

ANNEXURE A: Terms of Reference (ToR) of the FMC

TERMS OF REFERENCE OF THE FINANCIAL MISCONDUCT COMMITTEE

Version 2
(February 2023)

FMC ToR - TABLE OF CONTENTS

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1. Establishment of the Financial Misconduct Committee (FMC)

A departmental Financial Misconduct Committee (FMC) is established in line with the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999), as amended, any other applicable legislation as outlined in the DR&PW Policy on the Reporting and Investigation of Potential Financial Misconduct, and the following DR&PW Policies, Strategies, Plans and Procedures:

- a) The DR&PW Policy on Damages and Losses.
- b) The DR&PW Inventory Management Policy and Standard Operating Procedures (SOPs).
- c) The DR&PW Policy on the Management of Unauthorised Expenditure.
- d) The DR&PW Policy and Procedures on the Management of Irregular Expenditure.
- e) The DR&PW Policy and Procedures on the Management of Fruitless and Wasteful Expenditure.
- f) The DR&PW Risk Management Policy.
- g) The DR&PW Risk Management Strategy.
- h) The Plan: DR&PW Compilation of Policies on Fraud, Corruption and Ethics Management.
- i) The DR&PW Supply Chain Management (SCM) Policy.
- j) The DR&PW Monitoring and Evaluation (M&E) Policy Framework.
- k) The Current DR&PW Internal Audit Plan.

2. Purpose and Accountability of the FMC

- 2.1 Section 51(b)(ii) of the PFMA, 1999, as amended, provides for the AO to take effective and appropriate steps to, amongst others, prevent irregular, fruitless and wasteful expenditure, losses resulting from financial misconduct, and expenditure not complying with operational policies of the DR&PW.
- 2.2 Sections 81 to 86 of the PFMA, 1999, as amended, provide guidelines on how departments should deal with financial misconduct.
- 2.3 Part 4 of the National Treasury Regulations, 2001 and 2005 requires the AO to ensure that an investigation is conducted into any allegation that an official has committed financial misconduct.
- 2.4 It is against the backdrop of the above legislative provisions that a Financial Misconduct Committee (FMC) is established for the DR&PW.

- 2.5 The FMC is accountable to the HOD/AO and will report to the Internal Audit Committee (IAC) on a quarterly basis.

3. Responsibilities of the FMC

- 3.1 The overall responsibility of the FMC shall be to investigate all financial misconduct and losses to the DR&PW and make recommendations to the HOD/AO on corrective action to be taken, in accordance with the provisions of the DR&PW Policy on the Reporting and Investigation of Potential Financial Misconduct.
- 3.2 The terms of reference of the FMC in fulfilling the above mandate shall be the following:
- a) Facilitate the development of the DR&PW's procedures on handling cases of possible financial misconduct, losses or damages as a result of negligence.
 - b) Establish criteria for the evaluation of possible financial misconduct, losses or damages.
 - c) Evaluate all cases of possible financial misconduct, which may result in unauthorized, irregular, fruitless or wasteful expenditure.
 - d) Make recommendations to the HOD/AO on appropriate control processes to be implemented to avoid future recurrence.
 - e) Make recommendations to the HOD/AO on appropriate disciplinary action against an official(s) who had committed financial misconduct and/or is responsible for a loss to the DR&PW or has caused damage to the DR&PW's property/asset(s).
 - f) Establish whether appropriate processes were followed to determine liability on the part of the official(s) who was found to have committed financial misconduct and/or are responsible for a loss to the DR&PW or have caused damage to the DR&PW's property/asset(s).
 - g) Make recommendations to the HOD/AO on the writing-off of losses.

4. Membership of the FMC

- 4.1 The following officials shall constitute the Financial Misconduct Committee (FMC):
- a) an independent, external person as Chairperson, appointed by the HOD;
 - b) the Senior Manager: Financial Management and Accounting;
 - c) the Senior Manager: Supply Chain Management (SCM);
 - d) the Senior Manager: Legal Services;
 - e) the Senior Manager: Strategic Planning Management;

- f) the Manager: Monitoring and Evaluation (M&E);
- g) the Manager: Risk Management;
- h) the Manager: Labour Relations;
- i) the Financial Inspectorate Unit (Secretariat)

4.2 All members of the FMC shall be from within the DR&PW.

4.3 Members of the FMC shall be formally appointed in writing by the AO (HOD).

4.4 The term of office of FMC members shall be twelve (12) months, unless otherwise indicated in writing by the AO (HOD).

4.5 Members of the Shared Internal Audit Services and of the Internal Audit Committee (IAC) respectively, will be invited to attend each FMC meeting in an advisory and monitoring capacity.

5. Induction and Orientation of Members of the FMC

Members of the FMC shall be appropriately inducted and orientated regarding their responsibilities and duties.

6. Secretariat of the FMC

The DR&PW Financial Inspectorate Unit shall provide secretariat services to the FMC.

7. Meetings of the FMC

- 7.1 The FMC shall meet regularly as per the meeting schedule to be agreed upon.
- 7.2 The Chairperson, or any member or individual through the Chairperson, may convene additional meetings as and when deemed necessary.
- 7.3 The quorum for FMC meetings to take place and to take authorised collective decisions shall be 50% + 1 member of the FMC.

DEPARTMENT OF ROADS AND PUBLIC WORKS
DEPARTMENTAL POLICY ON THE REPORTING AND
INVESTIGATION OF POTENTIAL FINANCIAL MISCONDUCT AND
ToR & CODE OF CONDUCT OF THE FMC

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- 7.4 Attendance of meetings by members is compulsory and any absence of a member for whatever reason must be reported by way of a written apology, forwarded to the Chairperson through the Secretariat, one (1) week in advance, except for instances of medical incapacity.
- 7.5 Notwithstanding the provisions of 6.4 above, if a member is not present for three (3) consecutive meetings, the matter shall be referred to the HOD/AO, through the Chairperson.
- 7.6 The FMC may invite any person to attend an FMC meeting, as deemed appropriate.

8. Approval of the Terms of Reference (ToR) of the FMC and Date of Effect

These Terms of Reference of the Financial Misconduct Committee are Approved / ~~Not Approved~~
Comments:

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DR. J. MAC KAY
ACCOUNTING OFFICER

27-03-2023
DATE



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 DIRECTOR: STRATEGIC PLANNING MANAGEMENT		
FROM:	THE DEPUTY DIRECTOR: POLICY AND RESEARCH 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)		

Dear Ms. Bekebeke

Please find attached the final drafts 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), which was again reviewed; for your perusal and consideration. These policy documents have again been circulated departmentally for consultation and inputs, and it is hereby submitted for approval by the Head of Department (HOD).

Regards,

Mr. T. Ferreira
Deputy Director: Policy and Research Management Services



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

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

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 BDamon; BaatileItumeleng; Babalwa Bekebeke; BBobeje; BChotelo; BCloete; Betty Mabilo; BGaonakala; BGoba; BKapanda; BMaclean; BMazwi; BMeruti; BMontshiwa; Bobby Bobeje; BonoloMakoko; BosmanP; BPitso; Bradley Slingers; BSedisho; BSemau; BValentine; C CvanRooi; C Robertson; CAdams; CBailey; CChakela; CDenysschen; CFourie; ChanelFourie; 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; GMoabi; GMolale; Godfrey Moabi; GPIetersen; Gregory; GRiet; GSalimana; GSefotlho; GSwanepoel; GThupe; GTopkin; Harold Roberts; Henry De Wee; Howard van Staden; HPuley; HvanderMerwe; I Bulane; I ICarolus; IITHopile; I MichaelsI; IFredericks; ILottering; IMolore; Innocentia Rammutla; IOliphant; IRammutla; Isaac Prins; J Esterhuyse; J JHanekom; 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

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

Regards,

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



DRPW-info@ncpg.gov.za
COMMUNICATION AND MARKETING SERVICES

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