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1. Custodian	3
2. Purpose	3
3. Scope	3
4. Source of authority	3
5. Risk	3
6. Appointment of Loss Control Officers	3
6.1.1 Financial Loss Control Officer	3
6.1.2 Asset Loss Control Officer	4
7. Claims against the Municipality	4
7.1 Claims against the Municipality by third parties	4
7.2 Claims against the Municipality by employees	5
8. Procedure to follow for claims against the Municipality	5
9. Procedure an employee should follow for the reporting of cases of loss, theft or damage	6
9.1 Criminal cases	6
9.2 Non-criminal cases	6
10. Procedure the loss control officer should follow in case of loss, theft or damage	6
11. Recovery of losses	6
12. Writing off of a loss	7
13. Reporting	7
14. Precautionary measures in respect of cellular telephones and laptops	8
15. Precautionary measures in respect of hired vehicles	8
Claims by the Municipality against other persons	9
16.	9
17. Payments and remissions as an act of grace	9
18. Review of policy	9
19. Deviation	9
20. Effective date	10

1. Custodian

The Office of the Chief Financial Officer is the custodian of this policy and procedure.

2. Purpose

To establish clearly defined procedures and guidelines for the handling of losses and claims.

3. Scope

The following policy and procedures applies to all the employees of Elias Motsoaledi Local municipality.

4. Source of authority

This policy is written in accordance with Treasury Regulations, Chapter 12 and 22.

5. Risk

5.1 The Municipality will bear its own damages and accident risks, will be responsible for all claims and losses of Municipal property where these arise from Municipal activities by an official who is liable in law and who is or was employed by an institution to which the Treasury Regulations apply.

5.2 The accounting officer may insure motor vehicles or such other movable assets, including Municipal immovable properties as determined by the Department of National Treasury.

6. Appointment of Loss Control Officers

6.1 The Chief Financial Officer shall appoint, in writing, two Loss Control Officers in the department.

6.1.1 Financial Loss Control Officer

The Financial Loss Control Officer will handle all financial losses and claims, for example, damages to fleet, leased or hired vehicles, fruitless and wasteful expenditure, traffic fines and claims either against or by the Municipality.

6.1.2 Asset Loss Control Officer

The Asset Loss Control Officer will handle all losses/damages related to physical assets, for example lost or stolen laptops, cellular phones, 3Gs and any other immovable and movable assets.

7. Claims against the Municipality

7.1 Claims against the Municipality by third parties

7.1.1 When the Municipality receives a claim from a third party against the Municipality and it is not clear if the Municipality is liable, the claim should be directed to the Legal Services department to determine if the Municipality is liable or not. If required the Legal Services unit will involve the panel of attorneys appointed by the Municipality.

7.1.2 The Legal Services would also determine if an employee shall forfeit his/her cover. If in doubt whether the employee forfeited her or his cover Municipality's panel of Attorneys should be consulted. If the employee does not agree with this finding he/she may contest the finding by lodging a grievance through the normal municipal grievance procedure.

7.1.3 The Municipality must if in agreement with the claim accept liability for any loss or damage suffered by another person, as a claim against the Municipality, which arose from an act or omission of an employee of the Municipality.

7.1.4 The Municipal Council would not recover compensation from the relevant employee provided that -

7.1.4.1 the act or omission did not involve the use of alcohol or drugs;

7.1.4.2 the official acted in the course of his or her employment and did not intentionally exceed her or his powers;

7.1.4.3 the act was not reckless or intentional;

7.1.4.4 the employee did not fail to comply with or ignore standing instructions, of which he or she was aware of or could reasonably have been aware of, which lead to the loss, damage or reason for the claim, excluding losses and damages arising from the use of a Municipality vehicle.

7.1.4.5 in a case of a loss, damage or claim arising from the use of a Municipality vehicle, the employee -

7.1.4.5.1 used the vehicle with authorisation for official purposes;

- 7.1.4.5.2 possesses a valid driver's licence or other appropriate licence;
- 7.1.4.5.3 used the vehicle in the interest of the Municipality;
- 7.1.4.5.4 did not allow unauthorised persons to handle the vehicle;
- 7.1.4.5.5 did not deviate materially from the official journey or route without prior authorisation; and
- 7.1.4.5.6 did not, without prior consultation with the Legal services, make an admission that was detrimental to the Municipality.

7.2 Claims against the Municipality by employees

If an employee sustains a loss or damage in the execution of official duties, the Accounting Officer may make good the loss or damage provided that the official can provide proof of such loss or damage.

8 Procedure to follow for claims against the Municipality

- 8.1 The claim or in case of an employee claim, a written declaration signed by a commissioner of oath, stating the circumstances of the loss or damage accompanied by documentation as proof of the loss or damage, should be submitted to Financial Loss Control Officer.
- 8.2 The Loss Control Officer should register the claim in a register that includes at least fields for date, name, description, amount, steps taken, amounts recovered and how the matter has been disposed of.
- 8.3 The Financial Loss Control Officer should investigate the case and refer it to the Legal Services for a legal opinion related to liability.
- 8.4 Once it has been established that the Municipality is liable the Financial Loss Control Officer should prepare a submission for approval of payment in accordance with the Financial Delegations.
- 8.5 Payment should be processed once the claim amount has been approved.

9. Procedure an employee should follow for the reporting of cases of loss, theft or damage

9.1 Criminal cases

- 9.1.1 The employee involved should report the incident to the SA Police Service as soon as possible.
- 9.1.2 The SAPS-case number and a written declaration should then be submitted to the relevant Loss Control Officer.
- 9.1.3 If the incident occurred on the department's premises the case should also be reported to the Chief Risk Officer.

9.2 Non-criminal cases

The employee involved must report the loss and provide a declaration to the relevant Loss Control Officer.

10. Procedure the loss control officer should follow in case of loss, theft or damage

- 10.1 The case should be entered in the relevant Loss Control Register.
- 10.2 Once a financial loss has been reported the Financial Loss Control Officer, the loss should be booked against "Gains and Losses Account".
- 10.3 In the case of physical assets the Asset Loss Control Officer should inform the Asset Management unit in order to move the relevant asset into the theft inventory Listing.
- 10.4 The relevant Loss Control Officers should investigate and follow up the case until the case can be closed either by recovery or write off.
- 10.5 Where a loss was as a result of activities of fraud and corruption by an employee, the Loss Control Officer should report the case to the Internal Audit and Risk Management as prescribed in the fraud prevention policy and response plan.

11. Recovery of losses

- 11.1 Losses or damages incurred due to an act committed or omitted by an employee must be recovered from such an employee if he /she is liable in law.

- 11.2 A legal opinion on the liability of the employee should be obtained from the departmental Legal Services Unit.
- 11.3 If in doubt whether the employee is liable in law, the Municipality's panel of Attorneys should be consulted.
- 11.4 The Accounting Officer must determine the amount of the loss or damage and in writing request the employee to pay the amount within 30 days or reasonable instalments but no longer than six months.
- 11.5 If the officer fails to comply with the request, the matter should be handed over to the Legal Services.

12. Writing off of a loss

- 12.1 Losses or damages may be written off:
 - 12.1.1 In criminal cases once an investigation has been done and a final police report has been received which indicates that the case has been finalised and the loss or damage is found to be irrecoverable.
 - 12.1.2 If the loss or damage resulted from vis major or other unavoidable causes.
- 12.2 Before a loss may be written off, a recommendation must be obtained from the Legal Services.
- 12.3 A submission for approval to write off the debt(s) should be drafted by the relevant Loss Control Officer and be forwarded for approval in accordance with the Financial Delegations

13. Reporting

All claims and losses should be reported in the annual financial reports in the format as prescribed.

14. Precautionary measures in respect of laptops

14.1 Each employee issued with a laptop will in writing accept responsibility for the equipment. All cases of stolen/lost or damaged cellular phones or laptops will be investigated with emphasis on possible negligence, in order to determine if the Municipality will accept liability or if the cost will be recovered from the employee concerned. The following precautionary measures should be taken:

14.1.1 Laptops must be locked using security chain and not left unattended at any stage.

14.1.2 Cellular telephones may not be utilised while driving except if the phone is linked to a hands free kit.

14.1.3 Laptops may not be left unattended if not locked safely away.

14.1.4 While traveling by vehicle laptops may not be left visible from outside the vehicle.

14.1.5 While travelling by air, laptops must be considered as hand luggage and not checked in or placed with the other luggage.

14.1.6 Use in public places - laptops may not be used in potentially dangerous places or carried openly.

14.1.7 Movable electronic and IT equipment, i.e. overhead projectors must be locked in strong rooms or in lockable steel cabinets at all times when not in use.

15. Precautionary measures in respect of hired vehicles

15.1 When an official is undertaking an official trip and has to utilise a hired vehicle, he/she must take the following steps before accepting the vehicle:

15.1.1 The hired vehicle must be thoroughly inspected for the following:

15.1.1.1 vehicle's outside aerals;

15.1.1.2 if lights are functioning properly;

- 15.1.1.3 spare tyre and jack are in good condition; and
- 15.1.1.4 no visible damages to the bodywork and/or inside of the vehicle.

15.2 If any problem/fault is identified it should be reported to the company and noted before you accept the vehicle.

15.3 All insurance indemnity claims will be investigated before the Municipality accepts liability.

15.4 Users indicating that they are not sure or cannot recall any damage; will immediately be regarded as a liability for the individual responsible for the vehicle. You would be required to submit proof of any damage or problem identified before accepting the vehicle.

16. Claims by the Municipality against other persons

If the Municipality suffers a loss or damage and the other person denies liability, the case must be referred to the Municipality's legal services for legal action.

17. Payments and remissions as an act of grace

Where no legislative authority exists, the accounting officer or his delegate may approve as an act of grace or favour the remission of money due to a revenue fund and a payment from a vote.

Where such payments exceeds R100 000.00 approval must be sought from Parliament.

If in doubt whether an amount should be written off in terms of Treasury Regulation 11.4 or be treated as a remission or an act of grace, the National Treasury should be consulted.

Before any remission or act of grace is approved, a recommendation should be obtained from the Chief Directorate: Legal Services.

18. Review of policy

This policy and procedure will be reviewed every two years or sooner if so required.

19. Deviation

The Municipal manager may approve deviation from this policy and procedure based on a written motivation supported by the Chief Financial Officer.

20. Effective date

This policy and procedure takes effect on the date of approval.

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