HESSEQUA

Munisipaliteit / Municipality

ANNEXURE B16

UNAUTHORISED, IRREGULAR, WASTEFUL AND FRUITLESS EXPENDITURE REDUCTION POLICY AND PROCEDURES

2026/2027

"In terms of Hessequa Municipality's Risk Management Policy, Anti-Corruption Strategy, Consequence Management and its implementation in all facets of Administration, it is important that this standard operational procedure meets the Council's Anti-Corruption-, Risk Management- and Consequence Management objectives and therefore forms part of the Hessequa Municipality's general management of strategic, operational and corruption risks."

Inhoudsopgawe / Table of Contents

PART 1: ABBREVIATIONS, DEFINITIONS AND DESCRIPTIONS......3
PART 2 PURPOSE......5
PART 3 APPLICABLE LEGISLATION......6
PART 5 RISK IDENTIFICATION AND MITIGATION......16
Part 6 UIFW EXPENDITURE ACTION PLANS......21
PART 7 SHORT TITLE AND COMMENCEMENT......22

PART 1: ABBREVIATIONS, DEFINITIONS AND DESCRIPTIONS

1.1. For this SOP the following abbreviations, definitions and description have the meaning as described below:

AC	-	Audit Committee
AFS	-	Annual Financial Statement
AGSA	-	Auditor General of South Africa
AO	-	Accounting Officer
CFO	-	Chief Financial Officer
FWe	-	Fruitless and Wasteful Expenditure
FI	-	Forensic Investigators
HRM	-	Human Resource Management
HM		Hessequa Local Municipality
IA		Internal Audit
IE	-	Irregular Expenditure
IFWe	-	Irregular, Fruitless & Wasteful expenditure
NT	-	National Treasury
MFMA	-	Municipal Finance Management Act, 2003 (Act 56 of 2003)
PT	-	Provincial Treasury
s	-	Section of legislation
SAPS	-	South African Police Services
SCM	-	Supply Chain Management
SCM TR	-	National Treasury Regulations in relation to SCM, 2005

‘Abuse of power’ means the use by an official of his or her vested authority to improperly benefit another official, person or entity or using such power to improperly discriminate against another official, person or entity.

‘**Abuse of privileged information’** involves the use, by an official of privileged information and knowledge that an official possesses as a result of his/her office to provide unfair advantage to another person or entity to obtain a benefit.

‘Accounting Officer’ means the Municipal Manager of Hessequa Municipality, appointed in terms of section 54A, read with section 55(2) of the System Act, who, by virtue of section 60 of the MFMA, is responsible for exercising the powers and functions assigned to him/her under the MFMA, including the responsibility of combating any abuse of the Supply Chain Management System, and his/her nominee.

'Bribery' means a promise, offering or giving of a benefit that improperly affects the actions or decisions of officials.

'Committee' means the committee designated by council to investigate matters of UIF&W.

'Compliance' means the meeting of obligations under laws, regulations, codes or municipal standards.

'Conflict of interest' means the failure by an official to act or to consciously fail to act on a matter where the official has an interest or another person or entity that has some form of relationship with the official has an interest.

'**Constitution'** means the Constitution of the Republic of South Africa, 1996.

'Contract' means a lawful and binding written agreement between a successful tendered and the Hessequa Municipality which contract is awarded pursuant to a procurement process, whether competitive or not, and which creates rights and obligations between the parties *inter se*.

'Control' means any action, procedure or operation undertaken to increase the likelihood that activities and procedures achieve their objectives. Control is a response to risk and is intended to contain uncertainty of outcome.

'Corruption' means giving or offering, receiving or agreeing to receive, obtaining or attempting to obtain any benefit which is not legally due to or by a person who has been charged with a duty or power by virtue of any employment, to do any act or omit to do any act in relation to that power or duty.

"Councillor" means a member of the municipal council of HM.

" Financial Misconduct" means any misappropriation, mismanagement, waste or theft of the finances of the HM, and includes any form of financial misconduct specifically set out in sections 171 and 172 of MFMA.

'**Fruitless and Wasteful Expenditure'** (FWe) means expenditure made in vain and would have been avoided had reasonable care been exercised as defined in section 1 of the MFMA

'Irregular Expenditure' (IE), as defined in section 1 of the MFMA.

'Maladministration' means an administrative action that is unlawful, arbitrary, unjust, oppressive and improperly discriminatory or taken for an improper purpose and which substantially and adversely affects someone's interest.

'MFMA' means the Local Government Municipal Finance Management Act, 56 of 2003.

'Official' means any municipal employee or official appointed in terms of the Municipal Systems Act.

"Overspending" means in relation to a budget of HM causing the operational or capital expenditure incurred by the municipality during a financial year to exceed the total amount appropriated in that year's budget for its operational or capital expenditure. Refer also "unauthorised expenditure"

'PAIA' means the Promotion of Access to Information Act, 2 of 2000.

‘PPPFA’ means the Preferential Procurement Policy Framework Act 5 of 2000.

“Prohibited expenditure” in relation to this policy means unauthorised, irregular, or fruitless and wasteful expenditure.

‘**Risk**’ means the threat than an event or action will adversely affect a Municipality’s ability to achieve its objectives and to execute its strategies successfully.

‘SCM Policy’ means Hessequa Municipality’s Supply Chaim Management Policy, as amended, adopted by the Hessequa Municipal Council, in terms of section 111 of the MFMA.

‘SCM Regulation or SCM TR’” means the Municipal Supply Chain Management Regulations, 2005, published in Government Notice 868 of 30 May 2005 in *Government Gazette* 27635.

‘Supplier/service provider’ means any natural of juristic person found to be in breach of this Policy by virtue of an act of abuse of the Supply Chain Management System and, where applicable includes any representative of such person.

‘Systems Act’ means the Local Government Municipal Systems Act, 32 of 2000.

“Unauthorised Expenditure” means any expenditure by the HM as defined in section 1 of the MFMA

“Vote” means one of the main segments into which a budget of a municipality is divided for the appropriation of money for the different directorates or functional areas of the municipality and

Which specifies the total amount that is appropriated for the purposes of the directorate or functional area concerned.

PART 2 PURPOSE

This strategy document aims to map out the processes and actions that should be followed to contribute towards achieving the goals under priority 1 of the 2019-24 MTSF. The focus is on reducing unauthorised, irregular, fruitless and wasteful (UIF&W) expenditure in the municipality. In this regard, the strategy also describes the key roles and responsibilities of public representatives and the administration. Timely decision-making is required for the successful implementation of this strategy; hence, emphasis is also placed on consequence management to ensure that officials are held accountable for their actions or non-actions.

The purpose of this policy is to develop and implement a reduction strategy designed to address current and historical UIFW expenditures figures and to improve internal controls and thereby improving the audit outcomes of the municipality on occurrence and completeness of UIFW expenditures.

This policy aims to ensure that, amongst other things:

2.1 Unauthorised, irregular or fruitless and wasteful expenditure is detected, processed, recorded, and reported in a timely manner;

2.2 Officials and councillors have a clear and comprehensive understanding of the procedures they must follow when addressing unauthorised, irregular or fruitless and wasteful expenditure;

2.3 HM's resources are managed in compliance with the MFMA, its regulations and other relevant legislation; and

2.4 All officials and councillors are aware of their responsibilities in respect of unauthorised, irregular or fruitless and wasteful expenditure.

PART 3 APPLICABLE LEGISLATION

The Constitution of the Republic of South Africa, 1996

The Local Government Municipal Finance Management Act, No 56 of 2003

Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings

Municipal Budget and Report regulations

Municipal SCM Regulations and related legislation

The Local Government Municipal Systems Act No 32 of 2000 and related regulations

The Local Government Municipal Structures Act No. 117 of 1998 and related regulations

Any other applicable legislation and future applicable legislation.

PART 4: MANAGEMENT AND TREATMENT OF IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE [IFWE]

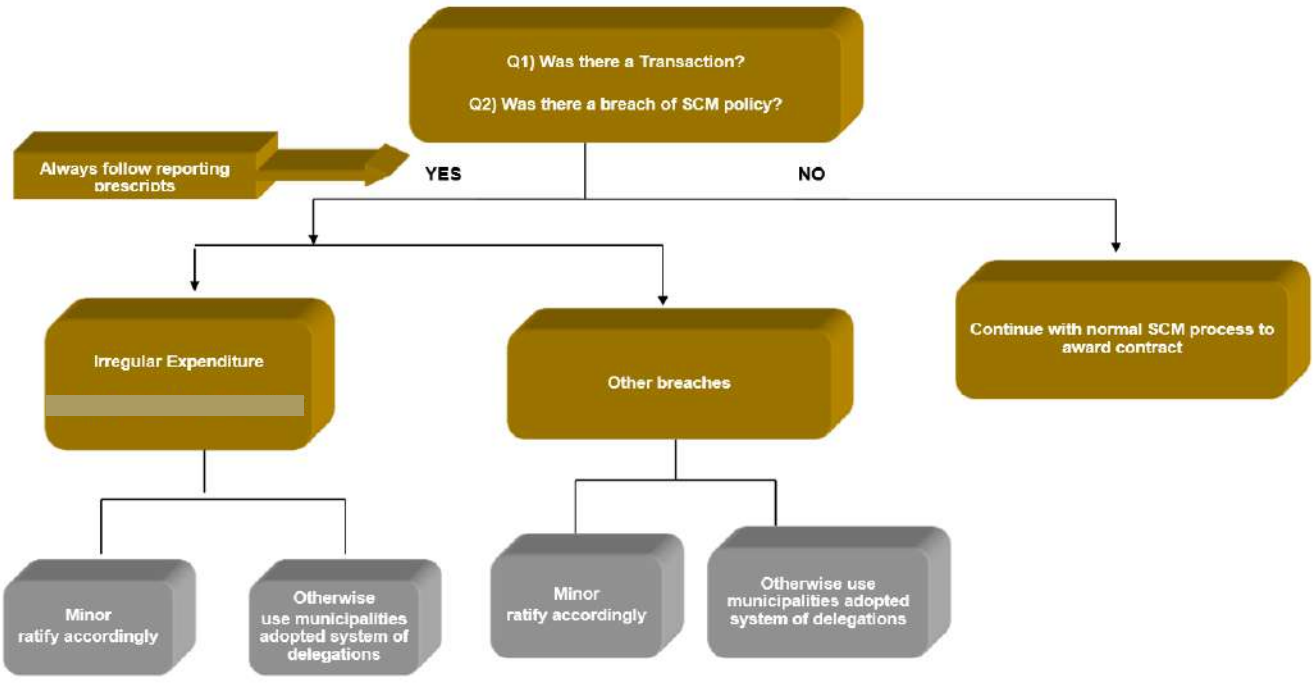
4.1 The financial, legal and labour treatment of IFWe is complex and sensitive. Furthermore, consistency in approach, sound document management, integrity of information and appropriate remedial and disciplinary action must be ensured. Consequently, the management of discovered IFWe requires structured processes and procedures.

Ratification of minor breaches of the procurement process:

4.2 Prior to discussing the management and treatment of IFWe, it is important to remember that SCM TR 36 (1)(b) allows the AO to ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely technical in nature.

4.3 It is important to note that the AO can only rely on this provision if the official or committee who committed the breach had the delegated authority to perform the function in terms of the municipality's adopted System of Delegations, which must be consistent with the MFMA and its regulations. The process to deal with minor breaches of the SCM policy is contained in a flowchart issued by the National Treasury, as per MFMA Circular 68 of 10 May 2013, illustrated as follows:

Figure 4.1: Ratification of minor SCM System breaches process:



4.4 Note that once the AO condoned such a breach of process, the action cannot be classified as 'irregular expenditure', as is clearly provided for in the definition of 'irregular expenditure; in section 1 of the MFMA, as follows:"….*expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy,* ***and which has not been condoned in terms of such policy or by-law***, .."

4.5 In deciding whether a particular breach of procurement processes is minor or material, the National Treasury provide the following guidance in exercising this discretion:

a) the specific nature of the breach: is it simply technical in nature, not impacting in any significant way on the essential fairness, equity, transparency, competitiveness or cost effectiveness of the procurement process?

b) the circumstance surrounding the breach: are the circumstances justifiable or, at least, excusable?

c) the intent of those responsible for the breach: were they acting in good faith?

d) the financial implication as a result of the breach: what was the extent of the loss or benefit?

4.6 Note that this category only covers breaches of procurement processes in the municipality's SCM policy and not breaches of other legislation or regulations.

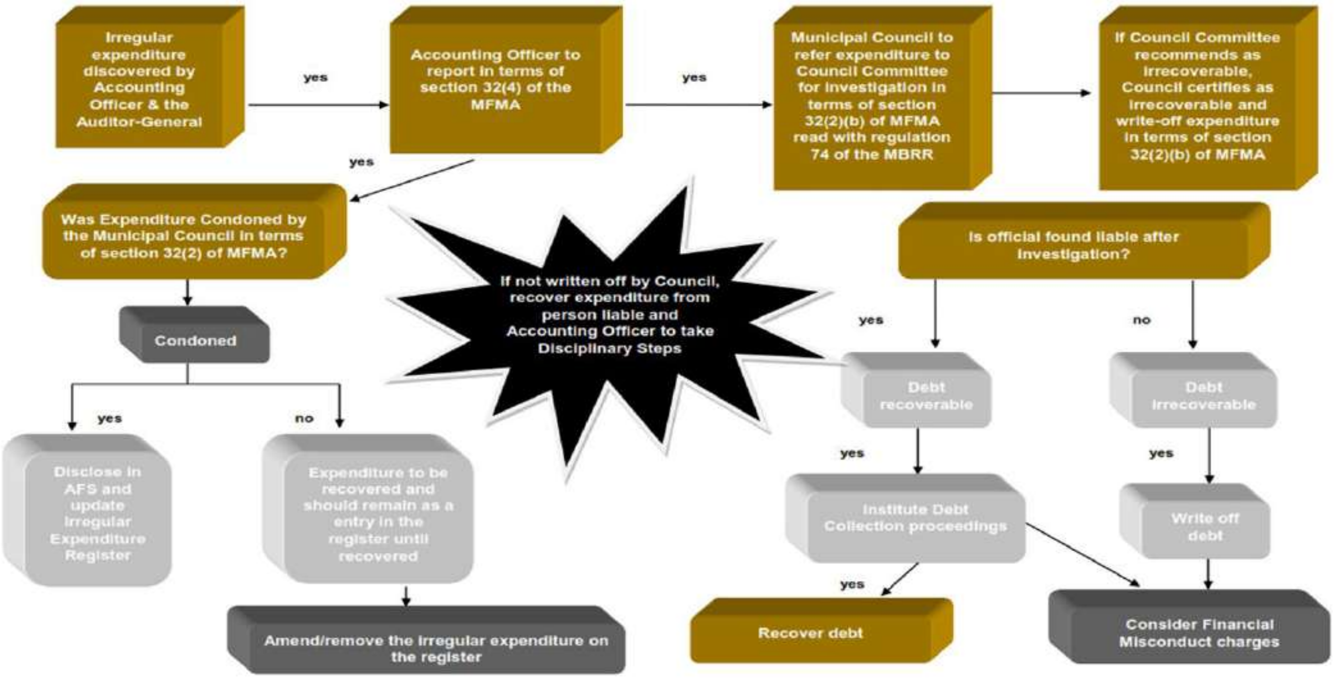
4.7 For purposes of consistency, it is recorded here that 'rectifying of minor errors' will be treated the same as 'bona fide system errors'.

Irregular expenditure:

4.8 **Irregular expenditure**, relevant to SCM matters, is defined in section 1 of the MFMA as follows: "*irregular expenditure", in relation to a municipality or municipal entity, means— (a) ….; (b) ….; (c) ….; or (d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of "unauthorised expenditure*".

4.9 The National Treasury, as per MFMA Circular 68 of 10 May 2013, illustrated the process as follows:

Figure 4.2: Step by step process for dealing with irregular expenses



4.10 In this context ‘expenditure’ refers to any use of municipal funds that is in contravention of the municipality’s supply chain management policy, and any by-laws giving effect to that policy.

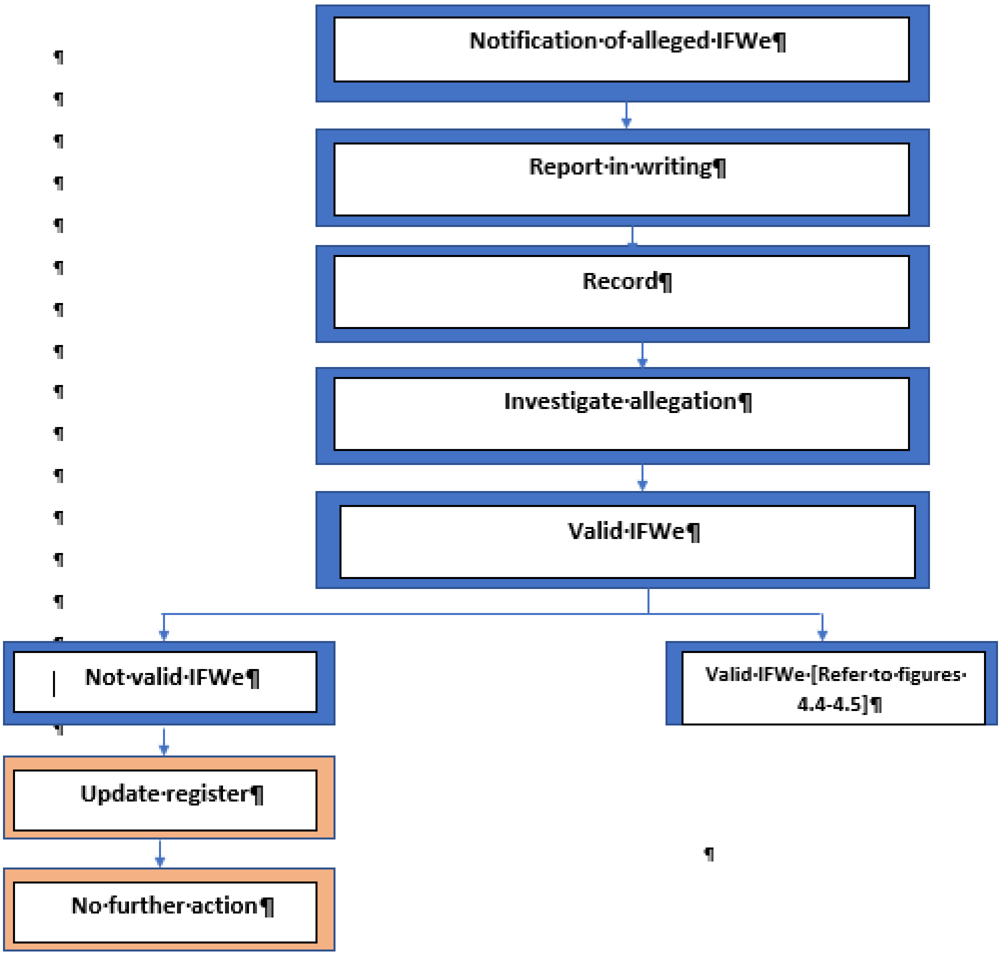
4.11 Although a transaction or an event may trigger irregular expenditure, a municipality will only identify irregular expenditure when **a payment is made,** in other words, the recognition of irregular expenditure will be linked to a **financial transaction**. If the possibility of irregular expenditure is determined prior to a payment being made, the transgression shall be regarded as a matter of non-compliance.

4.12 According to the NT guidelines, a council, via a MFMA section 32 committee, may condone a contravention of the council approved SCM policy or a by-law giving effect to such policy, provided that the contravention, is not also a **contravention of the MFMA or the SCM regulations**, in which case (a) applies and then only National Treasury can condone a contravention of the SCM regulations.

4.13 Once the Municipality becomes aware of any allegation of irregular expenditure, such allegation may be referred to the CFO for investigation, and in consultation with the Manager Legal Services, to determine the validity of the identified IE.

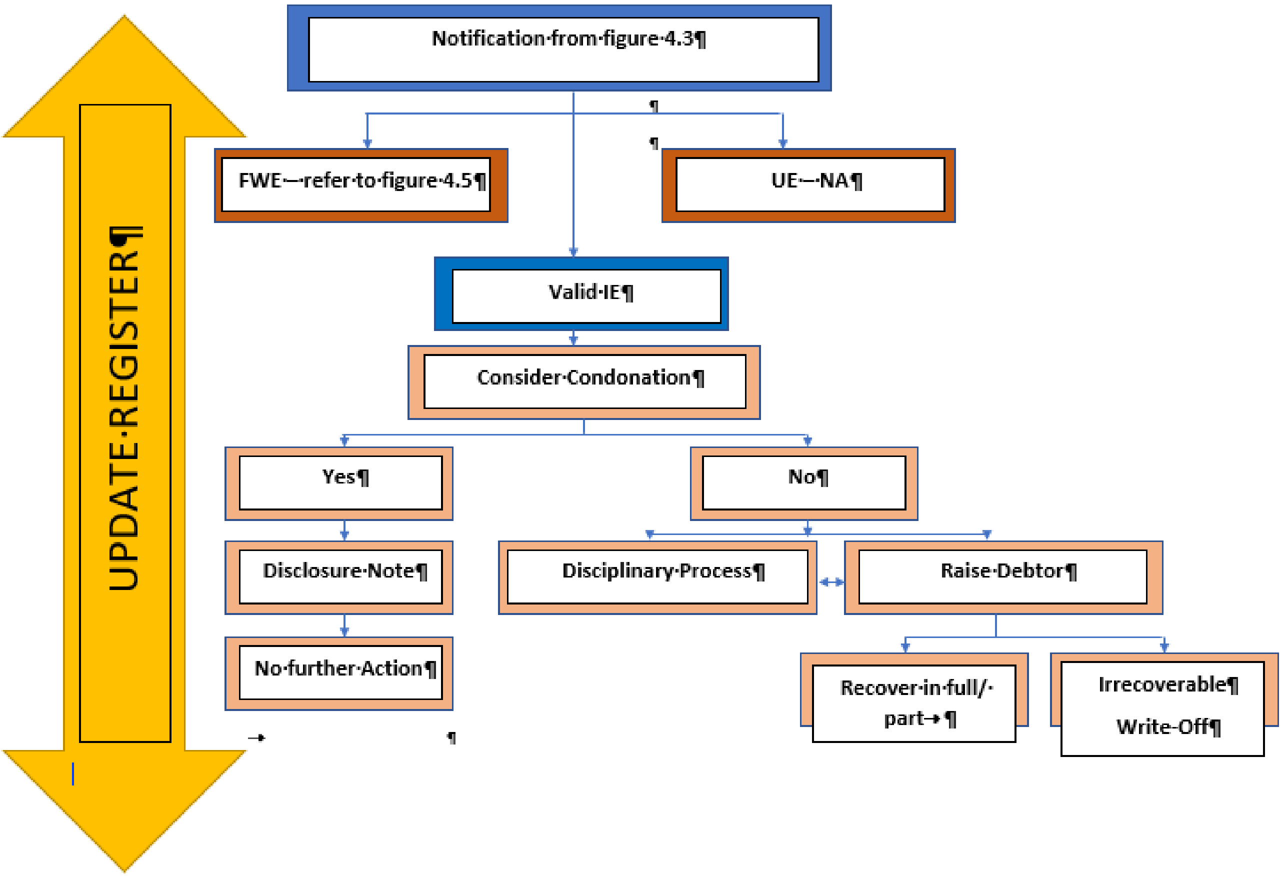
4.14 Figure 4.3 below graphically depicts the notification and investigation process for IFWe.

Figure 4.3: Notification and investigation process for IFWe:



4.15 Figure 4.4 below graphically depicts the management and treatment process for IE.

Figure 4.4: Management and treatment of IE:



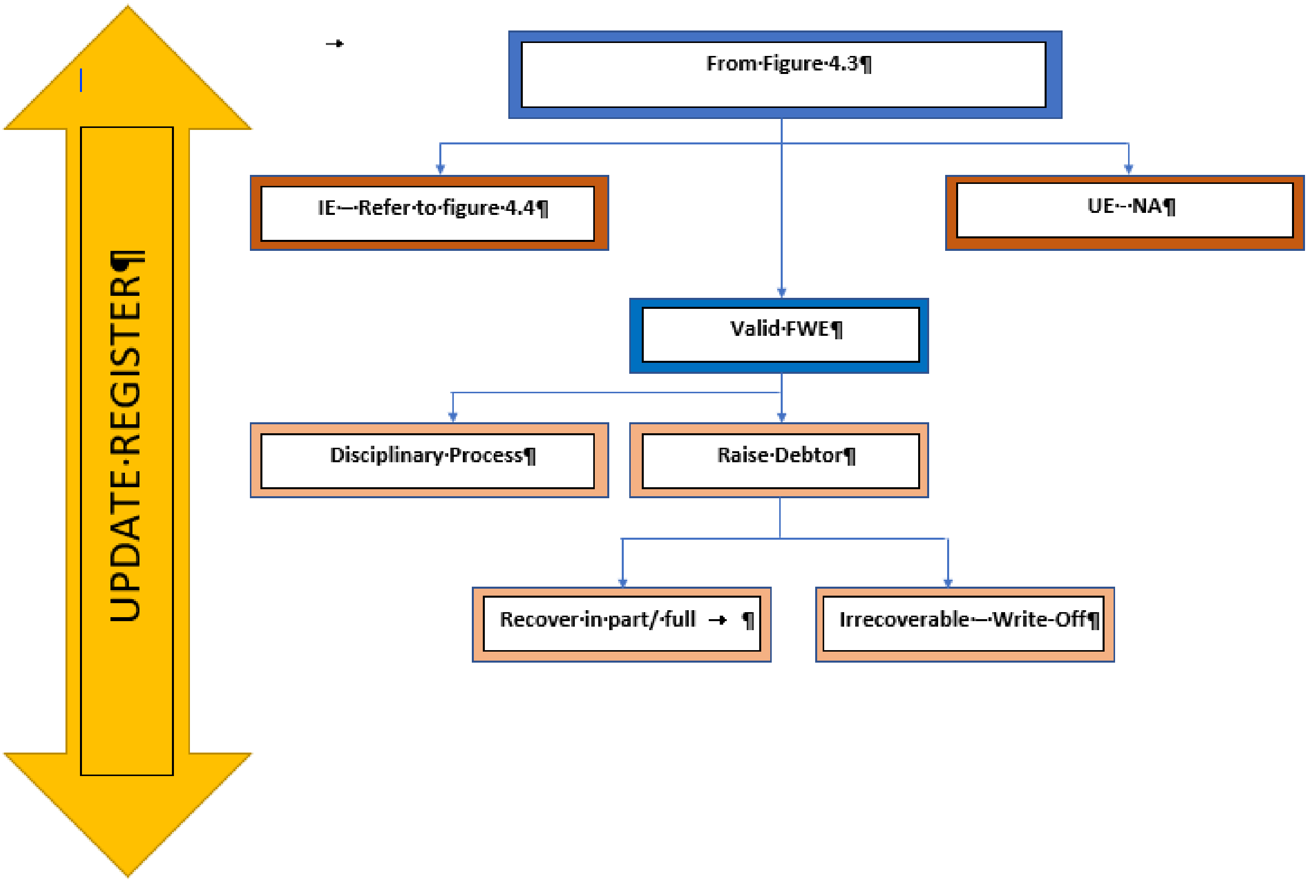
4.16 The detailed process will be discussed in table 4.1, later in this part.

Fruitless and Wasteful Expenditure:

4.17 **Fruitless and wasteful expenditure** is defined in section 1 of the MFMA as follows: *"fruitless and wasteful expenditure means expenditure that was made in vain and would have been avoided had reasonable care been exercised."*

4.18 In this context 'expenditure' refers broadly to processes that must be followed, transactions with service providers or suppliers and the use of other resources belonging to the municipality. The phrase 'made in vain' indicates that the municipality derived no value for money from the expenditure or the use of other resources. Fruitless and wasteful expenditure must fulfil **both the conditions in the definition, namely, that it was made in vain and it would have been avoided had reasonable care been exercised**.

4.19 Figure 4.3 above describes the notification and investigation process for IFWe whilst figure 4.5 below graphically depicts the management and treatment process for FWe. ***Figure 4.5: Management and treatment of FWe:***



4.20. The detailed process will be discussed in table 4.1, later in this part.

Consideration for condonation by the relevant committee:

4.21 The **relevant authority** means *"the person or institution whose approval would have been required prior to entering into that transaction or incurring such expenditure or the institution responsible for the relevant legislation."* In respect of Municipalities, the NT concluded that only the Council may consider condonation, subject to the provisions of MFMA s 32 (*refer to page 10 of MFMA circular 68 of 2013*) – refer to further discussion in Part 16 of committee.

4.22 The AO or his/her delegate must forward submissions to the relevant MFMA s 32 committee to request condonation for non-compliance with the Municipal SCM Policy. **Note**: the aforementioned submission must contain:

- Detailed motivation as to why the irregular expenditure in question should be considered for condonation,
- That the municipality did receive the service or goods,
- That value for money was achieved,
- That no person acted in 'mala fides' or personally benefitted himself/herself', and
- Remedial steps taken to avoid the reoccurrence of this type of irregular expenditure,

4.23 The submission must be structured as follows:

Purpose; Background; Applicable Legislative Framework; Motivation; Remedial Steps; Financial Implications; Personnel Implications; Parties Consulted and Recommendation.

4.24 In instances where irregular expenditure is not considered relevant for condonation by the MFMA s 32 committee, immediate steps must be taken to recover the irregular expenditure from the relevant person, if he/she is liable in law and in the event that recovery still fails, the relevant 'debt write-off policy' of the Municipality will apply.

Accounting Treatment for IFWe:

4.25 The National Treasury Guidelines issued annually, must be applied for the accounting treatment of IFWe.

Reporting for IFWe:

4.26 As per MFMA s 32(4) provides the reporting requirements of the accounting officer to the Mayor, the MEC for local government in the province and the Auditor General.

4.27 As per MFMA s 32(6), the accounting officer must report to the South African Police Service all cases of alleged IFWe.

4.28 As per MFMA s 32(7), the council of a municipality must take all reasonable steps to ensure that all cases referred to in subsection (6) are reported to the South African Police Service if—

a) the charge is against the accounting officer; or

b) the accounting officer fails to comply with that subsection.

Table 4.1 [SOP: SCM system abuse and management and treatment of IFWe] below contains the processes and procedures relevant in detecting and investigating SCM system abuse which may also result in IFWe, as well as the treatment thereof. Where appropriate the table refers to the relevant templates (forms) that will assist with the compilation of a detailed and auditable case file per SCM system abuse case.

Procedure		Action	Template reference	Responsibility	Service standard	Remarks
PROCESS: NOTIFICATION OF POTENTIAL SCM SYSTEM ABUSE AND IFWe						
1	Notification of IFWe incident	Refer to table 11.1, SCM System Abuse SOP item 1 – use same template to prevent duplication of effort.				
PROCESS: RECORDING OF potential IFWe INCIDENT						
2	Receipt of Notification Form (‘*official use*’)	Refer to table 11.1, SCM System Abuse SOP item 2 – same procedure to prevent duplication of effort.				
3	Registration of matter	Complete Master Register	*IFWe register*	CFO/Delegated authority	Within 7 days	(i) The Master Register must be available for inspection and audit purposes. (ii) The Master Register must be kept in a safe place and protected against fire and water damage.
4	Open case file	Refer to table 11.1, SCM System Abuse SOP item 4 – use same casefile to prevent duplication of effort.				
5	Inform official and/or supplier/ service provider	Refer to table 11.1, SCM System Abuse SOP item 5 – use same casefile to prevent duplication of effort.				

Table 4.1 [SOP: SCM system abuse and management and treatment of IFWe] below contains the processes and procedures relevant in detecting and investigating SCM system abuse which may also result in IFWe, as well as the treatment thereof. Where appropriate the table refers to the relevant templates (forms) that will assist with the compilation of a detailed and auditable case file per SCM system abuse case.

Procedure		Action	Template reference	Responsibility	Service standard	Remarks
PROCESS: DETERMINE VIABILITY OF POTENTIAL IFWe INCIDENT						
6	Make recommendations on the viability of the alleged IFWe	Examine alleged IFWe based on information *at face-value*: (i) Verify documents (ii) Analyse system reports (iii) Quantify expenditure (iv) Conduct preliminary interviews (v) Complete Classification Form. (vi) Complete Management Decision Form	*IFW form* *IFW form*	Investigating official in CFO office	Within 21 days	(i) Draw relevant system reports (ii) Permit Investigators to access information on relevant systems (iii) Recommendation must be directed to the Manager: SCM (iv) and if the SCM Manager is implied to the CFO/AO
7	Make management decision on the viability of the alleged IFWe	Consider evidence and make preliminary decision on validity/merits of case and refer matter with conclusion to Head: Legal Services	*IFW form*	CFO	Within 7 days	Note that the matter may only be referred to the Head of Legal Services if the relevant IFWe also relates to SCM System abuse, any other matters of IFWe must be managed and treated as per the relevant UIFW SOP
8	Update relevant register based on management decision	Update register details	*IFW form*	Investigating official in CFO office		

Table 4.1 [SOP: SCM system abuse and management and treatment of IFWe] below contains the processes and procedures relevant in detecting and investigating SCM system abuse which may also result in IFWe, as well as the treatment thereof. Where appropriate the table refers to the relevant templates (forms) that will assist with the compilation of a detailed and auditable case file per SCM system abuse case.

Procedure		Action	Template reference	Responsibility	Service standard	Remarks
PROCESS: FORMAL INVESTIGATION, REPORTING, TREATMENT, MONITORING AND EVALUATION PHASES						
9	Apply processes as per table 11.1, SCM System Abuse SOP items 8 – 27 regarding IFWe matters that also relates to SCM System abuse.					
IFWe ACCOUNTING TREATMENT						
10	Affect prescribed Accounting Treatments	As per NT guidelines	As prescribed	Manager: FA	As prescribed	Refer to the NT annual guidelines to the compilation of AFS

PART 5 RISK IDENTIFICATION AND MITIGATION

Table 12.2 Contains details of reducing historical irregular and wasteful expenditure to achieve the medium-term strategic framework goals

	Nature of irregular and fruitless and wasteful (IFW) expenditure	Amount	Financial year to which the IFW expenditure relates	Planned date/timeframe of the investigation of the IFW expenditure by the council committee	Planned date for the council committee report on its recommendations to the council for a final decision in terms of section 32(2) of the MFMA	Planned date for the council decision to recover or certify the IFW expenditure as irrecoverable and for write-off	Planned date to implement the council decision in respect of any related disciplinary or criminal proceeding	Timeframe to implement the council resolution related to any recovery or write-off and/or disciplinary or criminal proceedings

							s	
				Council committee	***Council committee***	***Municipal council***	***Municipal council***	***Accounting officer***
1	Fruitless and Wasteful Interest paid on VAT 201 return submitted to SARS	R 6 234.65	2023	04 June 2024	04 June 2024	07 June 2024	07 June 2024	Certified and irrecoverable and condoned by Council.
2	Irregular – Payment in contravention of S65(2)(e)5	R432.88	2024	5 December 2023	5 December 2023	24 January 2024	24 January 2024	Recovered
4	Fruitless and Wasteful – Catering for Danish Delegation where the meeting did not	R 2 400	2024	5 December 2023	5 December 2023	24 January 2024	24 January 2024	CR 24 January 2024

	take place as planned.							
5	Irregular – Quotation not awarded to bidder who scored highest points in terms of price and preference. 2023	R 79 355.75	2024	5 December 2023	5 December 2023	24 January 2024	24 January 2024	CR 24 January 2024
6	Fruitless and Wasteful – Payment of veterinary account services for Dogs injured of third party.	R 2 730.90	2024	5 December 2023	5 December 2023	24 January 2024	24 January 2024	CR 24 January 2024
7	Preferential Procurement Regulations 2022 – Not applied to quotations. 2023	R 5 213 687	2024	04 June 2024	04 June 2024	24 January 2024	24 January 2024	CR 24 January 2024
8	Incorrect Preference Point System applied (2023/2024)	R 13 021	2025	14 February 2025	14 February 2025	26 February 2025	26 February 2025	Written Off by Council

9	Incorrect Preference Point System applied (2024/2025)	R 105 732	2025	14 February 2025	14 February 2025	26 February 2025	26 February 2025	Written Off by Council
	Incurred expenditure in excess the budgeted limits (Non- Cash) Prior year restatement.	R 132 300	2025	14 February 2025	14 February 2025	26 February 2025	26 February 2025	Written Off by Council

The table summarise the nature of the IFW expenditure, based on the classification by management and/or the related audit findings, for example, non-compliance with supply chain management regulations. This can be specific and presented in categories, for example, SCM regulations 36, SCM regulation 32, MFMA section 33, MFMA section 116, etc.

The recommendations (internal and external factors) that could impact the municipality's efforts to achieve the relevant MTSF goals for these historic incidences of UIFW'e are extracted below:

- Temporary Contract / Employment Register that sums hours / workdays per temporary contract in comparison to legal limits

- Bursary agreements with "pay-back" clause, to be signed by all bursary candidates before any bursary payments are made.
- Mitigation of operational risk when training initiatives within a single department are planned.
- Pro-active development of a Disaster Incident Procurement Team and Operating Procedure in the event of normal SCM procurement processes not being operational due to a state of emergency.
- Pro-active development of a Disaster Incident Procurement Team and Operating Procedure in the event of normal SCM procurement processes not being operational due to a state of emergency.
- Possible special delegations listed in delegations register for disaster / state of emergency to support operational departments in procurement processes with special attention given to SCM related expertise.
- That the importance of contract management be brought to the attention of Senior Management with a top down approach of accountability.

Part 6 UIFW EXPENDITURE ACTION PLANS

Suggested incremental targets in respect of the UIF&W expenditure outcome indicators over the 2026-2029 MTSF period

Outcome	Outcome indicators	Baseline	Suggested incremental targets			Target
			2026-27	2027-28 *	2028-29 *	2029-30 *
Sound financial controls and management of public finances	Percentage reduction of irregular expenditure	2023 24 baseline	20% reduction of irregular expenditure incrementally from baseline of 2023-24 by 2029	40% reduction of irregular expenditure incrementally from baseline of 2023-24 by 2029	60% reduction of irregular expenditure incrementally from baseline of 2023-24 by 2029	75% reduction of irregular expenditure incrementally from baseline of 2023-24 by 2029
	Percentage elimination of wasteful and fruitless expenditure	2023-24 baseline	20% elimination of fruitless and wasteful expenditure incrementally from baseline of 2023-24 by 2029	50% elimination of fruitless and wasteful expenditure incrementally from baseline of 2023-24 by 2029	75% elimination of fruitless and wasteful expenditure incrementally from baseline of 2023-24 by 2029	100% elimination of fruitless and wasteful expenditure incrementally from baseline of 2023-24 by 2029

- Measurement will be done at the end of each financial year to ascertain whether these targets are achieved. This means that all targets will be evaluated retrospectively.

Number:	Actions	Timelines	Responsible person committee
1	The council committee will have quarterly UIFW expenditure meetings to process UIFW expenditure.	Quarterly	Section 32 Committee Chairperson
2	The accounting officer must quarterly submit the UIFW recommendations for resolution at the next council committee meeting.	Quarterly	Accounting Officer
3.	Progress Report, using the UIFW template submitted to AG; Mayor, Provincial Treasury and National Treasury	Quarterly	Chief Financial Officer

PART 7 SHORT TITLE AND COMMENCEMENT

This policy is called the Hessequa Municipality's Unauthorised, Irregular or Fruitless and Wasteful Reduction Strategy Policy and Procedures.

This policy will come into effect on date of adoptions by council and will be reviewed annually by way of a Council resolution.