers, gave authorization to write off a loss or to pay out a claim
- 3.11 Authorisation number: The number allocated to the delegated authority by which it was authorised
- 3.12 Remarks/follow up: The latest progress made must be indicated briefly. Full details of the progress made with a case must be entered in the relevant case file

FINALISING OF CASES

1. FINALISING OF LOSSES

When it has been determined after regular follow-ups that certain losses must be written off or where expenditure needs to be condoned, the CLCO must draw up the relevant submission (see paragraph 3& 4 of this chapter).

1.1 Writing off losses against the Council and other cases involving monetary transactions

When authorisation has been obtained in accordance with the delegated powers for writing off a loss or deficit, the following procedure is followed:

- 1.1.1 When authorisation has been obtained, the CFO provides the CLCO (who must bring items written off to account) with a copy of the authorisation to make the required journal entry.
- 1.1.2 The CLCO, who is doing the journal entry, attaches the copy of the authorization to the original journal and enters the authorization number and the date in the journal.
- 1.1.3 A copy of the numbered journal must be filed in the files of the CLCO and the CFO.

1.2 Partial writing off of losses against the Council and other cases involving monetary transactions

When responsibility for the specific loss, damage or deficit has been determined, the following procedure must be followed:

- 1.2.1 The amount of the loss, damage or deficit, as determined by the foregoing investigation, must be recovered from a particular person or institution. The CLCO enters this amount in the “amount recoverable” column of the losses register.
- 1.2.2 As soon as the recoverable amount has been recovered in full, it must be noted as such in the “Follow –up” column of the losses register. Proof of full settlement of the amount, such as copy of the receipt, must be kept in the relevant case file and sent to the CLCO for closure of the case.
- 1.2.3 If the debt is to be repaid in the monthly instalments, a copy of this decision with particulars regarding the deductions must be kept in the case file and sent to the CLCO. For recording purposes, the date on which the last instalment is payable must be entered in the “follow- up” column of the loss register. As soon as the final instalment has been received, all substantiating documents must be sent to the CLCO for closure of that case.
- 1.2.4 If the amount cannot for some reason be recovered, the writing off of the outstanding amount must be considered.
- 1.3 Writing off losses or damage to Council property**
 - 1.3.1 Authorisation with full particulars, for something must be available in the case file and sent to the CLCO.
 - 1.3.2 As soon as the appropriate columns in the Loss Control register dealing with authorisation have been completed, the CLCO has been supplied with a copy of the authorization, and the CLCO has checked the submission, the case is regarded as settled.
 - 1.3.3 “Council property” includes, inter alia:
 - all stock and equipment issued or held to be issued;
 - all livestock;
 - all buildings or structures, etc. that are property of the Council
 - all vehicles or machinery that belong to the Council
- 1.4 Claims against the Council and ex gratia payments**
 - 1.4.1 The payment of a claim or an amount in terms of a settlement by the Council Attorney, if the Accounting Officer or Treasury agrees, can be made against the appropriate provision in the vote item if, at the time of the payment, it had already been established that the Council alone was responsible and that the person in question has not forfeited his or her protection.
 - 1.4.2 Full authorisation (together with addenda referred to in submission, if any) must be attached to the payment form used to apply for payment, to serve as documentary evidence.
 - 1.4.3 If finality concerning the liability of an intended person has not been reached by the time of the payment, the payment is made provisionally from an appropriate suspense account.

- 1.4.4 Should it be found that the Council is solely accountable; the amount will be settled by journal entry to the appropriate provision on the budget vote concerned. Full particulars concerning the finding and authorization are attached to the journal and must be referred to in the journal.
- 1.4.5 If it is found that the intended person is solely accountable, or jointly accountable with the Council, that the part of the claim for which the intended person is responsible plus the legal costs will be covered from that person and credited to the appropriate suspense account. That part of the claim for which the Council is responsible must be dealt with as described in paragraph 1.4.4 above.

2. AUTHORISATIONS

NO AUTHORISATIONS FOR WRITING OFF LOSSES, DEFICITS ECT. OR EX GRATIA PAYMENTS GIVEN, WILL BE VALID UNLESS THE CENTRAL LOSS REGISTER SERIAL NUMBER THAT WAS ALLOCATED TO THE CASE HAS BEEN ENTERED IN THE SUBMISSION BY THE CENTRAL LOSS CONTROL OFFICER OF THE BUDGET AND TREASURY OFFICE.

- 2.1 Make sure that the above-mentioned serial number is stated in the title of the submission.
- 2.2 The CLCO must ensure that the authorisations given by incumbents of posts in directorates are appropriate and correct in accordance with delegated powers. If not, the case must be referred back to be corrected by the relevant office/institution which made the submission
- 2.3 Authorisations granted by Treasury and Accounting Officer will be sent via the CFO to the CLCOs for distribution among the offices/institutions concerned.
- 2.4 Authorisations granted by incumbents of posts in directorates and offices resorting under them must be dealt with by the CLCO. The latter must provide a copy of the authorisation to the CLCO.

3 FINANCIAL DELEGATIONS CONCERNING THEFTS, LOSSES, DEFICITS, CLAIMS AGAINST THE COUNCIL AND EX GRATIA PAYMENTS

- 3.1 The powers delegated by the Accounting Officer of the Council in terms of Section 44(1)(a) and (b) of the Public Financial Management Act, 1999 (Act 1 of 1999 as amended by Act 29 of 1999), have been attached

3.2 It is absolutely essential that the delegated powers concerned be read together with the appropriate treasury instructions when a case is considered for payment, for being written off or for condonement.

3.3 Alterations to delegated powers made from time to time by accounting officer must be taken into account.

4 IMPLEMENTATION

(a) This policy is effective from date of council approval

(b) Responsibility for the implementation of this policy rests with the Chief Financial Officer.