

**NATIONAL TREASURY****MFMA Circular No 121****Municipal Finance Management Act No. 56 of 2003**

## **CONSEQUENCE MANAGEMENT AND ACCOUNTABILITY FRAMEWORK**

### **1. PURPOSE**

The Consequence Management and Accountability Framework (CMA Framework) provides information and guidance, from a Municipal Finance Management Act (MFMA) perspective, to deepen understanding of consequence management and accountability. Furthermore, it aims to support various stakeholders in the national, provincial and municipal government to effectively and efficiently discharge their obligations as it relates to financial misconduct and financial offences. Lastly, the CMA Framework contributes directly to the functionality of Disciplinary Boards.

### **2. BACKGROUND**

The wider implementation of the MFMA in all municipalities and entities is an important element in the roll out strategy to modernise and improve the financial management of local government. Linked to this strategy are the fundamental principles of effective and efficient utilisation of public resources and transparent and accountable financial management practices. Despite the provisions in the MFMA and the reforms developed over the last 19 years to support the implementation of the MFMA, enforcement and lack of consequence management still appears to be a challenge across all municipalities and entities. There is a continued trend of officials being suspended for lengthy periods of time, without matters being resolved. This continues to impact negatively on service delivery.

Each year, the lack of accountability and weaknesses in consequence management are recurring themes in the Auditor-General's consolidated general report on local government audit outcomes. From an observation perspective, there are several contributing factors to these continued failures which include amongst others, lack of

political and administrative leadership.

Over the years, there have been many incidences of non-compliance with the MFMA, which have contributed to the high levels of unauthorised, irregular, fruitless and wasteful expenditure in local government. The lack of consequence management, whether perceived or otherwise, has contributed to the erosion of public trust.

It should also be noted that the Medium-Term Strategic Framework addresses objectives relating to a **Capable, Ethical and Developmental State**, that prioritises public value and trust. It requires the development of a programme to strengthen awareness, internal controls, reporting and consequence management with regard to wasteful and fruitless expenditure in the public sector. The CMA Framework responds to these objectives.

Chapter 15 of the MFMA enables accountability for both political office bearers and municipal officials and provides the framework through which municipalities must implement consequence management for failure to adhere to the prescripts of the MFMA as well as its regulations. This Chapter is supported by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (Financial Misconduct Regulations). The regulations apply to all officials and political office bearers within municipalities and municipal entities. These regulations were promulgated in 2014. One of the key measures introduced by the Financial Misconduct Regulations is the timelines within which investigations of allegations of financial misconduct must be concluded and matters resolved.

The National Treasury and provincial treasuries have supported municipalities in implementing the MFMA including Chapter 15 and the Financial Misconduct Regulations. The mechanisms used to provide this support range from, guidelines, circulars, responses to enquiries through the MFMA Helpdesk, workshops, seminars, training, internship programme and hands-on support to municipalities. It was during these workshops, training and seminars, that it became apparent that there are gaps in understanding of what is required and the alignment with other pieces of legislation to deal effectively with financial misconduct and criminal proceedings in municipalities and municipal entities.

### **3. BRIEF OUTLINE OF THE CONSEQUENCE MANAGEMENT AND ACCOUNTABILITY FRAMEWORK**

The CMA Framework outlines a number of key processes and procedures that must be in place for the successful implementation of consequence management by municipalities and municipal entities, in relation to financial misconduct and financial offences as defined in Chapter 15 of the MFMA.

The CMA Framework sets out the basic requirements for successful implementation of CMA which include:

- strong leadership;
- the establishment of a CMA system within municipalities;
- assigning responsibility for the implementation of the CMA system;
- ongoing education; and
- identifying measurable outcomes and process monitoring routines.

The framework also identifies key pieces of legislation underpinning the implementation of consequence management in municipalities including the Constitution of the Republic of South Africa, the MFMA, the Financial Misconduct Regulations, the Municipal Systems Act, the Municipal Structures Act etc. The framework further explains the application of the Prevention and Combating of Corrupt Activities Act 12 of 2004 and the Public Audit Act including its amendment on the implementation of consequence management as well.

The framework points out the importance of regularly review of delegations in line with section 79 of the MFMA. The framework then outlines a CMA toolbox which sets out the important legislative provisions related to CMA from an MFMA perspective.

The framework identifies key stakeholder and actors in the CMA value chain. These stakeholders and role players include the accounting officer, chief financial officers, human resources, disciplinary board, municipal public accounts committee, mayors, provincial and national government, etc.

The framework outlines external stakeholders, oversight and regulatory bodies, enforcement agencies and their roles in the implementation of the CMA Framework.

The framework highlights the imperative and discusses the need for the development of standard operating procedures for recovery, monitoring, reporting, etc.

#### **4. ONGOING EDUCATION AND TRAINING**

As indicated above, The CMA Framework advocates ongoing learning on CMA. As a result, the framework is accompanied by a learner guide. It is recommended that this forms part of the induction of newly appointed officials. Facilitators of such sessions will be provided with additional material to enable effective participation and engagements.

The CMA framework must be read together with Chapter 15 of the MFMA, the

Financial Misconduct Regulations and MFMA Circulars 76 and 111.

## 5. CONCLUSION

The CMA Framework was released and distributed to attendees during the national LG Summit held in the East Rand on 27 and 28 September 2022, attended by the President, Ministers, Mayors, Councillors, Officials from municipalities, provinces and national government as well as other key stakeholders.

It is incumbent on the accounting officer of a municipality or municipal entity to exercise leadership and to ensure that this circular and the CMA Framework are brought to the attention of the mayor, speaker, all municipal councillors, board of directors of municipal entities, disciplinary boards, senior management, chief finance officers, human resource managers, internal audit units, audit committee and supply chain management practitioners.

Special emphasis must be placed on those officials with administrative and delegated responsibilities, such as the internal audit units, human resources department and budget and treasury office of the municipality or municipal entity to address consequence management effectively and efficiently.

## 6. CONTACT

Further clarifications or enquiries can be directed to the MFMA helpdesk facility email: [mfma@treasury.gov.za](mailto:mfma@treasury.gov.za)



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**Cc: Annexure - Consequence Management and Accountability Framework - MFMA Perspective**