



Harry Gwala District Municipality

**LOSS CONTROL
POLICY
HGDM-P0014
2016-17**

| Original Council Approval | | Amended |
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| Date of Council Approval | | |
| Resolution Number | | |

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| Effective Date | | |
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1. PREAMBLE

The Loss Control Policy provides a framework within which the Department will prevent, limit or reduce unnecessary losses. It also serves as a basis for the development of our loss control strategies and plans.

1. ESTABLISHMENT AND IMPLEMENTATION OF LOSS CONTROL POLICY

LEGISLATIVE FRAMEWORK

The Municipal Finance Management Act, 2003 (Act no 56 of 2003) compels the Accounting Officer and officials within that official's area of responsibility, amongst other things, to ensure that an effective, efficient and transparent system of risk management and internal control is established and carried out respectively to prevent losses and to ensure the safeguarding and maintenance of all assets of the Department.

The Treasury Regulations also compels the Accounting Officer to conduct a risk assessment in order to identify emerging risks that may threaten the achievement of Departmental objectives. A risk management strategy must be clearly communicated to all officials to ensure that the said strategy is incorporated in the Department. The Accounting Officer must also exercise reasonable care in detecting and preventing losses and for this purpose effective and transparent processes of financial and risk management must be implemented. Treasury Regulation 4,9,10, 11 and 12 issued in accordance with section 76 of the PFMA.

Section 45 of the PFMA-Responsibilities of other officials provides that

An Official of a department, trading entity or constitutional institution

- a) Must ensure that the system of financial management and internal control established for that department, trading entity or constitutional institution is carried out within the area of responsibility of that official
- b) Is responsible for effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility
- c) Must take effective and appropriate steps to prevent, within that official's area of responsibility, any unauthorized expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due
- d) Must comply with the provision of this Act to the extent applicable to that official, including any delegation and instructions in terms of section 44

- e) Is responsible for the management, including the safeguarding of assets and the management of liabilities within that official's area of responsibility.

OBJECTIVE OF THIS POLICY

1. All officials including management are held accountable for losses in their respective area of responsibility.
2. Assist officials to create a climate that is conducive to internal control, risk management and prevention of losses.
3. Contribute towards creating respect for the resources entrusted to the Department for use in the best way possible.
4. 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 Department in particular.
5. 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.

2. FRAMEWORK FOR LOSS CONTROL

TYPES OF LOSSES, DAMAGES AND FRAUD

1. Loss, theft and damage of immovable assets:

- State buildings through whether elements and/or a negligence of maintaining official buildings.
- Rent paid for offices not in use.

2. 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.

3. Loss, theft and damage of inventory stores items:

- Stationary, maintenance, electrical material, cleaning material through thefts and other damage costs.
4. Loss, theft and damage of state monies and face value forms
 - Cash – theft and shortages on petty cash, rental and bidding revenue collected.
 5. Claims against the State through acts or omissions against said person (s).
 - Notices of intended civil action served on the MEC.
 6. 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
 7. Fraud cases with loss implications
 - Criminal/negligence (Public Service Persons)
 - Stolen cheque cashed
 - Fraudulent credit transfers
 - Unauthorized orders
 - Ghosts in salary system
 8. 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.
 9. Other losses
 - Poor management actions
 - Attempted fraud (no actual loss)
 - Departmental write-offs

MANAGEMENT OF LOSSES

The Management of losses includes the following:-

- Losses to be reported within 24 hours after acknowledgement to the Loss Control Officer.
- The Loss Control Officer will investigate to determine accountability.
- In an event where the Loss Control Officer receives a report of an incident, he/she must consider all possible implications, including legal effect it might have on an individual and the Department.
- Recording such claims and/or losses in a loss register.
- Follow-up all claims and/losses.
- Ensuring that all registered loss cases are finalized within a prescribed period.
- To refer cases of negligence to Directorate Legal Support Services to investigate the matter.
- Report all cases to the Loss Control committee in writing, so that it can be investigated and reported to the Head of Department for inclusion in the Annual Departmental Financial statements.
- By way of Department Directive instructions, e.g. to periodically draw the attention of all persons to the fact that all possible efforts are continually made to prevent claims arising against the Department.

3. REPORTING OF LOSSES

Step 1: Registration of damages and losses

- a) All Regions and Directorates within the department must keep registers for all incidents reported.
- b) When notified of a loss, the Program Manager must register such case/loss within two (2) working days of receiving a report/notice of such case/loss to the Loss Control Officer.
- c) After notified of losses/damages/fruitless expenditure/claims, these are to be handled in accordance with Chapter 12 of the National Treasury Regulations.

Step 2: Gathering of information

- a) The Program 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 or appropriate provisions in the Public Service Act.
- 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 date 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 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.

4. RESPONSIBILITIES OF THE LOSS CONTROL OFFICER

In terms of the section 38 of PFMA and Treasury Regulation, the Accounting Officer must appoint the loss control officer in writing, with the duties attached to loss control which will include, amongst others the following:-

- a) Obtaining all details and statements regarding claims and losses and entering the same in loss register;
- b) Following up and settling such cases;
- c) Reporting all cases to the Auditor-General
- d) Liaise as far as possible with the office of Legal Directorate and;
- e) Conduct loss control awareness campaigns to departmental institutions.

5. RECORD KEEPING

Records of loss, damage, forms, files, registers etc. should include the following minimum info:

- Gross value of the loss
- Amount recovered
- Approved amount written off
- Authority/reference for adjustment
- Updating of assets register and inventory record.

6. RISK ASSURANCE

- a) In general the State bears its own damages and accident risk and accepts responsibility for all claims and losses of State property arising from State activities by a person who is liable in law and who is or was employed by an Institution to which the loss control instructions applied or originated from or took place during the performance of State activities.
- b) Treasury Regulation part 3, 3.2.1 is clear on the inclusion of such risks in a risk Management strategy and dovetailing to a fraud prevention strategy and the determination of the skills required of managers and staff to improve controls and to manage such risks.
- c) Officials causing unnecessary losses, or who abuse or exceed their powers or misuse State property and/or resources, or neglect their duties resulting in unnecessary losses for the Department, should also be prepared to face disciplinary steps initiated against them.

7. WRITE-OFF, DISPOSAL AND RECOVERY PROCESSES

WRITE-OFF

- a) Write-off means the withdrawal of an asset/item or an amount of money owned by the state in monetary value as prescribed by the PFMA and the Treasury Regulations. Write-off exercise is the end product of the Loss Control process.
- b) Debt recovery means the repossession of an asset/item/money owned by the State in monetary value as compensation for the state loss.
- c) 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 dependents;
 - Or it would be to the advantage of the state to effect a settlement of its claim or to waive the claim. (Treasury Instruction 11.4.1)

The following delegations regarding write offs is applicable:

Director

R1 – R100 000

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| Chief Financial Officer | R500 000.00 |
| Municipal Manager | above R1000 000 |

- d) An Accounting Officer must ensure that all debts written off are done in accordance with the write off policy determined by the accounting officer. (Treasury Instruction 11.4.2)
- e) All debts written off must be disclosed in the Annual Financial Statements, indicating the policy in terms of which the debt was written off. (Treasury Instruction 11.4.3)
- f) When it appears that the state has suffered losses or damages through criminal acts or possible criminal acts or omissions, the matter must be reported, in writing, to the accounting officer and the South African Police Service. If liability can be determined, the accounting officer must recover the value of the loss or damage from the person responsible. (Treasury Instruction 11.5.1)
- g) The accounting officer may write off losses or damages arising from criminal acts or omission if, after thorough investigation, it is found that the loss or damage is irrecoverable. (Treasury Instruction 11.5.2)

8. DISPOSAL

Disposal refers to SCM policy part 4

- a) The Department is from time to time faced with material, which is either damaged by storm (nature) or through the negligence of an officer of officers or material or store, which had been bought but is not used anymore due to unforeseen circumstances.
- b) Disposal is the doing away of an asset/item owing to the redundancy or obsolescence condition. It involves the transfer, sale as a scrap or condemning the asset/item. The income that accrues from Disposal process depends on the economic residual value of the item/asset and the demand.

RECOVERY

- a) 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 installments 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. 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 Directorate must certify that any quotation that has been obtained, are in line with actual costs.

10. ETHICAL STANDARDS

(1) A code of good practice is established for Loss Control Management and must be adhered to by all officials and other role players in the system in order to promote

- a. Mutual trust and respect; and
- b. A control environment where risks can be control and managed in a fair and reasonable manner.
- c. Must assist the accounting officer in combating fraud, corruption, favoritism and unfair and irregular practices; and
- d. Must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including-
 - Any alleged fraud, corruption, favoritism or unfair conduct;
 - Any alleged breach of this code of ethical standards

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.

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| Policy section: | Director: Budget and Reporting |
| Current date: | 30 March 2016 |
| Previous review date: | 22 May 2015 |

12. APPROVAL AND IMPLEMENTATION OF POLICY

9.1 The Municipal Manager shall be responsible for the implementation and administration of this Policy.

9.2 This Policy, once adopted by Council, shall come into effect on 01 July 2016 once approved by the council.

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| Policy section: | Director: Budget and Reporting |
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| Approval by council: | |
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