# PIXLEY KA SEME DISTRICT MUNICIPALITY

# CONSEQUENCE MANAGEMENT POLICY

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## 1. POLICY TITLE

This policy will be known as the 'Consequence Management Policy of the Pixley ka Seme District Municipality'

## 2. PREAMBLE

Consequence management refers to the coordinated approach implemented by an institution in order to react and to reduce the effect of possible and identified threats to the institution.

The municipal council, senior and the general management structures have realized the need to improve the internal control environment of the Pixley ka Seme District Municipality, by expanding the current internal policy environment. The expansion of the current internal policy environment will ensure that the institution develops deliberate administrative measures to address identified weaknesses.

Pixley ka Seme District Municipality is also expected to administer its' financial matters in a sustainable manner and to strive to comply with all legislative requirements to achieve a more favorable audit outcome. (Strategic Objective)

(MISSION AND VISION)

## 3. PROBLEM STATEMENT/RATIONAL/PURPOSE

The COGHTA 2009 State of Local Government Report identified a lack of accountability and internal oversight in municipalities as one of the aspects to be addressed to improve governance. The various Auditor-General reports have consistently found that there are low levels of compliance with legislation and that there is generally a lack of consequences for poor leadership and serious legislative and other forms of transgressions both at a political and administrative level.

Municipalities have become easy targets to internal and external criminal activities, as it is believed that municipal systems are weak and their detection methodologies are inadequate and can be manipulated. It is through this realization that it has become necessary to ensure that oversight and controls in municipalities are strengthened, which will in return improve the detection of wrongful conduct in the municipality.

The three spheres of government are enjoined by the Constitution, 1996, Chapter 3, to ensure that it promotes and deepens consequence management and accountability as part of intergovernmental relations.

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Deepening consequence management and accountability will ensure that government operates in an environment free from corruption, theft and maladministration. This will further ensure that services are provided in a fair and transparent manner.

## 4. OBJECTIVES OF THE POLICY

4.1. This policy will aim to formalize and consolidate the principles of consequence management, inclusive of remedial and recourse measures.

4.2. To provide limited guidelines to deal with and manage possible instances of unauthorized, irregular, fruitless and wasteful expenditure, etc.

4.3. To provide guidelines on how to deal with and manage instances of possible abuse of the Supply Chain Management System.

4.4. To provide guidelines on how to deal with any possible instance of non-compliance of a financial nature, by an employee or a councilor of Pixley ka Seme District Municipality.

4.5. To promote administrative accountability, professionalism, good governance, transparency and ethical conduct.

4.6. To reduce the municipality's risk exposure to any forms of financial misconduct, as well as any identified conduct detrimental to the financial integrity of the Pixley ka Seme District Municipality.

4.7. To provide for comprehensive tracking and follow-up of all remedial action imposed by the Pixley ka Seme District Municipality.

4.8. To ensure that Pixley ka Seme District Municipality complies with the relevant legislative prescripts and regulatory environment. (MFMA, etc.)

## 5. LEGISLATIVE FRAMEWORK

The Consequence Management Policy of the Pixley ka Seme District Municipality will be in compliance with the following pieces of legislation:

- Constitution of the Republic of South Africa, 1996
- Local Government: Municipal Structures Act (Nr 117, 1998)
- Local Government: Municipal Systems Act (Nr 32, 2000)
- Local Government: Municipal Finance Management Act (Nr 56, 2003)
- Municipal Finance Management Act (MFMA Circular 68)
- Municipal Finance Management Act (MFMA Circular 76)
- Municipal Regulations on Financial Misconduct and Criminal Proceedings (2014)
- Public Audit Act (Nr 25, 2004)

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- Public Audit Amendment Act (Nr 5, 2018)
- Promotion of Administrative Justice Act (Nr 3, 2000)
- Protected Disclosure Act (Nr 26, 2000)
- Prevention and Combatting of Corrupt Activities Act (Nr 12, 2004)
- Municipal Planning and Performance Management Regulations, 2001
- Disciplinary Regulations for Senior Managers, 2010
- Regulations on Appointment and Conditions of Employment of Senior Managers, 2014
- Local Government: Municipal Performance Management Regulations for Municipal Managers and Senior Managers Directly Accountable to the Municipal Managers, 2006
- The Municipal Supply Chain Management Regulations, 2005
- Preferential Procurement Regulations, 2011
- The National Development Plan, 2014

Chapter 10, Section 195(1)(a)(b)(f)(g)

1. Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:
   (a) A high standard of professional ethics must be promoted and maintained.
   (b) Efficient, economic and affective use of resources must be promoted.

   (f) Public administration must be accountable.

   (g) Transparency must be fostered by providing the public with timely, accessible and accurate information.

## 5.1. Municipal Finance Management Act, 56, 2003

Chapter 8, Section 62(1)(d)(e)

1. 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 –
   (d) That unauthorized, irregular or fruitless and wasteful expenditure and other losses are prevented,
   (e) That 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 Chapter 15.

Chapter 15, Section 171(1)(2)(3)(4)

1. Financial misconduct by the accounting officer.



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2. Financial misconduct by the chief financial officer.
3. Financial misconduct by a senior manager or another official.
4. Responsibility placed upon a municipality to investigate allegations of financial misconduct.

## 5.2. Local Government: Municipal Systems Act, 32 of 2000

Schedule 2, (2)(4)(5)(6)(7)(8)
The abovementioned demands that a municipal staff member must, -
a. Perform the functions of office in good faith, diligently, honestly and in a transparent manner,
b. Not use his/her official position for personal gain or privilege,
c. Execute the lawful policies of the municipal council,
d. Not disclose any privileged or confidential information, without prior approval,
e. Declare interests,
f. Disclose benefits.

## 5.3. Local Government: Municipal Systems Act, 32 of 2000

Schedule 1, (2)(5)(6)(7)(9) (10)
The abovementioned demands that a municipal councilor must, -
a. Perform the functions of office in good faith, honestly and in a transparent manner,
b. Disclose his/her interest to the council,
c. Not use his/her position as a councilor for personal gain,
d. Declare all interest to the municipal manager.
e. Not request, solicit or accept any gift and favors for performing his/her functions as a councilor,
f. Not disclose any privileged or confidential information, without permission.

## 5.4. Public Audit Act / Public Audit Amendment Act, 5, 2018

Part 1A: Remedial Action
5A. (1) Auditor-General to follow-up with Accounting Officer / Accounting Authority on progress made with implementation of AG recommendations.
(2) Failure by Accounting Officer / Accounting Authority to implement AG recommendations will allow AG to take appropriate action for failure of implementation.
(3) In case of irregular materiality, Accounting Officer / Accounting Authority must quantify the amount and recover it.

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5B (1) Failure by Accounting Officer / Accounting Authority to implement remedial action, (5A, 3), will allow Auditor-General to issue certificate of debt against Accounting Officer / Accounting Authority for repayment.
(4) Auditor-General must consider written representations by Accounting Officer / Accounting Authority.

Amendment of section 5 of Act 25 of 2004
(1A) The Auditor-General may refer any suspected material irregularity identified during an audit, to a relevant public body for investigation, and the public body must keep the Auditor-General informed.

## 6. RELEVANT ROLEPLAYERS AND STAKEHOLDERS

Different internal stakeholders of Pixley ka Seme District Municipality will be responsible for the implementation of and management of this policy. These stakeholders will be both internal and external.

The internal stakeholders include the following:

- Speaker of the Municipal Council
- Executive Mayor and Mayoral Committee
- Municipal Public Accounts Committee
- Risk Management Committee
- Municipal Finance Disciplinary Board
- Unauthorized, Irregular, Fruitless and Wasteful Expenditure Committee
- Audit Committee
- Municipal Manager
- Senior Managers
- Middle Managers
- Supervisors

The external stakeholders include the following:

- South African Local Government Association
- Department of COGHSTA
- Department of COGTA
- Provincial Treasury
- National Treasury
- Law Enforcement Agencies, e.g. SAPS, Hawks, etc.
- Department of Justice, e.g. NPA
- Appointed Service Providers

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## 7. STAKEHOLDER RESPONSIBILITY

All stakeholders are expected to adhere to the prescripts of this policy and must report any / all allegations of financial misconduct committed in their dealings with Pixley ka Seme District Municipality.

## 8. POLICY IMPLEMENTATION / SCOPE OF THE POLICY

The Municipal Manager has the statutory mandate for the general financial management of the municipality. To this end the Municipal Manager must ensure that all allegations of financial misconduct or financial offence are properly investigated and reported to the relevant internal and external structures.

The Speaker of the Municipal Council is ultimately responsible for proper consequence management of all issues, risks and incidents that have been identified and reported against municipal councilors.

The Consequence Management Policy will apply to all identified incidents, risks and related opportunities that have the potential to negatively affect the functional operations, reporting requirements and compliance obligations of Pixley ka Seme District Municipality. This policy will therefore be applicable to all councilors and employees of the Pixley ka Seme District Municipality.

Any internal stakeholder of Pixley ka Seme District Municipality will hereby be expected to identify and to report any act that are in contrast with the aims and objectives of this policy. These will include, but not limited to acts of dishonesty, fraud, theft and any other conduct that seeks to compromise the financial functioning of the Pixley ka Seme District Municipality.

## 9. PROTECTION OF WHISTLEBLOWERS

Pixley ka Seme District Municipality will encourage anonymous reporting of allegations of financial misconduct. To this end Pixley ka Seme District Municipality will protect the details of all whistleblowers and treat all allegations in a professional and confidential manner.

## 10. REVIEW

The policy will be reviewed annually, based on the feedback received from stakeholders, as well as when the legislative and regulatory environment changes.

**EXECUTIVE MAYOR**

**DATE APPROVED:** **31 May 2023**

**RESOLUTION:** **R 2023-05-31 (9.7)**