



KWAZULU-NATAL FRAMEWORK ON CONSEQUENCE MANAGEMENT

SUMMARY

1. Audit findings and investigations regarding allegations of corruption, fraud and irregular expenditure as well as maladministration committed by some officials and political officer-bearers are endemic and are a common phenomenon in public and private institutions. This resulted in widespread public concern regarding the credibility and integrity of some public and private institutions. In response to the prevalence of fraud, corruption and mismanagement of financial resources, the government sought a number of remedies to curb these anomalies by adopting and implementing framework instruments and legislative measures. However existing framework instruments and legislative regimes have not yielded the desired outcomes. This has prompted the KwaZulu-Natal Provincial Government to develop and adopt the KwaZulu-Natal Framework on Consequence Management. The KwaZulu-Natal Framework on Consequence Management was developed subsequent to a pronouncement made and resolution taken by the Provincial Executive Council in the 2019/20 financial year. The Framework on Consequence Management has been developed to improve good governance and accountability in the use of government resources that will contribute to improved audit findings.

The Department of Public Service and Administration has been tasked to draft a framework to guide consequence management involving political office bearers, as indicated in the Medium Term Strategic Framework (MTSF) 2019-2024 and MTSF implementation Plan 2020/21.

DEFINITIONS

2. For the purposes of this Framework the following words have been assigned the following meanings unless the context indicates otherwise –

“Accounting Officer” means a person as contemplated in section 36 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“Audit Outcomes” means the audit findings made by the Auditor-General as contained in the audit reports;

“consequence management” means the steps taken by officials to efficiently and effectively implement legislative measures, policies or procedures to deal with transgressions of public servants employed in provincial departments, provincial public entities or provincial institutions;

“consequence management measures” means the legislative and regulatory frameworks applied to address misconduct, fraud, corruption, unethical behavior and poor performance of government officials;

“Executive Council” means the Executive Council of the Province contemplated in section 132 of the Constitution;

“framework compliance” means adherence to the framework provisions by government officials;

“framework instruments” means the laws, regulations, budgets, proclamations, strategies, programmes and plans used by the KwaZulu-Natal Province to effect public policies;

“framework monitoring” means the tracking of the progress on implementation of projects and programmes of the government;

“framework outcomes” means the intended changes to the current environment which results in fewer incidents of misconduct or financial loss to the State or the KwaZulu-Natal Province;

“framework outputs” means the goods and services delivered by government; and

“Province” means the Province of KwaZulu-Natal contemplated in section 103 of the Constitution and **Provincial** has a corresponding meaning.

Introduction

3. Incidence of corruption occur in public and private institutions within established systems and procedures of government. Of critical importance is the action taken to correct the situation. The systematic and endemic mismanagement of financial resources of the state in South Africa has become a common feature of all incidents relating to the fraudulent and corrupt conduct of officials entrusted with custodianship, leadership and management of public resources.

Most reports find that officials who have committed unethical conduct have done so deliberately with ulterior motives so as to personally benefit from such action. A number of investigation reports commissioned and instituted by government present findings and recommendations which require implementation to effect accountability, compliance and oversight. The findings and recommendations of these investigation reports are indicative of corrective action to be taken by the government through its respective and relevant independent institutions in cases where directives, policies, laws, regulations and procedures, as well as due processes, have not been complied with. More often than not, cases of non-compliance with laws and policies are not pursued to their logical conclusion. In some instances, investigations on cases of alleged corruption and fraud take an inordinate amount of time to be concluded. At times cases are not finalized or when they are finalized, subsequent litigious action is not taken against those who are implicated in fraud, corruption, unethical or irregular practices. Audit reports issued by the Auditor-General South Africa (AGSA) and the Provincial Audit and Risk Committee (PARC) have indicated that the lack of consequence management has been the main source for adverse audit opinions and extraordinary levels of unauthorized, irregular expenditure and fruitless and wasteful expenditure incurred by provincial departments.

The perception of a lack of consequence management renders the work of law enforcement agencies and investigative institutions meaningless. As a result of not pursuing consequence management measures the public trust and confidence of communities is eroded and the integrity of law enforcement agencies and public institutions become questionable. This shortfall undermines the governments' commitment to achieve good governance.

The KwaZulu-Natal Provincial Government has identified that there are unwarranted and regular incidences of irregular conduct associated with mismanagement of funds,

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corruption and fraud in both the public and private sector in South Africa. The Provincial Government instituted a number of investigations through the establishment of Commissions of Enquiries in an attempt to address and correct the above alluded indicators of poor governance and mismanagement of state resources. Of concern is that despite the findings in the reports of Commissions of Enquiries and in spite of the use of different legislative and framework instruments, there exists a consequence management deficit that manifests itself in *inter alia* the following forms –

- (a) Long suspension with pay of officials alleged to have committed fraud, corruption, unethical conduct or financial mismanagement;
- (b) Long unconcluded cases of fraud, corruption, unethical conduct or financial mismanagement;
- (c) Long pending disciplinary hearings involving officials implicated in fraud, corruption, unethical conduct or financial mismanagement;
- (d) Long unsettled and unresolved cases of employee's grievances in the departmental Labour Units; or
- (e) Lack of dedicated officials solely committed to the daily execution of the defined consequence management function of the provincial Government.

The above are observable notwithstanding the existence of the policies and legislative frameworks at the disposal of officials. It is on the basis of this rationale that the development and effective implementation of a KZN Framework on Consequence Management is warranted. This framework is developed as a complementary measure to enhance governments' efforts and framework instruments to root out fraud and corruption in the KwaZulu-Natal Province.

This framework has a broad focus on all aspects of consequence management which are applicable to public institutions to improve oversight and accountability for the use and abuse of state financial resources by officials who betray public trust and confidence. For the purpose of this Framework; consequence management is wider than the management of discipline; it encompasses fraud prevention, mechanisms utilized to address losses and risks, the recovery and reprioritization of projects and funds to mitigate the losses, and risk management. It further links to processes that must be addressed in a risk mitigation strategy.

The Department of Public Service and Administration has been tasked to draft a framework to guide consequence management involving political office bearers, as indicated in the Medium Terms Strategic Framework (MTSF) 2019-2024 and MTSF implementation Plan 2020/21.

This Framework seeks to provide further guidance on existing frameworks and legislative provisions. It provides for the establishment of the Consequence Management Committee whose function, powers and duties would, *inter alia* require the development of approaches, strategies, and methodologies, whilst utilizing applicable prescripts to streamline practices for achieving a uniform and structured approach towards transgressions in terms of the investigation, discipline, institution of criminal processes, the recovery of losses and training and development.

Problem statement

4. The KZN Provincial Government is faced with unacceptable levels of fraud, corruption and mismanagement of funds. Current consequent management measures have, due to lapses in implementation, not yielded the desired outcome of an incorruptible and ethical government. This has bred a culture of non-accountability, poor governance and mismanagement of resources. This has led to poor public perception and low levels of confidence in Government.

Purpose and objectives

5. (1) The purpose of this Framework on Consequence Management is to provide a framework on how to effect enforcement and management of reported cases and allegations of fraud, corruption, mismanagement, unacceptable performance, unethical conduct or any other irregular behavior that does not conform with and legally falls below approved legislative, framework, bargaining council agreements or any other prescribed norms and standards.

(2) The object of the KwaZulu-Natal Consequent Management Framework in the medium to long term period is the attainment of good and accountable governance for sustainable socio-economic development.

(3). The following outline objectives of the framework are to -

- (a) Ensure that officials adhere to and comply with framework, legislative and regulatory requirements;
- (b) Identify and act against financial misconduct and offences in terms of the Public Financial Management Act, 1999 (Act No.1 of 1999);
- (c) Enhance accountability for management and mismanagement of government resources;
- (d) Complement the Provincial Government's collective efforts for implementing the Anti- corruption and Fraud Prevention Strategy;
- (e) Strengthen and enhance the Risk Management Framework and policies;
- (f) Ensure that government and employees are aware of the different transgressions and available remedies to manage transgressions, as described in policies and as set out in different pieces of legislation adopted to curb irregular and wasteful expenditure of financial resources;
- (g) Contribute to the collective effort of government to eliminate corruption, fraud and unethical conduct by officials;
- (h) Intensify accountability in the use of state resources;
- (i) Promote the protection of investigating and presiding officers against undue influence through threats, victimisation and other acts of intimidation;
- (j) Expedite redemption of the image of government and finalisation of cases of corruption and fraud;
- (k) Reverse and undo the deep seated practice and culture of impunity amongst implicated officials; and
- (l) Ensure recommendations and findings of commissions of inquiries are implemented within 30 days of their release by the relevant departments.

Integrated approach

6. A variety of framework instruments are implemented in different public institutions in an uncoordinated manner, without an integrated system, and in isolation from one institution to another. The approach adopted in developing this framework is an integrated, collaborative and inclusive one where all provincial administrative institutions are required to ensure compliance. All public institutions must cooperate and work together to apply and enforce the framework to achieve the common goal and purpose of good governance. The framework also seeks to enhance the management of the interfaces amongst and

between public institutions when applying consequence management measures, using different policies and legal instruments.

Central to this integrated approach are the respective roles that must be played by different institutions and departments in collaboration with the consequence management officer who must monitor and provide oversight on how cases of reported fraud, maladministration, corruption and unethical conduct are managed by respective managers in different departments. The consequence management officer must compile monthly reports on all departmental cases on incidences of alleged corruption, fraud and financial mismanagement. The reports must be presented to the Committee of Heads of Department (COHOD) and the Executive Council for decision making.

Causal factors for lack of consequence management

7. (1) There are various variables attributed to lack of consequence management in many public institutions. The variables provided are *inter alia* some of the casual factors –

- (a) Institutional culture of impunity in public and private institutions;
- (b) Failure by both executive leadership and senior management to utilise existing framework instruments at the disposal of government to effect consequence management;
- (c) Lack of commitment to ensure compliance with the provisions of framework instruments meant to deal decisively with the reported cases of fraud, corruption, irregularities and financial mismanagement as well as operational inefficiencies;
- (d) Prevalence of complacency and lack of accountability;
- (e) Fear of victimisation and intimidation;
- (f) Intimidation of presiding officer by forcing them to recuse themselves thereby purposely delaying matters;
- (g) Lack of good quality parliamentary oversight and effective monitoring of reported cases and investigated cases, and reports that are submitted to the courts of law;
- (h) Lack of an integrated case tracking system on the progress of investigated cases; and
- (i) Failure in some instances to implement recommendations of Commissions of Inquiry and court orders by public institutions.

(2) The causes of unethical behavior take various forms namely psychological, social, economic, organizational, complex legislation, deficient control, accountability, and lack of awareness.

(3) Organizational factors include inadequate policies and procedures, excessive discretion, insufficient supervision and inconsistent leadership.

Scope

8. (1) The broad scope of consequence management covers a number of institutional dimensions and organizational elements, these include –

- (a) consequence management of officials;
- (b) impact of consequence on programmes and projects;
- (c) impact on budget and financial resources;
- (d) risk strategies and plans; and
- (e) the judicial implications of consequence management.

(2) Consequence management has a sequential chain of undertaking actions and decisions that take the process to its logical end, inclusive amongst some elements of consequence management are remedial and corrective measures that the departments must take to ensure that deviant behaviour and the conduct of officials is attended to within prescribed timeframes by the relevant institutions.

(3) Consequence management requires framework instruments and processes to be implemented for all reported cases and officials made account for their conduct in terms of the law.

(4) All the integral parts of consequence management must be given equal attention for the Framework on Consequence Management to achieve its objective.

(5) The prescribed time and duration within which cases must be concluded as prescribed by the law must be strictly adhered to.

(6) All aspects of consequence management must be executed within time frames provided for in the framework and legislative frameworks to ensure success in dealing with cases of fraud, corruption, maladministration, and irregular transactions.

Principles

9. (1) Financial misconduct, fraud, theft, corruption, maladministration and dishonest activities at all levels must not be tolerated and are punishable by the KwaZulu–Natal Provincial Government, using relevant framework, regulatory and legislative frameworks.

(2) All incidents that have been reported may be investigated and where applicable the necessary and prescribed remedial or disciplinary actions must be taken.

(3) All cases of alleged irregular expenditure that constitutes a criminal offence and all cases of theft, fraud and corruption must be reported to the South African Police and other relevant authoritative institutions.

(4) Government employees are responsible for reporting financial misconduct, financial offences, fraudulent or corrupt activities or conduct.

(5) The principles of good governance such as accountability, transparency, honesty, access to information, administrative justice and fairness must be upheld at all times.

(6) Members of the public are encouraged to report incidences of financial misconduct, financial offences or corruption taking place at public institutions.

(7) The KwaZulu-Natal Provincial Government commits itself to implement appropriate prevention and detection controls and take appropriate legal action to recover losses or damages incurred due to financial misconduct and financial offences committed by all government officials.

(8) General misconduct and poor work performance of employees must be managed in accordance with relevant human resource policies, employment contracts and collective agreements; and in cases where supervisors have not acted, consequence management must apply to them.

Importance of Framework on Consequence Management

10. The development and effective implementation of the Framework on Consequent Management is crucial for the following reasons –

- (a) the enhanced accountability among reporting staff members;
- (b) the reduction of the incidences of dereliction of duty;
- (c) the creation of a climate of urgency in the delivery of services to government customers by officials; and
- (d) the improvement in the overall efficiency of the management of personnel in government or State Owned Enterprises.

Consequence management interventions

11. For consequence management interventions to be effective a target oriented approach must be adopted. Therefore the following framework interventions are to be implemented –

- (a) Ensure consistent application of disciplinary measures and appropriate sanctions for misdemeanours in the public sector;
- (b) Reduce the period for completing disciplinary processes in cases of suspended officials on full pay to three months;
- (c) Fill vacant and funded posts within 6 months and reduce the vacancy rate to 10% or below, in all in all provincial departments;
- (d) Set targets for the number of payroll and tendering corruption related disciplinary cases and convictions to be successfully completed through developing and implementing plans for achieving set targets;
- (e) Apply sanctions for non-compliance with framework, legislative and regulatory frameworks of the government;
- (f) Monitor the effective use of framework instruments for accountability and consequence management by public institutions;
- (g) Ensure implementation of corrective measures and audit recommendations made by the Auditor-General;
- (h) Monitor management of interface between and amongst consequence management stakeholders;

- (i) Provide administrative support for the functionality of a consequence management committee; and
- (j) Plans with clear and achievable set targets must be developed and be implemented by all provincial departments to improve and increase unqualified audit reports against which accounting officers must render accountability monthly to the executive authority.

Framework outcomes

12. The outcomes of the Framework on Consequence Management are –

- (a) To increase awareness and compliance with the values of good governance and legislative frameworks;
- (b) The finalisation of long-pending cases of fraud and corruption within 90 days;
- (c) Determination of enquiries and investigations;
- (d) To mitigate for losses and risks to the state;
- (e) To inculcate an ethos of an ethical state;
- (f) To promote capacity-building to increase awareness of policies;
- (g) To promote capacity-building towards a capable, ethical and developmental state;
- (h) Timeous decision making on fraud, corruption and other cases which result in substantial financial loss, by the government top management and the Executive Authority; and
- (i) To address the public perception of a government that is complacent and who do not have the will and commitment to promote good governance, accountability and clean audit reports.

Steps of consequence management

13. (1) Subject to the different contextual circumstances and the nature of the incident, financial transgressions or misconduct may be considered serious or less serious.

(2) The seriousness determines the consequence management steps to be followed, if appropriate, and any of the following steps or a combination of the following steps, must be considered and implemented –

(a) An informal disciplinary hearing which takes place between the supervisor of the employee who is alleged to have committed misconduct, if it is determined by the supervisor that the employee has in fact committed misconduct, the supervisor may, depending on the nature of the transgression, the number of times the same offence has been committed or consideration of any other relevant factors, issue one of the following sanctions –

- (i) corrective counselling, this must be in the format of a letter for record purposes only;
- (ii) verbal warning, this must be in the format of a letter for record purposes only; or
- (iii) final written warning.

(b) A formal disciplinary hearing as outlined in PSCBC Resolution 1 of 2003 or Chapter 7 of the SMS Handbook, for which a Chairperson may pronounce a sanction of –

- (i) corrective counselling, this must be in the format of a letter for record purposes only;
- (ii) verbal warning, this must be in the format of a letter for record purposes only; or
- (iii) final written warning;
- (iv) suspension without pay, for no longer than three months;
- (v) demotion;
- (vi) a combination of (a) to (e) above; or
- (vii) dismissal.

(c) Immediately on determining that a financial loss has been incurred, initiate a process of recovery for the financial loss suffered by instituting action via the Office of the State Attorney;

(d) Immediately on determining that the matter has a criminal element report the matter to the South African Police Service;

(e) The Accounting Officer must immediately on determining that the matter has a value above R100 000-00 which relates to theft, fraud, extortion, forgery, uttering of a forged document or any offence as contemplated in Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004) report the matter to the South African Police Services, as contemplated in section 34(1) of that Act;

(f) If the matter requires an investigation, the Accounting Officer must either –

- (i) report the matter to the Office of the Premier for a forensic investigation;

- (ii) have the matter investigated internally; or
- (iii) engage the services of the Public Service Commission to conduct an investigation.

(3) The Accounting Officer must ensure that matters are dealt with immediately, provided that where cases have not been instituted for over two years from the date of the commission of an offence, he or she must obtain a legal opinion from the internal Legal Services unit on the prospects of success, the legal opinion must address the following –

- (a) the reason for the delay;
- (b) the value of the loss, irregular expenditure or wasteful expenditure;
- (c) the prospects of success in a disciplinary hearing, considering the procedural unfairness of not having acted promptly;
- (d) the time it may take to investigate the matter prior to a disciplinary hearing being instituted; and
- (e) the cost of proceeding with an informal disciplinary hearing verses pursuing a formal disciplinary process.

(4) The Accounting Officer must, if he or she is satisfied with the recommendation of the legal opinion implement the advice given.

(5) In the Accounting Officer of a provincial department disagrees with the legal opinion from its internal Legal Services, the matter must be sent to the Provincial Chief State Law Advisor for a further legal opinion on the matter.

(6) The Accounting Officer must then implement the recommendation of the Provincial Chief State Law Advisor.

(7) If the matter would result in a procedurally unfair labour practice or if the financial loss is not recoverable due to prescription, the supervisor of the official who has committed the alleged misconduct must –

- (a) bring the matter to the attention of the official;
- (b) determine the reasons for the misconduct and give the official an opportunity to respond to the allegations;
- (c) seek an agreement on how to remedy the conduct;
- (d) take steps to implement the agreed course of action;

(e) ensure that the official attends a training course on the area of transgression, if appropriate; and

(j) keep a record of the matter, and both parties must sign the record as an acknowledgement that the recording is accurate in respect of how the matter was dealt with.

(8) All employees who are given counselling, a verbal warning or a final written warning must attend capacity-building courses in terms of the area of transgression and ethical conduct workplace practices.

Processes that must be adopted for addressing poor work performance

14. (1) When an employee performs poorly, the Incapacity Code and Procedures (for poor work performance), as outlined in Public Service Co-ordinating Bargaining Council (PSCBC) Resolution No. 10 of 1999 or Chapter 7 of the Senior Management Services (SMS) Handbook, must be invoked.

(2) Comprehensive written records must be made regarding the appropriate evaluation, instruction, training and development, guidance or counselling, investigation to establish the reasons for unsatisfactory work performance, and informal and formal hearings of probationary, temporary and permanent employees who underperform.

(3) Where appropriate, it may be advisable to appoint an independent and qualified authority (such as a specialist in the area of work concerned) to test permanent employees regarding their work knowledge and performance.

(4) How poor work performance must be handled to justify dismissal depends on the circumstance of each case, including the length of the employee's service, the position occupied by the employee, his or her past performance and level of seniority, and the possibility of the incompetent employee being transferred to another position in the public service.

(5) Where an employee's incompetence serves to endanger fellow employees or the public, or to seriously hamper service delivery, action must be taken.

(6) If an employee's work is of vital strategic importance to service delivery, counselling may be brief or dispensed with entirely.

(7) Before an informal or formal hearing is held, warnings must be issued and recorded.

(8) The employer must prove, at least, that an employee's work performance is deficient to justify dismissal; dismissal is not justifiable when an employee's poor performance is due to factors or circumstances beyond his or her control.

(9) The general test regarding whether or not to dismiss an employee for poor work performance is whether the employer can reasonably be expected to retain underperforming employees for the time necessary for them to acquire the level of competence which can reasonably be expected of them.

Reporting and investigation

15. The reporting and investigation of any allegations of corruption and fraud must be done in terms of the relevant legislative requirements within the prescribed time period.

Protection of whistle blowers

16. The Provincial Government must encourage whistle blowing and protect whistle-blowers; in accordance with whistle-blowing legislation and guidelines.

Harassment and victimisation

17. (1) The KZN Provincial Government is committed to provide a supportive environment in the workplace and will not tolerate any harassment or victimization.

(2) Departments must provide for proper guidelines to protect employees against harassment and victimisation.

Confidentiality

18. (1) Provincial Government is committed, during the period of an investigation, to protect the parties, their reputation and physical safety.

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(2) The Provincial Government commits itself to keeping all information relating to the reported activities and the investigation confidential and discussions on the matters will be restricted to the alleged offender and any witnesses and, where applicable, a representative of the offender.

Failure to apply Framework on Consequence Management within prescribed periods

19. (1) Failure to comply with the provisions of this Framework and guidelines, strategies or plans issued by the Consequent Management Committee may result in disciplinary action being taken against those responsible for not applying the framework.

(2) Failure to act on irregular expenditure or poor audit outcomes constitutes a dereliction of duty and must be subject to disciplinary action being taken.

(3) All officials are accountable and answerable to the Accounting Officer or the Executive Authority for failure to carry out the necessary consequent management processes as outlined in the Framework.

(4) A Member of the Executive Committee is responsible and accountable for delegated responsibilities in terms of different framework provisions.

(5) The reported cases of corruption, fraudulent, unethical misconduct and irregularities punishable by law must be dealt with both internally and externally without fear or favour, irrespective of the rank and levels of officials responsible for any transgression in terms of any law, framework or procedure.

Prescribed period for internal investigations

20. (1) All transgressions must be reported to the Accounting Officer.

(2) Internal investigations must commence within seven days of being reported to the Accounting Officer

(3) Internal investigations must be finalised within 30 days and a report with recommendations of proposed actions to be taken must be submitted to the Accounting Officer.

(4) If, in the event that the recommendation requires that matter to be taken further, the Accounting Officer must immediately take the recommended action or seek a legal opinion as outlined in clause 12(3).

(5) The response on submitted cases of allegations of corruption, irregularities, grievances, fraud, mismanagement of funds should be efficient and measures should be taken to communicate in writing to the officials involved within one week.

(6) Misconduct cases for officials who have been placed on precautionary suspension without pay must be finalised within one year.

(7) The Accounting Officer must provide detailed reasons to the Executive Council if officials who have been placed on precautionary suspension without pay have not been charged within a year of their suspension.

Referral to law enforcement agencies

21. (1) Within two months of cases of alleged corruption, fraud, unethical conduct, irregular expenditures having been dealt with internally, they must be handed over to the relevant law enforcement agencies to prosecute the culprits based on the merits of the cases and the outcomes of the internal reports. The involvement of the Auditor-General and Legislature Portfolio Committees are necessary to ensure collaborative efforts and strong oversight to assist the government to root out institutionalised corruption and other similar investigative enquiries. There are a variety of cases, which differ in terms of merit, technicalities and implications. Therefore, the *modus operandi* in terms of how these cases are handled must be informed by the severity of the breach of prescripts.

(2) Consequences of cases must be managed in terms of their outcome, awards, severity, the nature of the case and the seriousness of the breach of the laws, policies and regulations.

Implications of Consequence Management to Projects

22. (1) A department must assign projects as a result of financial mismanagement to a competent and experienced manager for the resuscitation of the project.

(2) The manager assigned to these projects must be provided with the relevant records to enable him or her to resuscitate the affected project within a period of three weeks.

(3) The manager assigned to the affected project must, within one week of receipt of all the relevant records, design a recovery plan.

(4) The Accounting Officer and Chief Financial Officer of the relevant department must approve the recovery plan prior to its implementation.

(5) The designated manager must provide reports to the Executive Committee of the Department on a monthly basis and table the reports with COHOD.

(6) The designated manager must be provided with the necessary support to ensure that the project continues without disruption of service delivery to communities.

(7) The Accounting Officer must ensure that an investigation is conducted, the report of the investigation must be analysed, and further consequence management action must be taken against those officials alleged to have contributed to the failure of the project.

Role of Consequence Management Officer

23. (1) The Consequence Management Officer must have legal knowledge, experience and expertise to monitor compliance with this framework by all departments.

(2) The consequence management officer must perform the following functions –

- (a) Develop and implement an annual consequence management project plan;
- (b) Develop terms of reference for the Consequence Management Committee;
- (c) Compile consequence management quarterly reports and present the reports to the Executive Council;

- (d) Monitor the handover of reports on cases of corruption, fraud, and mismanagement from departments to law enforcement agents;
- (e) Monitor compliance with the legislative frameworks; and
- (f) Consult departments and co-ordinate the reporting function on fraud, corruption and financial mismanagement in departments.

(3) The Consequence Management Officer must –

- (a) provide monthly reports and make presentations on the monthly reports to the Executive Committee of departments and the Executive Council;
- (b) administer the Framework on Consequence Management and the function must be included in his or her job description; and
- (c) work with the Consequence Management Committee appointed to provide dedicated transversal oversight and monitoring of all cases as processed by the respective public institutions.

Consequence Management Committee

24. (1) There is hereby established a Consequence Management Committee having the powers, duties and functions as set out in this Framework.

(2) The following are the terms of reference for the Consequence Management Committee

–

- (a) To consult and monitor relevant stakeholders combating fraud, corruption and mal-administration.
- (b) Present findings and make recommendations to the Director-General, COHOD, and the Executive Council on cases of fraud and corruption;
- (c) Develop guidelines in terms of how scoped transgressions are reported and investigated, including details on the investigation authorities and investigation timeframes;
- (d) Formulate defined transgressions which may be handled at a departmental level and provincial level in terms of investigations, and action;
- (e) Formulate guidelines for the definition of the role of presiding officers, their selection; training and responsibilities.
- (f) Formulate mechanisms for the facilitation of investigations and co-ordination of cases of fraud, corruption and mis-management;

- (g) Compile and consolidate information pertaining to all cases of fraud and corruption in departments and public entities;
- (h) Report on issues of allegations that warrant investigations;
- (i) Support and provide required information to law enforcement agencies; and
- (j) Monitor and report on progress made on cases of fraud and corruption.

(3). The composition of the Consequence Management Committee consists of the chairperson, deputy chairperson and eight members of the Committee.

(4) All members of the Committee must be appointed by the Premier as the Executive Authority of the KwaZulu-Natal Provincial Government.

(5) Members of the Committee must be appointed by taking into consideration their technical expertise in relevant and related areas of consequence management.

(6) Members of the Committee must have the necessary skills and experience to deal with fraud, corruption, unethical conduct and mismanagement of state resources.

(7) The Committee must, on a quarterly basis, provide the Executive Council with reports.

(8) The Committee must account to Auditor-General for the execution of consequence management plan.

(9) The Committee must convene meetings on a monthly basis for the purpose of consolidating and compiling progress reports on cases of corruption, fraud and mismanagement of state funds.

(9) The Committee must develop its business plan to guide its activities and functions in relation to the terms of reference in clause 24(2).

(10) The Committee must develop approaches, strategies, and methodologies for capacity building to assist the provincial government to prevent fraud, mismanagement of financial resources, misconduct, corruption and other unethical practices; and

(11) The Committee must develop plans for the sustainable creation, retention and utilisation of capacity in order to reduce fraud and corruption and to promote ethical behaviour.

Framework monitoring & evaluation

25. (1) The Office of the Premier is responsible for the monitoring and evaluation of the implementation of this Framework.


(2) The monitoring and evaluation units of all provincial departments must develop indicators to identify, track and report on –

- (a) irregular expenditure;
- (b) fraud and corruption cases in their departments;
- (c) unresolved cases as reflected in audit findings; and
- (d) the consequence management instruments in response to cases.

Commencement and review

26. (1) The KwaZulu –Natal Framework on Consequence Management takes effect on the date of adoption by the Executive Council.

(2) The framework must be reviewed every five years based on changes and other developments that may warrant amendments to its content and form.


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