

BA-PHALABORWA MUNICIPALITY



LOSS CONTROL POLICY

2022/23

1. PREAMBLE

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

2. ESTABLISHMENT AND IMPLEMENTATION OF LOSS CONTROL POLICY AND PROCEDURE

LEGISLATIVE FRAMEWORK

Chapter 8 sec 62(1)(c) of the Municipal Finance Management Act states that the accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure that the municipality has and maintains effective, efficient and transparent system of financial and risk management and internal control".

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

3. OBJECTIVE OF THIS POLICY

- a) To provide a uniform reporting procedure that will create a greater efficiency in the management of losses within the municipality.
- b) Set standards for effective accountability and management of assets.
- c) To create a conducive environment for officials to implement Internal Controls, Risk Management and prevent loss of assets.
- d) To ensure that Procedures are in place to be followed by officials when assets are lost, stolen or damaged.

4. TYPES OF LOSSES, DAMAGES AND FRAUD

- a) Loss, theft and damage of immovable assets:

- Rent paid for offices not in use.
- b) Loss, theft and damage of moveable assets:
- Pool vehicles through thefts, high-jacking, 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,
 - Small equipments such as tools and maintenance equipment through thefts and other damage costs.
- c) Loss, theft and damage of inventory stores items:
- Stationary, electrical material, cleaning material and other material through thefts and other damage costs.
- d) Loss, theft and damage of Council monies and face value forms
- Cash – theft and shortages on petty cash, rental and bidding revenue collected.
- e) Claims against the Municipality through acts or omissions against said person (s).
- Notices of intended civil action served on the MEC.
- f) Claims by the Municipality against other person(s)
- Overpaid salaries-after death or termination.
 - Salaries paid for staff under suspension. Irrecoverable- rates and taxes, electricity
 - Irrecoverable- rental
 - Irrecoverable- fees for any other service.
 - State guaranties
 - Ex-Gratia payments
- g) Fraud cases with loss implications
- Criminal/negligence (Public Service Persons)
 - Unauthorised payments
 - Fraudulent credit transfers
 - Unauthorized direct or indirect orders
 - Ghosts employees.
- h) Fruitless and wasteful expenditure
- Late payment to a creditor for which interest is charge and for which we have been invoiced and obligated to pay.
 - Any payment to a service provider for which the full value for money was not received.

- Wasteful Expenditure made in vain and would have been avoided had reasonable care been taken.
- Losses due to misrepresentation on tender/bids allocation.

i) Other losses

- Poor management actions
- Attempted fraud (no actual loss)
- Departmental write-offs
- Any other loss not indicated above.

5. RESPONSIBILITY OF LOSSES

a) Safekeeping of assets

Every head of department shall be responsible for the physical safekeeping of any asset controlled or used by their department, they are responsible to ensure that internal controls have been implemented in their departments to ensure that all assets are accounted for. In exercising this responsibility, the head of department shall adhere to any written directives issued by the Chief Financial Officer to the department in question, or generally to all departments, in regard to the control of or safekeeping of the municipality's assets.

b) General Maintenance of Assets:

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

c) Accountability of assets

End users are accountable of the assets allocated to them. The end users are also responsible to ensure that the assets properly maintained, always kept safe and used for the benefit of the municipality only

6. MANAGEMENT OF LOSSES

6.1 Reporting of losses

- a) The end-user or official who detects/identify the incident must report it to the relevant supervisor and Senior Manager within 24 hours of being aware of the incident. The Senior Manager shall report the incident to the Municipal Manager
- b) The End-User must report all instances of loss (*including vehicle accidents*) to SAPS within 24 hours.
- c) The End users must report all losses to the Risk Management Office through the Municipal Manager's office within 24 hours of being aware of the loss. It's the responsibility of the Head of Department to ensure that all losses in their department are reported.
- d) The Head of Department/Supervisor must see to it that all cases (*of the kind mentioned above*), which arise in their relevant directorate and offices under its management, are reported to the Municipal Manager and SAPS.
- e) The Manager: Risk Management will record the incident in the incident Register.
- f) The Manager: Risk Management will, through the Municipal Manager, notify the Chief Financial Officer about the loss in writing.
- g) The Manager: Asset Management will record the incident in the loss register and the incident will be presented to the Budget and Treasury Office Portfolio Committee by the Chief Financial Officer.

6.2 Investigation of losses.

- a) In an event where the Manager: Risk Management receives a report of an incident, he/she must consider all possible implications, including legal effect it might have on an individual and the Municipality and refer the matter to the appropriate directorate.
- b) The Manager: Risk Management must investigate incidents of losses and seek legal advice from the Legal Section; consult parties broadly as possible consult experts in the field (*where it is absolutely necessary – this discretion to be exercised judiciously*); 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
- c) The investigation is conducted mainly to determine the circumstances under which a loss occurred and to determine whether any official was negligent and is responsible for the loss.
- d) The Accounting Officer may appoint any other person(s) or committee to investigate incidents.

6.3 Gathering of information

- a) The investigating officer/ committee 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. Depending on the nature of the loss, it shall be ascertained who was responsible for Specific responsibilities or duties.
- b) The documents used in this investigation can also be used in a case of misconduct/neglect of duty for disciplinary purpose.
- c) 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.
- d) 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.
- e) 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
- f) 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.

6.4 Identify possible causes and trends

- a) If shortages/losses/theft/damages/ misuse of Municipality 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 investigator/Manager: Risk Management.

- 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 investigator shall display own initiative and 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.

6.5 Compilation of a report

- a) The investigating officer will compile a report with findings and recommendations to the accounting officer for approval.
- b) The investigation report might also consider evidence gathered by other law enforcement agencies.
- c) The report includes all gathered statements, documentary proof etc.

6.6 Insurance

- a) The Manager: Risk Management must submit a claim to the insurance company for any losses suffered by the municipality.
- b) The insurance claim must be lodged within 30 days of the incident, failure to comply with this clause will result in the official responsible for the delay being held accountable for the loss/replacement of the asset.
- c) The Manager: Risk Management must follow up on all claims with the insurance company until they are finalised.
- d) If the municipality forfeits its rights to claim from the insurance company due to any omission by any official the loss may be recovered from the said official (to be determined by an investigation).
- e) The insurance will use/seek quotations for the lost assets from direct suppliers of goods or services and not from BEE Companies. And the different prices/amount to be recovered between the direct supplier and the BEE should be written off against Loss/Surplus votes because this will limit litigations against the municipality.

7. RESPONSIBILITIES OF THE LOSS CONTROL OFFICER

In terms of the MFMA 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.

The Manager: Asset Management will serve as the Loss Control Officer.

8. RECORD KEEPING

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

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

9. UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

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

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

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

- (a) In the case of unauthorised expenditure, is—

(ii) Certified by the municipal council, after investigation by a council Committee, as irrecoverable and written off by the council; and

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

10. RISK ASSURANCE

- a) Council will bear its own damages and accident risks and be responsible for all claims and losses of Council owned property where these arise from council activities by an official who is liable in law and who is or was employed by council took place during the performance of council 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) Disciplinary steps will be taken against 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 municipality.

11. DETERMINATION OF COSTS TO BE RECOVERED

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.

- a) The investigation will determine who is liable for the loss or damage to assets.
- b) If the investigation determines that a certain official is responsible for a loss the following aspects should be taken into account when determining the amount to be recovered.
 - I. If the item is insured a claim will be lodged with the insurance company first and the official will only be liable for the excess if it is found that they were negligent. The municipality can't claim both from the insurance company and the official.
 - II. If the loss occurred due to any criminal element *e.g. theft* the investigation must determine whether the official had taken reasonable precautionary measures to safeguard the asset at the time of the loss and they should be liable if they were negligent (*subject to the outcome of the insurance claim*).

- III. If there is no sign of forced entry during the theft incident, the official will be liable for the loss of the asset (insurance policy also declines the claim if there is no sign of forced entry).
- IV. If the incident involves a loss of an asset and the insurance claim has been declined, the official will be required to pay an amount equivalent to the book value of the asset at the time of the loss or the market value of the asset "whichever is lesser". *(Subject to the outcome of the internal investigation).*
- V. If the book value is more than the market price of the asset *(based on three quotations)*, the responsible official will have an option to procure a similar assets in terms of specification to replace the lost asset *(The unit responsible for the asset "e.g. Information Technology for laptops" will provide the specification to the official and the official must also submit proof of purchase).*
- VI. The replacement value for assets will always be the lesser one between the Book Value and Market Value.
- VII. If the asset is totally depreciated a fixed rate will be payable *(see below table for high frequent lost assets)*, second hand shops market price will be used for items not listed below.

No.	Item	Amount
1.	Laptop /Printer	R800. 00
2.	Water pump generator	R700.00
3.	Furniture and Fittings	R700.00
4.	Petrol or diesel, Engine cleaner ,hydraulic oil or Engine oil	Full amount must be recovered
5	Stock item	Market related price

- VIII. If the municipal spent monies, repairing an asset, the money will be recovered from the liable official.
- IX. If the municipality lost money due to any criminal element by an official the municipality reserves the right to recover the money from the officials' salary or pensions. If the alleged employee resigns before the investigation is concluded the municipality reserves the right

to suspend the official pension pay-out pending finalisation of the investigation (*the investigation should be concluded within a reasonable period*).

X. Any other loss suffered by the municipality as determined by the investigation.

12. 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 MFMA 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 municipality if he or she is satisfied that-
 - I. 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;
 - II. He or she is convinced that recovery of the debt would be uneconomical;
 - III. Recovery would cause undue hardship to the debtor or his/her dependants;
 - IV. Or it would be to the advantage of the municipality to effect a settlement of its claim or to waive the claim. (Treasury Instruction 11.4.1)

The following delegations regarding write off's is applicable:

- 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 Asset written off must be disclosed in the Annual Financial Statements after obtaining Council Resolution, indicating the policy in terms of which the debt was written off. (Treasury Instruction 11.4.3)
- f) When it appears that the Municipality 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 omissions if, after thorough investigation, it is found that the loss or damage is irrecoverable. (Treasury Instruction 11.5.2)

13. DISPOSAL

- a) The municipality is from time to time faced with material, which is either damaged by Storm (nature) or through the negligence of an officer 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 of Asset to other organ of Municipality, sale as a scrap or destroying the asset/item or donating. The income that accrues form Disposal process depends on the economic residual value of the item/asset and the demand.

14. RECOVERY

- a) Recovery and claims are implemented in terms of (*Section 11: Determination costs to be recovered*) and payment thereof in terms may accrue interests in terms of the Treasury Regulations. Recovery can 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.

15. PROCESS OF RECOVERY

- a) 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 municipality. Under such circumstances:-
 - I. Should the person, personally offer to pay off the debt in a once-off payment, or to pay monthly instalments so that the total loss is redeemed within 18 months, an undertaking must be obtained from him/her and submitted to the delegated official for his/her approval.
 - II. Should a person make an offer as set out in sub-paragraph (a) above, and the recovery of the loss/damage exceeds 18 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.

16. ETHICAL STANDARDS

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 mutual trust and respect. A control environment where risks can be controlled and managed in a fair and reasonable manner.

Officials must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices; and 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, favouritism or unfair conduct;
- Any alleged breach of this code of ethical standards

17. APPLICATION OF THE POLICY

The policy will be implemented in line with Municipal Finance Management Act, Treasury Regulations, Regulations: Financial Misconduct Procedures and Criminal Proceedings and all other municipal policies and it will apply to all the employees of Ba-Phalaborwa Municipality. Disciplinary process can be initiated against any official who fails to comply with the policy. The policy will supersede any other policies regarding the management of loss within the institution.

18. OBJECTIONS AND COMPLAINTS

Persons aggrieved by decisions or actions taken in the implementation 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. The objection must be directed to the office of the accounting officer.

19. COMMENCEMENT

This policy and procedures takes effect on the date on which it is approved by Council.

20. APPROVAL



Municipal Manager

Council Resolution: 197/22

Council Resolution Date: 26/05/2022