

## **ANNEXURE B: Code of Conduct for Members of the FMC**

# **CODE OF CONDUCT FOR MEMBERS OF THE FINANCIAL MISCONDUCT COMMITTEE**

*This Code of Conduct is to be signed by members of the Financial Misconduct Committee (FMC), appointed by the Department of Roads and Public Works (DR&PW) to evaluate cases of Financial Misconduct in the Department*

**Version 2  
(February 2023)**

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## 1. Key Definitions

- 1.1 **“Member”** means a person appointed by the AO/HOD to the FMC, either as the Chairperson, ordinary Member or Secretariat, for purposes of conducting the evaluation of cases as a representative of the DR&PW.
- 1.2 **“Privileged or Confidential Information”** means any information:
- a) determined by the DR&PW/FMC to be privileged or confidential;
  - b) discussed in closed session by the FMC;
  - c) which if disclosed would violate a person's right to privacy; and
  - d) declared to be privileged, confidential or secret in terms of any law including, but not limited to, information contemplated in section 34(1); 35(1); 36(1); 37(1)(a); 38(a); 39(1)(a); 40 or 43(1) of the Promotion of Access to Information Act, 2000, (Act No. 2 of 2000).

## 2. Background and Context

- 2.1 Section 51(b)(ii) of the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999), as amended, which is also applicable to the prevention and management of financial misconduct, deals with the responsibilities of accounting officers, in that they must take effective and appropriate steps to *“prevent irregular expenditure, fruitless and wasteful expenditure not complying with the operational policies of the public entity”*.
- 2.2 Sections 83 to 86 of the PFMA provide guidelines on how public entities should deal with financial misconduct.
- 2.3 Part 4, Chapter 9 of the related National Treasury Regulations of 2001, as well as of 2005, stipulate the following:
- 2.3.1 *“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.”*
- 2.3.2 *“9.1.2 When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required*

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*by section 40(4)(b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever applicable."*

- 2.3.3 "9.1.3 When an accounting officer determines the appropriateness of disciplinary steps against an official in terms of section 38(1)(g) of the Act, the accounting officer must take into account –  
(a) the circumstances of the transgression;  
(b) the extent of the expenditure involved; and  
(c) the nature and seriousness of the transgression."
- 2.3.4 "9.1.4 The recovery of losses or damages resulting from unauthorised, irregular or fruitless And wasteful expenditure must be dealt with in accordance with regulation 12."
- 2.3.5 "9.1.5 The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution."
- 2.3.6 This FMC Code of Conduct is issued by the Department of Roads and Public Works (DR&PW) to instil standards of integrity, ethical conduct, and professionalism in the DR&PW's Financial Misconduct Committee (FMC) evaluation process of all cases in the DR&PW, in accordance with Sections 83 to 86 of the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999), as amended.
- 2.3.7 Every Member of the FMC is required to sign this Code of Conduct.
- 2.3.8 In addition, each Member has to sign the **FMC Declaration of Interest Form** (see Section 6 of this FMC Code of Conduct) in respect of FMC Meetings, regarding cases of financial misconduct that is to be evaluated.

### **3. Aim of the Financial Misconduct Committee (FMC) Code of Conduct**

- 3.1 This FMC Code of Conduct does not address every possible situation that may arise. It also cannot serve as a substitute for the responsibility of the HOD/AO and FMC Members themselves to



exercise sound judgment, act with exceptional standards of moral integrity, and abide by all applicable laws.

3.2 This FMC Code of Conduct is intended to:

- a) confirm the relevant FMC Member's commitment to all its prescripts;
- b) guide particular FMC Members who are faced with ethical dilemmas in an increasingly complex operational environment;
- c) provide disciplinary and prosecuting reference if an FMC Member is found guilty of unethical behaviour; and
- d) serve as a public commitment by the DR&PW to the highest standards of ethical and professional conduct in the evaluation of financial misconduct cases.

#### **4. Breaches of the FMC Code of Conduct**

4.1 An FMC Member will be found guilty of breaching the FMC's Code of Conduct if she or he:

- a) contravenes or fails to comply with any provision in it; and
- b) when declaring interests, wilfully (intentionally) provides incorrect or misleading details/information.

4.2 In cases where an FMC Member(s) are found guilty of breaching the FMC's Code of Conduct, the particular FMC Member(s) will be liable for disciplinary action in terms of the Public Service Regulations (PSR) and may also be liable for criminal prosecution.

4.3 The HOD/AO, acting on his or her own or in terms of a complaint by any person, may investigate any alleged breach of this Code by an FMC Member(s) and may withdraw the relevant FMC Member(s) from the FMC during the investigation.

## **5. Oath of Members of the FMC**

- 5.1 The following oath must be signed by the duly appointed members of the Financial Misconduct Committee (FMC) of the Department of Roads and Public Works (DR&PW), after thorough perusal and consideration by each individual member.
- 5.2 By signing this oath, each FMC member acknowledges that he/she understands and agrees with the said oath.

## OATH OF MEMBERS OF THE FMC

*I, the undersigned (NAME AND SURNAME IN CAPITAL LETTERS).....;  
in my capacity as Member of the Financial Misconduct Committee (FMC) of the Department of Roads and  
Public Works (DR&PW) of the Province of the Northern Cape, hereby undertake:*

- a) to act at all times with fidelity, honesty, integrity and in the best interests of the state and the general public it serves;*
- b) to diligently perform the duties of an FMC Member efficiently, effectively and strictly in accordance with the FMC;*
- c) to properly prepare for and attend each meeting of the FMC;*
- d) to act at all times in accordance with the relevant legislation and regulations, including the Public Service Regulations (PSR), published in accordance with the Public Service Act (PSA), 1994, (Act No.103 of 1994); the Public Finance Management Act (PFMA), 1999 (Act No.1 of 1999), as amended; National Treasury Regulations published in terms of the PFMA, 1999, as amended; and directives given by appropriately authorized members of the DR&PW management;*
- e) specifically, to comply with Chapter 2 of the Public Service Regulations (PSR), as well as provisions of the PFMA, 1999, as amended.*
- f) to recognise the public's right to have access to information in the interests of administrative justice;*
- g) to take utmost care in ensuring that there is reasonable protection of the records of the DR&PW and all FMC case documentation;*
- h) not to misuse the position or privileges of an FMC Member, or confidential information obtained as an FMC Member;*

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- i) to carry out duties with the skill and care expected from a person of knowledge and experience, and to exercise due judgement;*
- j) to not unfairly discriminate against any DR&PW official on the grounds of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language;*
- k) to not abuse any position in the Public Services to promote or prejudice the interest of any political party or interest group;*
- l) to provide the Auditor General (AG) with all the information and explanations it requires to carry out its functions;*
- m) to report to the appropriate authorities, any case of fraud, corruption, nepotism, maladministration and any other acts which constitute an offence, or which are prejudicial to the public interest, arising during the FMC proceedings;*
- n) to diligently, accurately and honestly declare, in the FMC Declaration of Interest, all personal and/or official interests in cases evaluated by the FMC and to willingly abide by any decision of the HOD/AO or EA (MEC) to withdraw as a Member of the Financial Misconduct Committee (FMC) because of this;*
- o) to be open and honest about all decisions and actions taken regarding the FMC case evaluation, and to give clear reasons for these which can be accurately recorded;*
- p) not make any dishonest allegations about any official;*
- q) to proactively protect confidential and privileged information of the FMC from theft, unauthorised disclosure or inappropriate use, and specifically:*
  - i. not respond to any queries relating to evaluations of the FMC, unless expressly authorised by the HOD/AO or EA (MEC) to do so in writing, on behalf of the DR&PW;*
  - ii. not speak to or correspond carelessly with any person (fellow FMC Member, colleague, friend, family member or otherwise) on any matter related to the FMC.*



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- r) not request, solicit or accept any reward, gift or favour in return for voting or not voting in a particular way on any matter, or for disclosing privileged or confidential information;*
- s) not to accept or agree to later accept, any "kickbacks" (acceptance of unlawful and undue gratuities, which constitutes a form of fraud and/or corruption), in the form of money, favours, inappropriate gifts or anything else of value from any person, which may be viewed as aimed at influencing or directing the Members of the Financial Misconduct Committee (FMC);*
- t) to disclose immediately to the Chairperson of the FMC, the HOD/AO and the EA (MEC), any attempted inducement or offers of perks that may be construed as aimed to influence or direct the evaluation and recommendations of the FMC;*
- u) to report to the Chairperson of the FMC, any invitations to any kind of entertainment by any party that may be construed as being associated in any way with the outcome of the FMC evaluations; and*
- v) not to attend or participate in any way, in any unauthorised/unlawful meeting or discussion in relation to any matter referred to the FMC, outside of FMC proceedings, which may influence me and prevent me from carrying out my FMC Member functions in a fair, unbiased and proper way, in accordance with this FMC Code of Conduct.*

**Name and Surname of FMC member:** \_\_\_\_\_

**DR&PW Post Designation of FMC member:** \_\_\_\_\_

**Signature of FMC Member:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Name and Surname of Witness:** \_\_\_\_\_

**Signature of Witness:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## **6. Declaration of Interest Form to be Completed by FMC Members**

- a) In order to maintain good financial governance, integrity and objectivity, every FMC member must complete the FMC Declaration of Interest Form attached hereto.
- b) This is a mechanism to ensure that the DR&PW's ethical values as far as financial management is concerned are upheld, and that the necessary legal requirements are complied with.
- c) The declaration of any possible conflicts of interest will ensure that the decisions and actions of the FMC are not compromised or perceived to be compromised and are conducted in a fair, impartial and transparent way.
- d) This will in turn, foster public confidence in the DR&PW's financial and corporate governance processes and procedures.

## DECLARATION OF INTEREST FORM FOR FMC MEETINGS

*This form contains personal information as defined in the Protection of Personal Information Act, 2013 (the "Act"). By signing this form, the signatory consents to the processing of her/his personal information in accordance with the requirements of the Act. Consent cannot unreasonably be withheld.*

**Reference:** Form for the Financial Misconduct Committee (FMC) meeting to be held on:

\_\_\_\_\_ 20 \_\_\_\_\_.  
**DATE**

I, the undersigned, (**NAME AND SURNAME IN CAPITAL LETTERS**) \_\_\_\_\_  
declare that:

- (a) I am not in any way, whether directly or indirectly, save in my capacity as an employee of the DR&PW or as an invited attendee/member of the DR&PW FMC, from \_\_\_\_\_ (**INDICATE EXTERNAL ORGANIZATION, IF APPLICABLE**), interested in any contractor/bidder/vendor or contract/proposed contract entered into/to be entered into by the DR&PW, and which is to be discussed at the above mentioned FMC meeting.
- (b) I am not in any way, whether directly or indirectly, save in my capacity as an employee of the DR&PW or as an invited attendee/member of the DR&PW FMC, from \_\_\_\_\_ (**INDICATE EXTERNAL ORGANIZATION, IF APPLICABLE**), interested in any other matter which is to be discussed at the above mentioned FMC meeting.
- (c) I do not have any relationship, whether of a family, business, social or other nature, with any person who has any interest, whether direct or indirect, in any contract/transaction or other matter to be discussed at the above mentioned FMC meeting.

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- (d) Should I at any stage before, during or after the abovementioned FMC meeting become aware of the existence of an interest or relationship of the nature described above, I will immediately disclose such interest or relationship to the DR&PW FMC.
- (e) If I have a conflict of interest in respect of a matter to be considered at this meeting, or know that a related person has a personal financial interest in the matter, I will disclose the interest before the matter is considered at the FMC meeting and recuse myself from attending the said FMC meeting.

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
FINANCIAL MISCONDUCT COMMITTEE MEMBER/INVITED ATTENDEE & EMPLOYEE NUMBER

\_\_\_\_\_  
TO BE COMPLETED BY THE FINANCIAL MISCONDUCT COMMITTEE SECRETARIAT DESIGNATE

Name and Surname (IN CAPITAL LETTERS): \_\_\_\_\_

Position in FMC Secretariat: \_\_\_\_\_

Employee Number: \_\_\_\_\_

\_\_\_\_\_  
HEAD: FMC SECRETARIAT



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**7. Approval of the FMC Code of Conduct and Date of Effect**

This Financial Misconduct Committee (FMC) Code of Conduct is Approved / ~~Not Approved~~

Comments:

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.....

.....

DR. J. MAC KAY

ACCOUNTING OFFICER

DATE

27-03-2023



the dr&pw

Department:  
Roads and Public Works  
NORTHERN CAPE PROVINCE  
REPUBLIC OF SOUTH AFRICA

## INTERNAL MEMO

DATE:	23 FEBRUARY 2023	REF. NO.	
TO:	THE HEAD OF DEPARTMENT (HOD)		
FROM:	THE DIRECTOR: STRATEGIC PLANNING MANAGEMENT		
COPY:	THE CHIEF DIRECTOR: CORPORATE AND MANAGEMENT SERVICES		
SUBJECT:	SUBMISSION FOR APPROVAL OF THE REVIEWED DEPARTMENTAL POLICY ON THE REPORTING AND INVESTIGATION OF POTENTIAL FINANCIAL MISCONDUCT (VERSION 4) AND TERMS OF REFERENCE (VERSION 2) AND CODE OF CONDUCT (VERSION 2) OF THE DEPARTMENTAL FINANCIAL MISCONDUCT COMMITTEE (FMC)		

### Purpose

1. The purpose of this submission is to obtain approval from the Head of Department (HOD) for the operationalization within the Department of the reviewed departmental policy on the Reporting and Investigation of Potential Financial Misconduct (version 4) and Terms of Reference (version 2) and Code of Conduct (version 2) of the departmental Financial Misconduct Committee (FMC).

### Recommendations

1. The above mentioned policy documents have been circulated departmentally by the Communication and Marketing Unit to consult the staff members in order to provide an opportunity for inputs toward the development of the said policy documents.
2. It is therefore recommended that the HOD approve these policy documents as departmental policies.
3. Please see e-mail attached of the Evidence of Departmental Consultation.

**SUBMISSION FOR APPROVAL OF THE DEPARTMENTAL  
POLICY ON THE REPORTING AND INVESTIGATION OF POTENTIAL FINANCIAL  
MISCONDUCT (VERSION 4) AND TERMS OF REFERENCE (VERSION 2) AND CODE  
OF CONDUCT (VERSION 2) OF THE DEPARTMENTAL FINANCIAL MISCONDUCT  
COMMITTEE (FMC)**

  
\_\_\_\_\_  
MS. B. BEKEBEKE  
DIRECTOR: STRATEGIC PLANNING MANAGEMENT  
Recommended / ~~Not Recommended~~

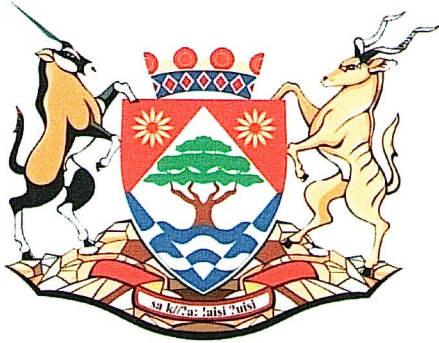
13/03/2023  
DATE

  
\_\_\_\_\_  
MS. A. MPOTSANG  
CHIEF DIRECTOR: CORPORATE AND MANAGEMENT SERVICES  
Recommended / ~~Not Recommended~~

2023-03-22  
DATE

  
\_\_\_\_\_  
DR. J. MAC KAY  
HEAD OF DEPARTMENT  
Policies Approved / ~~Policies Not Approved~~

27/03/2023  
DATE



the dr&pw

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Department:  
Roads and Public Works  
NORTHERN CAPE PROVINCE  
REPUBLIC OF SOUTH AFRICA

**EVIDENCE OF CONSULTATION WITH  
DEPARTMENTAL STAKEHOLDERS**

**DEPARTMENTAL POLICY  
ON THE REPORTING AND INVESTIGATION  
OF POTENTIAL FINANCIAL MISCONDUCT**

**AND**

**TERMS OF REFERENCE &  
CODE OF CONDUCT OF THE  
FINANCIAL MISCONDUCT COMMITTEE  
(FMC)**

**SUBMISSION FOR APPROVAL  
23 FEBRUARY 2023**



## **TFerreira - DR&PW Policy REVIEW - Reporting & Invest - Fin Miscond AND ToR & Code of FMC - Ver 4 - 2023**

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**From:** DRPW-Info

**To:** A AMokwadi; A van Staden; ABrand; ACLouw; Adele Louw; AFembers; AKula; ALesotho; Ali Choma; ALSishi; AMasisi; AMegalanyane; AMiller; AMkhize; AMoeti; Amogelang Mokwadi; AMotlagodisa; AMPotsang; Andre Jooste; Ann Mpotsang; ARudman; ASwanepoel; B B Damon; BaatileItumeleng; Babalwa Bekebeke; BBobeje; BChotelo; BCloete; Betty Mabilo; B Gaonakala; BGoba; B Kapanda; B Maclean; BMazwi; B Meruti; B Montshiwa; Bobby Bobeje; BonoloMakoko; BosmanP; BPitso; Bradley Slingers; BSedisho; BSemau; BValentine; C C van Rooi; C Robertson; C Adams; C Bailey; C Chakela; C Denysschen; C Fourie; ChaneFourie; ChantelleCloete; ChristinaF; CKakora; Clive Bailey; CMrwebi; CNdebele; CNotuku; Collin Nel; CRabaji; CRobertson; CValentine; D DMokoena; D DMwembo; Dan Tsoai; DBingwa; DBingwane; Denice Bingwane; DGaehete; DKowa; DMAqutyana; DMonyamane; DPhirisi; DRPW-Info; DSolo; DvdMerwe; EbenSwartboo; EBeukes; EBlauw; EBreytenbach; Ed Simon; EduPlessis; Edward Simon; EJobe; EJonkers; EKhatwane; ELecwedi; Ella Modise; Elsie du Plessis; EMichaels; ENodoba; EPino; EricksenA; ESimon; Eurica Nodoba; Faith Petoro; FdeBruin; FDooling; Felicia de Bruin; FMogoje; FPetoro; FvanVuuren; Gaolatlhe Sefotlo; GAppels; Garnett Keyser; GCloete; GJacobs; Gladwyn Stuurman; G Moabi; GMolale; Godfrey Moabi; GPIetersen; Gregory; GRiet; GSalimana; GSefotlho; GSwanepoel; GThupe; GTopkin; Harold Roberts; Henry De Wee; Howard van Staden; HPuley; HvanderMerwe; I Bulane; I I Carolus; I ITIhopile; I MichaelsI; IFredericks; I Lottering; I Molore; Innocentia Rammutla; IOliphant; IRammutla; Isaac Prins; J Esterhuyse; J J Hanekom; J Mac Kay; Jillian Williams; JillianWilliams; JLeeuw; JMarx; JMolale; JMoncho; JSehume; JSibiya; JSitler; JSpetember; JTawine; June Erasmus; June Grey; K KMaarman; K KMatonkonyane; K Malgask; KAaron; KagishoModise; Kathlego Rifles; KatzS; KBeuzana; KBopape; KChomi(...)

**Date:** 2/10/2023 8:23 AM

**Subject:** DR&PW Policy REVIEW - Reporting & Invest - Fin Miscond AND ToR & Code of FMC - Ver 4 - 2023

**Attachments:** DR&PW Policy REVIEW - Reporting & Invest - Fin Miscond AND ToR & Code of FMC - Ver 4 - 2023.docx

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Dear Communication and Marketing Colleagues

Please find attached the Approved DR&PW Policy on the Reporting and Investigation of Potential Financial Misconduct, version 4 of 2023, which is again under review for inputs/comments/feedback.

Colleagues must please note that the proposed amendments are in RED, BOLD and UNDERLINED. The due date for inputs is Friday, 17 February 2023 and can be e-mailed to [tferreira@ncpg.gov.za](mailto:tferreira@ncpg.gov.za)

Regards,

Tom Ferreira (M.Admin, PDIA)  
Deputy Director: Policy and Research Management Services  
DR&PW



DRPW-info@ncpg.gov.za

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***Trendsetters in infrastructure delivery to change the economic landscape of the province'***