



# **The Msunduzi Municipality**

## ***APPROVED ACCOUNTS DISPUTE***

## ***RESOLUTION POLICY***

***2022/2023 & BEYOND***

## **MSUNDUZI MUNICIPALITY**



<b>Policy Name:</b>	<b>Accounts Dispute Resolution Policy</b>
<b>Policy Number:</b>	01
<b>Status:</b>	<b>Approved</b>
<b>Effective From:</b>	01 January 2019
<b>Approved By:</b>	Full Council
<b>Date Approved:</b>	15 December 2018
<b>Amendment No:</b>	Amendment No 2
<b>Next Review:</b>	Annually During Budget Process Where Necessary
<b>Date Published on Website and Intranet:</b>	N/A

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## **1. DEFINITIONS**

In this policy, unless the context indicates otherwise, the word or expression has the following meaning:

- 1.1 “Account”** Any invoice rendered by the Municipality;
- 1.2 “Accounting Fee”** means a fee for the setting up of new account as determined by The Municipality from time to time;
- 1.3 “Accounting Officer”** The Municipal Manager appointed in terms of Section 82(1)(a) or (b) of the Municipal Structures Act, 1998 (Act No. 117 of 1998);
- 1.4 “Account Holder”** includes a customer/consumer and refers to any occupier of any premises to which the Municipality has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality;
- 1.5 “Acknowledgement of Debt”** commonly referred to as an “AOD”, is a document which contains an unequivocal admission of liability by the debtor.
- 1.6 “Actual consumption”** means the measured consumption of a consumer of a municipal service during a specified period;
- 1.7 “Administration Fee”** means a fee for any additional administration on Municipal billing accounts as determined by the Municipality from time to time;
- 1.8 “Arrangements for payments”** means a formal agreement entered into between the Municipality and a debtor where specific repayment parameters are agreed to.
- 1.9 “Arrears”** means any amount due, owing and payable by a customer in respect of a municipal account not paid on the due date;
- 1.10 “Average consumption”** means the deemed consumption of a customer of a municipal service during a specific period, which consumption is calculated by adding the recorded monthly average consumption and the current actual consumption and, dividing the total by the applicable number of months
- 1.11 “Calculated amounts”** refers to the amounts calculated by the Chief Financial Officer, in



consultation with the relevant technical departments, to be due to the Council by a consumer in respect of the supply of the applicable municipal services for any period during which the exact quantity of the supply cannot be determined accurately for reasons beyond the control of the Chief Financial Officer. This shall normally be based on the average consumption figures, if available, for the service rendered to the customer **or**, failing the availability of such data, on the average consumption figures applicable to one or more properties of similar size and nature in the area in which the customer resides or carries on business;

- 1.12 “Chief Financial Officer”** refers to the person so designated in terms of Section 80 (2)(a) of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) or any person duly authorized to act on behalf of such person;
- 1.13 “Consolidated account”** refers to one combined account for all municipal services, housing rents and instalments, rates, basic charges, sundry charges and miscellaneous charges, and “consolidated bill” has a corresponding meaning;
- 1.14 “Consumption”** means the ordinary use of municipal services, including water, sanitation, refuse removal, and electricity services for all categories of consumers;
- 1.15 “Electricity and Water meters”** means electricity and/or water meters, (including prepaid meters), which are used to determine the supply of electricity and water and which are normally read on a monthly or other fixed interval basis;
- 1.16 “Councillor”** refers to a member of a Municipal Council
- 1.17 “Deposit”** refers to a minimum sum of money specified by the Chief Financial Officer and payable by the consumer to the Municipality prior to occupation of the property or prior to the date on which services to the property are required; and also refers to a minimum sum of money specified by the relevant business unit and payable by the customer to the municipality prior to concluding a housing rental and/or a business rental/lease agreement.
- 1.18 “Estimated consumption”** arises when no actual reading can be taken and is equivalent to the existing average consumption providing that this is done in accordance with the relevant provisions of the water and electricity bylaws.
- 1.19 “Final payment date”** in the absence of any express agreement in relation thereto between the Municipality and the customer, refers to the date stipulated on the account and determined from time to time as the last date on which the account must be paid;

- 1.20 “Municipality”** Means: An organ of state within the local sphere of government exercising legislative and executive authority within an area determined in terms of the local government: Municipal Demarcation Act, 1998.
- 1.21 “Municipal Manager”** is the accounting officer of the Municipality appointed in terms of Section 82 of the Municipal Structures Act, 1998 (Act No 117 of 1998)
- 1.22 “Municipal services”** means a service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether:
- a) Such a service is provided, or to be provided, by the municipality through an internal policy contemplated in section 76 of the **Municipal Systems Act, 2000 (Act No 32 of 2000)** or by engaging an external policy contemplated in section 76 of the Municipal Systems Act.
- 1.23 “Official”**, in relation to the Municipality or Municipal entity, means,
- a) An employee of the Municipality or Municipal entity
  - b) A person seconded to the Municipality or Municipal entity to work as a member of the staff of the Municipality or Municipal entity; or
  - c) A person contracted by the Municipality or Municipal entity to work as member of the staff of the Municipality or Municipal entity otherwise than as an employee.
- 1.24 “Occupier”** in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property,
- 1.25 “Owner”** means
- (a) In relation to property referred to in paragraph (a) of the definition of **“property”**, means a person in whose name ownership of the property is registered;
  - (b) In relation to a right referred to in paragraph (b) of the definition of **“property”**, means a person in whose name the right is registered;
  - (c) In relation to a land tenure right referred to in paragraph (c) of the definition of **“property”**, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
  - (d) In relation to public service infrastructure referred to in paragraph (d) of the definition of **“property”**, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of **“publicly controlled”**, provided that a person mentioned below may for the purposes of this Act be regarded by a municipality

as the owner of a property in the following cases:

- i. A trustee in the case of a property in a trust excluding state trust land;
- ii. An executor or administrator, in the case of a property in a deceased estate;
- iii. A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- iv. A judicial manager, in the case of a property in the estate of a person under judicial management;
- v. A curator, in the case of a property in the estate of a person under curatorship;
- vi. A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- vii. A lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
- viii. A buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;
- ix. Member in the case of a property registered as a close corporation

**1.35 “Property” means-**

- a) Immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- b) A right registered against immovable property in the name of a person, excluding a mortgage bond registered against a property;
- c) A land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- d) Public service infrastructure;

**1.36 “Rate” means a municipal rate on property envisaged in section 229 (1)(a) of the Constitution;**

**1.37 “Service agreement” refers to a written agreement for the consumption of electricity and/or water and other services**

**1.38 “The Municipality” refers to The Msunduzi Municipality and its successors in law and includes the Council of that municipality or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to whom the Executive Committee who has delegated any powers and duties with regard to this policy;**

**1.39 “Notice” means any notice or other document that is served on any person in terms of the Municipality’s Electricity and Water Supply Bylaws**

- 1.40** “**Municipal area**” means the area in respect of which the municipality has executive and legislative authority as determined by the constitution and the national legislation and demarcated in terms of the Demarcation Act (Act 27 of 1998);
- 1.41** “**Council**” refers The Msunduzi Municipality and its successors in law and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to whom the Executive Committee has delegated any powers and duties with regard to this policy;
- 1.42** “**Accounts Dispute Resolution Policy**” means a policy of the Municipality that will guide the process of assessing disputes, their classification and processes that will be followed in resolving the account disputes which complies with the Municipal Systems Act, 2000.
- 1.43** “**Amount in dispute**” means the amount that the customer claims is in dispute and such an amount has been re-calculated and verified by an authorized official.

## **2. INTRODUCTION**

The executive and legislative authority of a Municipality vests in its Municipal Council. A municipality has “the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the constitution. Section 152 sets out the objects of local government, two of these are to provide democratic and **accountable** government for local communities and to ensure the provision of services to communities in a **sustainable** manner. The Constitution in section 154(1) further confers to the Municipality such that it manages its affairs and exercise their **powers** and **perform** their functions.

However, it is important to note that the constitution confers upon a municipality “the right to govern, on its own initiative, the local government affairs of its own community, subject to national, and provincial legislation as provided for in the constitution”. Furthermore, the Municipal Systems Act bestows upon the Municipality an obligation to provide services to its residents and ratepayers. The residents are **obligated to pay** for such services rendered and to pay Municipal taxes and the Municipality has to **take action** when residents or ratepayer do not **comply** with their obligations towards the Municipality

Section 4(3) of the Municipal System’s Act requires a municipality, in the exercise of its executive and legislative authority, **to respect the rights of the citizens** and those of other persons as

protected by the bill of rights.

Section 5(2)(a) places a duty on members of the local community, when exercising their rights, to observe the **policy, processes, and procedures** of the municipality. Section 5(2)(b) read in conjunction with section 97(1)(c) places upon members of the local community, where applicable, an **obligation to pay promptly** for service fees, surcharges on fees, rates on property and other taxes, levies and duties imposed by the Municipality. Furthermore, section 5(2)(e) places a duty on members of the local community to **comply with the bylaws** of the municipality applicable to them.

Section 96 (a) & (b) states that the municipality is **obliged to collect** all money that is due and payable to it, it is further enjoined, for the purposes of the collection of all money due and payable to it, to provide for credit control and debt collection policy.

The legislation governing the local government is silent on the word “dispute” except for section 102 (2) subsection (1) of the Municipal Systems Act which states “(2) *Subsection (1) does not apply where there is a dispute between the municipality and a person referred to in that subsection concerning any specific amount claimed by the municipality from that person*”. This document will then derive its context of dispute from this legislative framework.

The Supreme Court of Appeal in leading a case on the interpretation of section 102(2) of the System Act, namely- Body Corporate Croftdene Mall v Ethekwini Municipality 2012 (4) 169 (SCA). The court held at paragraph 21 that:

*“Neither the Systems Act nor the Policy defines the term ‘dispute’. Some of the definitions ascribed to this include ‘controversy, disagreement, difference of opinion’ etc. This court had occasion to interpret the word in Frank R Thorold (PTY) Ltd v Estate late Beit and said that a mere claim by one party that something is or ought to have been the position does not amount to a dispute: there must exist two or more parties who are in controversy with each other in the sense that they are advancing irreconcilable contentions.”*

*The judge further affirmed that “it is my view, of importance that sub-sec 102(2) of the systems act requires that the dispute must relate to a ‘specific amount’ claimed by the municipality. Quite obviously, its objective must be to prevent a ratepayer from delaying payment of an account by raising a dispute in general terms. The ratepayer is required to furnish facts that would adequately enable the municipality to ascertain or identify the disputed item or items and the bases for the ratepayer’s objection thereto. If an item is properly identified and a dispute properly raised; debt collection and credit control measures could not be implemented*

*in regard to that item because of the provision of the subsection. But the measures could be implemented in regards to the balance in arrears; and they could be implemented in respect of the entire amount if an item is not properly identified and a dispute in relation thereto is not properly raised”*

Therefore; the use of the word ‘dispute’ in this case will be taken to indicate a disagreement; a *difference of opinion* as contained on the section 102 (2) subsection (1) of the Municipal Systems Act, reflecting the amount charged or the manner in which such amounts were calculated. The account dispute should be reduced to a specific amount that is referred to as **“amount in dispute”**, not the full account. The customer is only protected in law only when the full payment or arrangement of payment has been made except only for the **“amount in dispute”**. The law does not also condone frivolous disputes that are not well supported by facts, data, and or evidence.

The dispute by the customer should be lodged with the municipality after extensive engagements have happened between the customer services staff of the Municipality and the customer. This Accounts Dispute Resolution Policy is not intended to eliminate the existing processes of customer service staff engagement. The customer should endeavor to get clarify on matters that he/she is not happy with. The customer should as far as practically possible, collect from the Municipality all records that will assist in compiling evidence of wrong doing or incorrect charges levied to his/her account. These documents are to be used as bundle of substantive factual information/documents and where necessary affidavits may also be submitted.

When the dispute is lodged with the Municipality, the customer services staff assigned with receiving customer dispute applications will first peruse to see if the customer has attached the key documents and will inform the customer if the documentation presented is not adequate for the dispute to be lodged. This process will assist to ensure that the dispute is not rejected because the supporting documents are incomplete. This will be a screening process to determine if the matter cannot be resolved within the complaints handling procedure. Also this will determine if the dispute is not just a frivolous act by the customer whose intention is to delay payment of his/her municipal account.

### **3. ACCOUNTS DISPUTE RESOLUTION POLICY OBJECTIVES**

The objective of the accounts dispute resolution policy is:



- 3.1 To establish a process that will ensure that all account disputes are resolved systematically and timeously.
- 3.2 To establish an accounts dispute resolution policy that is supported by all the newly enacted legislations such as promotion of administrative justice act, the access to information act, the consumer protection act.
- 3.3 To establish a screening tool which is within the prevailing laws in determining what an account's dispute is and what is not.
- 3.4 To establish a clear cut categorization of account disputes and processes to be followed in resolving those disputes,
- 3.5 To establish an “**amount in dispute**” that will be hived off whilst the dispute is being handled.
- 3.6 To empower customers who have legitimate account disputes by providing a legitimate streamlined process of lodging those disputes,
- 3.7 To eliminate all frivolous accounts disputes that are raised by customers who neither want to pay their legitimate accounts but intends to postpone the account payments indefinitely.
- 3.8 To assist Council and members of the public in their oversight role to hold the council officials accountable to their decisions and activities through this policy.
- 3.9 To ensure that this account's dispute resolution policy is in line with the principles outlined in Municipal Systems Act, 2000 (Act No. 32 of 2000) and Municipal Property Rates Act, 2004 (Act No. 6, 2004)

#### **4. CHARACTERISTICS OF A VALID ACCOUNT DISPUTE AND INVALID DISPUTE**

##### **4.1 WHAT IS NOT RECOGNISED AS A VALID DISPUTE**

- 4.1.1 This accounts dispute resolution procedure is not intended to be a way of deferring the payment of the account by the customer, but it is intended for resolving the justifiable and authentic disputes that can arise when two parties are doing business. The accounts dispute resolution policy is not to be utilized by customer who:

- i) Request clarification on his or her account, the front desk staffs as well as key officials are assigned that responsibility. The customer needs to understand that where there are points of clarity requested, then such points of clarification given, the customer cannot then makes such point of clarification a dispute, such will be referred to the process “to be followed when the dispute is invalid”.
- ii) Is frustrated by the customer services staff and wishes to lodge a complaint, or a customer who wishes to complain about poor service or anything like that, or who is on a fact finding mission.

However a valid dispute may arise after the points of clarify were sorted and the customer realize that there is something to be disputed in the account.

## **4.2 WHAT IS RECOGNISED AS A VALID DISPUTE**

- 4.2.1 An account complaint (this may be disputed meter reading, disputed charge etc) that was lodged with the customer service more than 21 days ago and there has not been any acknowledgment of the complaint or any response given. This may be a dispute as a consequence of poor customer care from the side of the Municipality. The customer will need to provide proof of the above.
- 4.2.2 An account complaint that has been dealt with by the customer services staff and 30 days has passed and the account has not been resolved and work on the account is not satisfactory to the customer. This may be a dispute as a consequence of poor customer care from the side of the Municipality.
- 4.2.3 A disconnection or a services restriction that has been effected without justifiable reason as contained in the credit control & debt collection policy and electricity supply by-laws.
- 4.2.4 A unilateral accounts related decision that has been made that is in conflict with the Constitution of South Africa, the Promotion of Administrative Justice Act, and any other relevant laws governing the sphere of local government.
- 4.2.5 Where the customer has made the indication that he/she intends to approach the court of law for relief and upon assessment of such intention and it could be found that the customer may somehow have a degree of success to the court of law. This dispute application will need to be assessed by the relevant senior manager or his/her authorized representative prior to it being accepted as a dispute.

- 4.2.6 *This accounts dispute resolution policy is an attempt to resolve all disputes with customers in order to provide redress to customers in terms of batho pele principles. It is also intended to eliminate the use of court processes that are expensive and cumbersome and in most of the cases yield no relief to either the customer or Council, but only defer the issue for years. The accounts dispute resolution policy puts the responsibility to the customer to present a clear and detailed dispute to the Municipality to ensure that the Municipality conducts the investigation that will come up with credible results.*
- 4.2.7 As soon as the dispute is lodged by the customer, it should be presented and registered in an appropriate form and an appropriate reference number should be assigned to it. The customer must submit substantive factual information, documents, photos, voice clips, video clips etc which details the area of dispute. The customer must quantify in financial terms [rands and cents] the matter in dispute, such financial value must also be agreed to by the authorized Municipal official, only then will such an amount be considered as **“amount in dispute”**.
- 4.2.8 A preliminary investigation should be conducted to establish the validity of the dispute. The person who is doing the preliminary investigation should be a person who has relative authority and experience and he/she should be neutral and not be biased towards either party. The outcome of the preliminary investigation should be communicated within specified period.

#### **4.3 DETERMINATION OF “AMOUNT IN DISPUTE”**

- 4.3.1 The **“amount in dispute”** shall be at the first instance be submitted to the Municipality by the customer on lodgment of the dispute in terms of this process, if the matter in dispute is simple and straight forward, the help desk official will check the **“amount in dispute”** and confirm it. Where the **“amount in dispute”** is calculated by the help desk official differs from the one presented by the customer, and the customer does not accept a reduced **“amount in dispute”** re-calculated by the help desk official, the determination shall be made at prelim investigation.
- 4.3.2 One of the key responsibilities of the authorized official conducting the preliminary investigation will be to calculate and determine the **“amount in dispute”**. As soon as the **“amount in dispute”** is determined, the customer needs to be informed to ensure that he/she brings his/her account to current except for the **“amount in dispute”** which should be hived off whilst the dispute process progresses.
- 4.3.3 Where the **“amount in dispute”** claimed by the customer differs from that calculated by the authorized official conducting the preliminary investigation, the **“amount in dispute”** calculated by the authorized official conducting the preliminary investigation shall be final. The Municipality will allow the customer to make the arrangements to pay the balance whilst the dispute process

is progressing.

- 4.3.4 Only once the dispute is lodged by the customer, accepted by the authorized person, a reference number issued, and such communication confirm or affirms the **“amount in dispute”**, shall the municipality hold any money in customer account as **“money in dispute”**. If the process listed above has not been concluded, the customer may not claim that there is any money in dispute in his/her account and the Municipality shall at any given stage apply its credit control and debt collection policy.
- 4.3.5 Noting the contents of item 4.3.4 above, it is therefore in the interest of the customer to lodge a dispute as soon as any matter that need to be disputed is realized to avoid inconvenience that may be caused by application of credit control and debt collection policy whilst the customer may have a valid issue to be raised as dispute.
- 4.3.6 Should the customer account remain in arrears by an amount greater than the **“amount in dispute”** the Municipality shall disconnect the municipal services in application of its credit control and debt collection policy in spite of the fact that the customer has applied in terms of the dispute resolution policy.
- 4.3.7 Only the **“amount in dispute”** shall not attract interest and disconnection of services, any other amounts in arrears and remain in arrears in the Municipal account shall attract interest and action of disconnection of services or any other actions in law.
- 4.3.8 Where the customer lodges an account dispute whilst their services have already been disconnected/restricted for outstanding debt, the normal process of payment prior to reconnection will apply. The account dispute resolution policy shall not be used as a tool to expedite the process of reconnection of services.
- 4.3.9 The Senior Manager Revenue, or his/her authorized representative, may at his/her own discretion, based on factual merits, adjust the **“amount in dispute”** so as the process leading to the reconnection of services after lodgment of account dispute application. This must however be based on sound analysis and the merits of each circumstance. The use of discretion must not be arbitrary.

## **5. THE POLICY TO RESOLVE ACCOUNT DISPUTES**

### **5.1 THE PROCESS TO BE FOLLOWED IF THE DISPUTE IS VALID**

#### **5.1.1 Screening of the Dispute**

All applications in line with this accounts dispute resolution process shall be screened by the customer services staff. Once the customer has filled in the appropriate form, attached all relevant documents as substantive proof of an existence of the dispute, the customer will hand this over to the designated person at customer services section. This official will go through the documentation and will give the customer one of the following responses:

- i) The dispute documentation is complete; the dispute is valid and accepted for further investigation, the **“amount in dispute”** is affirmed or it is not affirmed and an alternate amount issued,
- ii) The dispute is not valid but the customer needs clarification on the matters of his/her account. The official will refer the customer to the relevant section where further clarification can be provided.
- iii) The dispute documentation is incomplete; therefore, the dispute is invalid and it is not accepted for further investigation. The customer needs to provide further information that will substantiate the claim of his/her dispute. The official will then hand back all the documentation and forms to the customer for correction and re-submission.
- iv) The dispute is invalid due to various reasons and cannot be accepted by the Municipality. Should the customer wish to take the matter on appeal, the customer can follow the appeals process as outlined on item 6.1 of this policy.

#### **5.1.2 Acceptance of Dispute and Issuance of Reference Number**

Once the dispute has been screened and found to be valid, the following process shall be followed:

- i) The official will issue the customer with the reference number that the customer shall use to follow up the progress of the dispute.
- ii) Where practically possible, the official will confirm or re-calculate the **“money in dispute”** and issue to the customer. Should the matter in dispute be complicated, and the official not be in a position to confirm, or re-calculate the **“money in dispute”**, the official will then indicate that this will be referred to the person who is doing the prelim investigation, and the **“money in dispute”** will only be finalized after the prelim investigation is done. The official may elect to refer the matter urgently to the Senior Manager Revenue or his/her authorized representative for a determination of the **“amount in dispute”** in particular where the

customer account dispute deals with huge sums of money.

- iii) The official will then brief the customer about the process that will be followed in concluding the dispute.
- iv) The official will also detail the applicable timelines.
- v) The customer will also be given details of who to contact to follow up on the progress of the account dispute.
- vi) The official must also inform the customer that he/she must keep the municipal account on current except the **“money in dispute”**, otherwise the Municipality will be obliged to institute disconnection/restriction of services should there be amounts in arears that are above the **“money in dispute”**. The municipality will not disconnect or restrict any service if only the **“money in dispute”** is in arears.

### **5.1.3 Preliminary Investigation**

#### **5.1.3.1 If the dispute is valid –**

- i) The account dispute application must be referred for prelim investigation and when the investigation is concluded, the customer must be informed in writing of its outcome.
- ii) The **“amount in dispute”** must also be presented to the customer if it was not concluded at the lodgment of the accounts dispute,
- iii) The customer must be informed of the time lines applicable to conclude the dispute and the process he/she should follow to find out about the progress of the dispute,
- iv) The dispute will then be investigated and the outcome of the prelim investigated will be communicated with the customer orally or by email but finally by letter. It may be highly likely that most of the prelim investigations will conclude the matters in dispute. In such cases, the prelim findings shall be final outcomes.
- v) If the disputed matters cannot be finalized during the prelim investigation stage, prelim report together with the documents must be referred to the official who will be doing the full investigation



- vi) The Municipality would flag the “**amount in dispute**” in the system and mute it until the outcome of the detailed investigation finalized.

5.1.3.2 If the outcome of the preliminary investigation is conclusive and there is no need to conduct a detailed investigation. The findings of the investigation are that the dispute is valid, then the Municipality will start the dispute settling process.

- i) The customer will be informed in writing about the outcome of the investigation,
- ii) The “**amount in dispute**” must also be presented to the customer if it was not concluded at the lodgment of the accounts dispute,
- iii) The settlement offer must be made to the customer as a conclusion of the dispute, where the settlement offer is less than the “**amount in dispute**”, the customer must be informed that the amount remaining must be settled within 7 literal days from the date of the letter.
- iv) The customer should be informed of the further process that the customer should follow if he/she is not happy with the outcome of this dispute.
- v) The customer must also be informed about the timelines relevant for referring the matter for further investigation.

5.1.3.3 If the outcome of the preliminary investigation is conclusive and there is no need to conduct a detailed investigation. The findings of the investigation are that the dispute is invalid, then the Municipality will follow this process.

- i) The customer must be informed in writing about the findings of the prelim investigation, the fact that the customer had no case of account dispute,
- ii) The “**amount in dispute**” shall be due and payable within 7 literal days of conclusion of the dispute, the customer should pay the outstanding debt or make the arrangements to pay it, failing which the services shall be disconnected/restricted without any further notice.
- iii) The customer should be informed of the further process that the customer should follow if he/she is not happy with the outcome of this dispute.
- iv) The customer must also be informed about the timelines relevant for referring the matter for further investigation.

**5.1.4 Detailed Investigation**

- 5.1.4.1 Once the customer has been informed that the dispute is valid and it is now being thoroughly investigated, the customer must then be informed either telephonically or in writing of the applicable timelines, the person who is conducting the investigation and the process the investigation will take.
- 5.1.4.2 The official who is assigned with investigating the account dispute must conduct the investigation within the allocated timelines.
- 5.1.4.3 Once the investigation is completed, the official concerned must inform the customer in writing about the outcome of the investigation as well as the remedial action the municipality will take to resolve the dispute. If the “**amount in dispute**” is indeed to be corrected in favor of the customer, such correction must be done without any delay and the customer’s account credited accordingly.
- 5.1.4.4 If the findings of the detailed investigation are that the amounts that appear on municipal statement as well as any other fees charged or levied to the customer that have been disputed are correct [investigation is in favor of the Municipality], the customer will need to be informed that:
- i) The “**amount in dispute**” has been investigated and there are no changes to be effected to the account,
  - ii) The “**amount in dispute**” which was flagged and muted has become payable and will start to attract interest with immediate effect if not paid.
  - iii) The payment is due within 7 literal days of concluding the investigation, the customer must pay the outstanding debt or make the arrangements to pay it, failing which the services shall be disconnected/restricted without any further notice.
  - iv) The customer should be informed of the further process that the customer should follow if he/she is not happy with the outcome of this dispute.
  - v) The customer must also be informed about the timelines relevant for referring the matter for further investigation.

## **5.2 COMMUNICATION OF DECISIONS WITHIN THIS ACCOUNTS DISPUTE RESOLUTION POLICY**

- 5.2.1 All communication with the customer under this account dispute resolution policy must be in writing and all copies of such communication must kept on the customer file at all times.
- 5.2.2 Written communication shall include, emails, facsimile, short message system [SMS], text messages [phone texting of any kind], letters, forms and standard letters.
- 5.2.3 All communication must be sent to the contact details as they appear on the account dispute resolution policy application form, these shall be deemed received within reasonable time after it is sent to the customer. These timelines will depend on mode of transmission; applicable timelines are as follows:
- i) Email & facsimile – Within 24 hrs of sending
  - ii) Short message system [SMS] & text messages of any kind - immediate
  - iii) Letters posted – 7 literal days after posting
  - iv) Letters hand delivered to the address as inscribed on the application form – Within 24 hrs of hand delivery.

## **5.3 THE PROCESS TO BE FOLLOWED IF THE DISPUTE IS INVALID**

- 5.3.1 Where the detailed investigation has found that the dispute is invalid, this must be communicated to the customer in writing. The charges that were in dispute become collectable from the customer 7 literal days after the presentation of the findings of the prelim investigation.
- 5.3.2 If the customer is not satisfied with this response, then the municipality may appoint an external professional to either review the findings of the Municipality or conduct their own investigation at customer's cost.
- 5.3.3 The customer must pay a deposit for processing and appointment of an external professional to conduct the investigation. Once the external professional is appointed and agreement is reached on the terms of reference for the investigation his/her fees.

- 5.3.4 The customer will then be informed of the external professional's fees. The customer will then be asked to pay in full the cost of the external service provided prior to him/her starting the investigation.
- 5.3.5 Once the investigation by the external professional is complete the customer shall be informed in writing of his/her findings and the report will be made available to the customer. The findings of the external professional shall be binding to the two parties.
- 5.3.6 If the findings of the external professional are in favour of the customer, the Municipality will remedy the situation as recommended by the external professional, if the findings are in favour of the customer, the municipality shall credit the account of the customer with the amount found to have been incorrectly charged and the Municipality shall reverse the interest charges.

It should be noted that the cost of the external professional shall be borne by the customer regardless of his/her findings, unless otherwise the findings of the external professional indicates that the internal investigation was botched by internal staff by their incompetence.

## **6. APPEALS**

### **6.1 Account Dispute invalidated by the Official Receiving it at the First Instance – Where No Ref. Issued**

- 6.1.1 If the customer is not satisfied with the response given at the Account Dispute Resolution Help Desk, or the official receiving the Account Dispute Resolution applications, the customer can then pay a non-refundable fee as indicated on the chart of applicable fees. The matter will then be taken to prelim investigation, and will thereafter follow the normal process.
- 6.1.2 The customer must note that until the dispute in this procedure is accepted and declared a dispute by an authorized official and an “**amount in dispute**” is affirmed by the authorized official, the full account is due and payable as per the Municipal statement. Further to that the account attracts interest and if not settled or payment arrangements made, the services shall be disconnected/restricted without any further notice in application of the credit control and debt collection policy.

### **6.2 Account Dispute Invalidated by the Official Conducting Prelim Investigation – Where Ref. was Issued**

- 6.2.1 If the customer is not satisfied with the findings of the Prelim Investigator, the customer can then pay a non-refundable fee as indicated on the chart of applicable fees. The matter will then be taken to detailed investigation,
- 6.2.2 The customer must note that **“amount in dispute”** as determined in the prelim investigation of the previous process is due and payable as per the outcome of the initial process. Further to that the account attracts interest and if not settled or payment arrangements made, failing which the services shall be disconnected/restricted without any further notice.
- 6.2.3 Should customer request that the **“amount in dispute”** be carried through this process, such application can be made separately through the Senior Manager Revenue. His / her decision on this is final. In his or her decision, he will be guided by his assessment of possibility of success of the investigation at hand. If in his opinion, the degree of success is minimul, he or she may refuse the stay of **“amount in dispute”**.
- 6.2.4 The process to be followed will be that of the detailed investigation and the communication of the outcomes shall be of that process.

**6.3 Account Dispute Invalidated by the Official Conducting Detailed Investigation – Where Ref. was Issued**

- 6.3.1 If the customer is not satisfied with the final findings of the Detailed Investigation, the customer can then pay a non-refundable fee as indicated on the chart of applicable fees. The matter will then be taken to an external neutral person for investigation,
- 6.3.2 The customer must note that the **“amount in dispute”** as determined in the detailed investigation of the previous process is due and payable as per the outcome of the initial process. Further to that the account attracts interest and if not settled or payment arrangements made, failing which the services shall be disconnected/restricted without any further notice.

Should customer request that the **“amount in dispute”** be carried through this process, such application can be made separately through the Senior Manager Revenue. His / her decision on this is final. In his or her decision, he will be guided by his assessment of possibility of success of the investigation at hand. If in his opinion, the degree of success is minimul, he or she may refuse the stay of **“amount in dispute”**.

- 6.3.3 The process to be followed is as detailed in item 5.3.2 to 5.3.7 above and the communication with the outcomes shall be of that process.

**6.4 Account Dispute Invalidated by the External Professional Conducting Investigation**

- 6.4.1 If the customer is not satisfied with the response of an external professional, the customer may refer the dispute to the Accounts Dispute Resolution Committee.

**6.5 Accounts Dispute Resolution Committee**

- 6.5.1 The Accounts Dispute Resolution Committee was established by the Accounting Officer as the apex committee in the accounts dispute resolution process. It works to process all the disputes that have been appealed by customers from prior processes.
- 6.5.2 The Accounts Dispute Resolution Committee recommends to the accounting officer for his final determination and on matters where they would have been delegated by the accounting officer, they will then make a final determination.
- 6.5.3 The final determination by the Accounting Officer on matters of dispute is the final step in the processing of the account dispute raised by the customer. The customer is then at liberty to seek other remedies available to him/her in law to find relief from the dispute if the customer feels the matters has not been resolved to his/her satisfaction.
- 6.5.4 On matters that the Accounts Disputes Resolution Committee is delegated authority to make determination on by the Accounting Officer, their determination will be the final step in the processing of the account dispute raised by the customer. The customer is then at liberty to seek other remedies available to him/her in law to find relief from the dispute if the customer feels the matters has not been resolved to his/her satisfaction.
- 6.5.5 The Accounts Dispute Resolution Committee Terms of Reference are attached as Annexure D.

**7. ANNEXURES**

- |     |   |   |            |
|-----|---|---|------------|
| 7.1 | Application Form                            | – | Annexure A |
| 7.2 | Application Processing Timelines            | – | Annexure B |
| 7.3 | Applicable Deposits for each appeal         | – | Annexure C |
|     | Accounts Dispute Resolution Committee ToRs- |   | Annexure D |



## **8. EFFECTIVE DATE**

The effective date of Policy was 1 January 2019. Amendments are affective immediately on approval by full council.

## **NOTES**

*This dispute policy is established in terms of section 62 of the Municipal systems act,*

### **62. Appeals**

*(Section 62(1): Decided cases)*

- (1) A person whose rights are affected by a decision taken by a political structure, political office bearer, Councilor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, Councilor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.*
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).*
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.*
- (4) When the appeal is against a decision taken by-*
  - (a) A staff member other than the municipal manager, the municipal manager is the appeal authority;*
  - (b) The municipal manager, the executive committee or executive mayor is the appeal authority, or, if the municipality does not have an executive committee or executive mayor, the council of the municipality is the appeal authority; or*
  - (c) A political structure or political office bearer, or a Councilor*
    - (i) The municipal council is the appeal authority where the council comprises less than 15 councillors; or*
    - (ii) A committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority where the council comprises more than 14 councillors.*

- (5) *An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.*
- (6) *The provisions of this section do not detract from any appropriate appeal procedure provided for in any other applicable laws*

## **ANNEXURE A**



MSUNDUZI MUNICIPALITY

DOMESTIC ACCOUNTS DISPUTE RESOLUTION APPLICATION FORM

ANNEXURE A

REFERENCE NUMBER ISSUED

MUNIC ACCOUNT NUMBER

INSTRUCTIONS: 1. Before signing the form, ensure that all areas are completed & relevant boxes ticked.

Customer Details (Account Holder)

Title  Initials  Date of Birth

First Name (s)

Surname

Purpose of Application ☐ Services Account Dispute ☐ Meter Readings Dispute ☐ Charges on the Bill Dispute

Identification Number  Landlord ☐ Tenant ☐ Other ☐

Residential Service Address – Address where the Account Dispute arose from (Physical Address)

Unit/ Flat Number  Floor Number  Section Number

Block/ Complex Name

Street Number

Suburb  Street Name

Postal Code  Ward Number  Property ERF

Tick this box if the Domicilium Postal Address is the same as Residential Service Address above? ☐

Domicilium (Physical Address where you agree to accept service of legal documents and processes. Please Note: P.O. Box/Private Bag/Cluster Box address will NOT BE ACCEPTED)

Unit/ Flat Number  Floor Number  Section Number

Block/ Complex Name

Street Number

Suburb  Street Name

Postal Code  Ward Number  Property ERF

Applicant's Contact Details (Where the Reference No. will be sent to by SMS - Please provide at least one cell-phone number)

Tel Number:   Cell No:

Applicant's E-mail

DETAILS OF DISPUTE LODGED: PLEASE ATTACH AS ANNEXURES ALL RELEVANT INFORMATION TO RESOLVE THE DISPUTE

☐ Disputed Water Meter Readings ☐ Disputed Electricity Meter Readings ☐ Disputed Tamper fee(s) billed

☐ Disputed Visitation Charge (s) billed ☐ Disputed any other Charge (s) Billed

☐ Any other dispute, please specify

FOR OFFICE USE ONLY

Application Assessed & ☐ Approved ☐ Rejected ☐ Referred back

Reason for Rejection

Amount in Dispute: ☐ Accepted ☐ Revised to: R

All Annexure Numbered: YES/NO Number of Pages Submitted:

CUSTOMER SIGNATURE

Signature.....

Date...../...../201.....



MSUNDUZI MUNICIPALITY  
BUSINESS ACCOUNTS DISPUTE RESOLUTION APPLICATION FORM

REFERENCE NUMBER ISSUED

MUNIC ACCOUNT NUMBER

INSTRUCTIONS: 1. Before signing the form, ensure that all areas are completed & relevant boxes ticked.

Customer Details (Account Holder – Duly Authorised Company Member/Trustee/Director/Company Owner)

Title  Initials  Date of Birth   
First Name (s)   
Surname   
Purpose of Application ☐ Services Account Dispute ☐ Meter Readings Dispute ☐ Charges on the Bill Dispute  
Identification Number  Landlord ☐ Tenant ☐ Other ☐

Residential Service Address – Address where the Account Dispute arose from (Physical Address)

Unit/ Flat Number  Floor Number  Section Number   
Block/ Complex Name   
Street Number   
Suburb  Street Name   
Postal Code  Ward Number  Property ERF

Tick this box if the Domicilium Postal Address is the same as Residential Service Address above? ☐

Domicilium (Physical Address where you agree to accept service of legal documents and processes. Please Note: P.O. Box/Private Bag/Cluster Box address will NOT BE ACCEPTED)

Unit/ Flat Number  Floor Number  Section Number   
Block/ Complex Name   
Street Number   
Suburb  Street Name   
Postal Code  Ward Number  Property ERF

Applicant's Contact Details (Where the Reference No. will be sent to by SMS - Please provide at least one cell-phone number)

Tel Number:   Cell No:   
Applicant's E-mail

DETAILS OF DISPUTE LODGED: PLEASE ATTACH AS ANNEXURES ALL RELEVANT INFORMATION TO RESOLVE THE DISPUTE

☐ Disputed Water Meter Readings ☐ Disputed Electricity Meter Readings ☐ Disputed Tamper fee(s) billed

☐ Disputed Visitation Charge (s) billed ☐ Disputed any other Charge (s) Billed

☐ Any other dispute, please specify

FOR OFFICE USE ONLY

Application Assessed & ☐ Approved ☐ Rejected ☐ Referred to Customer

Reason for Rejection

Amount in Dispute: ☐ Accepted ☐ Revised to: R

All Annexure Numbered: YES/NO Number of Pages Submitted:

CUSTOMER SIGNATURE

Signature

Date  /  / 201



## **ANNEXURE B**

**MSUNDUZI MUNICIPALITY**

ANNEXURE B

**ACCOUNT DISPUTE RESOLUTION MECHANISM****APPLICABLE PROCESSING TIMELINES**

ITEM	ACTIVITY	MAXIMUM ALLOCATED TIME
1	Receipt of application for account dispute, assessment and issue of reference number	immediate & on counter
2	Referral for prelim investigation, investigation and issuance of prelim findings to customer	21 days
3	Referral for detailed investigation, investigation and issuance of final findings to customer	21 days
4	Referral for investigation by external professional, investigation and issuance of final findings to customer	21 days after payment of full fee of external professional
5	Application for review of the "amount in dispute"	7 days
6	Referral for a decision of the supervisor	3 days
7	Referral for a decision of the Manager	3 days
8	Referral for a decision of the Senior Manager	7 days
9	Referral for a decision of the Chief Financial Officer	14

## **ANNEXURE C**

<b>MSUNDUZI MUNICIPALITY</b> <b>ACCOUNT DISPUTE RESOLUTION MECHANISM</b> <b>APPLICABLE DEPOSITS FOR APPEALS</b>					ANNEXURE C
ITEM	ACTIVITY	COMMENTS	FEE PAYABLE DOMESTIC	FEE PAYABLE BUSINESS	
1	Appeal of the decision of the clerk receiving the accounts dispute resolution applications	Deposit non refundable, the amount owed should be paid in full otherwise application of credit control and debt collection policy shall apply	R550.00	R1 500.00	
2	Appeal of the prelim investigation decision deemed final by investigator	Deposit non refundable, the amount owed should be paid in full otherwise application of credit control and debt collection policy shall apply	R850.00	R2 500.00	
3	Appeal of the final detailed investigation decision	Deposit non refundable, the amount owed should be paid in full otherwise application of credit control and debt collection policy shall apply  The deposit if for processing the appointment of the external professional, once appointed, the customer will have to pay in full the cost of the professional prior to investigation commencing. If no payment is received 14 days after the customer was requested to pay, the investigation will be closed and not deposit money will be returned.	R1 500.00	R 3 500	

## **ANNEXURE D**



# **The Msunduzi Municipality**

***ACCOUNTS DISPUTE***

***RESOLUTION COMMITTEE***

***TERMS OF REFERENCE***

***2020/2021***

## **MSUNDUZI MUNICIPALITY**



<b>Committee Name:</b>	<b>Accounts Dispute Resolution Committee</b>
<b>Year Committee Appointed:</b>	2020/2021
<b>Status:</b>	<b>Active</b>
<b>Effective Period:</b>	01 July 2020 to 30 June 2021
<b>Approved By:</b>	Municipal Manager
<b>Membership Appointed:</b>	Strategic Management Committee
<b>Membership Renewal:</b>	Annually
<b>Terms of Reference Review:</b>	Periodically as May be Necessary
<b>Mandatory Terms of Reference Review:</b>	Periodically as May be Necessary
<b>Date Published on Website and Intranet:</b>	N/A

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## **1. DEFINITIONS**

- 1.1 “**Municipal area**” means the area in respect of which the municipality has executive and legislative authority as determined by the constitution and the national legislation and demarcated in terms of the Demarcation Act (Act 27 of 1998);
- 1.2 “**Council**” refers The Msunduzi Municipality and its successors in law and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to whom the Executive Committee has delegated any powers and duties with regard to this policy;
- 1.3 “**Accounts Dispute Resolution Mechanism**” means a policy of the Municipality that will guide the process of assessing disputes, their classification and processes that will be followed in resolving the account disputes which complies with the Municipal Systems Act, 2000.
- 1.4 “**ADRC**” means Accounts Dispute Resolution Committee
- 1.5 “**MFMA**” means Municipal Finance Management Act
- 1.6 “**MSA**” means Municipal Systems Act
- 1.7 “**SMC**” means Strategic Management Committee

## **2. INTRODUCTION**

The executive and legislative authority of a Municipality vests in its Municipal Council. Municipal Council delegate the administrative functions of the municipality to the Municipal Manager. The legislation governing the local government, the Municipal Systems Act, envisages that the Municipal Manager establish an appeals authority delegates with a responsibility to deal with administrative appeals on administrative decision. Section 62 deals with Appeals, and states as follows:

*Subsection (1) “A person whose rights are affected by a decision taken by ..... a staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to .....a staff member, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision”*

*Subsection (2) “The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4)”*

*Subsection (3) “The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision”*

*Subsection (4) “When the appeal is against a decision taken by (a) A staff member other than*

*the municipal manager, the municipal manager is the appeal authority”*

*Subsection (5) “An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period”*

The Municipality established and approved an accounts dispute resolution policy in compliance with section 62 of the Municipal Systems Act. The Municipal Manager has further appointed the Accounts Dispute Resolution Committee to act as the appeals authority in terms of section 62 of the systems act. This committee is therefore established in terms of this act and the Municipal Manager has delegated such powers to deal with appeals as contained in the act.

### **3. ESTABLISHMENT**

The Accounts dispute Resolution Committee is appointed by the Municipal Manager and his own discretion, however such responsibility may be delegated to the Strategic Management Committee [SMC]. Its purpose is to deal and resolve long outstanding account disputes as well as to process account appeals in terms of section 62 of the Municipal System’s act.

### **4. ACCOUNTS DISPUTE RESOLUTION COMMITTEE MEMBERSHIP**

- 4.1 The appointment of the Accounts dispute resolution committee members and its committee chairperson will be at the discretion of the accounting officer;
- 4.2 In the absence of the chairperson, an Acting chairperson may be elected by members present to chair the meeting of the ADRC;
- 4.3 The ADRC may coopt other persons (internal or External to the Municipality) with special expertise to assist the committee on a fulltime or adhoc bases as they deem necessary, however such coopted persons shall have no voting rights.
- 4.4 The committee must have a committee secretary whose responsibility is to record the proceedings of the meetings at all times and produce minutes of the meetings and provide a record of decisions taken.

### **5. RESPONSIBILITY OF THE COMMITTEE**

- 5.1 Resolve the long outstanding account disputes, some of which are already in courts, where possible the committee should find an amicable, reasonable and responsible settlement in such disputes.
- 5.2 Sit at the apex of the accounts dispute resolution appeals process that is envisaged by section 62 of the Municipal System’s Act and act as the final arbiter between the Municipality and the customer who has lodged a formal account dispute with Council
- 5.3 Recommend an amicable, reasonable and responsible settlement to the Municipal Manager where necessary, in the event there is a stalemate between Council and a consumer.

- 5.4 Provide input into review of the following policies based on its work of account dispute resolution
- a. Accounts Dispute Resolution Policy
  - b. Credit Control and Debt Collection Policy
  - c. Credit Control and Debt Collection Bylaw
  - d. Electricity Supply Bylaw and any other revenue related policies & bylaws
- 5.5 Monitor the implementation and execution of the following processes and procedures
- a. Processing of normal accounts queries to ensure that do not escalate into costly disputes
  - b. Accounts Dispute Resolution Process to ensure that these disputes are resolved within the timelines dictated by the Accounts Dispute Resolution Policy and do not escalate into bottlenecks in revenue recovery processes
- 5.6 Request where necessary, receive and process reports from Customer Services Section related to account queries and progress on disputes
- 5.7 Recommend to the Municipal Manager, where necessary remedial action to be taken to streamline the processes to reduce customer frustration in terms of processing of account queries and account disputes
- 5.8 Process the disputes that have been in the process for too long, consider the merits of each matter and make a recommendation on their resolution
- 5.9 Where necessary, to matters that have been referred to this committee, negotiate settlements with customers and make recommendation on such settlements to Municipal Manager.
- 5.10 Where necessary, receive and process disputes from the legal department, in which legal have ascertained that there might be a legal process that they envisage whilst the matter could be resolved amicably without legal proceedings.
- 5.11 Process monthly reports to Strategic Management Committee on the work the committee has done during the months and where necessary present the decisions taken
- 5.12 From time to time, where necessary review these terms of reference
- 5.13 To co-opt where necessary, internal and external services of non-members who has special expertise that might be necessary for a specific matter(s) and such person would not have voting rights
- 5.14 Where necessary, recommend to the Municipal Manager, a replacement for a member who for some reason could not proceed with being the member of this committee.

## **6. MEETINGS**

- 6.1 The meetings shall be scheduled for weekly sittings unless there are no disputes to deal with however as a matter of committee functions, it must meet at least monthly to deal with processing operational reports from the customer service unit.

- 6.2 The quorum for the meeting shall be 50% plus 1
- 6.3 Attendance of meetings by a member is compulsory; non-attendance by a member (for any reason) must be reported by a way of a written apology forwarded to the chairperson through the Secretariat prior to the meeting date or time.
- 6.4 Notwithstanding the provisions of 6.3 above, if a member is not present for a meeting for 3 consecutive meetings, the non-attendance shall be reported to accounting officer, unless a written communication of the reasons for non-attendance has been provided by the member.

## **7. REPORTING**

- 7.1 The committee shall produce monthly operational reports to the Municipal Manager/ SMC on the work done during the month, attach minutes of the meetings and record of attendance by members.
- 7.2 The committee shall submit reports to the Municipal Manager/ SMC on specific matters where recommendations are made on settlement of disputes.

## **8. APPROVAL**

The terms of reference for the accounts dispute resolution committee is hereby approved by the Accounting Officer and takes effect from date of signature hereof.

**APPROVED / NOT APPROVED**

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**MR MP KHATHIDE**  
**MUNICIPAL MANAGER**

Date: .....July 2020

Ext: 2089

Email: [madoda.khathide@msunduzi.gov.za](mailto:madoda.khathide@msunduzi.gov.za)