

Councillors Induction MANGAUNG METRO

State of Municipal Finances

PRESENTED BY:
Malijeng
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Title:

22 July 2022



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Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



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PRESENTATION OUTLINE

1. Setting the Scene
2. Interventions
3. Introduction
4. Key observations
5. Financial Health
6. Governance
7. Institutional arrangements
8. Service delivery
9. Take-aways
10. Recommendation for consideration

SETTING THE SCENE



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HOW THE 43 MUNICIPALITIES WERE IDENTIFIED

- Gauteng High court decision - the National Government was ordered to intervene in the financial and service delivery crisis at the Lekwa LM
- Honourable President – requested a list of other cases similar to Lekwa
- Based on this instruction – NT and CoGTA developed a matrix to assess the performance of all municipalities according to the four pillars of sustainability
- The exercise resulted in identifying 43 municipalities in financial and service delivery crisis
- The current situation of these municipalities was consulted with respective PTs and CoGTA to determine the applicable mode of intervention necessary
- Based on the outcome of these sessions, the municipalities requiring mandatory interventions were confirmed
- The outcome of these engagements informed the letter that the MoF wrote to the respective Premiers on the proposed intervention mode

POLITICAL PERFORMANCE



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Political terms and municipal finances

- Under the 5th local political term of office, municipal financial distress grew rapidly
- 175 or more than two-thirds of municipalities are financially distressed
- Outcomes for 2020/21 still to be determined

2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
66	94	95	85	87	97	128	125	163	175	?

4th term
2011-2016

(Stable but no improvement)

5th term
2016-2021

(Rapid decline)

Source: State of Local Government Finances and Financial Management Reports (2010/11 to 2019/20)

2021-2026 canvas

- The canvas for the 6th electoral term is currently blank
- Councillors will be instrumental in deciding what the picture will look like at the end of the electoral term

2021/22	2022/23	2023/24	2024/25	2025/26



THE S139 INTERVENTION FRAMEWORK IN PERSPECTIVE



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Objective

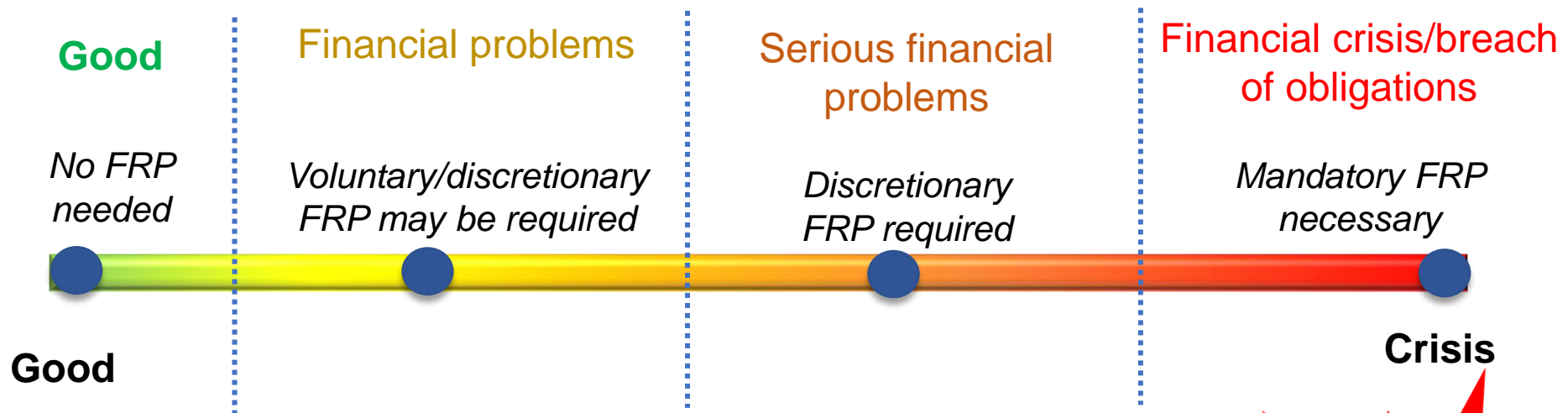
- S139 Constitutional interventions have always been misunderstood
 - Intention
 - Interpretation
 - Intergovernmental relations, coordination and support
 - Timing
 - Criteria

- The objective of today's session is therefore to:
 - (1) **Clarify** the S139 (Constitutional) Intervention process, particularly S139(5) – mandatory interventions;

with the intention to
 - (2) **Create a shift in our thinking** on how S139, if implemented appropriately with full cooperation from all role-players, can actually be used to improve municipal performance (dramatically change the game)

Why is this important?

- An FRP is a Financial Recovery Plan
- There are different stages of financial health in a municipality:

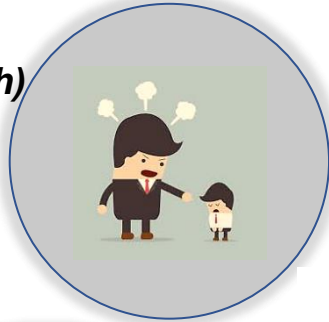


State of Financial Health and FRP required

**You
are
here!**

Popularly held perceptions

Punitive
(“Big Brother” Approach)



Unsubstantiated



Lacking Consequences

Intrusive
(Encroach on municipal autonomy)



S139(1)

Unsupportive
(Do not align to S154 of the Constitution)



Seldom work...



Choice
(Cooperation is optional)

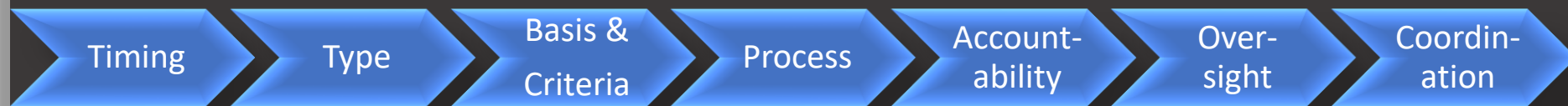
Are the current perceptions valid?

- Perhaps
- Current beliefs were formed on the basis of how the S139 framework has to date been applied
- And how recovery plans were either implemented/failed to be implemented at municipal level
- Bad practice unfortunately became established practice
- But these beliefs are not necessarily reflective of the reality...
- The process to change the way we think about S139 requires 3 things:
 1. We familiarise ourselves with the high-level purpose and intention of the S139 framework;
 2. We understand our past implementation failures/mistakes; and
 3. We progressively work towards correcting these failures/mistakes to bring about improved municipal performance...effectively changing the game

Where exactly are we going wrong?

- Research*, analysis and practical experience reveal several fault lines in S139 understanding and implementation:

National and Provincial Government Fault-lines



* Research conducted by the Public Affairs Research Institute 2017/18 (Mind the Gap report)

But municipalities are also making errors...

Local Government Fault-lines

Lack of will or
a failure to
implement
FRP

Poor monthly
progress
reporting

General lack of
cooperation

Commitment
to improve?

Balancing
administrative
/political
interface

Underlying principles for correction

1. Clarify purpose and intentions of S139 framework

2. Reaffirm roles and responsibilities of stakeholders

3. Maintain a well coordinated strategic focus

4. Monitor and assess outcomes regularly

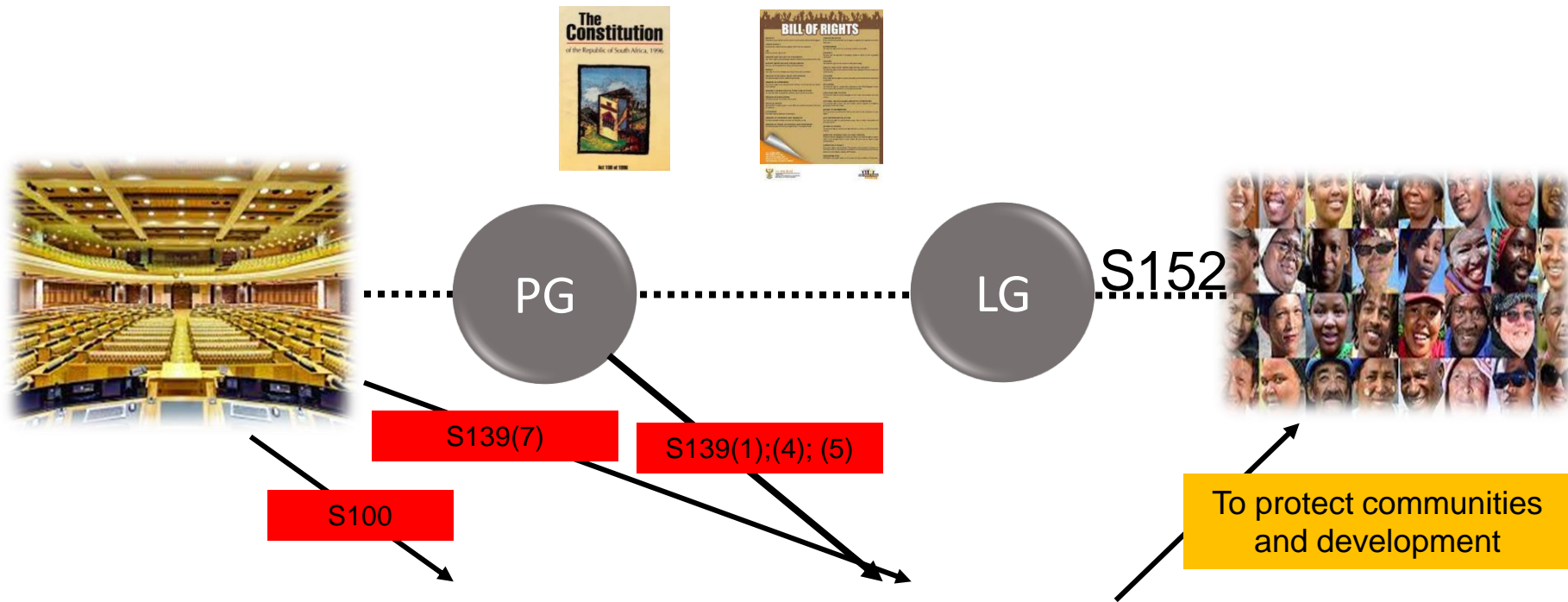
5. Escalate and elevate measures where there is non-compliance



The ideological basis for interventions

- Stems from political ideology that government exists for several reasons, amongst which is to ensure the general welfare of its people
- In addition to a political and economic role, government has a **moral obligation** to improve the lives of its citizens (make it good) – this is **particularly important** in the context of SA history
- To achieve this, each sphere of govt. in SA is assigned constitutional functions /responsibilities
- The Constitution states that each sphere is distinctive, **inter**dependent and **inter**related – no sphere is completely **independent** of others
- Therefore, autonomy of all spheres is **RELATIVE and NOT ABSOLUTE** meaning that all spheres must work together to make life good for our people...

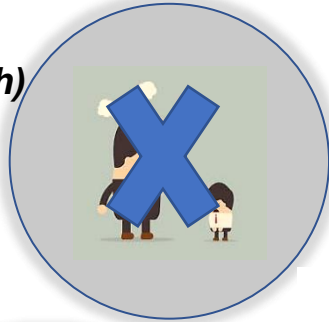
Statutory basis for interventions



S139 interventions are a constitutional safeguard when autonomy is used inappropriately or not used to promote developmental objectives of the country

Shift 1...

Punitive
(“Big Brother” Approach)



Unsubstantiated



Lacking Consequences

Intrusive
(Encroach on municipal autonomy)



S139(1)

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(Do not align to S154 of the Constitution)



Seldom work...



Choice
(Cooperation is optional)

Interventions are informed by time and circumstance

- PEC may only intervene under 3 conditions – implies limits on Provincial Government authority – aligned to the concept of relative autonomy

S139 (1)

- Failure to perform an executive obligation and/or serious financial problems

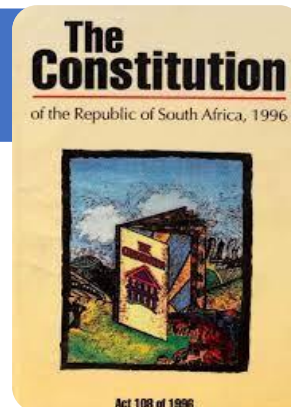
S139 (4)

- Council fails to pass a budget or revenue raising measures to give effect to the budget

S139 (5)

- Serious and persistent financial crisis or breach of obligations to provide basic service delivery and meet financial commitments

When a PEC cannot intervene or fails to intervene, the Constitution allows for National Government to intervene in terms of S139(7)



Interventions have consequences...

- It is important to note that under S139 interventions:
 - The municipality is always mandated to implement the directive/ FRP themselves – this is the first option

BUT IF THEY FAIL TO DO SO, THEN THE PEC/CABINET HAS TWO CHOICES:

- The PEC can assume responsibility for the specified executive obligation or FRP implementation; and
 - The PEC can decide dissolve a municipal council where circumstances warrant and appoint an Administrator
- Therefore S139 interventions are not without consequences

How to determine if there is a serious financial problem

- Factors specified in *S138 of the MFMA*
- One or more of the following factors must exist:
 - Municipality fails to make payments when due;
 - Municipality defaults on financial obligations for financial reasons;
 - Actual current expenditure > actual current revenue + surpluses (at least 2 consec. years)
 - Most recent operating deficit > 5% of revenue;
 - More than 60 days late in submitting AFS to Auditor-General;
 - AG withholds opinion, issues a disclaimer due to inadequacies in financial statements/records or issues opinion identifying serious financial problem;
 - Any of the above exists in a municipal entity under the municipality's sole control, or an entity for whom the municipality is responsible for its debts and the municipality failed to intervene effectively;
 - Any other material condition exists (municipality and/ or municipal entity)
- **REMEDY: DISCRETIONARY INTERVENTION WITH A DISCRETIONARY FRP**

How to determine if there is a financial crisis

- Factors specified in **S140 of the MFMA**
- One or more of the following factors must exist:
 - Municipality fails to make payments to a lender or investor when due;
 - Municipality fails to meet a contractual obligation which provides security to S48;
 - Municipality fails to make any other payment when due – must individually or in aggregate exceed a prescribed amount / 2% of budgeted operating expenditure;
 - Municipality's failure to meet its financial commitments impacts on availability and price of credit to other municipalities;
 - Recurring failure by the municipality to meet its financial commitments impairs its ability to procure goods, services or credit on usual commercial terms.
- **REMEDY: MANDATORY INTERVENTION WITH A MANDATORY FRP - S139(5)**

To avoid a S139(4) intervention..

- To avoid an intervention invoked in terms of a failure to adopt a budget and revenue raising measures that give effect to the budget, the Council must, amongst other things:
 - Know and comply with the MFMA deadlines/implementation calendar;
 - Know and comply with the Municipal Budget and Reporting Regulations (2009);
 - Be au fair with the concept of a funded budget (S18 of the MFMA) and how a funded budget is realised.

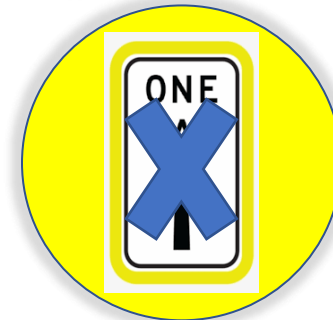
Shift 2...



Unsubstantiated



Lacking Consequences



S139(1)



Unsupportive
(Do not align to S154 of the Constitution)



Seldom work...



Choice
(Cooperation is optional)

How is support related to an intervention?

- Municipalities often regard support to be a substitute or alternative to intervention
- But support (S154) and intervention (S139) find expression in different sections of the Constitution
- Support by National and Provincial Government may precede or succeed an intervention but does not replace it
- Once an intervention is invoked, elements of support become embedded in the intervention and financial recovery plan



SUPPORT IS *NOT AND SHOULD NEVER BE* A SUBSTITUTE FOR AN INTERVENTION

Shift 3...

Unsupportive
(Do not align to S154
of the Constitution)



Seldom work...

What makes an intervention effective?

- The FRP is a merely a prescription for good municipal financial health – it is not a cure on its own and does not substitute for day-to-day activities of a municipality
- Similar to the relationship between a doctor and patient – the doctor can only diagnose the problem and prescribe a remedy
- But to be effective, the patient has to follow the instructions
- The effectiveness of any intervention is therefore largely in the hands of the municipality
- However, national and provincial government have a responsibility to correctly diagnose the problem and treat it at the root to prevent a recurrence
- The revised approach to interventions, the Collaboration Framework and the clarification of roles and responsibilities of key role-players are national and provincial government's contribution to improve the effectiveness of interventions

The revised approach to FRP development

- Distinguishes between 3 distinct but interrelated phases
- Purpose: to facilitate better/easier implementation and improve oversight and monitoring

RESCUE

Phase 1

Minimal set of key indicators across all four pillars necessary to *neutralise financial turbulence (6-8 months)*

STABILISATION

Phase 2

To address the underlying causes of failure focusing on eradicating problems at the root (8-24 months)

SUSTAINABILITY

Phase 3

To ensure financial and service delivery sustainability and prevent a regression (Subject to progress in Phase 2)

Improved monitoring and oversight

- The following oversight committees are recommended:
 - A Technical War Room Committee that meets monthly to deliberate on progress, participants should include relevant officials from the municipality, the PT, Prov. CoGTA and Prov. SALGA, NT and National CoGTA
 - A Political Oversight Committee to meet quarterly in order to review intervention progress on a provincial level – Premier, relevant MECs
 - A Political Oversight Committee (Premier and MECs) to discuss progress/areas of concern with the Mayor and Councillors of individual municipalities (where required)

Shift 4...



Seldom work...

A reframed perspective

S139 Interventions:

1 *Are designed to protect communities, the developmental agenda and the national economy (wall to wall munis)*

2 *Respect the relative autonomy of local government*

3 *Should not be confused with support (support does not replace an intervention)*

4 *Can be very effective when FRPs are properly implemented by the municipality*



8 *Objective criteria for invocation and termination of interventions (MFMA)*

7 *Consequences for non-implementation of FRP: assume responsibility / dissolve Council*

6 *S139(4) and S139(5) interventions address a financial problems*

5 *The word “discretionary” does not imply a choice for the municipality*

Under administration and under intervention

Under Administration,
Council is dissolved

Under Intervention,
Council is still in place

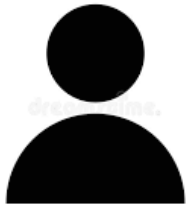
Is not
the same



* No municipal Council



* Municipal Council



* Administrator appointed until new
Council is elected



* Representative appointed to
assume responsibility for FRP

Roles and Responsibilities in an intervention...

- Role-players can be grouped into the players, the coach and the referee...

Players



*Municipal
Administration*

Coach (Guides)



Mayor/Council

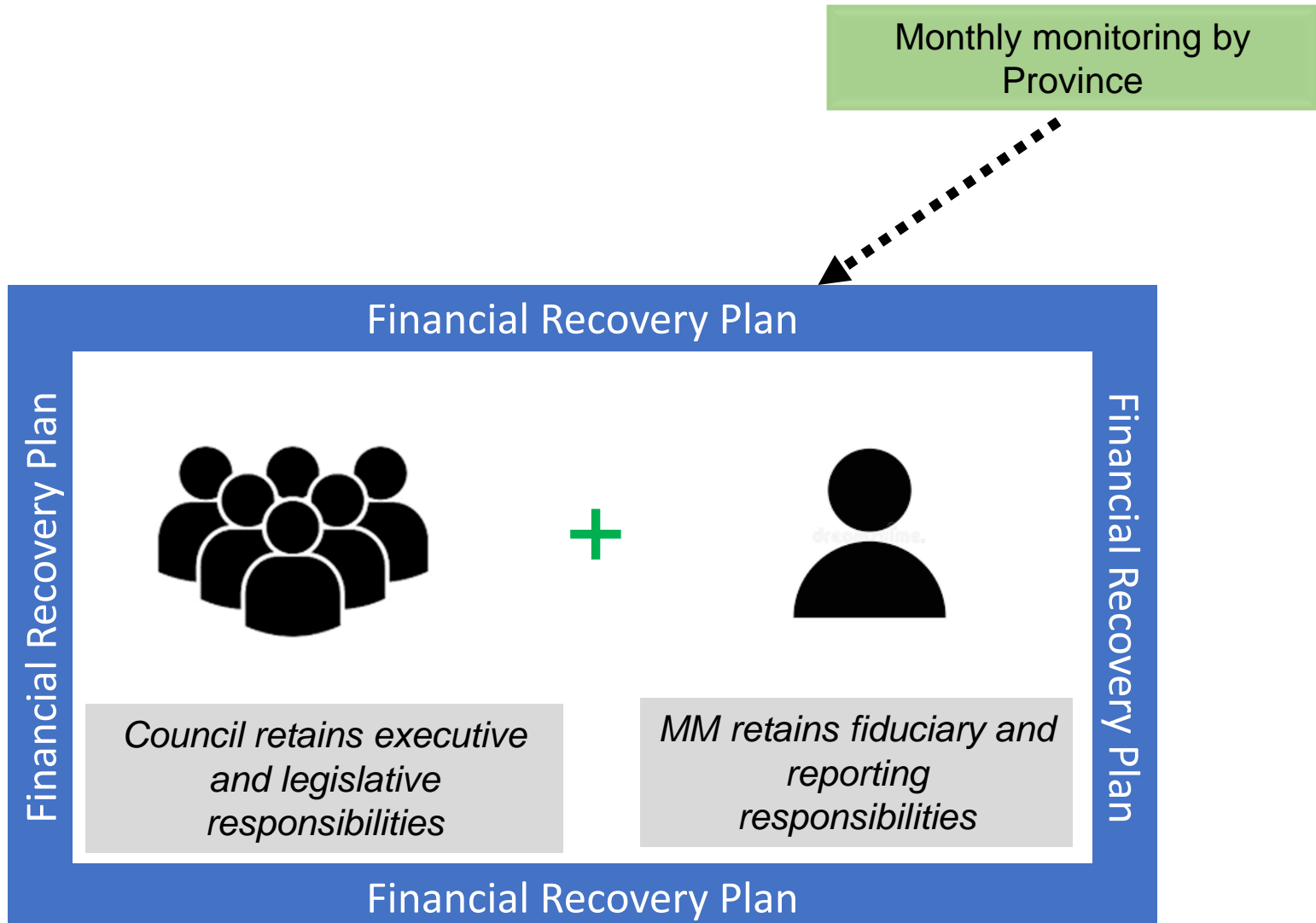
Referee



*National/Provincial
Government*

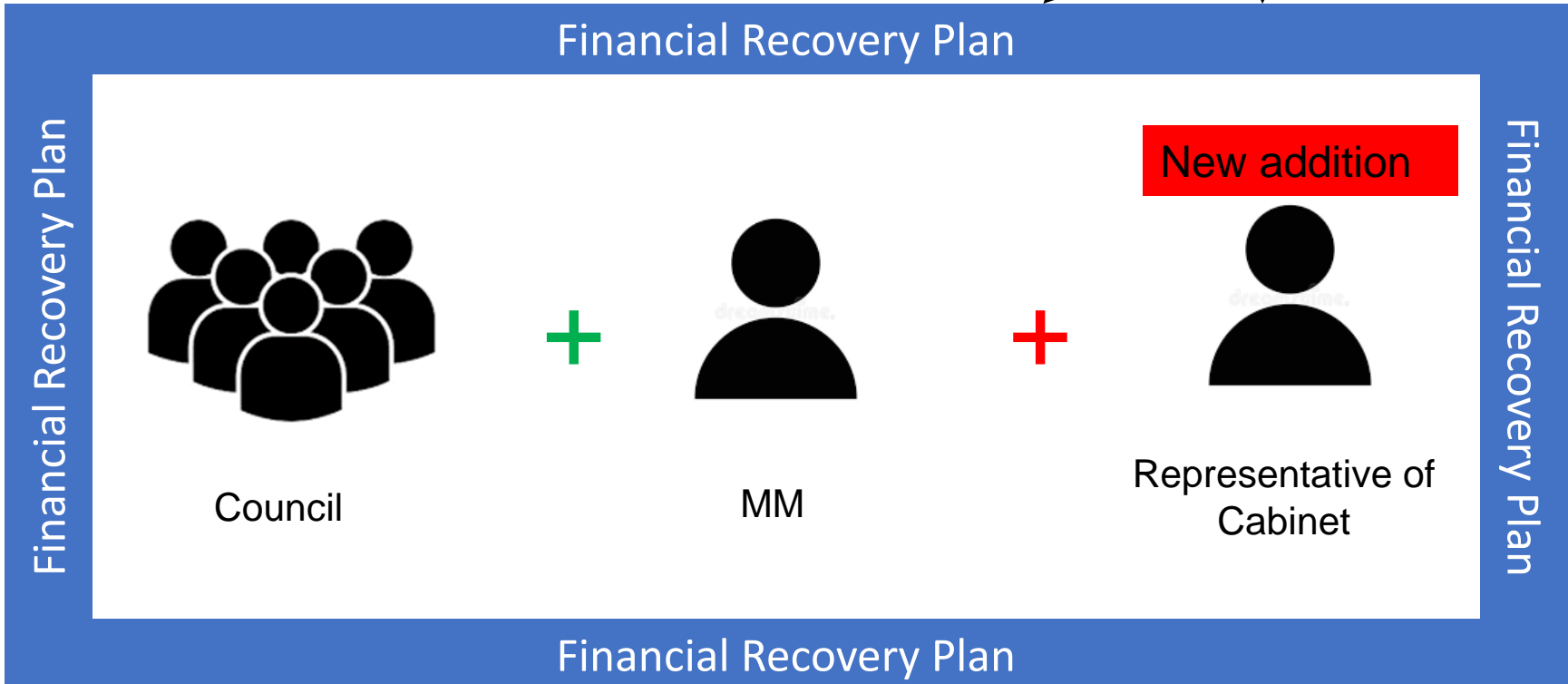
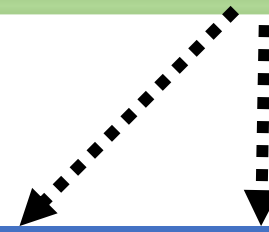
- NB: But there are also two teams... one who plays for the betterment of the municipality and its communities and the other who plays for self-interest...

Powers & Functions: No responsibility assumed



Powers & Functions: Assumption of responsibility

Monthly monitoring by National Government (S139(7))



What are the functions of the NCR?

- Manages the intervention on behalf of the Province/Cabinet
- Must ensure that the specified executive obligations which the municipality is failing to fulfil are fulfilled
- Must ensure that the FRP is implemented

- To do this, the NCR focuses on 3 key areas:
 1. Provides strategic leadership and direction to implement the FRP
 2. Reporting responsibilities
 3. Internal and External stakeholder responsibilities

Strategic Leadership and Guidance

Leadership

- i. Issue directives and instructions to the Accounting Officer and relevant staff to implement FRP
- ii. Provide concurrence on any decision-making report processed by the AO to any delegated authority (incl. Council/Mayor/EM)
- iii. Develop/implement control measures, governance systems, processes and procedures, strategies and plans to give effect to the FRP implementation
- iv. Oversee the timeous implementation of consequence management

Guidance

- i. Assist/Advise the AO in reviewing/reallocating resources and responsibilities
- ii. Assist/Advise the AO in the recruitment and selection process to appoint staff – including senior managers in the municipality
- iii. Assist the AO in building HR capacity to a level where the municipality is able to perform its functions and exercise its functions in an economic, transparent, effective, efficient, and accountable ways

Reporting Responsibilities

- i. Accounts to the Minister of Finance for the duration of the intervention
- ii. Submits monthly progress reports to Minister of Finance and the MFRS unit
 - Conducts necessary quality assurance processes to verify performance
 - Confirms/certifies that decisions of the Council/EM/Mayor are consistent with the FRP
- iii. Prepares quarterly FRP reports on impact achieved against set indicators; and
- iv. Maintains a record of decisions on FRP implementation

Internal/External Stakeholder Responsibilities

- i. Assist in the preparation and implementation of the FRP
- ii. Facilitates interface and cohesion between the political and administrative components of the municipality
- iii. Attend meetings of Council, Mayoral Committee and top management
- iv. Facilitate meaningful public participation and stakeholder engagement

Role of the Municipal Manager/AO

- Accounting Officer's (AO) role include fiduciary and reporting responsibilities
- **FIDUCIARY RESPONSIBILITIES**
 - i. Statutory powers of the AO, to the extent that they impact on the FRP is bound by the FRP and must be exercised with the concurrence of the PER;
 - ii. Implement financial systems, policies, strategies, plans and procedures;
 - iii. Overall management of administration to ensure efficient and effective support for FRP implementation
 - iv. Support the review and implementation of internal controls by the PER/NCR
 - v. Perform all functions, duties and responsibilities contained in LG legislation subject to the directives of the PER /NCR in so far as the FRP is concerned;
 - vi. Perform all lawful instructions and directives by the PER in an economical, impact orientated, effective and accountable manner to implement the FRP and to achieve and sustain the strategic objectives of the intervention
 - vii. Exercising of delegated authority by AO in terms of the Council approved system of delegations is subject to oversight and directives by the PER/NCR in so far as the FRP is concerned

Role of the Municipal Manager/AO (2)

○ REPORTING RESPONSIBILITIES

- i. In relation to the implementation and monitoring of the FRP is, for the duration of the intervention, accountable to the NCR/PER;
- ii. Must provide access to all documents, records, and information to allow the PER to discharge his/her assigned duties;
- iii. Must ensure that the NC/PER has access to all staff of the municipality;
- iv. Submit monthly performance progress reports and a portfolio of evidence (POE) for claimed performance on the implementation of the FRP for consolidation by the NCR/PER

Role of Municipal Council

- Council will be responsible to oversee the implementation of the approved and imposed FRP which the municipality **MUST** implement
- This ***FRP binds the executive and legislative authority of Council***, the Executive Mayor and the Accounting Officer including the approval of the budget, legislative measures to give effect to the budget, ensuring that all decisions are consistent with the objectives, key performance areas, indicators and targets contained therein
- **This means, that no decision (Executive or Legislative) can be approved by Council, Executive Mayor and Accounting Officer that contravenes or defeats the FRP and its objectives**
- The appointment of senior municipal officials who meet the set requirements – given that restoring institutional capability is a critical part of the recovery process

Where Council is dissolved...

- Cabinet appoints an Administrator
- The Administrator fulfils all the functions (executive and legislative) of the Municipal Council
- Administrator oversees implementation of the FRP by the administration and provides guidance as needed
- Administrator may be supported by a Team of Experts
- When Council is reappointed, the Administrator is converted to a NCR either for a transitional period or as determined by Cabinet

KEY OBSERVATIONS



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FINANCIAL HEALTH



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FINANCIAL PERFORMANCE

Mangaung: Financial Health

Performance Indicator	2016/17 Audited Outcome	2017/18 Audited Outcome	2018/19 Audited Outcome	2019/20 Audited Outcome	2020/21 Audited Outcome	2021/22 YTD Actual 2021/22:Q3
Surplus/(Deficit)	309 427	(587 675)	(1 028 371)	(322 262)	(819 685)	318 737
Cash/cash equivalents at the year end	217 527	235 902	127 986	427 625	211 500	2 875 319
Collection rate	78,0%	77,0%	82,3%	81,4%	86,0%	83,6%
Outstanding debtors	1 612 926	2 007 912	2 385 327	2 717 232	2 598 411	3 078 416
Outstanding creditors	1 877 397	2 080 502	2 473 353	2 584 575	2 506 729	8 749 984
Cost coverage	0	0	-1	0	0	8

- The City has incurred operating deficits for the past 3 years. Even the 2020/21 audited actuals indicate an operating deficit of R819 million. This indicate the City is failing to contain spending in line with revenues received.
- Collection rate remain below the norm of 95 per cent throughout the periods under review. This then indicate that the targets on the FRP to improve the collection rate is not yielding any results Mangaung is amongst the 175 distressed municipalities as per the per the 2020 SoLGF report and meets the S138 & S140 triggers.
- As at 30 June 2022- The City owed Bloem Water a balance of R690 million made of R118 million(Current), R547 million (Overdue) and R23 million(Interest).
- Eskom account balance as at 31 May 2022 – R193 million, with R32 million due for 90 days

Mangaung Metro - Outcomes of the Budget Analysis 2017/18 - 2022/23

	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Adopted Budget Outcomes	Adopted Budget	Adopted Budget	Adopted Budget	Adopted Budget	Adopted Budget	Adopted Budget
Outcomes	Funded	Unfunded	Unfunded	Funded	Funded	Funded

The City adopted an unfunded budget in 2018/19 and 2019/20 FY but managed to adopt a funded budget during the main adjustment following and subsequent years. This was after the Section 139 announcement and NTs forcing the City to make extreme cuts on operating expenditure.

GOVERNANCE



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FINANCIAL GOVERNANCE

Audit Outcome Trend

Audit Opinion				
2016/17	2017/18	2018/19	2019/20	2020/21
Unqualified - With findings	Unqualified - With findings	Qualified	Unqualified - with findings	Unqualified with findings

- The City maintained an unqualified favourable audit opinion with findings for the last two consecutive years.
- SCM irregularities is the main contributor UIFW and the incorrect composition of the bid adjudication committee is a recurring finding.
- Service providers whose contracts were extended without council approval amounts to **R244 million** for both 2018/19 and 2019/20FY.
- Council has not taken action against officials regarding the UIFW

Balances	2017/18	2018/19	2019/20	2020/21
Fruitless and Wasteful Expenditure	70 462	88 787	115 038	146 652
Irregular Expenditure	552 968	1 071 310	2 673 059	2 895 924
Unauthorised Expenditure	4 460 261	2 404 107	3 879 282	4 636 426

UIFW Reduction Strategy

- Council resolved that MPAC and Audit Committee to monitor implementation of strategies:
- Stabilisation of SCM unit and provide support to staff.
- Review of composition of Bid Adjudication Committee.
- Monitoring and reporting on contracts
- Payment of long outstanding creditors to avoid interest;
- Budgeting sufficiently for debt impairment and depreciation
- Improvement of debt collection levels;
- Improvement and enforcement of existing internal controls.
- Payment of long outstanding creditors to avoid interest;
- Improvement of debt collection levels;
- Improvement and enforcement of existing internal controls.

POLITICAL GOVERNANCE

- In 2017/18, the Municipality went into a voluntary Financial Recovery Plan (FRP). This was adopted in 2018. However, progress reported in the implementation and institutionalisation of this FRP has been slow and unsatisfactory.
- There was no commitment to this process by the Executive Management and the political leadership. The comments on the FRP indicated that lack of strategic input and direction by the city leadership.
- In 2019, the City was placed under administration in terms of Section 139(5)(a)(c) of the Constitution and the FRP was developed in phases of rescue, stability and sustainability.
- There is no significant progress that was achieved by the intervention. The only target that was achieved is the ring-fencing of grants. The council did not demonstrate commitment to the implementation of recovery plan.
- The City operated for twelve days without an Accounting Officer from 10 – 22 February 2022 , with a very divided and dysfunctional administration
- The City was then placed under Section 139(7) of the Constitution in April 2022 due to lack of progress on the FRP

INSTITUTIONAL ARRANGEMENTS



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INSTITUTIONAL ARRANGEMENTS

- The City went through change in political leadership prior to the 2021 LGE – This created uncertainty and added to the instability.
- Reports of blurry lines between political and administrative leadership.
- Section 139 intervention since December 2019, there was distress between the EMT and the Intervention team which often affected the implementation of the financial recovery plan.
- Acting City Managers have been appointed several times since the resignation of the former City Manager – Prolonged acting arrangements may lead further distress and instability.
- To date, the position of City Manager is still vacant after two attempts on recruitment process have failed.
- Mismanagement of overtime was a continuous challenge – wherein there was Lack of discipline from EMT to manage and control the process.
- The ongoing matter of the Metro Police – Process was approved in 2012 when the City's finances were stable. The risk of adding burden to the salary bill which includes increase in salary notches without following necessary procedures and the alleged irregular appointments.
- Section 56 positions are currently vacant- most employment contracts ended in March/April 2022, thereafter secondments of key officials by National Government.
- mSCOA implementation requires full attention as the City is not fully compliant.

SERVICE DELIVERY



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SERVICE DELIVERY

Water Losses

2020/21			2019/20			2018/19		
R thousand	Kilolitre (KI)	%	R thousand	Kilolitre (KI)	%	R thousand	Kilolitre(KI)	%
229,323	22,955,267	42	227,624	22,785,178	40	186,748	20,658,016	39

- The City is struggling with routine maintenance of water and sanitation infrastructure including stormwaters. Sewerage spillages are posted on social media where citizens don't have easy access to their properties.
- Since the intervention was invoked, water losses have not declined as a result of poor maintenance have been out of control recording 39%, 40% and 42%.
- The City embarked on meter audits, prepaid meters and refurbishment of equipment but there is no improvement reported.
- Service delivery has also suffered due to poor spending on grants in the past financial years with the City losing R300million.
- Due to the City being financially distressed, it relies mainly on National Allocation to fund CAPEX and cannot afford get financing from the banks. 85% CAPEX funded from National grants, while 15% is from City's own funding.

Mangaung Asset Maintenance Budget - 2021/22

<i>Renewal and upgrading of Existing Assets as % of total capex</i>	27.2%	35.3%	32.8%
<i>Renewal and upgrading of Existing Assets as % of deprecn</i>	91.8%	113.1%	98.3%
<i>R&M as a % of PPE</i>	2.4%	2.4%	2.5%
<i>Renewal and upgrading and R&M as a % of PPE</i>	4.0%	4.0%	4.0%

Conditional Grant performance over the past 5 years

Free State (Mangaung) - Expenditure against Conditional Grants; 2016/17 - 2020/21

Grant	2016/17	2017/18	2018/19	2019/20	2020/21
R thousands	Outcome as % Adjusted	Outcome as % Adjusted	Outcome as % Adjusted	Outcome as % Adjusted	Outcome as % Adjusted
Financial Management Grant (FMG)	100.00%	100.00%	100.00%	100.00%	100.00%
Expanded Public Works Programme Grant (EPWP)	36.07%	100.00%	19.80%	73.73%	80.25%
Neighbourhood Development Partnership Grant (NDPG)	1.89%	95.46%	71.29%	19.75%	74.07%
Intergrated City Development Grant (ICDG)	55.48%	100.00%	52.44%	44.49%	41.72%
Public Transport Network Grant (PTNG)	88.89%	63.17%	74.55%	61.94%	100.00%
Municipal Disaster Recovery Grant	-	-	41.59%	-	-
Intergrated National Electrification Programme (Municipal) Grant (INEP)	100.00%	100.00%	100.00%	-	-
Energy Efficiency and Demand Side Management Grant (EEDSM)	100.00%	-	-	-	-
Municipal Demarcation Transition Grant	37.21%	100.00%	-	-	-
Urban Settlement Development Grant (USDG)	88.66%	72.30%	65.52%	70.44%	95.47%

- Mangaung Metro repaid an amount of R18.4 million to the National Revenue Fund which was unspent as at 30 June 2021
- In 2019/20 the Metro repaid R12.2 million to the National Revenue Fund
- In 2018/19, the total unspent grant was R452 million and an equivalent amount was off-set against the Equitable Share
- The total amount of R324 million remained unspent in 2017/18 and was repaid to the National Revenue Fund. In 2016/17, a total of R43 million remained unspent and was offset against the Equitable Share
- Due to poor spending of the conditional grants allocated, over the past 5 year, the Metro has lost R 849 million to the National Revenue Fund

FINAL TAKE-AWAYS



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



**STAY
SAFE**

VACCINATE TO SAVE SOUTH AFRICA

Final Take-aways

- Free State (EXCO) invoked Section 139 (5)(a) and (c) of the Constitution by placing the municipality under administration in December 2019 as a result of persistent breach of financial commitments, lack of service delivery and political instability.
- Your municipality did not make significant improvements following the support by the Free State Provincial Government and National Government. Sadly, your municipality continue to face financial and service delivery crisis which you may not have caused but you need to fix nevertheless.
- As the new political leadership, your cooperation to secure a turnaround of this municipality is highly needed based on some complex challenges that requires your strategic leadership.



**“Courageous, ethical,
accountable, capable
and
Citizen centric
leadership
will turn local
government
around” AGSA**

RECOMMENDATIONS



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



**STAY
SAFE**

VACCINATE TO SAVE SOUTH AFRICA

Recommendations for Council to Implement

- Fast-track the appointment of City Manager and HODs to stabilize the administration and service delivery
- Exercise effective expenditure control and reduce the high reliance on external contractors and excessive overtime payments
- Implements cost containment measures to eliminate the recurring operating deficits
- Implements the debt and credit control policies to improve the collection of outstanding accounts, especially Government Debts and Councilors must actively assist with the collection of household debts
- Addresses the water, sanitation and waste management inefficiencies and implement strategies in place to reduce water and electricity losses – Review the Service Level Agreement with BloemWater
- Actively monitors the administrative leadership to ensure the elimination of supply chain management inefficiencies and irregularities
- Effectively utilize internal control resources to eliminate service delivery inefficiencies (investing in Repairs and maintenance – service delivery fleet and equipment)
- Speed-up the implementation of infrastructure projects, especially funded by conditional grants and implement measures for stringent contract management
- Revive MPAC to effectively deal with Annual Report, Audit Action Plan, UIFW and re-establish the Financial Misconduct Board and ensure it is functional
- Commit and Cooperate with all stakeholders in the implementation of the FRP

THANK YOU



For additional information on national and provincial budgets, please visit our new budget data portal: <https://vulekamali.gov.za>

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Explore easy-to-understand, verified financial information for **every single municipality** in South Africa in one place.

For information on local government finances, please visit: <https://municipalmoney.gov.za>

One: interventions are punitive

INTERVENTIONS ARE PUNITIVE, INTENDED TO STRIP MUNICIPALITIES OF THEIR AUTONOMY AND TAKE OVER THEIR FUNCTIONS



- Interventions were introduced in the Constitution essentially to protect the developmental agenda of our country and ensure a progressive realisation of basic rights
- Limited in the original Constitution to interventions where there is a failure to fulfil an executive obligation – commonly a failure to provide basic services
- With the MFMA , the issue of borrowing arose and in particular, what would be the liability of the state if LG defaults on its borrowing? Banks would be reluctant to lend to municipalities if there was no clarity on liability
- Amendments to the Constitution were then effected to include recourse where municipalities experience financial problems or a financial crisis
- Interventions were therefore never intended to be punitive and take away powers from LG
- On the contrary, interventions are enabling and strive to ensure that the LG system functions as intended

Two: Responsibility for interventions

THE PROVINCIAL GOVERNMENT IS RESPONSIBLE FOR IMPLEMENTING THE RECOVERY PLAN



- The LG system is complex and interventions are not intended to be a “one person show”
- Many stakeholders and each has a pivotal role to play in the intervention
- The Provincial EXCO is responsible for determining the need for intervention and ensuring that the right type of constitutional intervention is invoked
- NT/PTs are responsible for developing a financial recovery plan depending on whether the intervention requires a discretionary FRP or a mandatory FRP
- CoGTA and Provincial CoGTAs are responsible for contributing to governance, institutional and service delivery indicators which are part of the FRP
- Provincial ExcOs monitor progress
- SALGA roles is not legislatively defined but SALGA assists with dispute resolution and councillor training matters
- Communities must be involved if we aspire to restore trust in LG and witness first-hand “what their money is buying?”
- Municipal administrations are responsible for the actual implementation of the FRP
- Councils must oversee implementation and progress

Three: Credibility of the Administrator

THE EXPERIENCE AND CREDENTIALS OF THE ADMINISTRATOR AND THE PROVINCIAL EXECUTIVE REPRESENTATIVE IS A KEY SUCCESS FACTOR



- The choice of a suitable administrator can make or break an intervention
- It is imperative that a background check of the Administrator/Provincial EXCO Representative is undertaken and credentials verified
- Administrators/Provincial EXCO Representatives must have a positive track record
- Selecting an Administrator/Provincial EXCO Representative purely on the basis that they may have previously been an MM, CFO or other senior manager is insufficient
- The Provincial EXCO is responsible for the selection of an Administrator/Provincial EXCO Representative, however, Council would be required to work with the appointee in overseeing this intervention

Four: Support and Intervention

NATIONAL AND PROVINCIAL GOVERNMENT SHOULD
SUPPORT LG AND NOT INTERVENE



- The Constitution allows for a dual role to be played by national and provincial government
- Support (s154) and intervention (s139) are founded in different sections of the Constitution
- While LG must be supported, oftentimes support alone is insufficient – particularly where poor municipal financial health is the result of corruption, maladministration and greed
- There are specific indicators in the MFMA which guide when an intervention is required
- S138 of the MFMA specifies the conditions that constitute financial problems in a municipality – discretionary FRP required
- S140 of the MFMA specifies the conditions when there is a financial crisis – mandatory FRP
- Support packages (non-financial) can always be built into a recovery plan for the municipality

Five: Consequences

THERE CAN BE SERIOUS CONSEQUENCES FOR MUNICIPAL ADMINISTRATIONS AND COUNCILS FOR NON-COMPLIANCE WITH A RECOVERY PLAN



- In the past, municipalities have often treated the implementation of an FRP as optional
- This has led to many interventions being unsuccessful and gross wastage
- National Treasury retains the right to invoke S216(2) of the Constitution and withhold the LGES where there is evidence of persistent non-compliance with the FRP
- In the national intervention invoked into the Lekwa LM, Cabinet also resolved on dissolving the municipal council for failing to effectively perform their functions
- A precedent has been set
- National Treasury will also shortly be exploring other methods to improve compliance with an FRP – including but not limited to taking control of the cash flows of a municipality

Six: The new council did not cause the problem

THE NEW MUNICIPAL COUNCIL IS NOT THE CAUSE OF THE PROBLEM AND SHOULD NOT BE FORCED TO IMPLEMENT THE RECOVERY PLAN



- It is true that the newly elected council may not be the cause of the problem in the municipality
- But the intervention is invoked against the municipality and not the Council and unless the problem is resolved, any incoming Council will have to honour the FRP
- The newly elected Council is presented with an opportunity to correct dysfunction and in so doing earn the confidence of communities
- There can also be tremendous gains for Council in ensuring that the FRP is implemented

Seven: interventions are optional

INTERVENTIONS AND FINANCIAL RECOVERY PLANS ARE
OPTIONAL



- The discretion on whether or not to intervene belongs to the Provincial EXCO and not the municipality
- Once an intervention is invoked and a discretionary or mandatory FRP is prepared for a municipality, implementation of that plan is non-negotiable and progress will be monitored
- On the basis of progress, Provincial EXCO will decide on further measures that must be taken to ensure recovery in the municipality - does Province strengthen the mode of intervention, dissolve Council, implement consequence management, etc.
- Should Province fails to perform their oversight role effectively, the Constitution allows National Government to step in to protect the developmental agenda of the country

What is a Legislative/Executive Obligation?

- (a) The development and adoption of policies, plans, strategies, and programmes, including setting of service delivery targets;
- (b) Promoting and undertaking development;
- (c) Establishing and maintaining an administration;
- (d) Administering and regulating its internal affairs and the local government affairs of the local community;
- (e) Implementing applicable national and provincial legislation and its by-laws;
- (f) Providing municipal services to the local community or appointing appropriate service providers in accordance with the criteria and process set out in section 78;
- (g) Monitoring and, where appropriate, regulating municipal services where those services are provided by service providers other than the municipality;
- (h) Preparing, approving, and implementation of the budget;
- (i) Imposing and recovering rates, taxes' levies, duties, service fees and surcharges on fees, including setting and implementing tariffs, rates and taxes and debt collection policies;
- (j) Monitoring the impact and effectiveness of any services, policies, programmes, or plans;
- (k) Establishing and implementing performance management systems;
- (l) Promoting a safe and healthy environment;
- (m) Passing by-laws and taking decisions on any of the above-mentioned matters; and
- (n) Any other function within its legislative and executive competence.