education

Department:
Education
PROVINCE OF KWAZULU-NATAL

LOSS CONTROL POLICY

CONTENTS

1. INTRODUCTION

The KwaZulu-Natal Department of Education has considerable movable and immovable assets under its control. As part of the process of managing and safeguarding its movable assets, it is necessary to ensure, that all employees utilise state assets in an optimal, cost-effective, and responsible manner.

Loss control involves proactive strategies aimed at preventing or minimizing losses resulting from accidents, injuries, theft, or damage to property. This policy aims to reduce challenges related to loss control, and any official found to be in violation of its provisions will be subject to consequence management measures.

In terms of Section 45(b) and (c) of the Public Finance Management Act No. 1 of 1999 the onus is on each individual within the Department to take responsibility for the effective, efficient, economic and transparent use of financial and other resources within that official's area of responsibility. In particular, the official must take effective and appropriate steps to prevent, within the individual's area of responsibility, any unauthorised, irregular, fruitless and wasteful expenditure, and any under-collection of revenue due.

2. PURPOSE

The purpose of this policy is to provide all officials within the KwaZulu-Natal Department of Education with clear guidelines for managing losses and claims within the Department. It outlines the loss control process and clarifies the responsibilities of employees in relation to the reporting and handling of losses

3. OBJECTIVES

The objectives of the policy are to ensure the safeguarding of assets by curtailing and properly accounting for losses, and to provide guidelines for all employees regarding their role in the loss control process.

4. STATUS AND APPLICABILITY OF THE POLICY

4.1. This policy is applicable to all employees of the KwaZulu-Natal Department of Education.

4.2. It serves as a standing directive in accordance with Treasury Regulation 12, issued under the Public Finance Management Act No. 1 of 1999, and Provincial Treasury Instruction Note 15: Loss Control, Amendment 1 of 2016.

5. LEGISLATIVE FRAMEWORK

The policy on Loss Control has been developed within the regulatory framework applicable:

- The Public Finance Management Act No. 1 1999;
- Treasury Regulations;
- The Public Service Act No. 3 of 1994;
- Employment of Educators Act No. 76 of 1998;
- The Labour Relations Act No.6 of 1995;
- The Prescription Act No. 68 of 1969;
- The Regulation of interception of Communications and Provision of Communication- related Information Act No. 70 of 2002;

6. The Criminal Procedure Act No. 51 of 1977DEFINITION OF TERMS

6.1 Unless the context indicates otherwise, the following definitions are set out for the terms indicated:

6.1.1 Claim: means any legal action, inquest or dispute or intended legal action, inquest or dispute;

6.1.2 Damages means an act, instance, or consequence of breaking.

6.1.3. Department means the KwaZulu-Natal Department of Education;

6.1.4 Employee means an official as defined in terms of the Public Service Act No. 3 of 1994; and the Employment of Educators Act No. 76 of 1998;

6.1.5 “Losses” means any material loss or damages or prejudice to the State or a said person who is or was in the employ of the Department and includes shortages, damages, fruitless or wasteful expenditure and payments.

6.1.6 “Loss Control Committee” means a committee established to review, write-off requests and loss control policy & procedures;

6.1.7 “Loss control officer” means an official appointed to maintain and control the functions related to Loss Control;

6.1.8 “Official duties” means activities that are related to the execution of duties on behalf of the Office of the Premier;

6.1.9 “State-owned Property” means vehicles, machinery and equipment owned by the state;

6.1.10 “Theft” means the taking without permission or the stealing of government property.

7. ESTABLISHMENT OF LOSS CONTROL COMMITTES

7.1 The Accounting Officer shall appoint a Loss Control Committee comprising at least thirteen (13) members, for a three-year term which is concurrent with the MTEF.

7.2 The function of the loss control committee would be to make recommendations regarding the losses and recommend consequence management where necessary.

7.3 The Terms of Reference for the loss control committee must be developed to provide the functions of the Loss Control Committee. These will be developed by the unit responsible for Loss control administration

7.4 The Loss Control committee shall be constituted as follows:

7.4.1 Chairperson: Appointed from a level of a Director:

7.4.2 Deputy Chairperson: Appointed from a level of a Director:

7.4.3 Secretariat: Deputy Director

7.4.4 Members on a level of a Director and Deputy Director from the four branches within the Department:

7.5 Loss Control Committee meetings

7.5.1 The Logistics, Assets, and Disposals Directorate shall provide scheduled dates to ensure that Loss Control Committee meetings are held quarterly, or more frequently in urgent cases, to facilitate the proper implementation of loss control procedures

7.5.2 A quorum for Loss Control Committee meetings shall be constituted when 50% plus one (1) of the committee members are present

7.5.6 The Loss Control Committee must finalize and formalize its recommendations in alignment with the roles and responsibilities assigned to its members.

8. ROLES AND RESPONSIBILITIES

8.1 Head of Department

The Head of Department is responsible for ensuring that this policy is implemented and adhered to by all senior managers and officials in the department.

8.2 **Senior Management**

Senior Management is responsible for ensuring compliance with the contents of this policy within their business units, Senior Management is also accountable to the Head of Department for their non- compliance with the provisions of the policy.

8.3 **Loss Control Committee**

The Loss Control Committee must -

(i) review all requests to write-off losses in accordance with the legislative prescripts and this policy,

(ii) make recommendations to the Head of Department on all write-off-requests,

(iii) recommend ~~all~~ amendments to the Loss Control Policy, and

(iv) perform any other function consistent with this policy as may be requested by the Head of Department.

9. TYPES OF LOSSES, DAMAGES & FRAUD

9.1 The Department categorise losses as follows -

9.1.1 Loss, theft, and damage of immovable assets:

- State buildings through weather elements and/or a negligence of maintaining official buildings.

9.1.2 Loss, theft, and damage of moveable assets

- Damage to Pool vehicles through thefts, hijack, accidents, and other damage costs
- Fines (not referring to speeding and parking)~~.~~ for noisy unroadworthy vehicles, storage charges for vehicles and penalties for late submission to Department of Transport.
- Loss of Official cell phones through theft and negligence.

- Loss incurred to Furniture in official houses, office furniture, computers, printers, faxes, photocopiers, air conditioners and other electronic equipment through theft and other damage,
- Minor equipment such as tools and maintenance equipment through thefts and other damage costs

9.1.3 Loss, theft and damage of inventory stores items

- Loss of stationary, maintenance, electrical material, and cleaning material through, unnecessary wastage theft and other means damage costs

9.1.4 Other losses

- This includes any other losses incurred by the Department that result in financial implications, particularly those related to assets

10. REPORTING OF LOSSES

10.1 In the event-of an accident, damage, or loss, occurred the matter must be dealt with in the following manner -

(a) Employees must ensure losses are reported within 48 hours of loss being known to the Loss Control Officer and transport officer where a vehicle is involved at the District or Head office and to SAPS.

(b) In the event of a collision involving a state vehicle, the official must adhere to the provisions of the Department's approved Transport Policy in reporting the collision to the Department and the South African Police Services.

(c) The loss must be recorded in the loss control register;

(d) The Loss control officer must –

(i) refer the matter to the Internal Control unit for further investigation and to determine accountability

(ii) consider all possible implications including legal implications for officials and the Department.

(iii) follow-up on all claims and/or losses

(iv) ensure that all registered loss cases are finalised by the loss control committee;

(v) refer cases of 3rd party claims to the Directorate Legal Support Services for further investigation on the matter

(vi) report all cases to the Loss Control committee~~,~~ for review and recommendations and reporting to the Head of Department for inclusion in the Annual Departmental Financial statements.

10.2 Claims against the state

10.2.1 In terms of Treasury Regulations 12.2.1, an institution must accept liability for any loss or damage suffered by another person as a claim against the State, which arose from an act or omission of an official and must not recover compensation from the official, provided the official shall forfeit this cover if he or she, with regard to the act or omission, is liable in law and:

(i) Intentionally exceeded his or her power;
(ii) Made use of alcohol or drugs;
(iii) Did not act in the course and scope of his or her employment;
(iv) Acted recklessly or intentionally;
(v) Without prior consultation with the Legal Component, made an admission that was detrimental to the State, or
(vi) Failed to comply with or ignored standing instructions, of which he or she was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim, excluding damage arising from the use of a state vehicle; and
(vii) In the case of a loss, damage or claim arising from the use of a State vehicle, the official used the vehicle without authorisation; did not possess a valid driver's license or other appropriate license; did not use the vehicle in the interest of the State; allowed an unauthorised person to handle the vehicle; or deviated materially from the official journey or route without prior authorisation.

10.2.2 In the circumstances, the Department must accept liability for loss or damage suffered by another person as a claim against the state when a claim is arising from an act or omission of an employee

10.2.3 All Claims against the Department must be referred to the Directorate: Legal Services for attention.

10.3 Interest Payable on Claims against the State

10.3.1 The Department will only pay interest on a Claim against the State in the case where –

10.3.1.1 Interest is granted in terms of a court order or judgment;

10.3.2 the Department does not have a defence to a matter and enters into a settlement agreement with the party suing the Department;

10.3.3 it would be to the advantage of the Department to settle the matter and to prevent further interest from accruing.

10.3.4 Any other instance where it would be in the Department's best interest.

10.3.2 Interest would only be paid at the prescribed Legal rate determined by the National Minister of Finance, in accordance with the prescribed legal rate at the time the action was instituted or at a lower rate agreed upon between the parties.

10.4 Claims by the State

(a) The responsibility for the administration of Claims by the State is regulated in terms of Treasury Regulation 12.3

(b) Treasury regulations 12.3.1 states that if the state suffers a loss or damage and the other person denies liability, the Accounting Officer must, if deemed economical, refer the matter to the State Attorney for legal action or utilise legal resource within the Department

(c) All claims by the Department must be administered by the Directorate- Legal Services ~~Unit~~.

(d) In order to effectively administer all claims, the Head of the Legal Services Directorate must ensure that all claims which are instituted are recorded in the relevant registers maintained in the Legal Services Directorate~~.~~ Furthermore, in respect of each claim, there must be a file in which all particulars of the claims are recorded and maintained.

(e) Prior to any Claim being instituted on behalf of the Department, the Legal Services Directorate must look at the merits of the matter and conduct a feasibility assessment on the prospects of success should the claim be instituted. The feasibility assessment may include referring the matter to the Office of the State or other legal firm for the implementation of a claim where such claim exceeds R 5 000.00.

(f) It will not be deemed economically viable to refer a claim by the Department to the State Attorney (KwaZulu-Natal) or other legal firm for recovery if the value of the potential claim is under R5 000.00. (WHERE DID THIS AMOUNT COME FROM?? IT USED TO BE R3000. WE NEED TO LOOK AT THE DEBT MANAGEMENT POLICY.)

(g) In case where the potential claim is less than R5 000.00 the Head of the Loss Control Unit must ensure that all reasonable steps are taken to recover the loss to the Department. This will include the issuing of a “letter of demand” to the private party or official of the Department.

10.5 Interest Payable on Claims by the State

A) The Department will levy interest on all Claims instituted by the State. The rate of interest will be determined in accordance with a court judgment or in terms of the prevailing rate of interest at the time the claim is instituted.

10.6 Claims by Officials against the State (Ex-Gratia Payments)

(a) In terms of Treasury Regulation 12.4.1 if an official sustains a loss or damage in the execution of official duties and is not compensated, the Accounting Officer may make good the loss or damage provided that the official proves such loss or damage.

(b) All ex-gratia claims must be administered by the Loss Control Unit.

~~(c)~~ To effectively administer ex-gratia claims, the Head of the Loss Control Unit must ensure that all claims which are received are recorded in the relevant registers maintained by the Loss Control Unit. Furthermore, in respect of each claim, there must be a file in which all particulars of the claim are recorded.

(d) The Department will not reimburse officials in respect of claims for personal items in their possession where the items were unnecessary or not required for the carrying out of his or her official duties which includes but is not limited to a personal tablet, laptop, expensive perfume, large amounts of cash or expensive jewellery.

(e) Where an official’s short-term insurance has declined to pay out for a particular loss suffered by an official whilst on duty, the Department will reserve its right to effect payment, for instance if it is was found that the official was negligent or did not act reasonably and such negligence or unreasonable actions led to the loss, then the ex-gratia claim will not be considered.**(THIS NEEDS TO BE DISCUSSED)**

(f) The Department will not effect payment of claims for cash, e.g. when contained in a wallet or handbag, or for cash drawn prior to the incident giving rise to the claim.

(g) Prior to any ex-gratia claim being finalised, the Head of the Loss Control Unit must submit the case to the Directorate: Legal Services to provide an opinion as to whether or not the claim should be considered for payment

(h) Payment will be effected at a maximum of 75% of the current replacement value of the claim, not exceeding the departmental limit of R4,500.00 (four thousand five hundred rand) for ex-gratia claims.

10.7 Losses or Damages through Criminal Acts or Omissions

(a) The administration of losses or damages through criminal acts or omissions is regulated by Section 76(1)(f) of the PFMA as well as Treasury Regulations 12.5.

(b) In terms of Treasury Regulations 12.5.1 and 12.5.2 –

"Where it appears that the State has suffered losses or damages through criminal acts or possible criminal acts, the matter must be reported, in writing, to the Accounting Officer and the South African Police Service. In the case of omission, the matter must be reported to the Accounting Officer. Whether or not the person is still in the employ of the State, the Accounting Officer must recover the value of the loss or damage from the person responsible. The Accounting Officer may write off losses or damages arising from criminal acts or omissions if, after a thorough investigation, it is found that the loss or damage is irrecoverable".

(c) All losses, damages, theft or collisions must be administered by the Loss Control Unit.

(d) The Head of the Loss Control Unit must ensure that all losses, damages, theft or collisions which are received are recorded in the relevant registers maintained by ~~in~~ the Loss Control Unit. A file must be opened in respect of each case, and all particulars of the case must be recorded and maintained in that file~~.~~

10.8 Loses and Damages through *vis major* other Unavoidable Causes

(a) The administration of losses and damages through *vis major* and other unavoidable causes is regulated in terms of Section 76(1) of the PFMA as well as Treasury Regulation 12.6.1.

(b) In terms of Treasury Regulations 12.6.1 the Accounting Officer may write-off losses and damages that result from *vis major* and other unavoidable causes.

(c) The following are some examples of *vis major* and other unavoidable causes

- (i) Damage to State property as a result of "acts of God" for example e.g. hailstorms, lightning strikes, hurricanes, floods etc;
- (ii) Fire as a result of an electrical short;
- (iii) Damages to electronic or audio-visual equipment as a result of unexpected power surges; and
- (iv) Damage to a building due to a burst water pipe which is not as a result of poor maintenance.

(d) All losses and damages through *vis major* and other unavoidable causes must be administered by the Loss Control Unit.

(e) The Head of the Loss Control Unit must ensure that all losses and damages which are received are recorded in the relevant registers and maintained in the Loss Control Unit. A file must be opened in respect of each case, and all particulars of the case must be recorded and maintained in that file.

~~(f)~~ The Directorate where the loss incurred must ensure that the loss is reported to the Loss Control Unit and in the event of damage to a building through a fire, a case must be opened with SAPS.

10.9 RECOVERY OF LOSS AND DAMAGES

10.9.1 The administration of the recovery of losses and damages is regulated in terms of Section 76(1) (b) and 76(4)(a) of the PFMA as well as Treasury Regulation 12.7.

10.9.2 In terms of Treasury Regulation 12.7.1 to 12.7.4, losses or damages suffered by an institution because of an act committed or omitted by an official must be recovered from such on official if he or she is liable in law.

Officials are fully responsible for assets under their area of responsibility and damages will be recovered from an official as a consequence management process in the event of loss or damage to the asset under their care.

10.9.3 If an official is found to be liable in law, the amount to be recovered must be calculated as follows:

a) Assets with a long-life span where practically no depreciation occurs, current amount i.e. the cost price of a similar asset.
b) For Vehicles: the cost to repair the vehicle based on supporting documents such as tax invoice, quotation, addendum or market value;
c) Stolen or damaged items: the replacement value of the stolen or damaged items will be multiplied by the relevant percentage as indicated below taking into account the condition of the item prior to the theft –
   i. New stores items not yet issued: 100% of the replacement value.
   ii. Newly issued 75% of the replacement value, for example: ~~,~~ asset less than one year;
   iii. Good: 50% of the replacement value, for example: asset more than one year but less than two years;
   iv. Fair: 30% of the replacement value, for example: asset more than two years but less than three years; and
   v. Poor: 10% of the replacement value, for example: asset more than three years.

d) Recovery for losses or damages must be in accordance with the applicable Department Policy on Debt Management.

e) Recovery for losses or damages must not preclude consequence management.

10.9.4 The Loss Control unit must determine the amount to be recovered within 30 days of the Loss Control committee sitting, which recommended for recovery from an official. This amount must be approved by the Accounting Officer and submitted to Debt Management section for implementation.

10.9.5 The amount may be recovered in full or in reasonable instalments. If the official fails to comply with the request, the matter must be referred to the Legal Services Unit for an opinion or referred to the State Attorney for legal recovery.

10.9.6 A claim against an official may be waived if the conditions in paragraph 12.2.1 (b) to (c) of the Treasury Regulations are complied with.

10.9.7 All recovery of losses must be administered by the relevant Debt management section.

10.9.8 The Head of the Loss Control Unit must ensure that all recoveries which are dealt with are recorded in the relevant registers maintained in the Loss Control Unit. A file must be opened in respect of each case and all particulars of the case must be recorded and maintained in that file~~.~~

10.10 Prescription of a Debt, 1969 (Act No. 68 of 1969)

(a) A debt will prescribe when payment has not been demanded within the periods of prescription as outlined in the Prescription Act, 1969 (Act No. 68 of 1969), Prescription Act. The Department cannot legally enforce payment of a prescribed debt or loss. Similarly, a private party cannot legally enforce payment once the debt or loss has prescribed. The period of prescription however is interrupted if-

(i) Payment to the debt is demanded by a registered letter of demand, for which proof of receipt has been obtained;

(ii) Summons has been issued and served within the prescribed period

(iii) The debtor acknowledges the debt or liability; ~~and~~ or

(iv) The debtor commences payment.

(b) In terms of Section 11 of the Prescription Act, the period of prescription is as follows

(i) Six years in respect of a debt arising from a bill of exchange or other negotiable instrument, or from a notarial contract, unless a longer period applies in respect of the debt in question in terms of paragraph (a) above; and

(ii) Three years in respect of all other debts, save where an Act of Parliament provides otherwise.

10.11 Miscellaneous Matters

(a) Forfeiture of rights and recovery of monies: Should an official who caused a loss be referred to the Directorate: Labour Relations for disciplinary action, the disciplinary aspect will be dealt with as a separate or parallel process to that of the recovery of monies in terms of the Loss Control procedure.

(b) Failure to submit Loss Control documentation: Should an official who is responsible for a loss, damage, theft or collision fail to submit the relevant Loss Control documents to his or her officer within the time period stipulated in this policy, steps will be taken by the Head of Loss Control Unit to calculate the loss to the State.

(c) The official will be called upon to contribute towards the loss suffered by the State through a submission to the Accounting Officer, as the official has failed to comply with or has ignored the standing instruction pertaining to the submission of Loss Control documents. It will be accepted that a forfeiture of rights is evident because the official failed to comply with or ignored a standing instruction of which he or she was aware of or could reasonably have been expected to be aware of. The Loss will be determined in accordance with paragraph10.9) (a) to (e) of this policy.

(d) All losses, damages, thefts or collisions must be reported to the relevant Loss Control Officer of the Department within 24 hours of the incident occurring. In the case of motor vehicles and where a driver is out of his office for more than 24 hours, the driver must ensure that the incident (where applicable) is reported to the SAPS within 24 hours of the incident as well as his/her Transport Officer or Supervisor. The Loss Control documentation pertaining to the incident must be forwarded to the Transport Section in accordance with the approved Transport Policy. In the event of loss or damage to a state vehicle, the matter must be dealt with in accordance with the approved Transport Policy. Should there be a conflict between this policy and the Transport Policy, the prescripts of the Transport Policy will apply.

(e) Safe-keeping of State-owned property (Calculators, laptops, cellular telephones and other items of equipment including items issued on a personal issue basis in order to keep losses of State-owned property to a minimum, it is essential that items be safeguarded as far as possible.

(f) To ensure a rigid control over calculators, tape recorders, audio visual, laptop computers, sophisticated GIS equipment, cameras, cellular telephones, as well as other items of equipment which are issued to individual, it is necessary that such person/s be called upon to sign for the item/s. Such person/s must also be informed, in writing, of the provisions of the Treasury Regulations relatives to the safekeeping of State-owned property (Treasury Regulations 10 & 12) and, furthermore, that they may be called upon to contribute, fully or partially, towards the loss or damage of such equipment if it is found that the damages resulted from their negligence and/or a forfeiture of rights.

(g) Officers in charge of calculators, tape recorders, audio visual equipment, laptop computers, sophisticated GIS equipment, cameras, cellular telephones as well as other items of equipment, which are issued to individuals, or items of equipment which are under the care ~~case~~ of such individuals (for example: survey equipment) must ensure that these items are safeguarded against theft, irregular use, damage and fire. Under no circumstances may these items be left on the seats or floor of a motor vehicle used on official duty while such vehicle is parked and left unguarded. If such items must of necessity be left in the vehicle, they must be properly locked away for example: in the boot, loading area of an LDV, glove compartment etc. In respect of cellular telephones, communicators and similar items, officials are directed to ensure that where practical, such items are to be kept on the person. It is also recommended that officials ensure that they are kept in suitable cellular telephone pouches which can be attached to a person's belt, handbag or any other safe place. This will, to a large extent, prevent the item from being damaged. It will not always be possible to apply this recommendation such as when the official is walking in a dangerous place.

(h) Officials are to take all reasonable steps to prevent moisture damage, such as in the case of working in a pool area at one's residence and dropping the cellular telephone, communicators and similar items into the pool. In such cases, the onus to prove that the cellular telephone, communicators and similar items were not damaged through negligence will rest with the official. When, on account of their mass and or size, it is impracticable to move such items to the boot of the vehicle, the driver or other responsible officer must take all possible and practical precautions for the safeguarding of such items before he/she necessarily absents himself or herself temporarily from the vehicle.

(i) In accordance with the Regulation of Interception of Communications and Provision of Communication- Related Information Act No. 70 of 2002, whenever a cellular phone or SIM-card is lost, stolen or destroyed, the owner of that cellular phone or SIM-card, or any other person who was in possession, or had control thereof when it was so lost, stolen or destroyed, must within a reasonable time after having become aware of the loss, theft or destruction of the cellular phone or SIM-card, report such loss, theft or destruction in person or through a person authorised thereto by him, to a police official at any police station.

(j) It is important to note that in the case of departmental cellular phones (a Departmental cellular telephone is a telephone instrument including SIM-card where the contract is between the Department and the relevant service provider), it is necessary for the person to whom the phone is allocated to report the loss of the SIM-card and telephone to the nearest police station within 24 hours of the loss being identified.

(k) Safe keeping of cash and other official monies: When collecting, or depositing cash, the official or staff member must be accompanied by another official. Where considered necessary, other precautions must be taken in cases where large amounts of cash are being transported or transferred, a firearm, if available, may be in the possession of one of the officials.

(l) Officials must travel directly from the office to the bank and return via the shortest and~~/or~~ safest route. Steps must be taken, however, to vary the routes and times of banking (where practical/feasible) to avoid establishing any set patterns. Under no circumstances may any unauthorised stops be made enroute when travelling in either direction. Cognisance must also be taken of Treasury Regulation 15.

(m) Petty cash: Officials who are assigned the responsibility of administering petty cash must take all reasonable steps to safeguard such cash. This will include ensuring that the petty cash and record relating thereto are securely locked in a safe at all times. The responsible official must also ensure that the keys to the safe is kept on their person at all times when not in use. Under no circumstances may keys to official monies be left in an unlocked drawer or cabinet.

(n) Officials who have requested and drawn petty cash from the responsible official will be held accountable until such time that the full amount (or a receipt and change) is re-imbursed to the responsible official administering the petty cash. Officials who draw pretty cash must ensure that they comply with the Department Petty Cash Policy at all times including timeous re-imbursement.

(o) The department must institute an in-service debt against an official who draws petty cash and does not re-imburse the full amount (or change and receipt/s for the amount disbursed) within a period of 24 hours of drawing petty cash.

(p) Transport related matters: Steps must be taken at all times to comply with instructions or circulars issued by the Transport Section, the approved Transport Policy or the Provincial Department of Transport.

(q) The primary responsibility to check a vehicle before a trip is undertaken is that of the KZN driver. The prescripts of the department's approved Transport Policy will apply in the event of pre and post trip inspection. If a driver does not list all damages. on the trip authority of a vehicle and the damages are then listed by the next driver then the initial driver in whose care the KZN vehicle will be held to account for the damages. In those cases where there has been no such record kept, then the relevant Local Transport Officer will be held accountable for the damages. In all such cases the matter will be administered as a "recovery" in terms of paragraphs 7.8 (a) to (h) of this policy. Where the Transport or Local Transport Officers did not do the pre and post inspections of vehicles and cannot prove that such inspections were carried out, they could be held accountable for the damage.

(r) <u>Collisions or Claims: Defence of Drivers/officials:</u> Where ~~an~~ officials are summoned in a "Civil" case (for example: a motor vehicle collision) then the matter must be reported to Legal Services. The aforementioned official will be responsible to ensure that the case has been recorded in the relevant registers of the Department. The Department will, not be required to arrange State representation for the official in the "Civil" trial. The official must, therefore, appear in court and present his evidence based on the facts surrounding the case.

(s) In a case where an official is summoned in a "criminal" matter, such as a motor vehicle collision, the matter must be reported to the Directorate: Legal Services. The official summoned must also ensure that the original summons accompanies all relevant documentation to the Legal Service.

(t) The Director: Legal Services will be responsible for ensuring that the case has been recorded in the relevant registers of the Department and must also refer the matter immediately to the Office of the State Attorney within the province to ensure state representation.

10.12 Writing-off of Losses/ Damages/ Theft/ Collisions

(a) In terms of Treasury Regulation 12.5.2 (Section 76(1)(e) and 76(4)(a) of the PFMA), any loss written off by the Accounting Office may only be written off after all reasonable steps have been taken to recover the loss (see paragraph 7.8 above), and the Accounting Officer has convinced him or herself that:

(i) Recovery of the loss would be uneconomical;

(ii) Recovery would cause undue hardship to the official or to his/her dependants;

(iii) It would be to the advantage of the State to effect a settlement of the claim, or to waive the claim.

(b) In addition to the above-mentioned criteria, the Department will consider write- off of losses, damages, thefts or collisions in the following circumstances –

(i) Cases which have become prescribed

(ii) In ~~those~~ cases where the responsible person cannot be traced;

(iii) Losses, damages, theft or collisions where no source documentation is available to substantiate the case, provided that the Accounting Officer or his or her delegate has satisfied him or herself that all reasonable steps were taken to locate the source documents;

(iv) Claims by the State where the responsible person has emigrated without fully liquidating the claim, leaving no assets available which could be used to offset the claim and the person's whereabouts are unknown;

(v) Amounts due by employees who have left the Department, and are now destitute, provided that the Accounting Officer or his or her delegate has satisfied himself or herself that the former employee is in fact destitute;

(vi) Amounts owed by officials which is less than R5,000.00, where the former official is no longer employed by the State, provided that the provisions in paragraph 7.10 above have been complied with;

(vii) Amounts owed by persons or institutions where the probability of recovery is remote and it is not in the Department's interest to pursue such recovery.

(viii) Unless affordable arrangements can be made with tracing agents, the costs associated with tracing of the responsible person and subsequent legal costs occasioned thereby, could exceed the amount claimed. It would, therefore, not be in the Department's interest to attempt to recover the amount where the prospects of recovery are remote and where the possibility exists that the cost associated with the recovery may exceed the loss.

10.13 APPROVAL OF LOSSES

10.13.1 The Loss Control Committee Chairperson will submit to the Accounting Officer a request for approval for the write-off of losses after the sitting of the Loss Control Committee.

10.13.2 The Accounting Officer must authorise the write-off of losses.

10.13.3 When the Accounting Officer or his or her delegate has approved the recommendations of the Loss Control Committee, the recommended methods shall be applied.

11. MONITORING, EVALUATION AND REVIEW

Monitoring and evaluation must be done on an on-going basis. The Head of Department, as the Accounting Officer for the Department must ensure that funds are available to implement this policy.

12. Non-Compliance

Any deviation from this policy must be reported immediately to the CFO and the necessary corrective measures must be taken. An employee who fails to comply with this policy will be guilty of misconduct.

13. Responsibility

The Chief Directorate Supply Chain Management is responsible for updating this policy. Any proposed changes to this policy must be communicated through the office of the Director: Logistics Assets and Disposals.

14. Review of the Policy

This policy will be reviewed by the CFO whenever there are amendments in the relevant prescripts. Should however, there be no amendments to legislation, the Directorate responsible for this policy will ensure that the policy is reviewed every three (3) years.

15. TITLE AND COMMENCEMENT

This policy is titled “Policy for Loss Control in the KwaZulu-Natal Department of Education.” This policy is effective as of the date of signature by the Head of Department.

16. APPROVAL

APPROVED BY:

SIGNATURE ______________________________ **DATE:**

NAME: MR GN NGCOBO

HEAD OF DEPARTMENT: KZN EDUCATION