



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

CONSEQUENCE MANAGEMENT POLICY (POLICY NUMBER 59392)

APPROVED BY COUNCIL : 30 MAY 2019
C55/05/19

CONTENTS

1. POLICY TITLE	3
2. REFERENCE CODES	3
3. DOCUMENT CONTROL	3
4. DEFINITIONS.....	3
5. PROBLEM STATEMENT	7
6. DESIRED OUTCOMES	9
7. STRATEGIC ALIGNMENT	9
8. REGULATORY CONTEXT.....	10
9. POLICY PARAMETERS	12
10. ROLE PLAYERS AND STAKEHOLDERS	13
11. POLICY DIRECTIVES	22
12. IMPLEMENTATION PROGRAMME	34
13. MONITORING, EVALUATION AND REVIEW	35
Appendix I: Financial Misconduct Roles and Responsibilities Matrix.....	37
Appendix II: Flow Chart for Irregular, Fruitless and Wasteful Expenditure (Step by Step Process)	44
Appendix V: Process Flow Financial Misconduct (Councillors)	47

1. POLICY TITLE

Consequence Management Policy

2. REFERENCE CODES

59392

3. DOCUMENT CONTROL

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4. DEFINITIONS

'APAC', means the City's Audit and Performance Audit Committee, a Committee established in terms of section 166 of the MFMA in order to advise Council, City Manager and management staff on matters relating to internal financial control and internal audits, risk management, accounting policies, adequacy and reliability of financial reporting, performance management, effective governance, compliance with MFMA and other applicable legislation.

'assurance provider', means the assurance providers referred to in sections 10.2.5, 10.2.6 and 10.2.7;

'City', means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the Structures Act, or any structure or employee of the City acting in terms of delegated authority;

'City Manager', means a person appointed in terms of section 82(1)(a) or (b) of the Structures Act and 'Accounting Officer' shall have the same meaning;

'Code of Conduct for Councillors', means the Code of Conduct for Councillors contained in Schedule 1 of the MSA;

'Code of Conduct for Municipal Staff Members', means the Code of Conduct for Staff Members of the City contained in Schedule 2 of the MSA;

'Combined Assurance', means integrating and aligning **assurance** processes in the City to maximise risk and governance oversight and control efficiencies, thereby optimising overall **assurance** to Council, APAC, MPAC, Risk

Management Committee (Riskco) and EMT taken into account the City's risk acceptance level;

'**Constitution**', means the Constitution of the Republic of South Africa, 1996;

'**Corporate Governance**', means the structures and processes utilised to determine the organisational direction and control of the City. Corporate governance concerns the relationships among the management, Council, stakeholders and staff of the City.

'**Council**', means the Municipal Council of the City;

'**Councillor**', means a Councillor of the Municipal Council of the City;

'**criminal action**', means legal proceedings in which the state prosecutes a person who is charged with an offence;

'**Delegation**', in relation to a duty, includes an instruction or request to perform or to assist in performing the duty, and "delegate" has a corresponding meaning;

'**Designated Official**' means the official identified in a municipality or municipal entity to receive reports of allegations of financial offences against Councillors or members of the board of directors of municipal entities;

'**Disciplinary Board**', means a disciplinary board established in terms of regulation 4(1) of the MRFMPCP or a disciplinary board of a district municipality or provincial structure referred to in regulation 4(8) thereof;

'**Employee**' means -

- (a) any person, excluding an independent contractor, who works or worked for the City and who receives or received, or is entitled to receive, any remuneration;
- (b) any other person who in any manner assists or assisted in carrying on or conducting or conducted the business of an employee;

'**EMT**', means the Executive Management Team which consists of the City Manager and those City officials who serve together as the top management committee of the City's administration;

'**Financial Misconduct**', means any act of financial misconduct referred to in (a) section 171 of the MFMA committed by an official of a municipality; or (b) section 172 of the MFMA committed by an official of a municipal entity;

"Financial Offence", means any offence referred to in section 173 of the MFMA committed by (a) an official of a municipality or municipal entity; (b) a councillor of a municipality; (c) a member of the board of directors of a municipal entity; or (d) any other person;

'FS', means Forensic Services, a Department of the City's Probity Office;

'Fraud', means the unlawful and intentional making of a misrepresentation which causes actual prejudice or which is potentially prejudicial to another;

'IDP', means the Integrated Development Plan of the City;

'Internal Control', means the process that is effected by Council or EMT to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (a) effectiveness and efficiency of operations, and
- (b) reliability of financial and non-financial reporting,
- (c) compliance with applicable laws and regulations, and policies and procedures;

"Investigator" means the board, treasury, person or team conducting a full investigation in terms of regulation 5(4) of the MRFMPCP.

'Line Management', means any staff member in reporting levels 1 to 4 and includes all City staff members that exercise a management or supervisory function, including EMT;

'Mayoral Committee', means the Committee appointed by the Mayor, in terms of section 60 of the Structures Act, abbreviated to MayCo;

'MFMA', means the Local Government: Municipal Finance Management Act, Act, 2003 (Act No. 56 of 2003), and the Regulations promulgated in terms thereof;

'MPAC', means the City's Municipal Public Accounts Committee, a Committee established in order to enhance political accountability and legislative oversight of the City's accounts;

'MRFMPCP', means the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, 2014, published under GN R430 in GG 37699 of 30 May 2014.

"MSA", means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and the Regulations promulgated in terms thereof;

'**OCO**', means Office of the City's Ombudsman, a Department of the City's Probity Office;

'**Opinion**', means a statement of advice by an expert on a professional matter;

'**Policy**', means the Consequence Management Policy of the City;

'**Probity Department**', means a department within the Office of the City Manager which includes the Forensic Services; Internal Audit; Risk, Ethics and Governance; and the Office of the City Ombudsman branches;

'**REG**', means Risk, Ethics and Governance, a Department of the City's Probity Office;

'**SAPS**', means the South African Police Service;

'**SCM**', means the Supply Chain Management Department of the City;

'**SCM Policy**', means the City's Supply Chain Management Policy as contemplated in the MFMA Supply Chain Management Regulations and as adopted by Council;

'**Senior Manager**', means a manager referred to in section 56 of the Municipal Systems Act and those members of management that are referred to in terms of Section 77 and 78 of the Municipal Finance Management Act;

'**Structures Act**', means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); and

'**System of Delegations**', means the City's System of Delegations as contemplated in section 59 of the Municipal Systems Act, Act 32 of 2000 in terms of which a municipal council must develop a system of delegations that will maximise administrative and operational efficiency and provide adequate checks and balances and is approved and amended by Council from time to time.

5. PROBLEM STATEMENT

5.1 Section 62 of the MFMA for the general financial management responsibilities of the City Manager. The City Manager is required to take all reasonable steps to ensure that:

- 5.1.1 the resources of the municipality are effectively, efficiently and economically utilised;
- 5.1.2 full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards;
- 5.1.3 the municipality has and maintains effective, efficient and transparent systems of financial and risk management and internal control;
- 5.1.4 unauthorised, irregular, fruitless and wasteful expenditure are prevented;
- 5.1.5 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 the Chapter 15 of the MFMA.

5.2 A defined, appropriate approach to address accountability and responsibility¹ for, inter alia, non-compliance, financial misconduct², misconduct, and codes of conduct/ethical dilemmas, required formalisation in the City. While not designed to alter or add particular consequence to specific situations of non-compliance, this Policy aims to formalise and consolidate the principles of consequence management which encompasses remedial and recourse measures. The objective of this Policy is to:

- 5.2.1 Provide limited guidelines to enable effective consequence management on matters relating to, inter alia; issues, risks and opportunities identified and reported by the various assurance providers e.g. incidents of unauthorised, irregular and fruitless and wasteful expenditure; the possible abuse of the Supply Chain Management (SCM) system (including fraud, corruption and improper conduct); and allegations of financial misconduct and financial offence; and ensuring that these are appropriately dealt with;
- 5.2.2 Address non-compliance actions identified which could include, but is not limited to, the following:

¹ As per prescribed by section 77 and 78 of the Local Government: Municipal Finance Management Act

² Financial Misconduct, per Chapter 15 of the Local Government: Municipal Finance Management Act and the National Treasury Circular 76

- a) Disregard or failure to implement preventative or corrective measures imposed to address risks;
 - b) Lack of willingness to comply with legal obligations;
 - c) Perpetrated or participated in negligent, deceitful or otherwise discreditable practices;
 - d) Seriously or persistently fail to execute assigned duties;
 - e) Non-compliance with internal policies, procedures, legislation and regulations;
 - f) Having acted dishonestly, with negligence, mismanaged responsibility, unprofessionally, unethically and in breach of City policies;
 - g) Participation in illegal acts, including theft, violence, fraud and corruption;
 - h) Unethical, malicious or other improper conduct which may be in breach of the City's Code of Ethics and/or City values, the municipal Code of Conduct or in breach of the law generally;
 - i) Breach of administrative procedures, including the City's Delegation of Authority; or
 - j) Any other conduct that may cause financial or non-financial loss, or is otherwise detrimental, to the interests of the City.
- 5.2.3 Hold management accountable for the execution of their delegated duties, functions and powers;
- 5.2.4 Provide management with direction when instituting recourse measures for established financial misconduct; and
- 5.2.5 Provide limited universal direction and guidance to govern the high level phases of consequence management as well as key concepts and principles with regards to the treatment of issues (various incidents and red flags), risks and opportunities identified that could negatively impact the operations, reporting processes, and compliance to legislative frameworks applicable to the City.

5.3 Managing compliance includes making appropriate rules that are known, understood and followed and for which consequences of non-compliance are clear and commensurate with risk and context. The processes and procedures to be followed with regards to the different aspects of consequence management in the City, are specified in the relevant, existing City documents and enhancements (if required) will be detailed in Consequence Management Standard Operating Procedures (SOP).

6. DESIRED OUTCOMES

- 6.1 In line with the various legislative frameworks promoting fundamental principles of effective and efficient utilisation of public resources and transparent and accountable financial management practices, the City is committed to implementing an effective consequence management system. The Policy is designed to assist the City to:
- 6.1.1 Improve the City's internal control processes for reporting allegations of financial misconduct and financial offences to Council to ensure compliance to legislative and regulatory requirements;
 - 6.1.2 Reduce risk exposure by ensuring all matters incurring unauthorised, irregular and fruitless and wasteful expenditure; the possible abuse of the SCM system (including fraud, corruption and improper conduct); and allegations of financial misconduct or financial offence are appropriately identified, investigated and reported on.
 - 6.1.3 Provide for comprehensive tracking and follow-up of all remedial actions, including those stemming from issues (various incidents and red flags), risks and opportunities raised and reported by the various assurance providers;
 - 6.1.4 Provide for improved and consolidated reporting to the various stakeholders and governance structures to assist with the effective monitoring of the City's consequence management system and desired governance and ethical conduct outcomes;
 - 6.1.5 Take appropriate action in accordance with the law, including legal or criminal action, against any person that is found to have committed financial misconduct and financial offences; and
 - 6.1.6 Provide clarity with regard to the roles and responsibilities of various role players and stakeholders, encompassing responsibilities, accountability, consultation and information related to consequence management.

7. STRATEGIC ALIGNMENT

- 7.1 The development of a Consequence Management Policy is one of the proactive step that is aligned with the Strategic Focus Areas (SFAs) as detailed in the City's Integrated Development Plan (IDP).
- 7.2 The Strategic Focus Areas are categorised into the following five pillars:
- 7.2.1 The Opportunity City;

- 7.2.2 The Safe City;
- 7.2.3 The Caring City;
- 7.2.4 The Inclusive City; and
- 7.2.5 The Well-run City.

7.3 One of the objectives of the IDP is delivery of services and creation of value for customers in an operationally sustainable manner based on evidence-led decision making. In order to deliver on this objective, the City is committed to taking steps to provide effective consequence management i.e.:

- 7.3.1 Promoting and enhancing transparent governance through ethical leadership;
- 7.3.2 Working towards eradicating corruption so that the City can remain financially stable and resilient to shocks in a changing and volatile environment; and
- 7.3.3 Improving the internal control processes insofar as it relates to identifying, investigating and reporting allegations of financial misconduct to Council and improving the tracking and monitoring of all remedial actions, including those stemming from various assurance providers.

8. REGULATORY CONTEXT

8.1 The Policy is informed by the following legislation and regulations:

- 8.1.1 The Constitution;
- 8.1.2 White Paper on Transforming Public Service Delivery, 1997;
- 8.1.3 White Paper on Local Government, 1998;
- 8.1.4 Structures Act;
- 8.1.5 MSA and the Regulations;
- 8.1.6 MFMA and Regulations;
- 8.1.7 Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);
- 8.1.8 Criminal Procedure Act, 1077 (Act No. 51 of 1977);
- 8.1.9 Promotion of Equality and the Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000);

- 8.1.10 Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);
 - 8.1.11 Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);
 - 8.1.12 Protected Disclosures Act, 2000 (Act No. 26 of 2000);
 - 8.1.13 Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings;
 - 8.1.14 MFMA Circular 68 - Unauthorised, Irregular, Fruitless and Wasteful Expenditure;
 - 8.1.15 MFMA Circular 76 (not adopted by council but used as a guide)- Financial Misconduct Regulations;
 - 8.1.16 SALGA Guidelines Document on the Roles and Responsibilities of Councillors, Political Structures and Officials;
 - 8.1.17 Municipal Code of Conduct for Councillors;
 - 8.1.18 Municipal Code of Conduct for Municipal Staff Members;
 - 8.1.19 System of Delegations; and
 - 8.1.20 any other legislation, City by-law, policy or standard operating procedure that may be applicable to consequence management.
- 8.2 The following City policies³ and delegations in the System of Delegations are further applicable:
- 8.2.1 The System of Delegations as amended from time to time;
 - 8.2.2 SCM Policy, and the Combating of Abuse of Supply Chain Management System Policy;
 - 8.2.3 Declaration of Financial Interest for Councillors Policy;
 - 8.2.4 Private Work and Declaration of Interest Standard Operating Procedure;
 - 8.2.5 Gift Given Policy for Councillors;
 - 8.2.6 Unforeseen and Unavoidable Expenditure Policy;
 - 8.2.7 Combined Assurance Policy;

³ Reference to these listed documents are applicable for the period of their validity or until such time that they are replaced or amended.

- 8.2.8 Integrated Risk Management Policy;
- 8.2.9 Internal Audit Charter;
- 8.2.10 Forensic Services Charter;
- 8.2.11 Charter of the City Ombudsman
- 8.2.12 City Ombudsman By-Law and Policy
- 8.2.13 City of Cape Town Ethics Code;
- 8.2.14 Fraud Prevention Policy (and Fraud Response Plan);
- 8.2.15 Whistle Blowing Policy;
- 8.2.16 MPAC Terms of Reference;
- 8.2.17 Disciplinary Board Terms of Reference; and
- 8.2.18 Audit and Performance Audit Committee Terms of Reference

9. POLICY PARAMETERS

This Policy applies to:

- 9.1 All issues (various incidents and red flags), risks and opportunities identified that could negatively impact the City's operations, reporting and compliance to legislation;
- 9.2 All remedial actions to be taken to curtail the impact and prevent re-occurrence;
- 9.3 The following persons or entities:
 - 9.3.1 Employees of the City and its Municipal Entities; and
 - 9.3.2 All Public Office Bearers of the Municipal Council.
- 9.4 The geographical area throughout the municipal boundary of the City and any official travelling (local, national and international) required of Public Office Bearers and Officials; and
- 9.5 The working environment with the administration. Every effort must be made by line management to have business processes documented, with knowledgeable staff for the appropriate application. Line management supervision is to ensure adherence and where the duties and functions are amiss, appropriate remedial and corrective action is to follow to respectively curtail the impact and prevent re-occurrence.

10. ROLE PLAYERS AND STAKEHOLDERS

10.1 The following role players and stakeholders have been identified.

Role Players	Stakeholders
The National and Provincial Treasury Departments	Citizens of Cape Town
The Speaker	Industry
The Executive Mayor	Tourists
The City Manager	Business
Line Management	National Government
Combined Assurance Providers	Provincial Government
Office of the Auditor General	Municipal Entities
Municipal Entities	Service Providers
External Bodies	City Agents
Service Providers	
City Agents	
Whistle-blower	
Disciplinary Board	
Municipal Public Accounts Committee	
Council	
Audit and Performance Audit Committee	
Service Provider - Investigator	

See **appendix 1** for a detailed breakdown of the roles and responsibilities of all the role players, including the stakeholders.

10.2 The following section provides a high level summary of the roles and responsibilities of the key role-players in consequence management, inter alia;

- The identification of issues (various incidents and red flags), risks and opportunities;
- Remedial actions and control improvements;
- Risk/ issue reporting details and escalation;
- Follow-up and progressive reporting;
- Application; and
- Disclosure.

10.2.1 The Speaker

The Speaker has a political oversight function in respect of the conduct of councillors as well as committees of Council. The Speaker is accountable for effective consequence management in respect of reports against Councillors, ensuring that these are appropriately addressed and resolved.

To this extent, and in line statutory duties and delegations conferred by Council as the “designated official” for councillors, the Speaker must:

- (a) Identify breaches of the Code of Conduct by Councillors, in terms of the Code of Conduct for Councillors in schedule 1 of the MSA, as well as receive reports of alleged financial misconduct in the case of Councillors who may have committed financial misconduct and/or financial offence(s) in terms of regulation 9(1) and 9(2) of the MRFMPCP;
- (b) Authorise investigations into –
 - financial irregularities where Councillors may be implicated
 - financial misconduct or financial offence where Councillors may be implicated (per regulation 11(1) (a) of the MRFMPCP, or breaches of the Code of Conduct by Councillors
- (c) Based on reports from preliminary investigations, make recommendations to Council in respect of the way forward ensuring that appropriate remedial action is taken and the control environment is improved;
- (d) Table reports to Council dealing with the outcomes of full investigations in respect of allegations of financial misconduct, financial offences or breaches of code of conduct by Councillors (per regulation 14(2) and 15(1) of the MRFMPCP; and
- (e) Make appropriate disclosures in respect of the outcome of all investigations into the alleged misconduct or financial irregularities of Councillors to the relevant authorities e.g. Executive Mayor, City Manager, Minister for Local Government in the Province, National and Provincial Treasury (per regulation 11(4) of the MRFMPCP.

In performing these responsibilities, the Speaker will be guided by the relevant recommendations by –

- i. the MPAC;
- ii. the investigator(s); and
- iii. the Disciplinary Board.

In addition, consideration will be given to the Financial Misconduct and Criminal Procedure Regulation –

- ❖ 3(4) – laying criminal charge with the South African Police Services;

- ❖ 3(5) – give the accused an opportunity to make written representation to the municipality (with regard to suspension) within 7 days;
- ❖ 10(3) – financial offenses successfully prosecuted, the judgement must be reported to the National Treasury;
- ❖ 11(1) – authorise investigation of facts and give Councillor (5 days) to make written submission regarding financial offence; and
- ❖ 18 – protection of officials reporting allegations of financial misconduct and financial offenses.

10.2.2 Executive Mayor, in consultation with the Mayoral Committee (MayCo)

In line with the requirements for good corporate governance outlined in the King IV Report and in recognition of the way in which the City is currently structured, the Executive Mayor and MayCo are accountable to Council, the community, and other stakeholders at a strategic level for:

- a) Managing risks to the City and ensuring that an effective consequence management process is implemented to reduce risk exposures and improve the control environment;
- b) Limiting consequential losses to the City from issues (various incidents and red flags), risks and opportunities;
- c) Promoting, developing, and sustaining a culture of integrity, service excellence, accountability, trust and accessibility which would support the City's appetite of zero tolerance to fraud, corruption and other criminal activity, maladministration and/or negligence and financial misconduct;
- d) Developing and implementing appropriate strategies, policies and action plans to achieve effective consequence management of issues, risks and opportunities thereby curtailing the potential negative impact on the City;
- e) Monitoring, evaluating and reviewing the success of such consequence management strategies, policies and action plans; and
- f) Making appropriate disclosures in respect of the outcome of financial misconduct to the relevant authorities e.g. Minister for Local Government in the Province, National and Provincial Treasury.

In doing so, they will be guided by recommendations made in this regard by the APAC, MPAC, RiskCo, Portfolio Committees, Executive

Governance Committee and the Financial Misconduct Disciplinary Board.

10.2.3 Members of the Municipal Council

- a) Councillors are legally bound by the Code of Conduct for Councillors - per Schedule 1 of the MSA, to fulfil their obligations to their communities and support the municipal objectives, and must comply with and actively promote this Policy.
- b) Councillors must strive to set the tone to sustain a culture of zero tolerance to fraud, corruption and other criminal activities.

10.2.4 City Manager

In terms of section 62 of the MFMA, the City Manager has statutory responsibilities with regards to the general financial management of the municipality. In addition, as the "designated official" for municipal officials in terms of in the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, the City Manager must ensure that any allegations of financial misconduct or financial offence against municipal officials are timeously investigated and appropriately treated and reported. Considering the above, the City Manager is therefore ultimately responsible for proper consequence management of all issues (various incidents and red flags), risks and opportunities that have been identified and reported against municipal officials, that can have a potential negative impact on the City's operations, reporting and compliance.

The City Manager's role in consequence management in the City is therefore to:

- a) Receive reports highlighting issues (various incidents and red flags), risks and opportunities that could potentially negatively impact the City's operations, reporting (specifically finance) or compliance to legislation and regulations, including tabled reports to Council of alleged financial misconduct in the case of officials who may have committed financial misconduct or financial offence(s);
- b) Consider recommendations made by combined assurance providers and the Financial Misconduct Disciplinary Board (in terms of municipal officials) and ensure that appropriate remedial actions are taken to address the risk exposure and improve the control environment;
- c) Consider the results of combined assurance providers' systems that track and follow-up on the implementation of recommendations made to line management, and obtain

- reasons for delays in implementation of remedial actions (in terms of leadership and accountability);
- d) In cases of allegations of unauthorised, irregular and fruitless and wasteful expenditure; the possible abuse of the SCM system (including fraud, corruption and improper conduct); and allegations of financial misconduct and financial offence:
- i. Report the allegation to SAPS;
 - ii. Refer the matter to the appropriate mechanism - disciplinary board for a preliminary investigation or Council for MPAC investigation;
 - iii. Maintain the necessary register(s) of all issues (various incidents and red flags), risks and opportunities reported;
 - iv. Submit reports to Council on the way forward, based on preliminary report;
 - v. Appoint an appropriate specialist expert or expert team, if the seniority of the transgressor and the seriousness or sensitivity of the allegations warrants such a step (sourced in assistance);
 - vi. Table reports to Council dealing with the outcomes of full investigations relating to allegations of financial misconduct, or financial offences; and
 - vii. Make appropriate disclosures in respect of the outcome of all investigations into the alleged financial misconduct or financial irregularities to the relevant oversight authorities e.g. Executive Mayor, Council, Minister for Local Government in the Province, National and Provincial Treasury.

10.2.5 First Level of Assurance Provider

Line management are first level assurance providers as per the City's Combined Assurance Policy and are responsible for providing assurance on all areas within their span of control. This includes establishing, maintaining and ensuring proper governance, risk management and internal control processes, as well as addressing issues (various incidents and red flags), risks and opportunities identified and reported.

- a) **Line managers**, per their accountability and responsibility duties, must:
- i. Identify and immediately report any issues (various incidents and red flags), risks and opportunities that can have a potential negative impact on the City to the appropriate level of authority, including the City Manager;
 - ii. Consider recommendations made by combined assurance providers and ensure that appropriate remedial actions are taken

- to address the risk exposure and improve the control environment timeously;
- iii. If there is a concern that the City Manager, a senior manager or the Chief Financial Officer may be involved, report the matter to the next appropriate delegated authority e.g. Executive Mayor/ Speaker/ Council/ Provincial Treasury/ National Treasury; and
 - iv. Where City employees adhere to the core values and good governance principles but are disadvantaged and unduly discriminated against by superiors, it is the City's duty to protect the employees against such superiors.

b) Employees responsibility:

- i. City employees are bound by South African law (both statutory, common law and case law), the terms and conditions of their employment and also the Code of Conduct for Municipal Staff Members, the City's Code of Ethics, City policies, standard operating procedures, and instructions issued periodically;
- ii. Every City employee has a duty to ensure that public funds are safeguarded and City ethical values are upheld. Where issues (various incidents and red flags), risks and opportunities arise that could be deemed financial misconduct or a financial offence, these must be reported to the employee's line manager. Should the line manager potentially be implicated, the next reporting level must be informed;
- iii. Key ambassadors for the successful implementation and execution of the City's value system are its employees as their conduct is often the basis on which the City is judged. The actions and spirit of employees must purport the core values and principles governing the City in a credible manner that does not compromise ethical behaviour⁴; and
- iv. Failure by any employee(s) of the City to comply with this Policy or to display the City's core values of Trust, Integrity, Accountability, Excellence and Accessibility in the fulfilment of their duties and functions, could result in consequence management, disciplinary or criminal action being taken against such individual(s) in line with the relevant HR policies.

10.2.6 Second Level Assurance Provider

The second level of assurance providers are comprised of risk, control and compliance assurance providers, reporting primarily to

⁴ Ethical behavior "means respecting moral principles such as honesty, fairness, equality, dignity, diversity and individual rights", Lungelo Mbandanzayo

management and advisory or oversight bodies, with limited independence in relation to the activity on which assurance is required. In line with the City's Governance Framework and under the guidance and leadership of the relevant director, these assurance providers have the responsibility to, inter alia:

- a) Identify and immediately report any issues (various incidents and red flags), risks and opportunities that can have a potential negative impact on the City to the appropriate level of authority, including the City Manager;
- b) Make recommendations to ensure remedial action is taken and that risk exposures and control weaknesses are addressed;
- c) Implement comprehensive systems to track and follow-up on all recommendations/ remedial actions those stemming from the issues (various incidents and red flags), risks and opportunities reporting to ensure that risk exposures have been adequately addressed;
- d) Provide progressive reporting to the relevant stakeholders and advisory and oversight bodies on the related outcomes to assist with the effective monitoring of consequence management in the City; and
- e) If there is a concern that the City Manager, a senior manager or the Chief Financial Officer may be involved, the matter must be reported to the next appropriate delegated authority e.g. Executive Mayor/ Speaker/ Council/ Provincial Treasury/ National Treasury.

10.2.7 Third and Fourth Level Assurance Provider

The third and fourth level of assurance providers include assurance providers who have greater independence, such as Internal Audit, various provincial and national departments (e.g. Treasury) and external auditors (The Auditor General of South Africa (AGSA)), who report to advisory and oversight bodies. In line with the Combined Assurance Plan and under the guidance and leadership of the relevant director (excluding the AGSA), all these assurance providers have the responsibility to, inter alia;

- a) Identify and immediately report any issues (various incidents and red flags), risks and opportunities that can have a potential negative impact on the City to the appropriate level of authority, including the City Manager;
- b) Make recommendations to ensure remedial action is taken and that risk exposures and control weaknesses are addressed;

- c) Implement comprehensive systems to track and follow-up on all recommendations/ remedial actions stemming from the issues (various incidents and red flags), risks and opportunities reported to ensure that risk exposures have been adequately addressed;
- d) Provide progressive reporting to the relevant stakeholders and advisory and oversight bodies on the related outcomes to assist with the effective monitoring of consequence management in the City; and
- e) If there is a concern that the City Manager, a senior manager or the Chief Financial Officer may be involved, the matter must be reported to the next appropriate delegated authority e.g. Executive Mayor/ Speaker/ Council/ Provincial Treasury/ National Treasury.

10.2.8 Oversight Bodies (and bodies who advise them)

Under the directive of the relevant delegations and approved terms of reference, these oversight bodies have the responsibility to, inter alia;

- a) Identify and immediately report any issues (various incidents and red flags), risks and opportunities that can have a potential negative impact on the City, to the appropriate delegated authority;
- b) Make decisions regarding remedial actions to be taken in respect of instances of unauthorised, irregular and fruitless and wasteful expenditure; possible abuse of the SCM system (including fraud, corruption and improper conduct); and allegations of financial misconduct and financial offences;
- c) Provide oversight over the effectiveness of consequence management in the City, by considering progressive reports submitted and by making recommendations in respect of areas for improvement; and
- d) Provide assurance to the community and other stakeholders for the sound management and governance practices of the City.

The oversight bodies listed below have an additional oversight responsibility as specified in their terms of reference and charters insofar as it relates to consequence management:

MPAC

MPAC has an oversight role to review the City's Integrated Annual Report with specific focus on the financial aspects as contained in the Auditor-General's Report on the Annual Financial Statements of the

City and also when instructed by Council to advise Council in respect of unauthorised, irregular or fruitless and wasteful expenditure.

Issues (various incidents and red flags), risks and opportunities relating to unauthorised, irregular or fruitless and wasteful expenditure will be directed to MPAC to investigate in terms of section 32 and 102 of the MFMA, as instructed by Council, and as guided by the National Treasury Circular 68: Unauthorised, Irregular and Fruitless and Wasteful Expenditure and advise Council in respect of such unauthorised, irregular or fruitless and wasteful expenditure in terms of section 32(2) of the MFMA. *Refer to the approved Terms of Reference of MPAC for more detail.*

Financial Misconduct Disciplinary Board

The establishment of a Financial Misconduct Disciplinary Board is compulsory in terms of the Municipal Regulations for Financial Misconduct Procedures and Criminal Offences, GN 425 of 30 May 2014). The objective of the Financial Misconduct Disciplinary Board is to act as an independent advisory body that assists designated officials/persons with the investigation of allegations of financial misconduct, and provide recommendations on the further steps to be taken regarding disciplinary proceedings, or any other relevant step to be taken in terms of regulation 4(1) of the MRFMPCP.

The Disciplinary Board's responsibility in respect of consequence management is therefore limited to investigating issues (various incidents and red flags), risks and opportunities relating to allegations of financial misconduct. *Refer to the approved Terms of Reference of the Disciplinary Board: Financial Misconduct for more detail.*

APAC

APAC responsibility is to advise Council, City Manager and senior management staff on all matters relating to internal financial control and internal audits, risk management, accounting policies, adequacy and reliability of financial reporting, combined assurance, performance management, effective governance, compliance with MFMA and other applicable legislation. To this extent, APAC's role in consequence management is to provide oversight over the adequacy and effectiveness thereof, ensuring the timely identification, appropriate treatment and proper reporting of issues (various incidents and red flags), risks and opportunities that could have a potential negative impact on the City's operations, reporting and compliance to legislation, regulations, policies and procedures. Where risk exposures remain unresolved or issues are not addressed

timeously, these should be investigated by APAC and where necessary, escalated to Council for further consideration and to be dealt with in terms of the relevant legislative frameworks and council policies. *Refer to the approved Terms of Reference of APAC for more detail.*

10.2.9 Service providers

- a) Service providers (incl. suppliers, contractors and consultants) are required to act honestly and fairly in all their dealings with the City and in accordance with their own ethical values that they ascribe to.
- b) Non-adherence to this Policy and any relevant City policies, their own ethical values, the City's SCM processes (inter alia, requests for quotations, tender process and contract terms and conditions, etc) or acts of alleged fraud, corruption or collusion could result in the following consequences:
 - i. The cancellation or suspension of any tenders or contracts awarded to them;
 - ii. Being restricted in terms of the Combatting of Abuse in the Supply Chain Management System Policy; and
 - iii. Being reported to the SAPS and any other applicable body responsible for sound business practices in the interest of safeguarding public funds.
- c) Service providers (incl. suppliers, contractors and consultants) are encouraged to report suspected fraud, corruption and other criminal activity, maladministration or negligence involving employees of the City or other services providers to the City. *Refer to the City's Whistle Blowing Policy.*

11. POLICY DIRECTIVES

- 11.1 The City must create an environment and culture that promotes ethical, transparent, effective and efficient public administration that conforms to Constitutional accountability principles.
- 11.2 It is envisaged that through the development and implementation of this Policy, the relevant stakeholders and role-players will be provided with sufficient guidance and direction to enable them to provide effective oversight with regards consequence management and related outcomes.
- 11.3 Where it occurs, non-compliance requiring consequence management can result from numerous factors, including, lack of knowledge and training, gaps in oversight, inaccurate and incomplete interpretation and application of

policies, and in some instances, culpable misconduct. It is imperative that we differentiate between culpable behaviour and non-culpable behaviour.

11.4 In line with the City's zero-tolerance approach to fraud and corruption, culpable behaviour will not be tolerated and corrective measures, including, disciplinary actions, where merited, will be taken.

11.5 The phases of the City's consequence management can be depicted as follows:



11.6 Phase 1: Risk/ Issue Reporting

This phase deals with the reporting of issues (various incidents and red flags), risks and opportunities identified.

Reporting that can have a potential negative impact on the effectiveness and efficiency of the City's operations, the reliability of its reporting (financial and non-financial) and compliance with applicable laws and regulations, can be identified from various sources, including the following:

- a) Public complaints (See the City Ombudsman Policy);
- b) Whistle blowers (See the City Whistle Blowing Policy);
- c) Declarations of Interest Process (See the City Declaration of Financial Interests for Councillors Policy);
- d) Declaration of Interest for City Employees (See Private Work and Declaration of Interest Standard Operating Procedure);
- e) City's Risk Registers (See the Integrated Risk Management Policy);
- f) Combined Assurance Plan (See the Combined Assurance Policy);
- g) Reports from the City's combined assurance providers (See the Combined Assurance Policy); and
- h) Reports from the Office of the Auditor General (AGSA).

Issues (various incidents and red flags), risks and opportunities can vary in their significance as well as the City's tolerance levels. This will need to be considered when identifying, treating and reporting these, also ensuring that they are dealt with in accordance with the relevant and existing legislative frameworks and Council policies.

11.7 Phase 2: Control Activities

This phase focusses on the identification and implementation of remedial actions to be taken to curtail and prevent the issue, risk or opportunity from re-occurring. Remedial actions need to ensure control improvements to the City's systems and processes and personnel behaviour and conduct. These actions need to be assigned to responsible officials, with specific deliverables and timeframes to ensure timeous implementation and impact reduction.

The remedial actions will vary from one issue, risk and opportunity to another, given the nature and extent of the case. The City's tolerance levels as well as punitive requirements defined in legislated frameworks will need to be considered. Refer to the table below for examples:

Bold = Core Category Impact, with related implications

Appetite				
Triggers	Legal	Finance	Organisational	Reputation / media
Noncompliance to the MFMA	Non-Compliance - Zero Tolerance	Disclosure: Additional Notes	Audit Report Opinion	Impaired Governance
Fails to comply with duty imposed by MFMA	Non-Compliance - Zero Tolerance	Section 32 Expenditure - Disclosure	Audit Report Opinion - * System of Delegation * Section 78 of MFMA * Leadership	Impaired Governance
Makes Irregular, unauthorised, fruitless & wasteful expenditure	Non-Compliance - Zero Tolerance	Section 32 Expenditure - Disclosure	Audit Report Opinion - * AFS * Notes - Table * Leadership	Impaired Governance
Provides incorrect or misleading information	Non-Compliance - Zero Tolerance	Disclosure: Additional Notes	Audit Report Opinion	Impaired Governance
Fails to carry out delegated duties	Non-Compliance - Zero Tolerance	Section 32 Expenditure - Disclosure	Audit Report Opinion - * System of Delegation * Section 78 of MFMA * Leadership	Impaired Governance

Recourse				
Reporting	<p>Reporting non-compliance to:</p> <ul style="list-style-type: none"> * The City Manager * The Mayor * Council * Auditor General of SA * National Treasury * MEC for Local Government * Provincial Executive * Provincial Legislature * Provincial Treasury * MEC for Finance in the Western Cape 	<p>Reporting Section 32 expenditure to:</p> <ul style="list-style-type: none"> * City Manager * Council 	<p>Reporting neglect of duty, power and authority to:</p> <ul style="list-style-type: none"> * Executive Director * City Manager * Council 	<p>Integrated Annual Report Statement</p>
Consequence Management: City	<ul style="list-style-type: none"> * Disciplinary Steps / Coaching / Reprimand - Written Instructions / Training / Verbal Warning / Resolving Problems and Identifying corrective action * Suspension / Demotion / Termination of Services / Adverse IPM outcome * Financial Misconduct Charges * Criminal Charges 	<ul style="list-style-type: none"> * Disciplinary Steps / Coaching / Reprimand - Written Instructions / Training / Verbal Warning / Resolving Problems and Identifying corrective action * Suspension / Demotion / Termination of Services / Adverse IPM outcome * Reduction or elimination of discretionary remuneration (Individual Performance Management Monetary implications) * Adverse impact to promotion opportunities * Recovery * Financial Misconduct Charges * Criminal Charges 	<ul style="list-style-type: none"> * Disciplinary Steps / Coaching / Reprimand - Written Instructions / Training / Verbal Warning / Resolving Problems and Identifying corrective action * Suspension / Demotion / Termination of Services / Adverse IPM outcome * Financial Misconduct Charges 	<ul style="list-style-type: none"> * Disciplinary Steps / Coaching / Reprimand - Written Instructions / Training / Verbal Warning / Resolving Problems and Identifying corrective action * Suspension / Demotion / Termination of Services / Adverse IPM outcome * Financial Misconduct Charges

Recourse				
Consequence Management: Supervision over Local Government Finance Management (per Section 133 of the MFMA)	<p>1. Provincial Executive may intervene in the City in terms of 139 of the Constitution</p> <p>2. NT - may take appropriate steps against the municipality in terms of section 5(2)(e)</p> <p>3. PT - may take appropriate steps against the municipality in terms of section 5(4)(d)</p>			
Process	<ul style="list-style-type: none"> * Labour Relations * Financial Misconduct Disciplinary Board * Finance: Treasury * Records management 	<ul style="list-style-type: none"> * Labour Relations * Financial Misconduct Disciplinary Board * MPAC * Finance: Treasury * Records management 	<ul style="list-style-type: none"> * Labour Relations * Financial Misconduct Disciplinary Board * Finance: Treasury * Records management 	<ul style="list-style-type: none"> * Labour Relations * Financial Misconduct Disciplinary Board * Corporate Services: OPM * Records management

Remedial actions in the context of this consequence management efforts can be identified from documented processes of various existing management tools, such as:

- a) Management actions included in City Risk Registers;
- b) Management actions included on the City's Combined Assurance Plan;
- c) Recommendations and agreed management actions included in reports from the City's second level assurance providers (i.e. Legal Services, Occupational Health and Safety, Environmental Resource Management, Business Continuity Management, etc.);
- d) Recommendations and agreed management actions included in assurance reports from third and fourth level assurance providers (i.e. Internal Audit, Forensic Services - Investigations, Ethics - Investigations, OCO Investigations, Auditor General of South Africa, and other external assurance providers);
- e) Directives issued from the Office of the City Manager or CFO;
- f) City Manager correspondence directed to Executive Management Team Members;
- g) Recommendations included in reports from independent investigators appointed by the City Manager (sourced service providers);
- h) Recommendations from advisory and oversight bodies - MPAC, Financial Misconduct Disciplinary Board, APAC, etc;
- i) Resolutions by Council and Council Committees; and
- j) Directives and instructions issued by Provincial and National Treasury.

The establishment and enforcement of control activities is the responsibility of line management, who have an intrinsic duty to fulfil their job function, powers and delegations in a responsible manner.

11.8 Phase 3: Information and Communication

After issues (various incidents and red flags), risks and opportunities have been identified and reported to the first line of defence to action (refer to phase 1 above), key or significant cases may need to be reported or escalated to the relevant advisory or oversight bodies as per their specific terms of reference or delegations.

The importance is to keep these bodies informed of:

- Significant issues;
- Emerging trends;
- Escalating requirements; and
- Unresolved risk exposures.

Stakeholders have an expectation of the governance structures in the City to exercise good governance. Sometimes however, such governance

structures could form part of the decision-making chain and thus are required to make the final decision or final recommendation to Council. Oversight bodies could include RiskCo, APAC, MPAC, Financial Misconduct Disciplinary Board, Executive Mayor, Speaker and Council.

See table below:

Source / remedial action	First Level of reporting	Second Level of reporting or advisory and oversight body
Issue, risks and opportunity		
First Level Assurance Provider <ul style="list-style-type: none"> City Manager (Directives and EMT communications) 	Line management for action	Executive Governance Committee for information or escalation.
Second Level Assurance Provider <ul style="list-style-type: none"> IRM (Risk Registers) CA (Combined Assurance Plan) BCM (Business Continuity Plan) OHS (Compliance Reports) ERM (Environmental Reports) Legal Services (Compliance Issues) Ethics (Declaration of Interests) Forensic Services (Reports) OCO (Investigation outcomes) 	Line management for action, including the City Manager (where applicable).	RiskCo for information and/ or escalation (<i>for risk issues only</i>) APAC for: <ul style="list-style-type: none"> information and/ or escalation potential advice to City Manager and Council.
Third Level Assurance Provider <ul style="list-style-type: none"> Internal Audit (Assurance Reports) Ethics (Investigation Reports) Forensic Services (Reports) OCO (Investigation outcomes) AGSA (Management Reports and Annual Opinion) 	Line management for action, including the City Manager (where applicable).	APAC for: <ul style="list-style-type: none"> information or escalation potential advice to City Manager and Council.
Unauthorised, irregular and fruitless and wasteful expenditure (See appendix II and III)		
City Manager's Irregular, Unauthorised and Fruitless and Wasteful Expenditure Register (Issues i.r.o officials discovered by various sources / triggers)	<ul style="list-style-type: none"> Line Management Executive and Councillor Support 	Council for referral to MPAC for investigation

Source / remedial action	First Level of reporting	Second Level of reporting or advisory and oversight body
Recommendations (remedial actions) included in reports from task team appointed by MPAC	MPAC	Council
Recommendations (remedial actions) from MPAC	Council	APAC
Resolutions by Council <ul style="list-style-type: none"> • Disciplinary charges • Criminal charges 	<ul style="list-style-type: none"> • Line Management, including the City Manager where applicable • SAPS (where criminal charges are warranted) 	<ul style="list-style-type: none"> • MEC for Local Government • Auditor General of South Africa
Possible abuse of the SCM system; including fraud, corruption and improper conduct (Refer to Fraud Prevention Policy and Response Plan)		
<ul style="list-style-type: none"> • City Manager (Issues i.r.o officials reported to the City Manager or administrative mechanism mobilised for this purpose) • Speaker (Issues i.r.o councillors reported to the Speaker) 	<ul style="list-style-type: none"> • Line management for information • SAPS (where criminal charges are warranted) 	<ul style="list-style-type: none"> • Forensic Services / Ombudsman / Ethics / External Investigator for independent investigation • Second Level of Assurance
<ul style="list-style-type: none"> • Forensic Services Recommendations (investigations into allegations fraud, corruption and other criminal activity, maladministration or negligence and financial misconduct against officials) • Ethics Recommendations (investigations into allegations of unethical behaviour against officials) • Ombudsman Recommendation post case assessment outcomes • SCM and Legal Services sanction in terms of City SCM Policy abuse 	<ul style="list-style-type: none"> • City Manager (i.r.o of officials) • Speaker (i.r.o of councillors) 	Officials: <ul style="list-style-type: none"> • Council for information and/or escalation • Provincial and National Treasury for information • Auditor General of South Africa • SAPS (where criminal charges are warranted) Councillors: <ul style="list-style-type: none"> • Provincial MEC for Finance

Source / remedial action	First Level of reporting	Second Level of reporting or advisory and oversight body
<ul style="list-style-type: none"> Independent External Investigator(s) appointed by the City Manager (officials) Investigator(s) appointed by the Speaker (councillors) 		<ul style="list-style-type: none"> Minister for Local Government in the Province Minister of Finance Minister responsible for Local Government Provincial & National Treasury for information SAPS (where criminal charges are warranted)
Allegations of financial misconduct and financial offence (see appendix IV and V)		
<ul style="list-style-type: none"> City Manager's Register of Financial Misconduct (Issues i.r.o officials reported to the City Manager) Speaker (Issues i.r.o councillors reported to the Speaker) 	<ul style="list-style-type: none"> Executive Mayor Deputy Executive Mayor 	Council for referral to Disciplinary Board for investigation
Disciplinary Board Preliminary Investigation Recommendations (investigations into allegations of financial misconduct by officials and / or councillors)	Council	<ul style="list-style-type: none"> National & Provincial Treasury for information SAPS (where criminal charges are warranted)
<ul style="list-style-type: none"> Disciplinary Board Full Investigation Recommendations (investigations into allegations of financial misconduct by officials or councillors) Independent External Investigator(s) appointed by the City Manager if necessary (officials) Investigator(s) appointed by the Speaker if necessary (councillors) 	<ul style="list-style-type: none"> City Manager Executive Mayor Deputy Executive Mayor Speaker (Councillors) 	Officials: <ul style="list-style-type: none"> National & Provincial Treasury for information SAPS (where criminal charges are warranted) Councillors: <ul style="list-style-type: none"> MEC for Finance in the Province Minister for Local Government in the Province Minister of Finance

Source / remedial action	First Level of reporting	Second Level of reporting or advisory and oversight body
		<ul style="list-style-type: none"> • Minister responsible for Local Government • Provincial & National Treasury for information • SAPS (where criminal charges are warranted)

11.9 Phase 4: Monitoring and Reporting

Comprehensive systems must be implemented to track and follow-up on the implementation of all remedial actions stemming from the various role players in the consequence management process.

This is to:

- Ensure that risk exposures have been adequately and timely addressed to curtail the impact and prevent the issue, risk and / or opportunity from re-occurring; and
- Assist the advisory and oversight bodies in their assessment of the effectiveness of consequence management in the City, enable them to provide assurance to the stakeholders in this regard.

It is therefore the responsibility of:

- Those recommending the remedial actions; and
- the Executive Directors (ED), in the case of the City Manager issuing directives to ensure that:
 - the implementation of corrective action is tracked and monitored;
 - overdue actions are reported on; and
 - follow-ups are performed to confirm/ verify successful implementation of corrective action.

The following practices should be applied to ensure a comprehensive tracking and follow-up processes are implemented:

- a) Registers should be maintained by each role-player responsible for making recommendations, documenting the issues (various incidents and red flags), risks and opportunities and related remedial actions, including the estimated implementation date and responsible action owners;

- b) Nodal representatives should be appointed in each directorate to provide information with regards to the status of implementation of remedial actions relevant to their directorate;
- c) Role-players should provide feedback to nodal representatives in terms of the implementation status of remedial actions, and escalate those that are overdue to the next reporting level or delegated authority, if necessary;
- d) Perform follow-ups / checks to confirm whether remedial actions have indeed been implemented/ actioned successfully by the responsible officials;
- e) Successful implementation of remedial actions can be measured in terms of a key operating indicator on ED and Directorate performance scorecards; and
- f) Progressive reporting to the appropriate delegated authority and advisory and oversight bodies who can be tasked to take action against management for tardiness (failure to implement the remedial action(s) successfully and timeously).

11.10 Phase 5: Conclusion / Closure

This phase deals with the correct application and appropriate disclosure of remedial actions. Remedial actions impacting the control objectives i.e. the efficiency and effectiveness of the City's operations, the reliability of the City's reporting (financial and non-financial), the City's compliance to legislation, regulations, policies and procedures; will be disclosed in the following formats:

- a) Second Level Combined Assurance Providers Reports;
- b) Internal Audit Assurance Reports (including Quarterly Reports to APAC);
- c) AGSA Report;
- d) Corporate Performance Scorecards;
- e) City Manager and Executive Directors Personal Performance Scorecards;
- f) City's Integrated Annual Report;
- g) City's Annual Financial Statements;
- h) City's Annual Oversight Report
- i) Management Responsibility Letter;
- j) Combined Assurance Reporting;
- k) Internal Control Environment Report; and
- l) Governance Committee Annual Reports.

In order to ensure that Council and its officials take ownership and accountability for the good financial management of the City, the following corporate documents need be periodically updated to incorporate aspects of consequence management:

- a) Council, Advisory and Oversight Committee's Terms of References – Accountability and/ or responsibility in respect of oversight role and/ or decision making role regarding consequence management to ensure good corporate governance;
- b) IDP – Refer to consequence management as a key initiative under Strategic Focus Area 5 – Well-Run City, Objective 5.1 Operational sustainability, 5.1.c Compliant service delivery programme;
- c) Directorate and Departmental Business Plans – Commitment in respect responsibility and/ or accountability regarding consequence management to ensure good corporate governance; and
- d) Service Delivery Budget and Implementation Plan – Inclusion of a Consequence Management Key Performance Indicator.

Managing compliance encompasses making appropriate rules that are known, understood and followed and for which consequences of non-compliance are clear and commensurate with risk and context. The processes and procedures to be followed with regards to the different aspects of consequence management in the City, are specified in the relevant, existing City documents and enhancements (if required) will be detailed in Consequence Management Standard Operating Procedures.

11.11 Assumptions to the Policy includes:

- a) Investigators shall have free access to all staff, records and premises in order to carry out investigations.
- b) If there is a suspicion that fraud, corruption and other criminal activity, maladministration and/or negligence has been perpetrated or attempted, line management must promptly follow the procedures provided in the City's Fraud Prevention Policy, which must be read in conjunction with this Policy and all relevant appendixes.
- c) If there is a concern that the City Manager may be involved in any allegations of financial misconduct and financial offence, this should be reported to the Executive Mayor.
- d) A Whistleblowing Policy is in place to safeguard whistle blowers against intimidation and/or victimisation. No person will suffer any penalty or retribution for good faith reporting of any suspected or actual incident of fraud and corruption.

12. IMPLEMENTATION PROGRAMME

12.1 This Policy will be implemented once approved by Council and will be championed within the Office of the City Manager.

12.2 Key dependencies to the successful implementation of the Policy include:

- Awareness;
- Registers;
- Terms of Reference;
- Standard Operating Procedures;
- Records;
- Reporting; and
- Roles and Responsibilities.

12.3 Challenges faced by the City for the successful implementation of the Policy include the following:

- a) The lack of understanding of the various legislation and regulations relating to consequence management, and the impact thereof on the:
 - City's policies and procedures;
 - Operations;
 - Due care; and
 - Leadership expectations.
- b) The limited City resources with knowledge, skills and capacity to comply with legislation and its related regulations.
- c) The gravity of the law and the consequences of failure to comply is not yet fully understood or recognised by all City employees.
- d) The absence of the adoption of MFMA Circular 76 on Financial Misconduct Regulations by Council, and the impact on City resources.
- e) The establishment of the required committees/ boards to provide advisory and oversight over the various aspects of consequence management and the formalisation of their roles and responsibilities (Terms of Reference/ System of Delegations).
- f) The development and approval of Standard Operating Procedures in respect of the various aspects relating to consequence management.

13. MONITORING, EVALUATION AND REVIEW

13.1 Monitoring and evaluation

The reduction of AGSA findings in respect of poor consequence management will be one of the key indications of the successful implementation of the Policy. Other indicators could include the following:

- a) Reduced reported issues (various incidents and red flags), risks and opportunities relating to non-compliance to sections 32, 62, 78, 102, 115, 171, 172, 173, 174, 175 of the MFMA and the related regulations;
- b) Improved percentage of Probity function recommendations implemented;

- c) Increased understanding of the gravity of the law and the consequences of failure to comply recognised by all City employees;
and
- d) Improved service delivery through good governance.

13.2 Review

This Policy will be reviewed regularly, at least once per annum, considering feedback received from the various stakeholders and role players. Where necessary, the required amendments will be made and submitted to Council for approval.

Appendix I: Financial Misconduct Roles and Responsibilities Matrix

RACI **R** Responsibility **A** Accountability **C** Consulting **I** Information

Stakeholders and Role-players		Risk / Issue / Opportunity Reporting	Control Activities	Information and Communication	Monitoring & Reporting	Conclusion / Closure	Format
		<i>Financial Misconduct (FM) issues (various incidents and red flags), risks and opportunities</i>	<i>Remedial Action & Control Improvements</i>	<i>Risk / Issue Reporting details and escalation</i>	<i>Follow-up and Progressive Reporting</i>	<i>Application and Disclosure</i>	<i>Succinct Summary of type of documents</i>
Stakeholders: Functions							
1	Citizens	I	I			I	Integrated Annual Report
2	Industry	I	I			I	Integrated Annual Report
3	Tourists	I	I			I	Integrated Annual Report
4	Business	I	I			I	Integrated Annual Report
5	National Government	R	R	C	R	R	Integrated Annual Report / Report / Correspondence / Meeting
6	Provincial Government	R	R	C	R	R	Integrated Annual Report / Report / Correspondence / Meeting
7	Municipal Entities	R	R	I	R	R	Integrated Annual Report / Report / Correspondence / Meeting
8	Service Providers	I	I			I	Integrated Annual Report
9	City Agents	I	I			I	Integrated Annual Report
Role-players: Functions							

1	The National and Provincial Treasury	R	R	C	R	R	Integrated Annual Report / Report / Correspondence / Meeting / Legislation
2	The Speaker	A	R	R	R	R	Integrated Annual Report / Report / City's System of Delegations Document / Consequence Management Policy and SOP / Legislation
3	The Executive Mayor	A	R	R	R	A	Integrated Annual Report / Report / City's System of Delegations Document / Consequence Management Policy and SOP / Legislation
4	The City Manager	A	A	R	R	A	Integrated Annual Report / Report / City's System of Delegations Document / Consequence Management Policy and SOP / Legislation
E	Line Management						
1	Executive Directors	A	A	A	A	R	Integrated Annual Report / Report / City's System of Delegations Document / Consequence Management Policy and SOP / Legislation
2	Portfolio Managers	R	A	R	A	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Management Responsibility Letter ito Fiduciary Responsibility
3	Directors	R	A	R	A	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Management Responsibility Letter ito Fiduciary Responsibility
4	Managers	R	A	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Management Responsibility Letter

5	Heads	R	A	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Management Responsibility Letter
F	Combined Assurance Providers						
1	Risk Management	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicator
2	Forensics	A	A	R	A	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Charter / Consequence Management Key Performance Indicator
3	Internal Audit	A	A	R	A	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Charter / Consequence Management Key Performance Indicator
4	Ombudsman	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Charter / Consequence Management Key Performance Indicator
5	Legal Services	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
6	Communications	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
7	Environmental Resource Management	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence

							Management Key Performance Indicators
8	Disaster Risk Management	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
9	Occupational Health and Safety	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
10	Supply Chain Management	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
11	Treasury	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
12	Customer Relations	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
13	Organisational Performance Management System	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
14	Ethics	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
15	Budgets	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan /

							Budget / Projects / Consequence Management Key Performance Indicators
16	Expenditure	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
17	Grant Funding	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
18	Organisational Policy and Planning	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
19	Information Systems and Technology	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
20	Integrated Knowledge Management	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
21	Executive Support	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
22	Labour Relations	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators

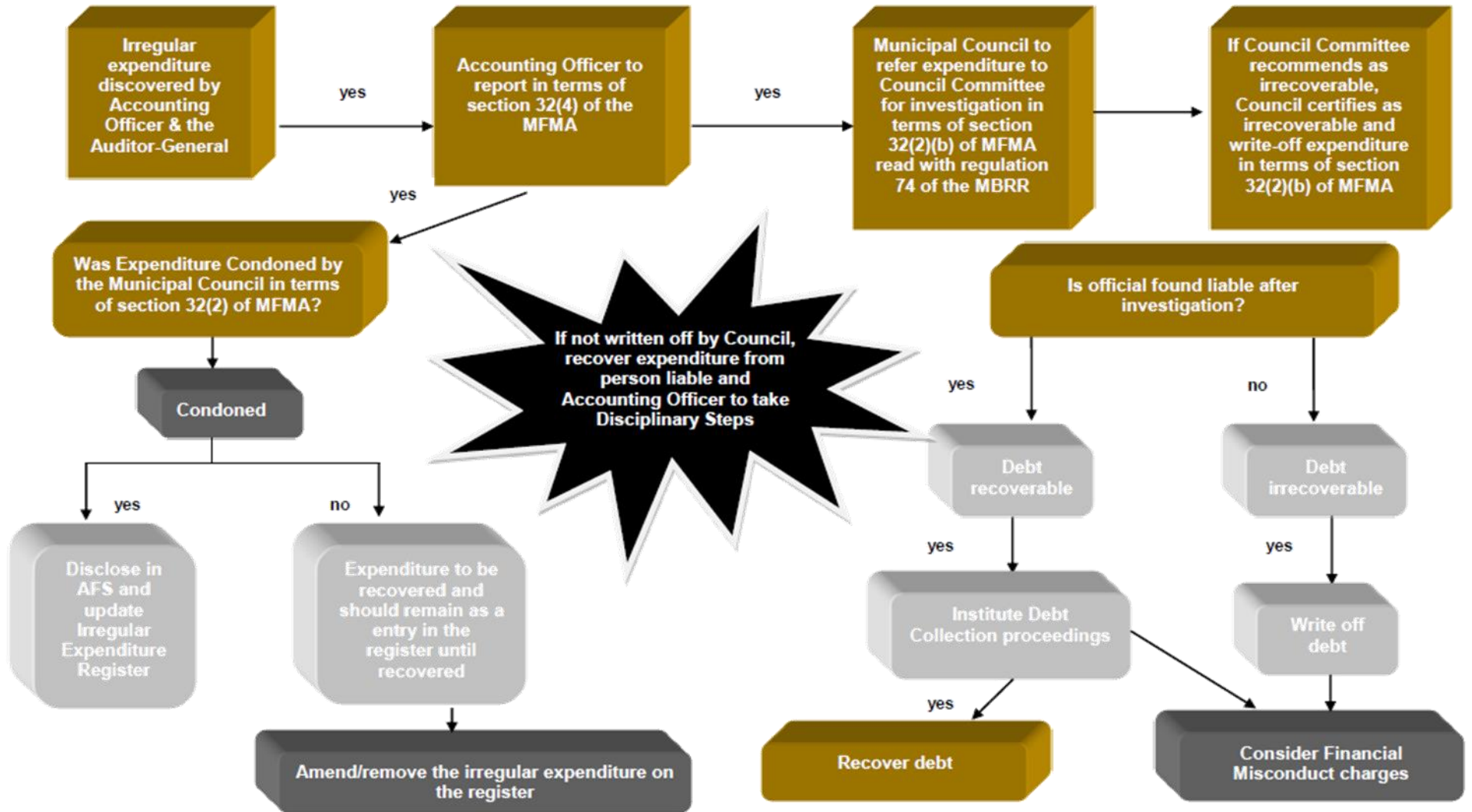
23	Contract Management	A	R	R	R	R	Job Description / City's System of Delegation / Business Plan / Budget / Projects / Consequence Management Key Performance Indicators
G	Office of the Auditor General	A	A	R	A	A	Legislation / SLA / Management Report / Audit Report / Combined Assurance Meetings
H	Municipal Entities						
1	CT Stadium	A	A	R	A	A	Legislation / Board Meetings / Integrated Annual Report / Governance Committee Reports / AGSA Reports / Internal Audit Reports
2	CTICC	A	A	R	A	A	Legislation / Board Meetings / Integrated Annual Report / Governance Committee Reports / AGSA Reports / Internal Audit Reports
I	External Bodies						
1	National Treasury	R	R	R	R	A	Legislation / Regulation / Circular
2	Provincial Treasury	R	R	R	R	A	Legislation / Regulation / Circular
J	Service Provider	R		C		I	Hotline / Correspondence / Contracts / Integrated Annual Report
K	City Agents						
1	Traffic Violations	R		C		I	Hotline / Correspondence / Contracts / Integrated Annual Report
2	Debt Collection	R		C		I	Hotline / Correspondence / Contracts / Integrated Annual Report
3	Prepaid Electricity	R		C		I	Hotline / Correspondence / Contracts / Integrated Annual Report

4	Parking Attendants	R		C		I	Hotline / Correspondence / Contracts / Integrated Annual Report
L	Whistle-blower	R		C		I	Hotline / Correspondence / Contracts / Integrated Annual Report
M	Disciplinary Board	R	A	R	A	R	Hotline / Combined Assurance / Correspondence / Contracts / Reporting / Consequence Management Policy and SOP / Terms of Reference / Integrated Annual Report
N	Municipal Public Accounts Committee	R	A ⁵	R	A	R	Combined Assurance / Disciplinary Board / Correspondence / Contracts / Reporting / Consequence Management Policy and SOP / Terms of Reference / Integrated Annual Report
O	Council	A	C	C	A	A	Legislation / Regulation / Circular
P	Audit and Performance Audit Committee	R	A ⁶	C	A	R	Combined Assurance Reporting / Consequence Management Policy and SOP / Terms of Reference / Integrated Annual Report
Q	Service Provider - Investigator	R	R	R	R	C	Contract with scope of work / Legislation

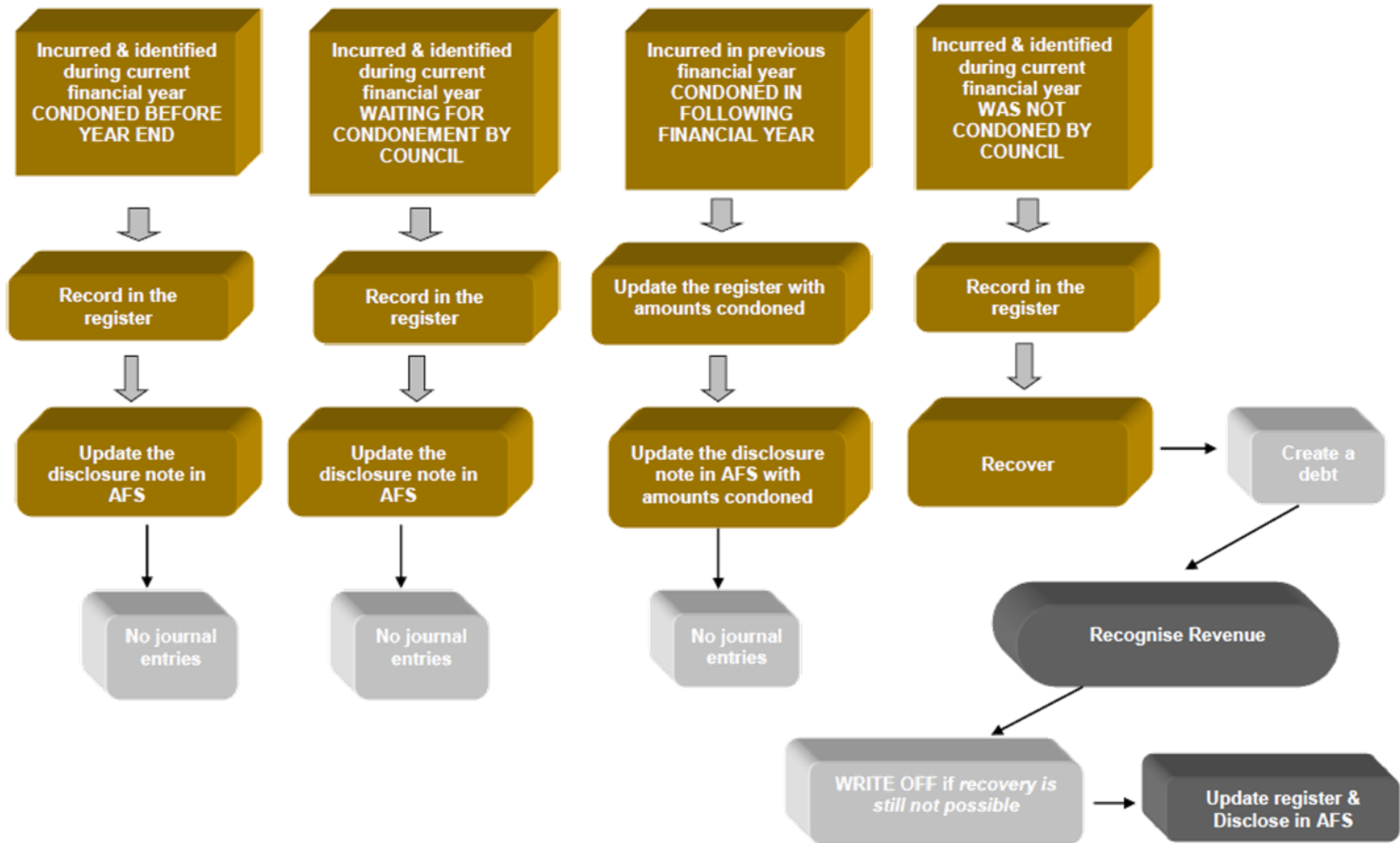
⁵ Refer to section 79 of Municipal Structures Act and Sections 5 and 6 MPAC terms of reference.

⁶ Refer to MFMA section 166, MSA, Municipal Planning and Performance Regulations – regulation 14 and section 4.3 of the APAC terms of reference.

Appendix II: Flow Chart for Irregular, Fruitless and Wasteful Expenditure (Step by Step Process)



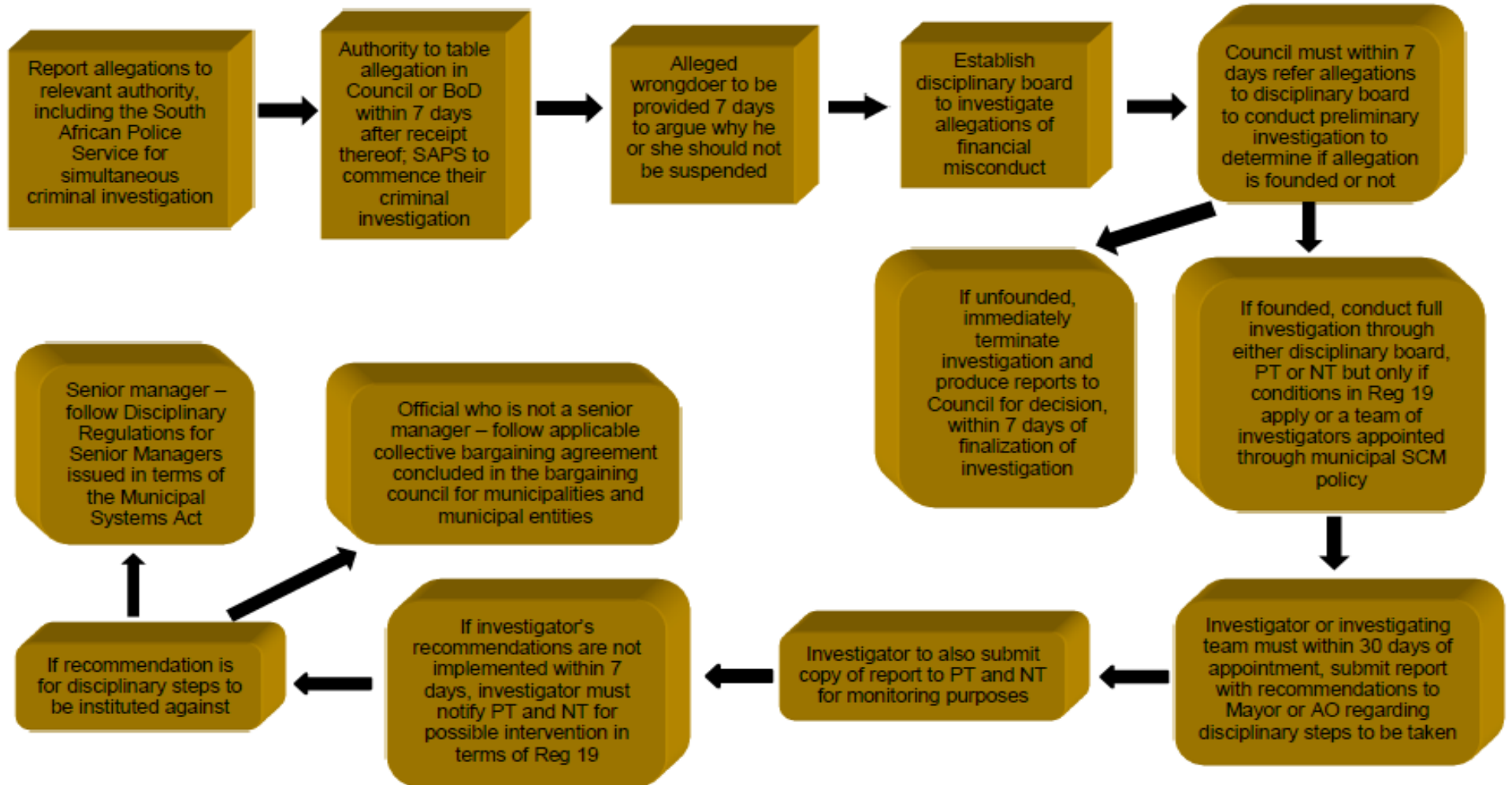
Appendix III: Flow Chart of Irregular, Fruitless and Wasteful Expenditure (Accounting Framework)



Appendix IV: Process Flow Financial Misconduct (Officials)

PROCESS TO IMPLEMENT FINANCIAL MISCONDUCT REGULATIONS

PROCESS FOR OFFICIALS



PROCESS FOR POLITICAL OFFICE BEARERS

