

Reference: RCS/C.6

Private Bag X9165  
CAPE TOWN  
8000

## TREASURY CIRCULAR NO. 26 OF 2020

THE PREMIER

THE MINISTER OF AGRICULTURE  
THE MINISTER OF COMMUNITY SAFETY  
THE MINISTER OF CULTURAL AFFAIRS AND SPORT  
THE MINISTER OF EDUCATION  
THE MINISTER OF FINANCE AND ECONOMIC OPPORTUNITIES  
THE MINISTER OF HEALTH  
THE MINISTER OF HUMAN SETTLEMENTS  
THE MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING  
THE MINISTER OF SOCIAL DEVELOPMENT  
THE MINISTER OF TRANSPORT AND PUBLIC WORKS

THE SPEAKER: PROVINCIAL PARLIAMENT  
THE DEPUTY SPEAKER: PROVINCIAL PARLIAMENT

THE EXECUTIVE AUTHORITY: WESTERN CAPE GAMBLING AND RACING BOARD (MINISTER D MAYNIER)  
THE EXECUTIVE AUTHORITY: WESTERN CAPE NATURE CONSERVATION BOARD (MINISTER A BREDELL)  
THE EXECUTIVE AUTHORITY: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MINISTER D MAYNIER)  
THE EXECUTIVE AUTHORITY: SALDANHA BAY IDZ LICENCING COMPANY (MINISTER D MAYNIER)  
THE EXECUTIVE AUTHORITY: WESTERN CAPE CULTURAL COMMISSION (MINISTER A MARAIS)  
THE EXECUTIVE AUTHORITY: WESTERN CAPE LANGUAGE COMMITTEE (MINISTER A MARAIS)  
THE EXECUTIVE AUTHORITY: WESTERN CAPE HERITAGE (MINISTER A MARAIS)  
THE EXECUTIVE AUTHORITY: CASIDRA (MINISTER IH MEYER)  
THE EXECUTIVE AUTHORITY: WESTERN CAPE LIQUOR AUTHORITY (MINISTER A FRITZ)

THE ACCOUNTING OFFICER: VOTE 1: PREMIER (DR H MALLILA)  
THE ACCOUNTING OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MR R ADAMS)  
THE ACCOUNTING OFFICER: VOTE 3: PROVINCIAL TREASURY (MR D SAVAGE)  
THE ACCOUNTING OFFICER: VOTE 4: COMMUNITY SAFETY (ADV. Y PILLAY)  
THE ACCOUNTING OFFICER: VOTE 5: EDUCATION (MR BK SCHREUDER)  
THE ACCOUNTING OFFICER: VOTE 6: HEALTH (DR K CLOETE)  
THE ACCOUNTING OFFICER: VOTE 7: SOCIAL DEVELOPMENT (DR R MACDONALD)  
THE ACCOUNTING OFFICER: VOTE 8: HUMAN SETTLEMENTS (MS J SAMSON)  
THE ACCOUNTING OFFICER: VOTE 9: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (MR P VAN ZYL)  
THE ACCOUNTING OFFICER: VOTE 10: TRANSPORT AND PUBLIC WORKS (MS J GOOCH)  
THE ACCOUNTING OFFICER: VOTE 11: AGRICULTURE (DR M SEBOPETSA)  
THE ACCOUNTING OFFICER: VOTE 12: ECONOMIC DEVELOPMENT AND TOURISM (MR S FOURIE)  
THE ACCOUNTING OFFICER: VOTE 13: CULTURAL AFFAIRS AND SPORT (MR B WALTERS)  
THE ACCOUNTING OFFICER: VOTE 14: LOCAL GOVERNMENT (MR G PAULSE)

THE CHIEF FINANCIAL OFFICER: VOTE 1: PREMIER (MR D BASSON)  
THE CHIEF FINANCIAL OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MS N PETERSEN)  
THE CHIEF FINANCIAL OFFICER: VOTE 3: PROVINCIAL TREASURY (MS A SMIT)  
THE CHIEF FINANCIAL OFFICER: VOTE 4: COMMUNITY SAFETY (MR M FRIZLAR)  
THE CHIEF FINANCIAL OFFICER: VOTE 5: EDUCATION (MR L ELY)  
THE CHIEF FINANCIAL OFFICER: VOTE 6: HEALTH (MR S KAYE)  
THE CHIEF FINANCIAL OFFICER: VOTE 7: SOCIAL DEVELOPMENT (MR JO SMITH)  
THE CHIEF FINANCIAL OFFICER: VOTE 8: HUMAN SETTLEMENTS (MR F DE WET)  
THE CHIEF FINANCIAL OFFICER: VOTE 9: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (MS O SAMUELS)  
THE CHIEF FINANCIAL OFFICER: VOTE 10: TRANSPORT AND PUBLIC WORKS (ADV. C SMITH)  
THE CHIEF FINANCIAL OFFICER: VOTE 11: AGRICULTURE (MR F HUYSAMER)  
THE CHIEF FINANCIAL OFFICER: VOTE 12: ECONOMIC DEVELOPMENT AND TOURISM (MS M ABRAHAMS)  
THE CHIEF FINANCIAL OFFICER: VOTE 13: CULTURAL AFFAIRS AND SPORT (MS BG RUTGERS)  
THE CHIEF FINANCIAL OFFICER: VOTE 14: LOCAL GOVERNMENT (MS B SEWLALL-SINGH)

For information

THE ACCOUNTING AUTHORITY: WESTERN CAPE GAMBLING AND RACING BOARD (MR D LAKAY)  
 THE ACCOUNTING AUTHORITY: WESTERN CAPE NATURE CONSERVATION BOARD (PROF. G MANEVELDT)  
 THE ACCOUNTING AUTHORITY: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MR B FIGAJI)  
 THE ACCOUNTING AUTHORITY: SALDANHA BAY IDZ LICENCING COMPANY (DR J STEGMANN)  
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 THE ACCOUNTING AUTHORITY: WESTERN CAPE LANGUAGE COMMITTEE (MS J MOLELEKI)  
 THE ACCOUNTING AUTHORITY: WESTERN CAPE HERITAGE (MR M DLAMUKA)  
 THE ACCOUNTING AUTHORITY: CASIDRA (MR A MOOS)  
 THE ACCOUNTING AUTHORITY: WESTERN CAPE LIQUOR AUTHORITY (ADV. T SIDAKI)  
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 THE CHIEF EXECUTIVE OFFICER: CASIDRA (MR A SEYMOUR)  
 THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE LIQUOR AUTHORITY (ADV L PETERSEN) (ACTING)  
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE GAMBLING AND RACING BOARD (MS Z SIWA)  
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 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MS K ZAMA)  
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 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE LANGUAGE COMMITTEE (MS B RUTGERS)  
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE HERITAGE (MS B RUTGERS)  
 THE CHIEF FINANCIAL OFFICER: CASIDRA (MR F VAN ZYL)  
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE LIQUOR AUTHORITY (MR S GCWABE)  
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 THE CHIEF DIRECTOR: PUBLIC POLICY SERVICES (MR M BOOYSEN) (ACTING)  
 THE CHIEF DIRECTOR: PROVINCIAL GOVERNMENT PUBLIC FINANCE (MS A PICK) (ACTING)  
 THE CHIEF DIRECTOR: LOCAL GOVERNMENT PUBLIC FINANCE (VACANT)  
 THE CHIEF DIRECTOR: ASSET MANAGEMENT (MR I SMITH)  
 THE CHIEF DIRECTOR: FINANCIAL GOVERNANCE AND ACCOUNTING (MR A HARDIEN)  
 THE CHIEF FINANCIAL OFFICER (MS A SMIT)  
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 THE DIRECTOR: INFRASTRUCTURE (MR K LANGENHOVEN)  
 THE DIRECTOR: LOCAL GOVERNMENT ACCOUNTING (MR F SALIE)  
 THE DIRECTOR: LOCAL GOVERNMENT BUDGET OFFICE (MR D CRONJE) (ACTING)  
 THE DIRECTOR: LOCAL GOVERNMENT REVENUE AND EXPENDITURE (GROUP ONE) (MR C MAPEYI)  
 THE DIRECTOR: LOCAL GOVERNMENT REVENUE AND EXPENDITURE (GROUP TWO) (MR M SIGABI)  
 THE DIRECTOR: LOCAL GOVERNMENT MFMA COORDINATION (MR EJ JOHANNES) (ACTING)  
 THE DIRECTOR: LOCAL GOVERNMENT SUPPLY CHAIN MANAGEMENT (MR R MOOLMAN)  
 THE DIRECTOR: PROVINCIAL GOVERNMENT ACCOUNTING (MS A ABOO)  
 THE DIRECTOR: PROVINCIAL GOVERNMENT BUDGET OFFICE (MS T VAN DE RHEEDE) (ACTING)  
 THE DIRECTOR: PROVINCIAL GOVERNMENT FINANCE (EXPENDITURE MANAGEMENT) (MS A PICK) (PRO TEM)  
 THE DIRECTOR: PROVINCIAL GOVERNMENT SUPPLY CHAIN MANAGEMENT (MS N EBRAHIM)  
 THE DIRECTOR: STRATEGIC AND OPERATIONAL MANAGEMENT SUPPORT (MS N ISMAIL)  
 THE DIRECTOR: SUPPORTING AND INTERLINKED FINANCIAL SYSTEMS (MR A MAZOMBA)  
 THE PROVINCIAL AUDITOR  
 MASTER RECORDS OFFICIAL: BUSINESS INFORMATION AND DATA MANAGEMENT  
 THE DEPUTY DIRECTOR-GENERAL: CORPORATE ASSURANCE, DEPARTMENT OF THE PREMIER (MS H ROBSON)

## **GUIDELINES AND ADDITIONAL DISCLOSURE OF IRREGULAR EXPENDITURE IN THE 2019/20 ANNUAL FINANCIAL STATEMENTS FOR DEPARTMENTS AND ENTITIES**

### **PURPOSE**

1. To provide further guidance to provincial departments and entities on the reporting of Irregular Expenditure in the annual financial statements (AFS) for the year ending 31 March 2020 and the interim financial statements (IFS) for the year ending 31 March 2021 by issuing:
  - Frequently Asked Questions (FAQs) on dealing with Irregular Expenditure in the Western Cape Government (see Appendix A attached).
  - Additional Disclosure Note to the AFS/IFS on Irregular Expenditure (see Appendix B attached).

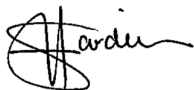
## BACKGROUND

2. The FAQs have been prepared by the Western Cape Provincial Treasury and incorporates guidance and advice received from the Office of the Accountant-General at National Treasury (OAG). These FAQs will serve as a guide for departments and entities and will be updated on a regular basis.
3. The questions and responses in the FAQs are based on queries and comments received by Provincial Treasury on the Irregular Expenditure Framework, draft Provincial Treasury Circular on Guidance with the Interpretation and Implementation of National Treasury Instruction 2 of 2019/20, draft Transversal SOP on Irregular Expenditure and other supporting documentation on this matter as distributed to Chief Financial Officers on 2 June 2020.
4. The additional disclosure note on Irregular Expenditure (to be included as an annexure in the AFS) is being piloted during the 2019/20 AFS reporting period by all WCG departments and public entities. The disclosure note will be submitted for adoption as a National reporting standard for the 2020/21 reporting period to ensure transparency in our financial reporting, assist the users of the financial statements in understanding the AFS and to assist oversight bodies in discharging their oversight responsibilities.

## REQUIRED

5. Accounting Officers and Accounting Authorities must ensure that the content of this Circular is brought to the attention of all relevant officials within their institution.
6. Departments and entities are required to complete and include the additional disclosure on irregular expenditure in the 2019/20 AFS as an annexure that will not be subject to audit by the AGSA. The existing irregular expenditure note (note 31) in the AFS must still be completed.
7. Any enquiries relating to this Circular may be directed to [Franklin.Links@westerncape.gov.za](mailto:Franklin.Links@westerncape.gov.za).

Your co-operation in this regard would be highly appreciated.



**MR A HARDIEN**  
**PROVINCIAL ACCOUNTANT-GENERAL**  
**DATE:** 28 July 2020

## FREQUENTLY ASKED QUESTIONS ON DEALING WITH IRREGULAR EXPENDITURE IN THE WCG

### Disclaimer

These Frequently Asked Questions (FAQs) have been prepared by the Western Cape Provincial Treasury and incorporates guidance and advice received from the Office of the Accountant-General at National Treasury (OAG). These FAQs have not been reviewed nor approved by National Treasury. Consequently, they are merely to be used as a guide in the WCG.

The questions and responses outlined in this document are based on queries and comments received by Provincial Treasury on the Irregular Expenditure Framework, draft Provincial Treasury Circular on Guidance with the Interpretation and Implementation of National Treasury Instruction 2 of 2019/20 (hereafter draft PT Circular on IE), draft Transversal SOP on Irregular Expenditure, and other supporting documentation on this matter issued to CFO's on 2 June 2020, and have been compiled to assist departments and public entities in dealing with irregular expenditure (IE).

Action	Date	Description of change
Issued	28 July 2020	
Updated		

FAQ	Comment raised	PT response
1.1	<p>The legal mandate of PT as the relevant authority was not sufficiently considered with respect to implementation challenges as PT can technically only condone IE where non-compliance is linked to the PFMA. Consequently, it is unclear whether PT has the authority for condoning IE where the non-compliance is against an act or instruction issued by a department other than NT. E.g. non-compliance to the State Information Technology Act (SITA) or non-compliance with instructions issued by the Construction Industry Development Board (CIDB).</p>	<ul style="list-style-type: none"> <li>● Irregular expenditure is defined in the PFMA as “<i>expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of <b>any applicable legislation</b>, including –</i> <ul style="list-style-type: none"> <li>(a) <i>this Act; or</i></li> <li>(b) <i>the State Tender Board Act, 1968 (Act No. 86 of 19682), or any regulations made in terms of that Act; or</i></li> <li>(c) <i>any provincial legislation providing for procurement procedures in that provincial government.</i></li> </ul> </li> <li>● It is clear from the definition, that irregular expenditure is not only limited to a ‘<i>contravention of or that is not in accordance with a requirement of</i>’ the PFMA but also includes “<b>any applicable legislation</b>”.</li> <li>● The MEC of Finance is authorised to make policy and other decisions and therefore does have a legislative mandate to condone IE, after receiving a request from an AO, who complied with his/ her powers and duties in terms of section 38 of the PFMA, the Treasury Regulations and the current IE Framework.</li> <li>● The recent judgement <b>Member of the Executive Council for Economic Opportunities, Western Cape v Auditor-General of South Africa and National Treasury</b> delivered on 8 June 2020, confirms that Treasury Instructions are legally binding.</li> <li>● National Treasury Instruction 2 of 2019/20 (NT instruction 2 of 2019/20) must be complied with.</li> <li>● Failure to comply with NT instruction 2 of 2019/20 will expose the WCG to audit risks.</li> </ul>

FAQ	Comment raised	PT response
1.2	<p>Is PT's draft guidance as per the draft PT Circular on IE the most efficient process possible? E.g. is an IE of R75.00 the same as one of R900,000.00? Does it warrant the same attention and from who do we recover the wasted investigative costs related to unwanted expenditure of R75.00.</p>	<ul style="list-style-type: none"> <li>● The concerns raised were evaluated by PT and it is agreed that the cost vs benefit relating to the extent of the governance requirements implemented to address irregular expenditure amounting to for e.g. R100, is questionable. However, due to the WCG's zero tolerance stance on fraud, corruption, criminal activity, etc, all expenditure in contravention of the legislative framework must be addressed in terms of good governance practices implemented by AO's, to prevent, detect and deter officials from committing IE.</li> <li>● Furthermore, PT is engaging NT to consider introducing a materiality level for submitting condonation request to PT, to assist departments and public entities in dealing with the condonation process. Once those conversations are concluded, PT will assign the responsibility to condone all IE to the value of R 10 000.00, to AO's and AA's.</li> <li>● In the interim, all request for condonation of IE from departments and public entities must be submitted to PT as the relevant authority.</li> </ul>
1.3	<p>Must the AO perform all the actions where it is currently shown in the guidance or can the CFO also perform some of the steps and sign-offs? (It is noted that IE Framework refers to the AO for most tasks, but this needs to change in the interest of efficiency and in the interest of saving the AO time to focus on strategic matters instead).</p>	<ul style="list-style-type: none"> <li>● As reported under 1.2 above, PT envisage introducing a materiality level for submitting condonation request to PT, to assist departments and public entities in dealing with the condonation process. PT will assign the responsibility to condone all IE to the value of R10 000.00 and below, to AO's and AA's.</li> <li>● Furthermore, the AO must execute all responsibilities as prescribed by the IE Framework, unless some of the responsibilities have been delegated to the CFO.</li> <li>● This may be further addressed, once the go-ahead has been given by NT, in the institutional system of delegations</li> </ul>

FAQ	Comment raised	PT response
1.4	How must non-compliance to internal policies be addressed, since it is no longer classified as IE?	<ul style="list-style-type: none"> <li>● Non-compliance with internal policies and all other non-compliance does NOT result in IE in terms of the definition of irregular expenditure. However, in line with good governance principles, AO's and AA's are required to implement appropriate actions to prevent, detect and deter all non-compliance.</li> <li>● In terms of par 17 of the Framework, AO's and AA's must implement corrective action in the form of appropriate consequence management which could include disciplinary action if considered appropriate under the circumstances and strengthen the internal control environment.</li> </ul>
1.5	Are all cases of non-compliance subject to disciplinary processes? Not clearly indicated in the SOP, and please indicate the legislative requirement for disciplinary measures to be taken.	<ul style="list-style-type: none"> <li>● As communicated in the draft PT Circular on IE, departments and public entities must be guided by their internal policies and the PSA, when referring minor non-compliance issues for disciplinary steps as stipulated in par 44(a) of the Framework. Also refer to 1.4 above.</li> </ul>
1.6	Does Discovery mean a transaction has been assessed and confirmed to be irregular, otherwise it is just discovery without substance. We need to define discovery for the Province.	<ul style="list-style-type: none"> <li>● The SOP has been updated with the definition of "discovery" which means the identification of alleged irregular expenditure by the Internal Control function/ another relevant function via compliance checking or upon report by an official/s or financial staff.</li> </ul>
1.7	The IE Framework does not stipulate a timeframe for the completion of an assessment or determination. Why does the draft PT circular on IE stipulate timeframes for the completion of an assessment and determination?	<ul style="list-style-type: none"> <li>● Based on PT's review of requests for condonation of IE received and departmental policies which guides the investigations process followed by IC units, the long turnaround times in respect of departmental officials responding to queries and follow-ups by the IC units, was identified as a key contributing factor causing the delay of the IC units' investigations.</li> <li>● This may result/resulted in the internal control deficiency not being addressed timeously to prevent the recurrence of the non-compliance/IE.</li> </ul>

FAQ	Comment raised	PT response
		<ul style="list-style-type: none"> <li>• A timeframe for the completion of assessments/determinations is defined, to assist AO's in updated departmental policies and procedures and monitoring compliance thereto.</li> </ul>
1.8	<p>Given the number of cases departments must deal with and COVID-19, etc, the compliance to the stipulated timeframes by PT would be challenging if not impossible.</p>	<ul style="list-style-type: none"> <li>• The concerns raised by departments are noted. The timeframe for the completion of the determination test and investigations has been amended as follows:</li> <li>• <u>Determination test</u> – departments and public entities have 3 months to complete the determination test, which must commence within 30 days after the confirmed IE was reported to the AO and PT, in accordance with section 38(1)(g) of the PFMA.</li> <li>• <u>Investigation</u> – the completion dates for the completion of investigations have been removed. Investigations must commence within 30-days after the determination test, as stipulated in terms of par 25 of the Framework.</li> </ul>
1.9	<p>In terms of par 21 of the IE Framework, the determination test must commence within 30 days after the IE was reported to the AO/AA. The draft PT Circular on IE refers to the determination test must commence within 30 days from the date of discovery of the alleged irregular expenditure, which is in contradiction of par 21 of the Framework.</p>	<ul style="list-style-type: none"> <li>• The contradiction is noted and was amended accordingly in par 8.3.3 of the SOP, which reads as follows:" The determination test must commence within 30 days after the irregular expenditure was reported to the AO and PT, in accordance with section 38(1)(g) of the PFMA.</li> </ul>
1.10	<p>If the assessment and determination test are conducted simultaneously, does the 30 days' timeframe become all-inclusive?</p>	<ul style="list-style-type: none"> <li>• The timeframe for the completion of the determination test has been amended to 3 months in response to the risks highlighted by departments. If assessments and determination tests are conducted simultaneously, departments or entities will have 3 months to complete both.</li> </ul>



FAQ	Comment raised	PT response
1.11	If the IC unit is only notified or made aware of the alleged IE after the 30 days have expired as required in terms of draft PT Circular on IE that the determination test must commence within 30 days after the IE was reported to the AO/AA, who is responsible for the non-compliance to the 30-day requirement?	<ul style="list-style-type: none"> <li>● The PT Circular and SOP has been amended to read as follows: “The determination test must commence within 30 days after the irregular expenditure was reported to the AO and PT, in accordance with section 38(1)(g) of the PFMA”.</li> <li>● In the majority of the departments, the IC units are responsible for the monthly reporting/ preparing the monthly information on IE in terms of section 38(1)(g) of the PFMA.</li> </ul>
1.12	What action/s are taken when a determination test does not commence within 30 days – the SOP does not make provision for this.	<ul style="list-style-type: none"> <li>● This must be dealt with in the same way that any other non-compliance in terms of tasks or job descriptions are dealt with.</li> </ul>
1.13	Compliance to the 30-day rule could be problematic as it relates to transversal contracts, since the IE is reported on by the procuring institution but the mandated Institution must complete the assessment and determination tests. There is a concern that the mandated institution will prioritize their own work first increasing the risk of non-compliance to the 30-day requirement in terms of IE relating to the procuring institution.	<ul style="list-style-type: none"> <li>● In such a scenario where the procurement institution is responsible for reporting on IE, but the mandated institution conducts both the assessment and determination test, the mandated institution will be held accountable for the non-compliance to the prescribed timeframes.</li> </ul>
1.14	Why is extension granted in terms of compliance with the 30-day rule when departments outsource determination test, but departments are expected to comply with the 30-day rule when conducting the determination tests.	<ul style="list-style-type: none"> <li>● The logic behind extending the period when determination tests are conducted by service providers, is to afford departments more time to complete complex determination tests which departments or public entities lacks the capacity to complete internally. However, this requirement was amended accordingly.</li> </ul>
1.15	Why is the 30-day not applicable when investigations into fraud, corruption, etc are conducted by Provincial Forensic Services but departments are expected to comply with the 30-day rule when conducting the investigations.	<ul style="list-style-type: none"> <li>● This requirement was removed. Refer to 1.8 above.</li> </ul>

FAQ	Comment raised	PT response
1.16	Why is this not business days? Weekends or public holidays should not be applicable. E.g. December month public holidays plus inactivity would disadvantage departments.	<ul style="list-style-type: none"> <li>● The timeframe for the determination test was amended accordingly.</li> </ul>
1.17	Has the referral of IE to the HR function for assistance with the disciplinary processes as required by par 44(a) of the Framework been activated with the HR function in departments. Is HR fully aware of this responsibility and is there a SOP implemented on following this route?	<ul style="list-style-type: none"> <li>● In the WCG, disciplinary processes are referred to the delegated/ responsible official to institute disciplinary processes against the responsible official upon approval by the CFO/ AO.</li> <li>● Disciplinary processes may be instituted in conjunction with HR/ Employee Relations or HR/ Employee Relations can be notified of disciplinary steps instituted to include on the respective official/s employee file; however, disciplinary processes are not referred to HRF for disciplinary processes (as in to execute the disciplinary process).</li> </ul>
1.18	IE referred to Human Resource function as per the IE note refers. How has this been rolled out per department?	<ul style="list-style-type: none"> <li>● See 1.17 above.</li> </ul>
1.19	All departments must follow the procedures as prescribed by CSC. This will require a provincial standard and not a departmental standard. PT should consider engaging with DotP on a transversal SOP for financial misconduct relating to IE. Departments to be invited to participate in this regard.	<ul style="list-style-type: none"> <li>● This proposal was noted and referred to PT's legal and policy team. Feedback will be provided to all departments on this matter.</li> </ul>
1.20	NT's requirement that the disciplinary action must have been taken against the responsible employee/s before the resulting IE can be condoned, must be reevaluated since disciplinary action can be a very lengthy process which can result in the condonation not being finalised prior to year-end, if the outcome of the disciplinary action is not complete.	<ul style="list-style-type: none"> <li>● Section 38(1)(h)(iii) of the PFMA stipulates that AO's must take effective and appropriate disciplinary steps against officials in the service of the department who - makes or permits irregular expenditure.</li> <li>● The IE Framework was introduced by NT to further regulate how AO's deal with IE.</li> <li>● If departments or public entities have not completed the disciplinary action against officials responsible for committing IE, it means the AO's has not fully dispensed with all his/ her governance requirements in dealing with the IE. For this reason, condonation cannot be awarded.</li> </ul>

FAQ	Comment raised	PT response
1.21	The Province should focus on the prevention of IE as opposed to having manifold SOPs and circulars on how to deal with IE, which will make the follow-up and reporting unnecessary. Should the SOP and Circular not advocate the importance of prevention of IE as a legislative imperative?	<ul style="list-style-type: none"> <li>Management of IE is after the fact and departments should focus on prevention by ensuring compliance with the Accounting Officers System and holding officials accountable for non-compliance via consequence management as a deterrent. The WCG, including PT, through their various forums, propagate the need to maintain controls and rely on preventative measures, as opposed to being re-active.</li> </ul>
1.22	Should there be a distinction between IE identified by the department and the AGSA, as it may cause complication and unnecessary administration burden for some other cases?	<ul style="list-style-type: none"> <li>Experience has shown that during the time of the audit, auditors classify IE that, if not recorded in the AFS, will result in a qualification by the AGSA, if the AFS is not adjusted. The reason for the classification is for the department to provide further context regarding where the alleged IE is in the process.</li> </ul>
1.23	Concern is all cases on lead schedule and checklist (Annexure A) that are non-compliant in nature and not IE, where do they get reported?	<ul style="list-style-type: none"> <li>Non-compliance is not reportable in terms of the monthly reporting requirements on IE or the financial statements; however, AO's and AA's must implement appropriate actions to prevent, detect and deter all non-compliance. It is for this reason that the checklist must be maintained to ensure a complete audit trail.</li> </ul>
1.24	Since the checklist and lead schedule was combined, non-compliance other than IE forms part of the lead schedule/checklist which may cause completeness problems in future when matching IE note and lead schedule/checklist in Annexure A.	<ul style="list-style-type: none"> <li>During a workshop with all departments in August 2019, on the IE Framework, it was proposed that the checklist/ lead schedule should be combined to avoid duplication of reporting. However, a separate checklist and lead schedule will be implemented in the Province as prescribed by NT.</li> </ul>
1.25	Who should approve Appendix C (IE IYM), in terms of the monthly information on IE that must be reported in accordance with section 38(1)(g) and (h) of the PFMA?	<ul style="list-style-type: none"> <li>The AO must approve the monthly reporting in terms of section 38(1)(g) and (h) of the PFMA, unless this responsibility has been delegated.</li> </ul>
1.26	In terms of the SOP, departments must immediately report IE to PT upon discovery. This must be evaluated against the monthly reporting already implemented by departments in terms of the IYM, otherwise departments will be referring cases every other day.	<ul style="list-style-type: none"> <li>Reporting to the AO should be done monthly in terms of section 38(1)(g) and (h) of the PFMA.</li> </ul>

FAQ	Comment raised	PT response
1.27	In terms of par 5.8 of the SOP, "Financial Misconduct is dealt with i.t.o. section 44" – does this mean only those officials to whom a delegation has been given can be charged (i.e. in terms of the financial and SCM delegations)? Need to discuss this against section 45 (c) as well.	<ul style="list-style-type: none"> <li>● Section 44 of the PFMA deals with both delegations and <b>instructions</b> to officials in a department.</li> <li>● Section 81(2) provides that "an official of a department, a trading entity or a constitutional institution to whom a power or duty is assigned in terms of section 44 commits an act of financial misconduct if that official wilfully or negligently fails to exercise that power or perform that duty.</li> <li>● Therefore, any official assigned a power or a duty in terms of section 44 of the PFMA, by way of delegation or instruction, can be charged with financial misconduct should that official wilfully or negligently fail to exercise a power or duty that has been assigned to him/ her, in terms of section 44.</li> <li>● Section 45(c) was included in SOP under the heading Legislation and Irregular as it is another reference in the PFMA to irregular Expenditure.</li> <li>● An official in a department, trading entity or constitutional institution must, in terms of 45(d) of the PFMA "<i>comply with the provisions of this Act to the extent applicable to that official, including any delegations and instructions in terms of section 44</i>".</li> </ul>
1.28	The IE Framework and SOP is silent on whether condonation can be applied for where a loss was incurred.	<ul style="list-style-type: none"> <li>● Paragraph 26 – 43 of the Framework deals with the recovery process that must be followed by departments and public entities when IE resulted in losses. Furthermore, par 44(b) of the Framework prescribes that AO's refer IE to the relevant authority for condonation, if the recommendation of the Loss Control Function or another relevant function confirms that NO loss was incurred during the contravention of legislation and that value for money was achieved.</li> <li>● Feedback is still awaited from NT on how departments and public entities should disclose IE transactions where partial losses were incurred, including the condonation process as it relates to such instances.</li> </ul>