





Province of the
EASTERN CAPE
COOPERATIVE GOVERNANCE
& TRADITIONAL AFFAIRS

**POLICY ON THE FINANCIAL MANAGEMENT OF TRADITIONAL &
KHOI-SAN COUNCILS**

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Date Approved	March 2025
Year for last Amended	December 2017
Year for next Review	March 2030

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Acting Head of Department
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SIGN OFF

1. Head of Department

The Policy on the Financial Management of Traditional & Khoi-San Councils has been recommended by **Mr. V Mlokothe**, in my capacity as the Acting Head of the Department of Cooperative Governance and Traditional Affairs.

I am satisfied and concur with the contents of the Policy.

The development of this policy will ensure that the Department is able to provide the necessary support to Traditional and Khoi-San Councils as well as exercise its powers in compliance with the laws governing the management of public funds and guide decision-making in the organisation as far as the management of public funds are concerned.


Signed:	
Designation:	Acting Head of Department (Mr V. Mlokothe)
Date:	07/03/2025

SIGN OFF

2. Executive Authority

The Department of Cooperative Governance and Traditional Affairs has unprecedented opportunity to improve the lives of the people by effectively rendering many services that it is expected to provide. We have envisaged a department that has the required capacity to respond adequately to challenges of its people.

I therefore trust that this policy on financial management of Traditional / Khoi-San Councils will assist positively to contribute towards the Department's endeavour of creating an effective, efficient, and transparent financial management and functionality of Traditional / Khoi-San Councils and ultimately promote accountability and good governance.

Signed	
Designation	MEC Honourable Zolile Williams Department of Cooperative Governance and Traditional Affairs
Date	08/03/2025.

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
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1. INTRODUCTION

The Department has a legal responsibility to support and capacitate institutions of Traditional Leadership to effectively perform their statutory and customary obligation.

Chapter 7(32)(2) of Act no.4 of 2005 (EC) Traditional Leadership and Governance Act, 2005(Eastern Cape) places an onus on each Traditional or Khoi-San Council head to keep full and proper records of financial affairs of their Traditional or Khoi-San Council.

The Public Financial Management Act, 1999 (Act No. 1 of 1999), applies to the management of the funds referred to in section 28, 29 and 31 of the Traditional Leadership and Governance Act, 2005 (Eastern Cape).

Chapter 7 of the Treasury Regulations clearly states that the accounting officer of each department or institution must manage funds efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation, and safeguarding of information about revenue/funds.

2. PURPOSE OF THE POLICY

The purpose of this policy is to: -

- 2.1. Provide guidelines to Traditional and Khoi-San Councils on the financial management and recording of funds.
- 2.2. Strengthen financial internal controls and accountability to community by Traditional and Khoi-San Council.
- 2.3. Promote effective monitoring for generated funds and use of such funds by Traditional and Khoi-San Councils.

3. GUIDING PRINCIPLES

Effective financial management of Traditional and Khoi-San Councils is guided by values and ethics code for Public Service and as such the following fundamental principles must be adhered to: -

- 3.1. **Accountability:** Traditional and Khoi-San Councils must account to MEC responsible for Traditional Affairs, the Head of Department and their traditional communities for

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any funds collected, donated, contributed, deposited into, and used from the account of a Traditional or Khoi-San Council.

- 3.2. **Development plans:** Traditional and Khoi-San Councils must prepare a development plan for each financial year so that they can know how to spend their funds.
- 3.3. **Internal controls:** Traditional and Khoi-San Councils must ensure that the use of funds is effective and efficient with reliable financial reporting and compliance with laws, regulations, and policies.
- 3.4. **Risk management:** effective and efficient internal control systems must be put in place and ensure that appropriate internal measures are equal to the financial risks that are applied to mitigate.
- 3.5. **Transparency:** Traditional and Khoi-San Councils must be open about their work and finances; making information available to all stakeholders.
- 3.6. **Value for money:** Traditional and Khoi-San Council's funds must be managed with cautiousness, honesty; assets must be safeguarded, and resources used in the most effective, efficient, and economic manner in order to achieve goals and objectives of a Traditional and Khoi-San Council and that of the department.

4. LEGISLATIVE AND REGULATORY FRAMEWORK

The functions and processes that define the financial management system are derived from but not limited to the following legislative and regulatory framework: -

- 4.1. The Constitution of the Republic of South Africa Act, 1996.
- 4.2. Division of Revenue Act, 2015 (Act No. 1 of 2015).
- 4.3. Public Finance Management Act, (Act No. 1 of 1999).
- 4.4. Treasury Regulations for Departments, Constitutional Institutions and Public Entities, 2005.
- 4.5. Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019); and
- 4.6. Eastern Cape Traditional Leadership and Governance Act, 2017 (Act No. 1 of 2017).

5. SCOPE OF APPLICABILITY

This policy is applicable to: -

- 5.1. All Traditional and Khoi-San leaders recognised in terms of applicable legislations.

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- 5.2. All Traditional and Khoi-San Councils established in terms of Acts of Parliament.
- 5.3. All members of Traditional or Khoi-San Councils selected or elected as such in accordance with the provisions of applicable legislations and regulations.
- 5.4. Departmental officials responsible for the provision of administrative and oversight support to Traditional and Khoi-San Councils.

6. DEFINITION OF TERMS

In this policy unless the context indicates otherwise the following terms shall mean: -

TERM	DEFINITION
“accountability”	means the requirement to perform duties including but not limited to financial and operational responsibilities, in line with applicable legislation, procedures, processes and expected standards of conduct.
“Accounting officer”	means the head of a Traditional or Khoi-San Council.
“Books of accounts”	means original records and books used in recording business transactions of a Traditional or Khoi-San Council.
“Chairperson”	means the chairperson of a Traditional or Khoi-San Council.
“Council”	means a Traditional or Khoi-San established in accordance with the provisions of any applicable legislation.
“Department”	means the provincial department of Cooperative Governance and Traditional Affairs.
“directorate”	means directorate responsible for financial management of Traditional or Khoi-San Councils.
“Financial management”	means the planning, controlling, implementation and monitoring of fiscal policies and activities, including but not limited to the accounting and audit of revenue, expenditure, assets, and liabilities of a Traditional and Khoi-San Council.
“Financial records”	means records resulting from the conduct of business and activities relating to financial management of a Traditional and Khoi-San Council.
“Head of Department”	means the Head of Department responsible for Cooperative Governance and Traditional Affairs in the Province.
“Head of a Traditional or Khoi-San Council”	means the senior Traditional or Khoi-San leader or any person designated as a chairperson of a Traditional or Khoi-San Council.
“Khoi-San”	means any person who lives in accordance with the customs and customary of the Cape-Khoi, Griqua, Koranna, Nama, or San people, or any subgroupings thereof, and is consequentially


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
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	a member of a particular Khoi-San community as contemplated in section 5 of the TKLA.
“Khoi-San Council”	means a Council established in terms of section 18 of TKLA.
“Khoi-San community”	means a Khoi-San community recognised as such in terms of section 5 of TKLA.
“Khoi-San leader”	means a person recognised as a senior Khoi-San leaders or a branch head in terms of section 10 and includes a regent, acting Khoi-San leader and deputy Khoi-San leader.
“Khoi-San leadership”	means the institutions or structures established in terms of customary law or customs, or customary systems or procedures of governance, recognized, utilized, or practiced by Khoi-San communities.
“records management”	means the general administrative management concerned with achieving efficiency in the creation, maintenance, use and disposal of the records of a Traditional or Khoi-San Council throughout their entire life cycle and in making the information they contain readily available in support of the business and activities of a Traditional or Khoi-San Council.
“Secretary”	means an administrative clerk or government official responsible for providing administrative and secretariat support to a Traditional or Khoi-San Council.
“The Act”	means Eastern Cape Traditional Leadership and Governance Act, 2017 (Act No. 1 of 2017).
“Traditional or Khoi-San Council”	means a Council established in terms of Section 6 of the Eastern Cape Traditional Leadership and Governance Act, 2017 (Act No. 1 of 2017), read in conjunction with section 16 of TKLA.
“Traditional community”	means Traditional community recognised as such in Section 4 of the Eastern Cape Traditional Leadership and Governance Act, 2017 (Act No. 1 of 2017), read in conjunction with section 3 of TKLA.

ACRONYMS

DALRRD	Department of Agriculture, Land Reform and Rural Development.
EFT	Electronic Fund Transfer
PFMA	Public Finance Management Act, 1999 (Act No. 1 of 1999)
HOD	Head of Department for Cooperative Governance and Traditional Affairs
MEC	Member of the Executive Council
TC	Traditional or Khoi-San Council
TL	Traditional Leader
TKLA	Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019)

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7. THE SIGNIFICANCE OF GOOD AND SOUND FINANCIAL MANAGEMENT OF TRADITIONAL AND KHOI-SAN COUNCILS

It is the Department's held view that a sound and good financial management system and support through oversight will help Traditional or Khoi-San Councils to, among others: -

- 7.1. Make effective and efficient use of all resources at their disposal in line with development plans.
- 7.2. Become more accountable to the Department, donors, funders, and other stakeholders including members of the community they serve.
- 7.3. Inspire respect and confidence of funding agencies, partners, contributors, and that of traditional communities.
- 7.4. Enable the Department to facilitate a process of intervention or finding and implementing strategies to challenges discovered during the oversight process.

8. OPENING OF BANK ACCOUNT FOR TRADITIONAL OR KHOI-SAN COUNCIL

- 8.1. A Traditional or Khoi-San Council must open a bank account with a bank registered in South Africa, which all monies collected/donated must be deposited into.
- 8.2. A Traditional or Khoi-San Council must sit and nominate three signatories which comprises of the Head of a Traditional or Khoi-San Council, the Secretary, and any other member of the Council.
- 8.3. In cases where there is no Secretary, an employee designated by the Head of the regional office must be a signatory.
- 8.4. Whenever a Traditional or Khoi-San Council opens a bank account with any banking institution, the following documents must be sourced / obtained and presented or attached to the application form:
 - (a) A resolution or minutes of the relevant Traditional or Khoi-San Council;
 - (b) An attendance register; and
 - (c) A constitution of the Traditional or Khoi-San Council.
- 8.5. If the Secretary is not available, any other signatory, must be responsible for collecting bank statements.
- 8.6. Funds from the Traditional or Khoi-San Council may not, under any circumstances, be utilized for the personal gain of any Council members or their families. Traditional

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leadership claims or disputes are classified as private benefit for the Traditional or Khoi-San leader concerned and may not be funded by the Council.

- 8.7. A Traditional or Khoi-San Council, a senior Traditional or Khoi-San leader and headman/headwoman or any member of the Council must not open a separate bank account for the purposes of keeping monies collected/donated for the business or activities of a Traditional or Khoi-San Council.
- 8.8. A banking institution may issue a Traditional or Khoi-San Council with a bank card for the purposes of managing the funds of such Council and payment of expenditure incurred by such Council.
- 8.9. The following must be adhered to regarding the issuing of bank card contemplated in paragraph 8.8:
- (a) A Traditional or Khoisan Council must not exceed cash withdrawal of R5000.00 per quarter (excluding petty cash).
 - (b) For expenditure exceeding the amount stated above, payments must be done through EFT or transfer.
 - (c) Proof of payment must reflect the person or company as a reference.
 - (d) A Council may not change banking institution without informing the Head of Department in writing of such an intention and the reasons thereof.
 - (e) The custodian of the bank card issued to the Traditional or Khoi-San Council by the bank, is the Secretary of that Traditional or Khoi-San Council.
- 8.10. In cases where there is no Secretary, the Chairperson of the relevant Traditional or Khoi-San Council must be the custodian of the bank card.

9. RESPONSIBILITIES OF THE TRADITIONAL AND KHOI-SAN COUNCIL REGARDING THE FUNDS COLLECTED

- 9.1. A Traditional or Khoi-San Council must identify the source of funds collected.
- 9.2. A Council must ensure that all funds accruing and collected by the Council are properly accounted for.
- 9.3. Sources of funds for a Traditional or Khoi-San Council consists of but not limited to the following: -
- (a) all monies which in accordance with the customs and customary law of the Traditional community concerned are payable to the Traditional or Khoi-San Council;

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- (b) fines collected by a Traditional or Khoi-San Council in accordance with customs and customary practice of the relevant Traditional or Khoi-San community.
- (c) all voluntary contributions made by members of the relevant Traditional or Khoi-San community;
- (d) any financial donation made to such Council by any person, body or institution;
- (e) all monies derived from any property (including natural resources) in the possession of the Traditional community concerned;
- (f) any moneys payable to the Council in accordance with the provisions of partnership or agreement entered into by such Council with any third party;
- (g) any other money as may be determined or agreed to by the Premier;
- (h) any donations made by any person or organisation for the benefit of the traditional community concerned; and
- (i) any monies payable to the Traditional or Khoi-San Council in accordance with any applicable law.

- 9.4. A Council may not impose any levy on any member of the Traditional or Khoi-San community or on any section of the Traditional or Khoi-San community.
- 9.5. All monies received by the Council must be receipted and recorded on cashbook daily.
- 9.6. An amount of more than R1000 received or collected by the Council must be deposited into a bank account within three days, and any other amount less than R1000 may be deposited into the bank account as soon as practically possible by the Secretary of such Council or by any designated official.

10. PETTY CASH

- 10.1. Resolution must be taken by the Council to decide whether they need petty cash, and on an amount to be kept as petty cash: Provided that such agreed amount must not exceed R3000 per quarter.
- 10.2. The petty cash must be kept in a safe.
- 10.3. Traditional or Khoi-San Councils without a safe may use a pre-paid bank card issued by the relevant bank.
- 10.4. A pre-paid card issued for the management of petty cash must be kept by the Secretary of the relevant Council or by any designated official.

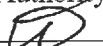
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- 10.5. A petty cash may be transferred to a pre-paid bank card as issued above.
- 10.6. The Secretary must record amount requested on a petty cash voucher.
- 10.7. A Traditional or Khoi-San Council must maintain petty cash on an impress system/petty cash register (reimburse).
- 10.8. Secretary must reconcile petty cash daily and keep records on how it was spent.
- 10.9. Secretary must report to the Traditional or Khoi-San Council members on how petty cash was spent.
- 10.10. All payments made from the petty cash/pre-paid card must be done in consultation with the head of the Council and be reported to members of such Council in the next Council meeting.

11. PURCHASING AND PAYMENT (EXPENDITURE) OF SERVICES

- 11.1. All expenditure to be incurred must be approved by the relevant Council through a resolution: Provided that the expenditure to be incurred and approved is aimed at implementing development initiatives or will be beneficiary to members of the relevant community.
- 11.2. The Secretary must keep register of suppliers in their area.
- 11.3. The Secretary must request three quotations for expenditure more than R1000 and choose the lowest amount.
- 11.4. A Council may deviate from sourcing three quotations as contemplated in paragraph 11.3, in instances where items or services to be rendered are only available or rendered by a solo provider within the radius of 30 kilometres: Provided that such deviation must be done in consultation with Head of relevant Region of Traditional Affairs: Provided further that an approval is sourced and obtained from the relevant Head of the Region or any designated official of Traditional Affairs.
- 11.5. In case of urgent matters, the head of the Council can approve expenditure and report to the next Council meeting.
- 11.6. All expenditure of the relevant Council must be approved by the head or any designated member of such Council.
- 11.7. The Secretary must inform the awarded supplier in writing and sign it.
- 11.8. All invoices must be submitted to the Secretary and confirm receipt of goods before payment.
- 11.9. The Secretary must record good received on a goods receipt note.

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- 11.10. No payment must be made to a supplier without prior approval of services to be rendered.
- 11.11. All payment must be accompanied by the following documentations:-
- (a) letter of appointment of service provider;
 - (b) quotations;
 - (c) invoice; and
 - (d) payment voucher approved by district coordinator or any designated official from the regional offices.
- 11.12. All payments of expenditure incurred by the relevant Council must be made by means of EFT, transfers, cash send, e-wallet: Provided that in instances where the service provider or a person to be paid by the relevant Councils does not have a bank account nor cell phone to which such payment can be made, signatories of the Council's account (including the Secretary of the relevant TC) must withdraw money inside the bank to make cash payment: Provided further that such cash payment must be recorded accordingly.
- 11.13. All payments of civil cases must be accompanied by: -
- (a) minutes of Traditional court or records of the case;
 - (b) receipt of payment of judgement by defended; and
 - (c) copy of ID of a plaintiff.
- 11.14. The Secretary must write on the payment voucher the name of payee, date, purpose of payment and amount paid.
- 11.15. All supporting documentations must be inserted with a paid stamp and filed for audit purposes.

12. BOOKS OF ACCOUNTS

A Traditional or Khoi-San Council must have and maintain the following books of accounts: -

12.1. Cash Book

- 12.1.1. All receipts and payments made must be recorded in the cash book daily.
- 12.1.2. Secretaries must balance all transactions in the cashbook against total receipts and payments.
- 12.1.3. Secretaries must code totals in the cashbook as per charts of accounts.

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12.1.4. Secretaries must post totals of allocated receipts and payments per item in the general ledger monthly.

12.1.5. Secretaries must reconcile the cash book monthly.

12.1.6. Regional head / district coordinators must review cashbook transactions against bank statements.

12.2. General Ledger

12.2.1. The Secretary must post all transactions to the general ledger at the end of the month.

12.2.2. All transactions must be recorded and balance.

12.2.3. Regional head/ district coordinators must review general ledger against cashbook transactions.

12.3. Trial Balance

12.3.1. Secretary must extract trial balance from general ledger monthly.

12.3.2. All transactions must be recorded and balance.

12.3.3. Regional head/ district coordinators must review general ledger against cashbook transactions.

13. DONATIONS MADE BY TRADITIONAL OR KHOI-SAN COUNCIL TO COMMUNITY MEMBER(S)

13.1. A resolution must be taken by the Council to donate to the community member(s).

13.2. Donation must be requested in writing.

13.3. The Secretary must make the payment in a form of a transfer to the donee and proof of payment must be kept safe for audit purposes.

13.4. The donee must acknowledge receipt of the donation in writing.

13.5. Donations may only be made within the traditional community of the Traditional or Khoi-San Council.

14. DONATIONS / GIFTS MADE TO THE TRADITIONAL OR KHOI-SAN COUNCIL

14.1. A Council must maintain a register of gifts and donation made in kind or otherwise.

14.2. A Council may not accept a gift or donation from any person or organisation in exchange for favours.

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14.3. A Council must ensure that all donors and contributors receive proper acknowledgement of their contributions.

15. APPROVAL OF EXPENDITURE AND PAYMENTS

15.1. Any expenditure to be incurred or payment to be made by the relevant Council which is less than R50 000 may be approved by members of such Council by a resolution taken in a meeting.

15.2. Such resolution must be recorded in the minutes of such meeting by the Secretary or by any designated person.

15.3. Any expenditure to be incurred or payment to be made by the relevant Council, which is more than R50 000 must be done subject to: -

(a) a prior consultation with members of the relevant community in a community meeting; and

(b) a decision in support of such expenditure or payment taken by majority of the community members present in the community meeting.

(c) Submission of the community resolution to the Head of Department through the regional head.

15.4. In cases where there are monies paid to the account of the Traditional Council on behalf of a specific community, the needs of that community must be prioritised by the Traditional Council where expenditure is concerned.

16. BANK RECONCILIATION

16.1. The Secretary must prepare bank reconciliations monthly.

16.2. The Secretary must have these documents when preparing bank reconciliation i.e. cashbook, bank statements.

16.3. Bank reconciliation must balance with the bank statement.

16.4. Regional head/ district coordinators must review bank reconciliation monthly.

16.5. Bank reconciliation must be signed by preparer and reviewer.

16.6. The bank signatories must within three days after the closure of the bank account request the bank statement and provide the Secretary to prepare the bank reconciliation.

17. FINANCIAL REPORTS

- 17.1. Secretary must compile reports on a monthly and quarterly basis in a prescribed format.
- 17.2. Secretary must report on a quarterly to the Council meeting on financial matters of Traditional or Khoi-San Council.
- 17.3. Three months bank statements covering the period from the first day of the quarter to the last day of the quarter must be attached to the quarterly report as a supporting document.
- 17.4. Regional head / district coordinators must review the quarterly and annual financial reports.
- 17.5. Traditional head must approve the quarterly / annual financial report after adoption.
- 17.6. Signed quarterly financial reports must be submitted to Traditional Financial Management directorate on or before the ten of the months after the quarter.
- 17.7. Annual financial report must be reported to Council and community.
- 17.8. Signed annual financial report must be submitted to Traditional Financial Management directorate on or before the ten of the months after financial year end closure.
- 17.9. Traditional Financial Management must review books of accounts and all financial reports submitted quarterly.

18. LEGAL ASSISTANCE AND PAYMENT OF LEGAL FEES BY A TRADITIONAL OR KHOI-SAN COUNCIL

18.1. Legal Assistance for Land related matters

- 18.1.1. Whenever a Traditional or Khoi-San Council or Traditional Leader is involved in a dispute related to land management and administration, such a Traditional or Khoi-San Council or leader must seek to resolve such dispute internally through dispute resolution mechanism adopted in accordance with applicable customs and customary practices.
- 18.1.2. When resolving a land dispute in accordance with the provision of paragraph 18.1.1, the relevant Traditional or Khoi-San Council or Traditional Leader may where necessarily involve the relevant municipality in the resolution of the land dispute.
- 18.1.3. A Traditional or Khoi-San Council or Traditional Leader must keep proper records (minutes and attendance registers) of the meetings of the dispute

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resolution processes conducted in accordance with the provisions of paragraph 18.1.1 and 18.1.2.

- 18.1.4. If for whatever reasons a Traditional or Khoi-San Council or Traditional Leader is unable to resolve the land dispute through applicable dispute resolution mechanism, such Traditional or Khoi-San Council or Traditional Leader must in writing inform DALRRD of such land dispute.
- 18.1.5. In cases where a Traditional or Khoi-San Council or Traditional Leader has been interdicted or cited in court or legal papers for refusing to allocate land preventing illegal allocation of land or land invasion, such a Traditional or Khoi-San Council or Traditional Leader must request legal assistance from DALRRD and advise the Traditional Financial Management Directorate in writing.
- 18.1.6. All legal papers and proceedings involving land disputes and land invasions in respect of communal land under the management and administration of Traditional Leaders must be facilitated by DALRRD.
- 18.1.7. The relevant Traditional or Khoi-San Council or Traditional Leader must be a co-applicant of the court papers and proceedings initiated and facilitated by DALRRD.
- 18.1.8. DALRRD will be responsible for payment of all legal fees involving a Traditional or Khoi-San Council or Traditional Leader in respect of land disputes and land invasions: Provided that such a Traditional or Khoi-San Council or Traditional Leader has informed DALRRD about such legal battles.
- 18.1.9. A Traditional or Khoi-San Council or Traditional Leader will not be re-embused by Department or DALRRD for any legal fees paid by such Traditional or Khoi-San Council or Traditional Leader for court papers or proceedings related to land dispute or land invasion.
- 18.1.10. Whenever a Traditional or Khoi-San Council or Traditional Leader lodges seeks to make an urgent application on matters related to land dispute, land invasion, illegal land allocation, or land invasion, such a Traditional or Khoi-San Council or Traditional Leader must:-
- (a) inform Legal Service Unit of the Department of Agriculture, Land Reform and Rural Development of such urgent application; and
 - (b) obtain consent papers from DALRRD before proceeding with such urgent application.


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18.2. Legal Assistance to Traditional or Khoi-San Councils and Traditional Leaders on Land related matters

The following procedure is applicable for resolving land-related disputes involving TCs and TLs: -

- 18.2.1. A Traditional or Khoi-San Council or Leader must seek to resolve land related dispute internally through dispute resolution mechanism adopted in accordance with applicable customs and customary practices.
- 18.2.2. Where necessary a Traditional or Khoi-San Council or Traditional Leader may involve the relevant municipality in the internal resolution process.
- 18.2.3. A Traditional or Khoi-San Council or Traditional Leader must keep proper records (e.g., minutes & attendance registers) for all internal meetings.
- 18.2.4. If the dispute cannot be resolved internally, the relevant Traditional or Khoi-San Council or Traditional Leader must formally inform DALRRD of such land related dispute.
- 18.2.5. In the event of interdict on the part of a Traditional or Khoi-San Council or Traditional Leader, such a Council or Leader must request legal assistance with DALRRD.
- 18.2.6. The following are land related legal matters to which a Traditional or Khoi-San Council or Traditional Leader may request legal assistance:
 - (a) Interdict for preventing land invasion or land grab.
 - (b) Interdict for preventing illegal allocation of land.
 - (c) Interdict for preventing or refusing the selling of land allocated for farming purposes without following the rezoning processes.
- 18.2.7. All legal papers and proceedings involving communal land must be initiated and facilitated by DALRRD.
- 18.2.8. The relevant Traditional or Khoi-San Council or Traditional Leader must be a co-applicant of the court papers and proceedings initiated and facilitated by DALRRD.
- 18.2.9. DALRRD shall be responsible for payment of all legal fees or costs involving Traditional or Khoi-San Councils or Traditional Leaders: Provided that the relevant Traditional or Khoi-San Council or TL has informed and requested DALRRD for such legal assistance prior to the commencement of legal processes.

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- 18.2.10. DALRRD will not reimburse a Traditional or Khoi-San Council or a Traditional Leader for any legal fees paid by such Council or Leader without prior obtaining the necessary consent papers issued by DALRRD.
- 18.2.11. A Traditional or Khoi-San Council or Traditional Leader may file an urgent application to interdict any land related dispute or land invasion, upon receiving consent paper from Legal Services Unit DALRRD.
- 18.2.12. Consent papers issued to a Traditional or Khoi-San Council or Traditional Leader by DALRRD will act as a guarantee and commitment on the part DALRRD for payment of legal fees to any legal service requested and obtained by such Council or Leader for the filing of an urgent application.
- 18.2.13. A Traditional or Khoi-San Council or Traditional Leader must cooperate with DALRRD and commit to implement and comply with legal advice offered by legal services (DALRRD).

18.3. Payment of Legal Fees by Traditional or Khoi-San Councils or Traditional Leaders

- 18.3.1. Whenever a Traditional or Khoi-San Council in its capacity as an institution or a Traditional Leader in his or her capacity as a recognized Traditional Leader is:-
- (a) involved in a legal battle or court proceedings other than land-related matters;
 - (b) cited as a responded in any legal papers; or
 - (c) interdicted from performing legislative functions allocated to such Council in case of a Traditional or Khoi-San Council or him or her in case of Traditional Leader, such a TC or TL must in writing inform the Department of such legal processes or proceedings, for the purpose of obtaining legal advice.
- 18.3.2. The Head of Department must, in consultation with Legal Services, determine whether legal proceedings or legal papers instituted against the relevant Traditional or Khoi-San Council or Traditional Leader are in line with the legislative duties or customary responsibility bestowed upon to such Council or Leader.


- 18.3.3. Notwithstanding the exclusion or omission of Traditional leadership institutions and Traditional Leaders in the departmental Litigation Policy, the Department may aid upon establishing that the legal proceedings to be defended by a Traditional or Khoi-San Council or Traditional Leader:-
- (a) are in the best interest of the relevant community; and
 - (b) committed within the confines of the legislative functions of the relevant Traditional or Khoi-San Council or Traditional Leader.
- 18.3.4. If the legal proceedings that involve a Traditional or Khoi-San Council or Traditional Leader meets the conditions cited above, the departmental Legal Services may recommend for the use of Traditional or Khoi-San Council's funds for the payment of reasonable legal fees by such Council.
- 18.3.5. However, the above recommendation must be approved by the Head of Department or by any person designated by him or her.
- 18.3.6. A Traditional or Khoi-San Council must keep proper records for any payment of legal fees for auditing purposes.


19. LOANS AND INVESTMENTS

- 19.1. Funds of the Council must not be loaned to any member of such nor to any member of the community.
- 19.2. Funds of the Council must not be used to settle any loan within any accredited or non-accredited institution on behalf of any member of such Council.
- 19.3. A Council may invest any surplus money with any registered financial institution.
- 19.4. Whenever a Council invest any surplus money with any registered institution, such Council must inform obtain written approval from the HOD.
- 19.5. A Council must consult members of the relevant community for the resolution to invest such surplus money and the period of such investment.
- 19.6. Minutes and attendance registers of such community meetings must be properly recorded and kept.

20. MANAGEMENT AND REPORTING

- 20.1. The Department must monitor and conduct financial oversight over the quarterly and annual financial reports of Traditional or Khoi-San Councils.

Executive Authority
Initials: 

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- 20.2. The Department must ensure that all quarterly financial reports are analysed, and an analysis report is submitted to the Department quarterly.
- 20.3. The Department must obtain the details and evidence of all transactions of the Council for the reporting period.
- 20.4. The financial oversight report must be approved by Chief Director responsible for Traditional Financial Management.

21. NON-COMPLIANCE

In the event that the Traditional Council has not complied with legislation relating to financial management and reporting a letter of non-compliance will be sent to the affected Traditional Council, and should the recommendation be not implemented the matter will be escalated to the Local House of Traditional and Khoi-San Leaders and to the MEC when the need arises.

22. AWARDING OF BEST PERFORMING TRADITIONAL COUNCILS

- 22.1. The Executive Authority of the Department (MEC) may on an annual basis confer performance awards or prizes to best performing Traditional Councils in the category of financial management.
- 22.2. Awards will be allocated in terms of monetary values or prizes determined by the Head of Department for the:-
- (a) best performer in financial management and reporting in each region; and
 - (b) best performer in financial management and reporting in the Province.
- 22.3. The Head of Department may appoint a Financial Performance Awards Committee of not more than five (5) people to prepare for, facilitate and adjudicate the awarding of rewards or prizes to deserving Traditional Councils, both at the kingship / regional level, and provincial level.
- 22.4. The Director responsible for Financial Management Directorate in consultation with the Director responsible for Rural Development Facilitation under Traditional Governance and Finance Chief Directorate shall facilitate and coordinate the nomination.

23. APPROVAL OF THE POLICY

This policy shall be approved by the Executive Authority on the recommendation of the Head of Department as per the updated departmental delegations.

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Acting Head of Department
Initials:

24. ADMINISTRATION OF THE POLICY

Responsibility and accountability for implementing of the policy rests with the Head of Department and ultimately the Executive Authority.

25. EFFECTIVE DATE OF THE POLICY

The policy shall become effective on the date it is signed by the Executive Authority (MEC) responsible for Cooperative Governance and Traditional Affairs.

26. PROCEDURE OF THE POLICY

There is no separate procedure for the implementation of the policy as the policy will be incorporated into the daily activities of the management of all affected directorates and programmes. It is therefore critical that the management of affected programmes or directorates familiarise themselves with the contents of the policy.

27. REVIEW OF THE POLICY

This policy will be reviewed in five (5) years from the date of its approval by the Executive Authority or when the need arises.

Executive Authority
Initials:

Acting Head of Department
Initials:

