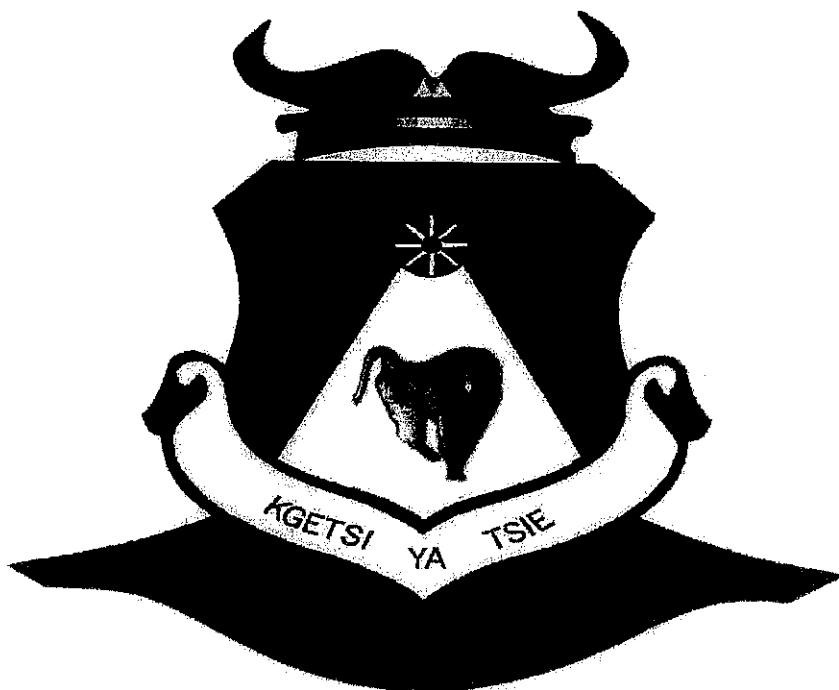


RAMOTSHERE MOILOA LOCAL MUNICIPALITY



Policy on Unauthorised, Irregular, Fruitless and Wasteful Expenditure

**For Adoption with the Budget 2017/18 MTREF
Date:**

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1. Purpose and scope

The purpose of this policy is to:

- Provide clarity on relevant legislation and regulations applicable to irregular, fruitless and wasteful, and unauthorised expenditure;
- Enhance the awareness of officials of the municipality to prevent and detect irregular, fruitless and wasteful, and unauthorised expenditure;
- Enhance correct reporting, investigation, identification and management of irregular, fruitless and wasteful, and unauthorised expenditure; and
- Strengthen the internal control environment with regard to management of irregular, fruitless and wasteful, and unauthorised expenditure.

This document sets out the policy on the process of identification, recording and disclosure of irregular, fruitless and wasteful, and unauthorised expenditure in terms of section 32 of the Municipal Finance Management Act, 2003 (Act 26 of 2003). The aim of the policy is to ensure effective, efficient and transparent systems of financial and risk management, and internal control.

2. Legislative framework

2.1 The Municipal Finance Management Act, 2003 (Act No. 56 of 2003)

2.2 Local Government: Municipal Finance Management Regulations (Published in terms of Act No. 56 of 2003)

1. Definitions

In this policy, any word or expression to which a meaning has been assigned in the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) bears that meaning assigned to it and, unless the context otherwise indicates,

'Irregular expenditure' in relation to a municipality means:

- (a) Expenditure incurred by a municipality in contravention of, or that is not allowed in accordance with, a requirement of Municipal Finance Management Act, 2003, and that which has not been condoned in terms of section 70 of the Municipal Finance Management Act, 2003;
- (b) Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of section 70 of the Municipal Finance Management Act, 2003;
- (c) Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office Bearers Act, 1998 (Act No.20 of 1998); or
- (d) Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or any municipality' by-laws giving effect to such a policy, and which has not been condoned in terms of such a policy or by-law.

'Fruitless and wasteful expenditure' means expenditure which was made in vain and would have been avoided had reasonable care been exercised;

'The Act' means the Municipal Finance Management Act, 2003 (Act No.56 of 2003);

'Unauthorised expenditure' in relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11(3) of the Act, and includes:

- (a) Overspending of the total amount appropriated in the municipality's approved budget;
- (b) Overspending of the total amount appropriated for a vote in the approved budget;
- (c) Expenditure from a vote unrelated to the department or functional area covered by the vote;
- (d) Expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;
- (e) Spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of "allocation" otherwise than in accordance with any conditions of allocation; or
- (f) A grant by the municipality otherwise than in accordance with the Act.

2. Irregular expenditure

- 2.1. The following are examples of irregular expenditure:
 - Purchases exceeding threshold
 - Procuring without inviting competitive bids
 - Non-compliance with delegations of authority
 - Non-compliance with legislation, e.g. public service regulations
- 2.2. For the purposes of determining whether irregular expenditure has taken place, there must be a transgression of a provision contained in applicable legislation, or any approved internal policy, procedures and instructions that has or have been issued by the municipality.
- 2.3. For an institution to incur irregular expenditure, the non-compliance must be linked to a financial transaction. Although a transaction or an event may trigger irregular expenditure, an institution will usually identify irregular expenditure only when a payment is made. In an instance where irregular expenditure is determined prior to a payment being made, the transgression shall be regarded as a non-compliant matter.

- 2.4. Expenditure resulting from non-adherence to the municipality' delegations of authority is regarded as irregular expenditure since such delegations are issued in terms of the Act.
- 2.5. The municipality' Irregular Expenditure Register must be updated throughout the process until the case is finally closed.

3. Fruitless and wasteful expenditure

- 3.1. The following are examples of fruitless and wasteful expenditure:
 - Expenditure due to negligence, e.g. cancellation fees incurred for missing a flight
 - Interest on overdue accounts
 - Penalties paid
- 3.2. Fruitless and wasteful expenditure is an in-house matter, and thus it is the responsibility of the accounting officer to deal with it as prescribed. Only in exceptional cases, such as where the municipality incurs the fruitless and wasteful expenditure, would the Provincial Treasury intervene and make recommendations on how to resolve the matter.
- 3.3. After identification and confirmation of fruitless and wasteful expenditure, it must be captured as such on the financial system.
- 3.4. It must be determined if any official(s) is/are liable in law for the fruitless and wasteful expenditure and immediate steps must be taken to recover such expenses from the official(s) found to be liable in law.
- 3.5. The municipality's Fruitless and Wasteful Expenditure Register must be updated throughout the investigation process until the case is finally closed.

4. Unauthorised expenditure

- 4.1. The following are examples of unauthorised expenditure:
 - Overspending on budget

- Earmarked funds used for other purposes
 - Funds used outside the mandate of the municipality
- 4.2. The municipality must spend only funds provided and spend them only for the purposes for which they were provided.
 - 4.2.1. Overspending on the budget is normally identified before final closure of the municipality' books and after final virement.
 - 4.3. Funds not utilized for the purpose of the vote should be identified timeously.
 - 4.4. There must be a financial transaction (a payment) before unauthorised expenditure can occur. Therefore, the unauthorised expenditure occurs only when payment is made and not when funds are over-committed.
 - 4.5. After identification and confirmation, unauthorised expenditure is recognised as an asset in the statement of financial position until such time as the expenditure is either approved by the relevant authority, recovered from the responsible person or written off as irrecoverable in the statement of financial performance.
 - 4.6. Unauthorised expenditure approved with funding is recognised in the statement of financial position when the unauthorised expenditure is approved and the related funds are received.
 - 4.7. In the statement of financial performance, unauthorised expenditure approved without funding is recognised as expenditure on the date of approval.
 - 4.8. Unauthorised expenditure must be reported in the annual report (as a note to the Financial Statement).
 - 4.9. The municipality' Unauthorised Expenditure Register must be updated throughout the investigation process until the case is finally closed.

5. Unauthorised expenditure and irregular expenditure

- 5.1.1. If the municipality carries out a transaction that contravenes legislation, the transaction meets the definition of irregular expenditure. The same transaction may be outside the mandate of the municipality or may cause overspending on a programme or a vote which meets with the definition of unauthorised expenditure.
- 5.1.2. A transaction of this nature must not be accounted for as both unauthorised expenditure and irregular expenditure. Unauthorised expenditure takes precedence over irregular expenditure and in this instance; the transaction shall be accounted for as unauthorised expenditure.

6. Condonation of irregular, fruitless and wasteful, or unauthorised expenditure

- 6.1. Irregular, fruitless and wasteful, or unauthorised expenditure which is identified and confirmed may be considered for condonation by the municipal council. Only in exceptional cases, such as where the municipal council incurs the irregular, fruitless and wasteful, or unauthorised expenditure, would the Provincial Treasury intervene and make recommendations on how to resolve the matter.
- 6.2. For the purpose of condonation, a detailed submission must be submitted to the municipal council requesting condonation for non-compliance with the relevant legislation or any of its policies . A request for condonation may be submitted only when good cause is shown for such condonation.
- 6.2.1. A submission for condonation must contain
- A detailed motivation as to why the irregular, fruitless and wasteful, or unauthorised expenditure in question should be considered for condonation; and
 - A description of remedial steps taken to avoid the reoccurrence of this type of irregular, fruitless and wasteful, or unauthorised expenditure.

6.2.2. A submission for condonation must be structured as follows:

- Purpose
- Background
- Applicable legislative framework
- Motivation for condonation
- Actions taken to investigate and apportion responsibility and/or consequences
- Remedial steps to prevent reoccurrence
- Financial implications
- Personnel implications
- Recommendations

6.3. In the event of an approval of the condonation of irregular, fruitless and wasteful, or unauthorised expenditure by the municipal council, no further action is required by the municipality as long as the matter referred to was not a subject of National Treasury instructions, as the amount has been expended in the statement of financial performance. The municipality' irregular, fruitless and wasteful, or unauthorised expenditure register must be updated to reflect the condonation of the irregular expenditure.

6.4. Dismissal of the submission for condonation of the irregular, fruitless and wasteful, or unauthorised expenditure or where condonation is not relevant, the municipality must determine if any person is liable in law for the irregular, fruitless and wasteful, or unauthorised expenditure and immediate steps must be implemented to recover such expenses from the person (s) found to be liable in law.

6.5. Irregular, fruitless and wasteful, or unauthorised expenditure has not been condoned and no person is liable in law, the expenditure related thereto must remain against the relevant programme or expenditure item (no journal is passed) and be disclosed as such in the note to the financial statements.

- 6.6. The municipality' irregular, fruitless and wasteful, or unauthorised expenditure register must be updated throughout the process until the case is finally closed.

7. Procedure for investigation and reporting

The procedure for reporting irregular, fruitless and wasteful, and unauthorised expenditure is as follows:

- 7.1. Any employee who becomes aware or suspect the occurrence of irregular, fruitless and wasteful, or unauthorised expenditure must immediately report such expenditure in writing to the accounting officer and/or the Mayor or his or her delegate.
- 7.2. On identification of alleged irregular, fruitless and wasteful, or unauthorised expenditure, such expenditure must be left in the expense account.
- 7.3. Reporting may also occur during the various assurance processes, i.e. internal audit, external audit, compilation of the annual financial statements or normal inspections.
- 7.4. Once the matter has been reported to the accounting officer, he/she will refer the matter to the Chief Audit Executive for investigation. The Chief Audit Executive must investigate the matter without delay to determine the validity thereof, i.e. whether it meets the definition of irregular expenditure, fruitless and wasteful expenditure or unauthorised expenditure, as per section 1 of the Municipal Finance Management Act.
- 7.5. Managers should assist and co-operate with investigators in every aspect of an investigation.
- 7.6. Once the accounting officer has been notified of the matter considered to be irregular, fruitless and wasteful and unauthorised expenditure, he should report the same to the Chief Financial Officer who will then update the appropriate register(s).
- 7.7. During the period of investigation, the expenditure must remain in the

expense account and the result of the investigation will determine the appropriate action to be taken regarding that expenditure.

- 7.8. Should the investigation reveal that the expenditure does not constitute irregular, fruitless and wasteful, and unauthorised expenditure and is in fact valid expenditure, the details of the expenditure should be retained in the relevant irregular, fruitless and wasteful, and unauthorised expenditure registers for the purposes of completeness and to provide an appropriate audit trail.
- 7.9. If the investigation indicates that the expenditure is irregular, fruitless and wasteful, or unauthorised, the particulars of the expenditure must be reported to the municipal council.
- 7.10. Irregular, fruitless and wasteful, and unauthorised expenditure must be accounted for and be disclosed in financial statement, according to the applicable financial reporting framework.

8. Non-compliance

Non-compliance with this policy will result in appropriate disciplinary procedures being considered and, if necessary, instituted against the relevant official(s).

9. Authority to approve and review

This policy will be reviewed annually by management unless there are legislative and other requirements that require it to be reviewed more than once.

The duly constituted council of the Ramotshere Moiloa Local Municipality will approve this policy.

10. Administration of the policy

The Municipal Manager and the Chief Financial Officer and officials in the Budget and Treasury Office, and all other employees of the municipality are responsible for the administration of the policy.

11. Effective date

This policy will come into effect on the date the municipal council of Ramotshere Moiloa Local Municipality has approved it, or any other date as determined by the municipal council and will not apply retrospectively.