Report of the 11th National Municipal Managers Forum

31 August – 1 September 2017
George, Western Cape
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<th>Full Form</th>
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<tr>
<td>CIGFARO</td>
<td>Chartered Institute of Government Finance Audit and Risk Officers</td>
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<td>CoGTA</td>
<td>Department of Corporate Governance and Traditional Affairs</td>
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<td>DCoG</td>
<td>Department of Corporate Governance</td>
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<td>DIRCO</td>
<td>Department of International Relations and Cooperation</td>
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<td>DLG</td>
<td>Department of Local Government</td>
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<td>DM</td>
<td>District Municipality</td>
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<td>FFC</td>
<td>Financial and Fiscal Commission</td>
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<td>IDP</td>
<td>Integrated Development Plan</td>
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<td>IGR</td>
<td>Inter-Governmental Relations</td>
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<td>IMATU</td>
<td>Independent Municipal and Allied Trae Union</td>
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<td>IMFO</td>
<td>Institute of Municipal Finance Officers</td>
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<td>IMTT</td>
<td>Inter-Ministerial Task Team</td>
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<td>IUDF</td>
<td>Integrated Urban Development Framework</td>
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<td>LG</td>
<td>Local Government</td>
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<td>LGES</td>
<td>Local Government Equitable Share</td>
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<td>MASP</td>
<td>Municipal Audit Support Programme</td>
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<td>MBD</td>
<td>Municipal Bidding Document</td>
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<td>MDB</td>
<td>Municipal Demarcation Board</td>
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<td>MFMA</td>
<td>Municipal Management Finance Act,</td>
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<td>MINMEC</td>
<td>Ministers and Members of Executive Council</td>
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<td>MM</td>
<td>Municipal Manager</td>
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<td>MMC</td>
<td>Member of the Mayoral Committee</td>
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<td>MMF</td>
<td>Municipal Managers' Forum</td>
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<td>MSA</td>
<td>Municipal Systems Act, 32 of 2000</td>
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<td>NDP</td>
<td>National Development Plan</td>
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<td>NSDP</td>
<td>National Spatial Development Perspective</td>
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<td>PFMA</td>
<td>Public Finance Management Act, 1 of 1999</td>
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<td>PMS</td>
<td>Performance Management System</td>
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<td>PSA</td>
<td>Public Servants Association of South Africa</td>
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<td>SALGA</td>
<td>South African Local Government Association</td>
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<td>SALGBC</td>
<td>South African Local Government Bargaining Council</td>
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<td>SCLG</td>
<td>SALGA Centre for Leadership and Governance</td>
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<td>SCM</td>
<td>Supply Chain Management</td>
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<td>SDF</td>
<td>Spatial Development Framework</td>
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<td>Sustainable Development Goals</td>
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<td>SCLG</td>
<td>SALGA Centre for Leadership and Governance</td>
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<td>SPLUMA</td>
<td>Spatial Planning and Land Use Management Act</td>
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Introduction

The Municipal Managers’ Forum provides a platform to discuss common issues, share learning and resolve challenges within Local Government to propel local government towards a sustainable future. Indisputably, local government in South Africa has undergone significant transformation during the past 20 years. The sector entered its 4th term after the municipal elections of 2016. While more people throughout South Africa benefit from access to basic services today than ever before in the history of this country – in itself a laudable achievement – Local Government continues to identify and resolve the existing, legacy and new sector challenges through a variety of practical and innovative interventions, programmes and interactions. Important among these is the regular engagement between the South African Local Government Association (SALGA) and the administrative executives of municipalities country-wide.
11th National MM Forum Report

a) Reflection on policy implications for local government;

b) Role of municipal managers in navigating a highly dynamic local government environment;

c) Role of local government in national and global agendas with inputs by Statistics SA, COGTA and National Planning Commission;

d) Municipal financial viability and sustainability with inputs by National Treasury, CIGGARO, FFC, SALGA, AGSA, standard Bank, Steve Tshwete local and Sarah Baartman District municipalities

e) Implications of amalgamation of municipalities and post 2016 local government coalition-led municipalities;

f) Electricity distribution challenges;

g) Identified provisions and implementation challenges of the regulations of the Municipal Systems Act 32 of 2000 and inputs by Municipal Managers

h) Concluding Remarks by SALGA CEO

I. Reflections on policy issues impacting on Local Government: input by Mr Xolile George, Chief Executive Officer, SALGA

At the start of the 4th term of Local Government, it is important to acknowledge Local Government’s progress since 2000. As those at the helm of Local Government, Municipal Managers can take pride in how their policies have shaped the structures and institutional arrangements that constitute South Africa’s new Local Government system today. At the same time, it is important to acknowledge that many challenges remain. The onus is on Municipal Managers to continue driving change and influencing the policies that support quality and sustainable service delivery. Since 2011, the Municipal Managers’ Forum (MMF) has provided managers with an empowering and reflective thought leadership platform to hone their skills through shared learning and gain access to policy formulation processes that aim to drive accountable and constructive behaviour in the municipal environment.

“I think that it is important for us to ask ourselves critical questions about accountability, leadership and consequence management so that over the next five years we can transform Local Government and, as the 4th generation of Municipal Managers, leave a legacy of leadership that is robust, fair and conscious of the privilege we have of helping the people we serve realise their aspirations through the benefits and possibilities we create as Municipal Managers.

Mr Xolile George, SALGA CEO

“On behalf of SALGA, I would like to congratulate those of you who have agreed to stay the course towards 2021 and welcome those who recently joined this Forum. The more you engage with one another the better. It is important that we walk this journey together and appreciate the privilege of being tasked to lead a municipality. The best we can do is to improve the livelihoods of the people in the communities we serve.”

The overall progress achieved by Local Government during the past 16 years in enabling the task of transforming Local Government rests on an assessment of whether the new democratic system is aligned with the original key mission of building a developmental Local Government that is caring, accountable, responsive, innovative, capable, participatory, resilient, viable, development-orientated and service delivery-orientated. While examples
of good overall progress abound, the need to deal effectively with existing and new challenges, remains critical.
This includes acknowledging and managing:

- apartheid geography, spatial distortions and inequalities;
- transformation imperatives;
- land-use systems and connectivity between rural and urban areas;
- migration and small-town growth and/or regeneration;
- Inadequate funding, historical debt and insufficient resource.

1.1 Sustainable, Inclusive Economic Growth and Spatial Transformation

Spatial planning and equitable socio-economic development has seen the rationalisation of municipalities from 843 to 257 since 2000. This fast-tracked process created some challenges, which have been addressed gradually over time. The post-2016 redeterminations created instability in some municipalities. National and municipal planning must consider demographic trends carefully, including in- and out-migration. The significant migration to and urbanisation in metros, especially in Gauteng, increases the service delivery demand pressure. While the migration into metros continues the historical trend, there is an increasing trend of smaller cities and towns growing at unprecedented rates, such as Kwa-Sani and Musina at 88% and 66%, respectively. At the same time, however, some municipalities are declining. An urbanisation framework is required to address and support the growth trend, while targeted interventions must ensure that where there is a decline, communities still receive basic services for an acceptable quality of life at least. This may entail a different approach to supporting and financing those spaces.

Small Towns Regeneration

Within the national context, small town regeneration (STR) is underpinned by the Integrated Urban Development Framework (IUDF) and responds to the Urban-Rural Developmental Agenda as outlined in the IUDF. The urban-rural continuum challenges vary geographically and need to be dealt with according to location variances. The STR focus also supports the Ocean Phakisa initiative by declaring a coastal region and the President’s Strategic Partnership Programme (SPP) for mining towns, as STR progress reports into the SPP.

The key tenets of the STR programme include identifying immediate, intermediate and macro causes for town growth or decline, risks to future sustainability and the regional economies within which towns are located, as well as determining the impact of regional/global trends and developing a strategic response based on regional, global, town and municipal factors. Adopting a regional development approach will identify the economic regions of towns and municipalities; produce plans in response to regional trends and dynamics, whether opportunities for growth or the negative impact of decline; enable differentiated municipal categorisation in the interest of long-term economic and spatial planning to improve the economic sustainability of settlements and municipalities; and provide a vehicle for IUDF implementation through, inter alia, dealing with rural/urban issues in towns and secondary cities.
SALGA Update

During the past year, SALGA has revised its approach, under the Integrated Urban Development Framework (IUDF), to focus on:

- Regenerating small towns, where relevant, as economic regions
- Categorising towns and regions through initiatives such as the Karoo Region Spatial Development that will include four provinces and drive inter-municipal cooperation and inter-provincial collaboration to support regional and spatial economic planning
- Reinterpreting the imperatives of the National Development Plan (NDP) through the lens of community input to inform the next generation of Integrated Development Plans (IDPs) for cities and towns
- Collaborating with the National Commission to redirect resources through the national Intergovernmental Relations (IGR) fiscal framework to municipalities with constraints for the next generation IDP.

SALGA is also conducting a study to identify regional economies and how municipalities relate to economic regions. Examples of regions include natural environment areas linked to climatic zones and biomes, such as the Karoo, or linked to coastal areas and river catchment areas, such as the Orange River; sector/industry regions linked to mining, agriculture or tourism; and socio-economic regions linked to migration patterns, such as border towns and corridors.

Delivering basic services

Regular service delivery surveys by Stats SA over the past 16 years confirm the significant improvement in the ability of Local Government to deliver sustainable and efficient services effectively to communities throughout the country.

Figure 2: Demographic trends: Growth in the number of households 2011-2016.

While the contribution of Local Government to delivering basic services to the poorest of the poor and improving dignity and quality of life is indisputable, concerns remain about certain services in certain geographic areas. While the increased access to services occurred despite the decline in municipal revenue, the trend between 2005-2014 has been a decline in people paying for water from 61.9% to 43.7%. The reality is that the
abject poverty in many areas and severe resource constraints in some municipalities prevent, in many instances, any meaningful improvement in service delivery. Local Government now needs to deal with these persistent challenges to further improve service delivery. In this regard, the importance of Local Government’s investment in education and skills development to help eradicate this scourge cannot be overemphasised.

Whether water or electricity, bulk acquisition has created a multitude of systemic and structural challenges in the municipal/Eskom relationships. Historically established as the country’s electricity supply commission in 1942, Eskom did not and still does not supply electricity equitably to all municipalities, nor are their electricity tariffs uniformly applied. These complexities continuously impede initiatives by Local Government to standardise its operations to become more cost-effective, such as with the bulk acquisition of electricity.

### 1.2 Financial Sustainability and Fiscal Equity

Adopted in 1997, the White Paper on Local Government introduced an undifferentiated funding allocation model in which Local Government has to generate 90% of its revenue at a local level. Over the past 15 years, however, structural impediments, such as that 54% of South Africa’s population still live in poverty (Stats SA), has shown unequivocally that the funding model for Local Government is not sustainable. Figure 5 illustrates clearly that the equitable share allocations transferred to Local Government plateau at 4%. Neither the assumptions that inform the formula for Local Government allocations nor the allocations themselves have ever been reviewed holistically or aligned with other spheres in terms of the responsibilities allocated to municipalities. This is further complicated by the unfunded mandates/unresolved allocation of powers.

![Division of Revenue Bill (DORB) allocations by sphere 2001-2017](image)

**Figure 3:** The trends over the past 15 years as per Schedule 1 of the Division of Revenue Act (DORA)

**Review of the Municipal Funding Model (Local Government Equitable Share Model)**

The role of municipalities to deliver a democratic dividend has increased gradually over the past 16 years. Despite the increasing demand for municipal services, infrastructure and other delivery needs, the financial allocations to municipalities fall far short of enabling them to respond to service delivery needs. This is exacerbated by the current state of the economy, especially unemployment and limited local tax revenues. Discussions about the inadequate funding of Local Government has been discussed without resolution for some time now. Although the allocations to municipalities increased nominally in real terms recently, Local Government still receives a conservative 9% from the fiscus. The equitable share allocations to Local Government started at 1% in 2001 to the current 5% in 2017.

**Municipal financial challenges**

The current picture of the persistent financial challenges that municipalities grapple with is of great concern. A total of 257 municipalities are either bankrupt, insolvent, unable to pay creditors, have a constrained liquidity
ratio, viable in the short- to medium-term only or submitting insufficient reports for assessment. The challenges include:

- financial distress in many municipalities who struggle to pay creditors and meet their constitutional mandates, which compromises service delivery;
- only a small percentage of the 3.56 million indigent households are registered for service delivery by Local Government;
- persistent socio-economic challenges of unemployment and economic stagnation continue to place municipalities under significant pressure;
- Local Government funding is less than the national share of servicing debt costs (9% Local Government funding vs 11% debt service costs), which is the fastest growing portion of the budget (growth of 10.5% per annum vs. 9.1% for Local Government);
- The shrinkage (5% of the Local Government equitable share, grants and 1% that goes to Metros) of Local Government, with its huge responsibilities, is not sustainable including debt allocation: division of nationally-raised revenue service costs.

"These issues are not conducive to Local Government driving some of the important imperatives identified in the National Development Plan (NPD)."

The questions that arise from these issues are:

- Is Local Government underperforming in targeting, identifying and supporting indigent communities?
- What proportion of the 18 million people registered in either the social grant or foster care system is classified by municipalities as indigent?
- Is there a better way of looking at datasets to streamline service delivery targeting?
- How can Local Government increase its resources to respond to issues of poverty and provide social security for people at a local level?
SALGA Update: Recommendations to the PCC

Spurred by these and related issues that stymie municipal service delivery, SALGA proposed to the PCC that a holistic review of the Local Government Equitable Share (LGES) formula assumptions and revisions be undertaken, where necessary (as per the Division of Revenue Act, 10 of 2014, in terms of allocations to municipalities, grants to Local Government and provinces and the related frameworks for each grant), by:

• affirming and supporting the need to go beyond minimalist solutions to dealing with the fiscal and other developmental challenges within Local Government

• mandating the Financial and Fiscal Commission (FFC), supported by National Treasury, CoGTA and SALGA, to:
  
  o review the LGES vertical formula and its underlying assumptions and present periodical reports and recommendations to the PCC and Budget Forum

  o consider the FFC and SALGA recommendations on the cost of basic services research and factor some of the elements into the LGES formula as agreed at the previous Budget Forum

  o recommend, in light of other variables and macro-economic factors, the phasing in of the new formula to deal with both the vertical and horizontal division of revenues.

The outcome: The President requested a response from the inter-ministerial task team working with SALGA by the end of October 2017 to inform a FFC review of the model in collaboration with National Treasury. The elevated action is encouraging.

The Increasing Debt Context

The indigents

The recent release of the Stats SA Non-Financial Census of Municipalities (NFCM) report shows an increase in the number of indigent households across the country. South Africa’s 278 municipalities registered 3,56 million indigent households in 2016 (2 out of 10 households), the highest number on record since figures were first published by Stats SA in 2004. The report recorded the increase in the free basic services in 2016 compared to 2015: 114,616 more consumer units received free basic water;

• 99,332 more consumer units received free basic electricity;

• 225,098 more consumer units received free basic sewerage and sanitation;

• 476,812 more consumer units received free basic solid waste management;

Unemployment trends

According to the World Bank South Africa Economic Update: Focus on Financial Inclusion (2013), South African consumers are highly indebted and household debt has increasingly become a challenge over the past decade. Since 2012, debt accounted for 76% of household disposable income. Financial illiteracy was identified as one of the factors leading to poor financial decisions. Given the high unemployment rate, high levels of poverty and high household debt levels, it is imperative for municipalities to identify new revenue strategies, broaden the revenue base and ensure that available resources are used efficiently. This context makes it imperative for Local Government to transform itself to become more competitive and more responsive.
Historical debt

Historically, Local Government has accrued debt of R128 billion that continues to increase, rather than decrease, year-on-year — 46% between 2012 and 2016 alone — due to the interest and accumulative interest raised. As at 31 March 2017, municipal debtors owed R128.3 billion, which included Government (5.1%) and households (67.1%). Only R24.1 billion (less than 90 days) is considered to be collectable, while the rest R104.2 billion (over 90 days) is regarded as uncollectable. An age analysis of municipal creditors as at 31 March 2017 showed that municipalities owe R34.3 billion, which consists of R13.3 billion for bulk electricity, R6.7 billion for bulk water, R6.4 billion for trade creditors (includes SMMEs) and R7.9 billion for other debt. In total, 35 municipalities reported negative cash positions (in overdraft), while their inability to collect monies owed affects relations with creditors and service delivery in general.

The issues are that:

• the measures to tackle historical debt have, thus far, been insufficient, under-resourced and ineffective

• the over-indebtedness of citizens continues to impact negatively on Local Government, with only R24 billion of outstanding debt regarded as collectable due mainly to unaffordability by over-indebted households

There is a need to:

• implement measures that will deal better, and perhaps differently, with the vast amount of uncollectable debt

• enforce, effectively and expeditiously, the measures referred to in the recent Constitutional Court judgement on the issue of old debt.

“SALGA is studying the Constitutional Court judgement and will provide guidance to municipalities in due course. We will work with CoGTA to expedite the necessary amendments to the legislation. In the interim, we call upon municipalities to attend to their credit control policies and manage this sensitive matter.”

SALGA Update

SALGA’s recommendations to the PCC included measures to address historical debt and resolve the following issues:

• Outstanding debt: Apply the Schedule 10 regulation of the Municipal Code of Conduct that precludes Municipal Councillors and officials from having municipal debt older than three months equally across all three tiers of government

• Clearance certificates: Extend the supply chain management (SCM) pre-condition of submitting a SARS tax clearance certificate as part of the municipal tender process to include a rates and services clearance certificate as well to prevent contracting businesses with outstanding municipal debt

• Income tax refunds: Amend the required regulations to empower SARS to deduct municipal debt from income tax refunds based on the submission of a rates and taxes clearance certificate before transferring the refund to prioritise settling municipal debt
Municipal Audits

The number of municipalities with unqualified audits increased in 2016 from 163 to 172, while those with clean audits decreased by four:

Red zone municipalities decreased over the five-year period, with four less in the 2015/16 financial year. Significant improvements in this regard occurred in the Eastern Cape and Limpopo.

SALGA’s interventions and assistance to red zone municipalities assisted some of them to improve their previously qualified audit outcomes.

Figure 6: Municipal audit outcomes over the past five years.

Further improvement in audit outcomes requires committed efforts by Municipal Managers to address a number of persistent challenges. These include accountability, consequence management, internal controls, financial management discipline, financial health (emerging as a huge risk), institutional resilience and capacity and governance oversight. The latter has to deal specifically with the perennial disclaimers of 12 municipalities and the high levels of Unemployment Insurance Fund payments.

SALGA Update

SALGA supported 31 of the mostly red zone municipalities with various auditing issues, including document management, asset register; Audit Committee and Internal Audit unit establishment and operationalization and risk management. SALGA’s interventions in and assistance to red zone municipalities have been integral to assisting some of them to improve their previously qualified audit outcomes. Going forward, Municipal Managers can also, collaboratively and with SALGA support, assist the remaining 12 “perennial” disclaimer municipalities to achieve clean audits by 2020/21.

1.3 Governance and Municipal Resilience

In providing effective, responsive and accountable local governance to communities SALGA, as with previous elections, supported municipalities in managing the transition after the 2016 Local Government election. This included guided transitional management and inducting 90% of new councillors. A set of documents were also developed and launched at a SALGA National Members Assembly in May 2016 to guide municipalities through the transition process. While the transition in most municipalities occurred smoothly, SALGA continues to provide support where needed. SALGA, through the SALGA Women’s Commission (SWC) and the Local Government Association (LGA), continues to advance gender equity and equal opportunities for women. Out of the 9,306 councillors selected after the 2016 election, 32% (1,384) of the ward councillors are female and 68% (3,004) male, while 49% (2,413) of the proportional representative (PR) councillors are female and 51% (2,505) male. Women also make-up 39% of mayors, 39% of councillors, 34% of managers and 27% of Section 56 managers. Limpopo and the North West province lead with 70% and 52% women leaders respectively.
Safety of councillors and Municipal Managers

The killing of Municipal Councillors in KwaZulu-Natal and the Eastern Cape being investigated by the Moerane Commission, also affects Municipal Managers. A recent SALGA dipstick survey among 40 Municipal Managers across the country indicated that 30% of them have been threatened.

Violence against councillors

More than half (66%) of the 50 councillors who participated in the study had received threats, while 46% reported being threatened often. Men received more threats than women with a focus on physical violence or damage to property, while women received threats against family and sometimes were threatened with rape.

The Moerane Commission

Chaired by advocate Marumo Moerane, the commission was established by KwaZulu-Natal Premier, Willies Mchunu, in October 2016 to investigate the high number of political killings in the province since 2011.

The killings have since spilled over into the Eastern Cape.

The Moerane Commission wraps up its work in October

Speakers and Chief Whips were more likely to receive threats emanating from three primary sources: their own party, opposition parties and community members and Union behaviour. More than half (55%) of councillors indicated that the threats and intimidation reduced their willingness to run for office for another term, while 66% saw violence and intimidation as impacting negatively on their performance.

Violence against Municipal Managers

The results of SALGA’s survey among 40 Municipal Managers indicated that 60% had been threatened. In more than 25% of those instances, Municipal Managers reported economic causes (tender awards, employment, wages/salaries) as the reasons for the intimidation and threats they experienced. A third of the respondents reported being threatened often. The threats stopped, once reported, in 30% of instances, whereas in 12.5% cases court action stopped the threatening language and behaviour. More than 70% of Municipal Managers reported that the threats and intimidation impacted negatively on their work performance, while 65% saw the issue as severe enough to contemplate resignation or relocate (find employment) outside the profession.

SALGA Update

SALGA raised the safety of councillors, municipal managers and senior managers with CoGTA Minister and Members of the Executive Council (MinMEC) and requested a review of the situation to inform and expedite a resolution.

1.4 Upper Limits for Municipal Managers

The CoGTA Minister called on SALGA’s President for comments on the notice regarding the appointment and conditions of employment of senior managers for the current financial year on 21 July 2017 (in terms of Section 72(2A) of the Local Government Municipal Systems Act, 32 of 2000 (“the Systems Act”), read in conjunction with Regulation 35 of the Local Government Regulations on Appointment and Conditions of Employment of Senior Managers). SALGA’s initial response to the Minister:

• the current notice is non-compliant with Regulation 35(2) of the Local Government: Regulations for the Appointment and Conditions of Employment for Senior Managers, 2014, as it required the upper limits notice to have been determined by 31 March and SALGA reserves its rights in this regard
SALGA's governance structures could not consider the matter due to the limited time allowed for comments and SALGA reserves the right to supplement any submitted comments.

SALGA could not engage its members about the exact impact of amending the definition of “total municipal income” and the amended tables for point allocation on the actual grading of municipalities, which impaired SALGA’s ability to comment as the full impact of the amendment on municipalities could not be measured.

SALGA accordingly distanced itself from the assertion in the Minister’s letter that protracted engagements had been held with organised Local Government.

**Change of categorisation of the municipality**

**SALGA concerns**

- The obscure rationale that requires approval from both the MEC and Minister to implement a higher categorisation of a municipality, since the notice:
  - determines the upper limits of salaries based on a specified formula prescribed by the Minister. A municipality can, in terms of the notice, offer an incumbent less than the upper limit based on its financial position;
  - requires the municipality to submit extensive information to the MEC on the status quo of senior managers, which provides oversight of the actual salaries paid.
- The formula that addresses the income of the municipality over a specified period is already factored into the salary offered, which addresses the sustainability factor.
- The requirement for approval by the Minister attacks the Constitutional integrity of municipalities directly in terms of their ability to pay employees within the upper limits structure.

**SALGA recommendation**

- The deletion of the item in totality.

**Offer of remuneration on appointment**

One of the criteria specified to determine the offer of remuneration on appointment is the level of competence, identified as either competent, advanced or superior.

**SALGA concerns**

- The definition of achievement levels in the regulations is ambiguous and confusing in terms of interpretation and application.
- SALGA obtained a legal opinion on CoGTA Circular 04/2016 that attempts to prescribe the implementation of the regulatory provision for competence assessment, which held that CoGTA has no legal status to accredit assessor competence or confine the assessor pool to those “accredited” as this contravenes, inter alia, supply chain legislation.
- The assumption that only COGTA-accredited service providers/assessors have access to the design of batteries that measure competence achievement levels is undesirable, as it precludes other competent assessors, including SALGA, from delivering a legally recognised service.
SALGA recommendations

- The withdrawal of Circular 04/2016 as unlawful and the cause of confusion. A review of the designations and related descriptors to align them with the internationally recognised Levels of Work Model based on the Stratified Systems Theory.

- Align all CoGTA and SALGA descriptor and those of other assessors who provide the service, to avoid the current confusion.

Overpayment and underpayment

SALGA concerns

- Item 11 requires that the implementation notice expenditure must be defrayed from the municipality’s 2017/18 budget, while the 2017/18 municipal budgets have already been approved and such implementation will require an adjustment budget.

- The rationale for publishing the notice on upper limits before 31 March annually is to ensure that effective budgeting and the current late publication of the notice impact directly on this process.

SALGA recommendation

- The notice must be published before the start of the relevant financial year.

Transitional provisions

SALGA concerns

- The notice should indicate clearly that existing incumbents will not be affected when a municipality is “downgraded” in terms of the notice.

- Since the provision for a waiver is inconsequential if not responded to, this procedure needs to be reviewed to address the situation where municipalities applied for waivers and despite undertakings by Department of Cooperative Governance officials for responses by the end of May 2017, no responses were received.

- The CoGTA MinMEC resolved that waiver application criteria should be developed for its approval but, to date, this has not been done and has created uncertainty about the approach followed.

SALGA proposals

- The municipal ‘downgrade’ notice must specify clearly that existing incumbents will not be affected.

- The waiver application process must indicate a deadline for responses from the Minister.

- Develop the waiver application criteria for approval by MinMEC.

- Affordability, as well as other market and development factors, should be considered when determining remuneration, especially for rural municipalities.

- Conduct a verifiable survey to determine the remuneration of senior managers to rectify discrepancies, such as subordinate earning higher than managerial salaries.
1.5 Capacity Building

The LGSETA Board approved traditional leadership, management capacity building, union leadership, information and data systems and unique strategic initiatives (special projects) as the six strategic priority areas to drive the skills development vision of Local Government and meet capacity building and Sector Skills Plan requirements. These strategic priority areas are supported through a number of skills development programmes that advance the vision of a capacitated, developmental Local Government system.

SALGA facilitated councillor induction country-wide during the past year and is considering institutionalising this overarching capacity building platform to include management interventions for Municipal Managers. The inductions included, 8,138 of the 9,306 newly elected councillors, of whom 6,513 were first time councillors and 1,585 inducted of the 2,791 returning councillors (1,206 returning councillors did not attend the ICIP). A total of 8,145 councillors and traditional leaders across all nine provinces attended the 1-day induction training. SALGA adopted a 4-dimensional leadership competency model that outlines core leadership competencies for municipal leaders to emphasise thought leadership and a fully-defined managerial learning pathway.

Figure 7: SALGA’s 4-dimensional leadership competency model for municipal leaders.

SALGA Centre for Leadership and Governance: SALGA is facilitating partnership agreements between the SCLG and municipalities for Municipal Managers to pursue specific career paths through continued education overseas. A forthcoming course at the California State University in the US follows the spatial transformation training course in Singapore and precedes a group destined for a course in Sweden between December 2017 and April 2018.
1.6 Going Forward: A Strategic Agenda for Municipal Managers

The vision for Local Government going forward is to “inspire spatial justice and social cohesion through the integrated management of space, economies and people”. The objectives to achieve this goal are sustainable, inclusive growth and spatial transformation, good governance, resilient municipal institutions and a financially sustainable Local Government with greater fiscal equity. Over the next five years, Municipal Managers need to focus on accountability, leadership and consequence management in implementing the NDP, MTSF, B2B and key global agendas of Sustainable Development Goals, Agenda, 2063, the Paris Accord on Climate Change, Disaster Risk Reduction, a New Urban Agenda and the Addis Ababa Accord on Infrastructure Finance.

1.7 Conclusion

In addition to aligning Local Government’s activities with achieving national priorities and the sustainable development goals (SDGs), Municipal Managers must focus on accountability, leadership and consequence management so that over the next five years, as the 4th generation of Municipal Managers, they can transform Local Government and leave a lasting legacy of leadership that is robust, fair and conscious of the privilege of providing service delivery excellence to the people of South Africa to help them realise their own aspirations.

2. A discussion on the role of municipal managers in navigating a highly dynamic local government environment

In the day-to-day functioning of a municipality, within or in addition to the legislative framework, Municipal Managers are constantly confronted with a plethora of challenges and issues, some perennial, others are new. In this session, past and present Municipal Managers share their insights and tools to manage a dynamic municipal environment.

Panellists

- Mr Mxolisi Nkosi, Former Municipal Manager, Msunduzi LM and President: ILGM
- Mr Stan Wallace, Former Municipal Manager: Theewaterskloof LM
- Mr Trevor Fowler, Former City Manager: City of Jo’burg Metro
- Mr Andile Fani, Former Municipal Manager, Buffalo City Metropolitan Municipality

“The municipal manager of today is not an administrator anymore. Today it’s about development and being a change agent. Adjusting to change; this is what the municipal manager’s job is all about.”

Mr Stan Wallace, Former Municipal Manager – Theewaterskloof Local Municipality
Challenges faced by Municipal Managers

The following are some of the challenges raised by the panellists:

<table>
<thead>
<tr>
<th>Procurement</th>
<th>• External pressures lead to irregularities and deficiencies with the procurement procedures</th>
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<tbody>
<tr>
<td>Intergovernmental</td>
<td>• Impromptu meetings and lack of consultation and cooperation with other spheres of government</td>
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<td>Resource allocation</td>
<td>• Inability for the Accounting Officer to allocate resources according to the service delivery demands and backlogs</td>
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<tr>
<td>Insufficient funds</td>
<td>• Funds are insufficient for the delivery of essential and critical services</td>
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<tr>
<td>Sexual relations</td>
<td>• Real or perceived allegations are used to neutralise and/or tarnish the image of Municipal Managers</td>
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<tr>
<td>City Manager vs Mayor</td>
<td>• The elected vs the selected – who runs this town?</td>
</tr>
<tr>
<td>Mayor vs Speaker</td>
<td>• The oversight vs the Executive – the tiff about the turf and access to administration</td>
</tr>
<tr>
<td>Political factionalism</td>
<td>• Whose side are you on? – having to take sides within the ruling party/coalition</td>
</tr>
<tr>
<td>Safety &amp; security issues</td>
<td>• Use the threats to life and family members for non-compliance</td>
</tr>
<tr>
<td>Deployment challenges</td>
<td>• Pressure and/or lack of consultation when appointing staff</td>
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</table>
Insights about how to manage some of the day-to-day management challenges:

<table>
<thead>
<tr>
<th>Procurement</th>
<th>• Manage supply chain management regulations tightly</th>
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<tbody>
<tr>
<td>Role Clarification</td>
<td>• Conflict between mayors, Municipal Managers and speakers are an integral part of the municipal environment and must be managed objectively and dispassionately;</td>
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<td></td>
<td>• Role clarity is critical; the political leadership belongs to the mayor and the successes and failures of the municipal strategy to the municipal manager. From a management perspective, a benign dictatorship delivers better results than an overly democratic and consensus-seeking approach. The buck stops with the municipal manager as the accounting officer. Both parties must resist the temptation and remind one another not to transgress into the other's arena, whether political or administrative;</td>
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<td></td>
<td>• Resolving tension between the mayor and municipal manager is critical. Unresolved tension can result in documents with legislative flaws submitted to Council without input from or the knowledge of the municipal manager. The choice is between being a populist or standing up for what is right. As accounting officers, Municipal Managers cannot allow Council to take resolutions informed by flawed documents – ultimately, those managers will be held accountable;</td>
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<td></td>
<td>• Managing tension between the political and administrative spheres – tension exists when politicians make promises that Municipal Managers cannot implement due to budgetary and/or legislative constraints. Unless managed, such tensions can escalate to hostility. It takes courage to stand firm, with both mayor and political leadership, against fraudulent and impractical demands.</td>
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<tr>
<td></td>
<td>• Insufficient funding</td>
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<tr>
<td>Revenue Collection</td>
<td>• Ensure that revenue collections processes are aligned with legislation; there may be resistance from some but there will be support from others who drive ethical business conduct, such as National Treasury and the Office of the Auditor-General, even if they do not like you.</td>
</tr>
<tr>
<td>Fighting corruption</td>
<td>• Municipal Managers who fight corruption may be tarred with the same brush by unscrupulous individuals. Ethical conduct in a corrupt environment is challenging and often a lonely road. And it is easier for Council than for an individual to fight a dismissal in court with ratepayers’ money. The best preparation for such an eventuality is to know your rights, manage ethically, decisively and within the law and create relationships within other spheres of government, such as with National Treasury, that are can assist with navigating the corruption minefields.</td>
</tr>
<tr>
<td>Topic</td>
<td>Description</td>
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<td>-------------------------------</td>
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<tr>
<td>Integrity &amp; accountability</td>
<td>Doing what is legal becomes complicated when there are several contradicting laws and you have to decide how to interpret them. The key question is one of accountability. Municipal Managers are accountable not only to the mayor and Council but also to the people and the Constitution.</td>
</tr>
<tr>
<td>Spatial inequality</td>
<td>This exists in part because unscrupulous people develop low-cost housing on cheap land far from the city and services, despite statistical evidence that, as in Johannesburg, this exacerbates poverty. The challenge is to remain principled and create the transformative changes required without alienating too many people.</td>
</tr>
<tr>
<td>Partnering for development</td>
<td>National Treasury, Habitat and a number of international partners supported the metro’s efforts to address spatial inequality in the greater Johannesburg area.</td>
</tr>
<tr>
<td>Creating &amp; retaining credibility</td>
<td>In the public arena, for politicians and public domain officials alike, creating and retaining financial credibility is crucial to convincing National Treasury and investors of a commitment to good governance and credit rating agencies that credit upgrades are warranted. The important enablers are sound financial planning with clear and realistic targets and capable people committed to achieving those targets. The latter is the most difficult in the face of political interference and the challenge is to develop and adhere to a recruitment policy with the criteria that ensure that competent and capable people only are appointed.</td>
</tr>
<tr>
<td>Political interference</td>
<td>In especially tenders, planning, the tribunal and appointments is a reality for all Municipal Managers. The perceptions are that all municipalities are corrupt, the reality is that most are not.</td>
</tr>
<tr>
<td>Attention to detail</td>
<td>This is necessary to protect yourself, your character. Be careful before signing anything, read the fine-print in a contract, especially the personal guarantee clauses. Municipal Managers should never have to give a personal guarantee for standing in for their municipality in the event of bankruptcy. Surround yourself with the best people to advise you.</td>
</tr>
<tr>
<td>Collegial Support</td>
<td>The municipal manager group in South Africa is probably the only one without union representation and without professional insurance. Collegial support should be integral to the group, such as using a Whatsapp group (as is done in the Western Cape) to support and learn from one another. Managers from the smaller municipalities, especially, can benefit from share legal advice, for instance.</td>
</tr>
<tr>
<td>Determining priorities</td>
<td>Allowing an email inbox to determine your priorities could result in outside-in rather than inside-out management, especially when Municipal Managers can receive between 500 and 600 emails a day. Focus first on managing issues you cannot delegate and then balance internal and external priorities.</td>
</tr>
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</table>
Question & Answer Session

Question: Is there a way to separate this job from party political affiliations so that a municipal manager is purely an administrator? Should this job become totally apolitical?

Responses:

- Learn from global best practice. In Belgium (Western Cape/Belgium twin-city agreement) the courts appoint the municipal manager for a one-year probation and, dependant on satisfactory performance, the appointment is made permanent. Only the courts can fire a municipal manager.

- Trust is central to good governance. As the interface between the political and administrative spheres in Local Government, Municipal Managers need a trust relationship with all political parties to function effectively. Currently, a municipal manager’s contract is terminated a year after an election, giving the incoming governing party the option to retain or change the incumbent. In the interest of continuity and political non-interference, an apolitical appointment may be the better option. Amidst the current climate of deep and divisive distrust within Local Government, however, it is impossible for a municipal manager to maintain trust relations with all political parties.

- Role clarity and an open relationship between the mayor and municipal manager are critical to effective governance. This requires a balance between political leadership and administrative management, an agreement on goals and an understanding by both sides of where to draw the line – there is a fine line between effecting a political mandate and implementing administrative imperatives.

“For the immediate future, the approach should be one of balance: while the job of a municipal manager is not political, it does require interacting with all political parties equally and having the conviction to act in the best interest of a sustainable municipality.”

Mr Trevor Fowler, Former City Manager of the City of Johannesburg

- The challenge of creating ‘democracy’ (revolutionised bureaucracy) is relevant to all tiers of government. Government’s existing and antiquated system insulates bureaucracy and encourages patronage without consequences. The sunset clauses that introduced five-year terms were meant to unbundle the system but instead opened it up to abuse. As a result, competent managers leave the system. Pre-1994, legislation insulated town clerks from political interference.

- Incompetent and abusive leadership are serious issues that need discussion and resolution. There cannot be a developmental Local Government when leaders lead marches to close mines that create employment for local communities. Autocracy, dictatorship and even physical abuse are realities in some municipalities. When physical abuse is reported to CoGTA and the Province, nothing happens, there are no consequences. The law may be there for protection but government is not protecting Municipal Managers. SALGA needs to take up these matters.

Question: Could procurement be centralised at provincial and national levels to enable Municipal Managers to concentrate on administration?

Responses:

- Procurement is integral to what administrators do. The key is to get rid of those who abuse the tender system and manage tender process according to governance principles.
• Legislated accountability and the reality in Local Government present a dilemma for Municipal Managers. While legislatively accountable to the mayor and Council, in reality this extends to almost 120 other politicians. Because not everyone can be lobbied, when items are put before Council for decisions, they are deferred without valid reasons. This stalls the business of Council and stalls progress in the municipality. The sentiment of a benign dictatorship in a municipal environment may, therefore, have some merit.

• Relationships with labour, more specifically the day-to-day tension created when general workers and the unions hold management to ransom by circumventing employee policies for, inter alia, overtime, time management and work attendance.

Concluding Remarks

“The question is how do we manage downward (vertical) relationships and the performance of the management team?”
Mr Neil Diamond, City of Mbombela Local Municipality

The concluding remarks of the panellist paraphrased below includes practical, technical, visionary and personal insights, wishes and advice for Municipal Managers:

• A challenge to SALGA is to do the same with procurement as with municipal planning where the councillors were removed completely from the tribunals, to change the face of Local Government and help municipalities create a sustainable future.

• Municipal Managers do not control the environment in which they work, but they do control their reactions. During the next five years, they need to remain loyal to their own character; honesty and integrity.

• The major concern of Municipal Managers now should be about sustainability and development, about preventing infrastructure collapse and municipalities from falling over like dominoes.

• Corruption is an issue not just for Municipal Managers but for all citizens that everyone has to stand against because if we don’t we will all regret in the future.

• Acting lawfully and with integrity is not negotiable. What is needed is a change in Local Government culture, where doing the right thing becomes the norm.

• The focus of new entrants into Local Government should not be to destroy what has been done by others. Reinventing the wheel and ignoring the long-term plans already in place can create problems and be counter-productive.

• The Local Government system needs to be reviewed, with an emphasis on professionalising the municipal manager environment to provide legal and other protection against, inter alia, the contravention of labour regulations and discourage political interference.

• Leaders need to be educated and competent. In 23 years of democracy everyone has had the opportunity to become educated.
Advice for Municipal Managers

From a business perspective, to:

• know that remuneration framework as it stands currently, is unconstitutional and will not work;

• accept deployment as a reality in a political environment but not to accept deployed people without the competence and skills for the job at hand, rather to find people who will help to steer the municipality to success;

• introduce measures to assess impact and return-on-investment in and for everything

• refuse to be used and abused by the troika (speaker, mayor and chief whip), where this exists as it is not a legal structure and not to implement any troika decision that is illegal because it will have negative repercussions;

• remember that Municipal Managers occupy the centre and if that centre collapses, so does the structure and to continuously assess public perceptions of the Council and yourself as the manager and act on advice;

• stick to the legal framework and back-up all work-related written communication, including emails, on computers and laptops on a monthly basis so that copies of all Council resolutions and all email correspondence in the course of municipal business are available – when least expected, they may be needed.

From a personal perspective, to:

• take your safety and security seriously and act accordingly

• prepare for the parting of ways: get legal representation and register with an entity such as the ILGM Pension Fund to cover legal costs

• Manage business and private lives properly, so that there is nothing anyone can use to tarnish your reputations.

3. The role of Local Government In the National & Global Agendas

Local governments plays a significant role in enabling national and global agendas. Defining this role create an understanding among municipal managers of their roles in supporting the priorities of these agendas. Inputs from Statistics SA, COGTA and the National Planning Commission provides valuable information and guidance for municipal managers.

<table>
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<tr>
<th>Presenters</th>
<th>Mr Pali Lehohla, Statistician-General, Statistics South Africa (Stats SA)</th>
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<tbody>
<tr>
<td></td>
<td>Ms Sue Bannister, Commissioner: National Planning Commission (NPC)</td>
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<tr>
<td></td>
<td>Ms Sheila Hughes, Department of Cooperative Government (DCoG)</td>
</tr>
<tr>
<td>Facilitator</td>
<td>Mr Peter Ndoro</td>
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</tbody>
</table>
3.1 Using Statistics to Drive The Local Government Agenda: Inputs By Mr Pali Lehohla, Statistician General

The National Development Plan (NDP) is an important document that looks at, inter alia, the density of cities, transportation, upgrading settlements and of course fixing housing markets. It has set the right vision right connected us with the globe."

![Figure 8 The National Development Plan (NDP) framework.](image)

Future trends in population and the number of households and dwelling units are critical components in planning strategically for service delivery in South Africa. Statistically, 1.1 million people are born and 450 000 die every year, while some emigrate and other immigrate. The birth rate has declined from 3.3 children per woman in the 1990s to 2.4 currently, which is close to the population ‘replacement’ figure of 2.1.

The decline is clearly visible in Figure 13 which compares the population structure between 1996 and 2016 where the population aged 0-14 has shrunk by 4%. Figure … shows the population structures of Gauteng and the Eastern Cape. The proportion of working age population in Gauteng is significantly greater than the Eastern Cape, while the Eastern Cape has a younger population with more children.

![Figure 9 Age pyramid comparison 1996 to 2016.](image)
Between 1996 and 2011, the population grew by 27%, while the number of households increased by 59%. This means that household formation has exceeded population growth. Since the average size of households has declined there is a greater demand for housing and related infrastructure. The number of formal dwellings increased sharply over the past 15 years, from 8 million to 13.2 million units, to meet the increasing need for housing. The shortfall is supplemented, however, by an increase in informal dwellings 2.3 million or 14-15% of society. Does these data give us a perspective on the nature of our future cities? South Africa’s towns and cities are highly fragmented, which imposes high costs on households and the economy.

In addition, migrants are attracted to the economic opportunities within metropolitan areas, as the existing inhabitants and urban form shape their access to improving their livelihoods. Migrants consist of foreigners as well as local people, who migrate from rural to urban areas with the majority migrating to Gauteng and the Western Cape. Gauteng can be seen a microcosm of rapid urbanisation with a net migration of 981 000 and is, by a considerable margin, the largest net receiver of migration streams. Between now and 2021, Gauteng will add another million migrants to its population to a total 15 million people. This is almost double or 6 million more than KwaZulu-Natal. Most of these migrants will live in informal settlements but more so in the Western Cap and North-West provinces than in Gauteng.

![Figure 10: Percentage distribution of migrant and non-migrant households by informal dwellings and province in 2011.](image)

A further phenomenon is the migration between metropolitan areas, where the share of the South African population has increased from 36% in 2011 to 40% in 2016. Economic activities are largely concentrated in the metropolitan areas that benefit from economies of agglomeration. Research also confirms that the elders are in the Metros and the children largely in the rural areas, although there has been a movement of children to especially Gauteng. This adds a lot of pressure on facilities such as education. Figure 10 illustrates the economic balances and imbalances of activities in the commerce, services, and industry and finance sectors. Since 1994, densities have increased in some urban areas although dispersal is still a very real issue, as mentioned before. There has also been a partial regeneration of inner cities, coupled with the growth of housing ownership. Overall, however, little progress has been made in reversing the apartheid geography.

“Living on the periphery of core areas of economic activity results in increased transport costs and commuting times. A lot of work of time wasted just travelling to work. It’s just inefficient.”
The new spatial realities

Transport and housing costs – in 2015, the average annual household consumption expenditure for poor and non-poor households indicated that half of non-poor household expenses went towards housing and utilities (34.0%) and travelling (17%). Periphery-living means that poor households also spend more of their income on transport and housing that the richer households. Metros also have to build infrastructure to connect people and spend almost twice the amount of resources to move people from the periphery to the city.

Densification and dispersal – the 2011 settlement patterns illustrate that policy intentions and public action are at variance with densification on the margins. Census 2011 showed the increasing urban sprawl on the periphery instead (Figure 18). While the policy drives densification, periphery dispersal continues. Investment and new projects have to follow the people to those areas, while the dispersal of services is so vast that it becomes too expensive to work as a human settlement model.
Integrated development planning - unless phenomena can be described, diagnosed and argued adequately to predict their behaviour, it is difficult to prescribe or adapt to a situation as it changes.

Stats SA provides data as tools for modelling and planning because the future is unknown and only facts can be used to model it. Modelling contains advanced analytics that can inform political decision-making. The data chain from description to diagnosis to prediction to prescription and then adaptation is required for planning systems in South Africa. And Local Government is crucial. IDPs are crucial and the NDP can be adequately implemented only when the right systems are in place.
The indicators and data sources required for IDP in-depth analysis are listed in Table 4. Important to note that IDPs may not provide enough statistical information to substantiate the claims made in the documents. The qualitative and quantitative analysis of IDPs is lacking. Documents identify areas as problematic without providing context and an explanation to justify the claim. Indicators are also not standardised nor classified in such a way that relevant outputs can be linked to outcomes. This makes implementation, monitoring and evaluation difficult. Descriptive, diagnostic, predictive, prescriptive and adaptive are the five capabilities required for planning.

3.2 Lg Policy Updates On B2b, Iudf, New Urban Agenda (Nua) & The Sdgs - Ms Sheila Hughes, Inter-Governmental Policy And Practices, Department Of Cooperative Governance (Dcog)

The five fundamental pillars of Back-to-Basics are the governance foundation of every municipality. The challenge is to activate B2B in urban development. The priorities are infrastructure, service delivery and finance. Financing infrastructure maintenance and renewal requires ‘out-of-the-box’, innovative thinking about the role of financial institutions and public private partnerships in funding development infrastructure.

<table>
<thead>
<tr>
<th>B2B Five Pillars</th>
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<tr>
<td>People and their concerns first – Batho Pele</td>
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<tr>
<td>Deliver quality municipal services to the right standard</td>
</tr>
<tr>
<td>Promote good governance, transparency and accountability</td>
</tr>
<tr>
<td>Practice sound financial management and accounting</td>
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<tr>
<td>Build institutional resilience and administrative capability.</td>
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Interdependency and integration are critical to implementing the key PLGS resolutions in a developmental Local Government that includes both urban and rural development. Different categories of municipalities may have different approaches to spatial planning and investment but the density of settlements and demands for infrastructure, roads, energy, transport and water are similar. An economic focus, long-term planning capability and solid understanding of spatial planning are critical to supporting the municipal development trajectory and targeting and sequencing investments towards 2030.

Communicating the B2B message will entail a series of Provincial engagements and working with intermediary cities and those with a critical need for support.
Integrated Urban Development Framework (IUDF) implementation

‘Liveable, safe, integrated, economically inclusive and globally competitive, where residents actively participate in urban life’ – the IUDF vision for South Africa

The IUDF, or urban dividend, consists of people, economy and place. The core elements are the creation of a liveable, safe, integrated, economically inclusive and globally competitive space where residents can participate actively in urban life.

The context, challenges and policy levers

The implementation challenges are:

• the perennial fundamental deficiencies in leadership, management, accountability and oversight
• the inequality of budget allocations and marginalisation of some municipalities
• not having managed urbanisation as consciously as required.

3rd Presidential Local Government Summit 2017: Key resolutions

• Practice good governance, effective administration and cut wastage
• Spend public funds prudently, hire competent staff, ensure transparency and accountability
• Eradicate corruption
• Manage resources, deliver services sustainably and develop communities
• Manage backlogs and service delivery inequities through improved intergovernmental planning and budgeting
• Maintain and renew infrastructure
• Implement the Integrated Urban Development Framework (IUDF)

IUDF implementation action areas

Reap the ‘urban dividend’ through well-managed, well- governed urbanisation based on a comprehensive, integrated approach to urban and rural development. This includes coordinated infrastructure investments in targeted spaces across spheres, sectors and with stakeholders. It is necessary to extend economic opportunities to near where people live and work and to recognise rural-urban interdependency and the need for greater spatial understanding of the typologies along the urban development continuum.
The IUDF Strategic Goals

• Inclusion and access
• Inclusive growth
• Effective governance
• Spatial integration.

The key principles are to:
• implement the IUDF throughout all tiers of government
• promote collaboration and partnerships
• guide spatial investments.

The three cross-cutting issues are: the rural urban continuum, disaster risk reduction

The municipal developmental trajectory, aligned with 2030, the NDP vision and the IUDF, will focus on:

• improving planning capability and paradigm so that IDPs are the integrating point for intergovernmental plans and investments
• addressing spatial misalignment across sectors and spheres and fostering integration with municipal IDPs
• undertaking evidence-based socio-economic analyses of opportunities and potential of municipalities
• develop medium- to long-term feasible, viable and achievable plans and sticking to the plan.

Dialogue, co-operation agreement and partnerships

The CoGTA cooperates, partners and is in dialogue with a range of international entities, inter alia, the World Bank support, Organisation for Economic Co-operation and Development (OECD), New Urban Agenda, Human Science Research Council (HSRC) and the United Nations Habitat initiative. About the:

• New Urban Agenda – the key principle drivers start with national urban policies and the DCoG is developing three urban policies in addition to South Africa’s existing national urban policy.
• SDGs – refer to the Stats SA Baseline Indicators document that enables the measurement of the proposed indicators.
• Partnerships – the Human Settlement Summit and eThekwini Urban Conference offer opportunities to interact with stakeholders about implementing and managing urbanisation. The development of a conceptual framework for the implementation of the New Urban Agenda will start at the consultative summit.

Key points of the urban dialogue

• Articulating South Africa’s urban agenda by forging international and national urban policy coherence
• Agreeing on the outcomes for spatial transformation through major IG dialogues offers the opportunity to frame the IUDF, lead coordination activities and advance consensus on the goals and employment levers
• Localising by interpreting international commitments to local contexts and building IDPs that reflect urban goals
• Learning through comparative and IG knowledge exchange
Responding to the National Development Plan, New Urban Agenda and SDGs

- The National Development Plan – by 2030 South Africa should observe meaningful and measurable progress in reviving rural areas and creating more functionally-integrated, balanced and vibrant urban settlements. For this to happen the country must clarify and relentlessly pursue a national vision for spatial development.

- The Habitat III Quito Declaration – recognises four universally applicable and fundamental drivers of change for urban growth and development, namely national urban policies, urban legislation, urban and territorial planning and effective financing frameworks.

- New post-2015 SDGs – making cities and human settlements inclusive, safe, resilient and sustainable (Goal 11).

Globally agreed drivers of change for urban development

**Driver 1. Urban policy**

The NDP (inter alia transforming human settlements and the national space economy, economic infrastructure, environmental sustainability, integrated and sustainable rural economy).

**Driver 2. Urban legislation**

Spatial planning in legislation (land, space, economy); a revised regulatory environment for planning (intergovernmental urban planning, IUDF nine policy levers); and sector policies (ie transport, human settlements, environment, energy, economy, land).
Driver 3. Urban and territorial planning

Working together on contracts/deals/implementation protocols to remove dominance of silo-based plans vis-à-vis, among others, sector spatial master plans, IDPs, BEPPs, PGDs and SIPs; sticking to IUDF plan; and using NUA territorial planning guidelines.

Driver 4. Effective financing frameworks

Targeted urban development assistance through infrastructure grants review; re-imagining housing finance; property values and land markets; loans and debt markets; and piloting/testing desired grant reforms in selected intermediary cities.

In conclusion

The IDP is important. Municipal Managers need to understand the applicability of frameworks, dissemination and indicators in their municipalities, who to partner and collaborate with and how to create their IDPs, BEPs and SDFs. These are all important as an expression of the principles of the National and International Urban Agenda.

3.3 Implementing The NDP At The Local Government Level: Ms Sue Bannister, Commissioner: National Planning Commission

The NDP requires the removal of the most pressing constraints on growth, investment and job creation. Therefore, lowering the cost of living and doing business. Access to services is an acknowledged major factor in improving the quality of life and lowering the cost of living. So is the efficient delivery of water and sanitation, electricity and transport and providing exemptions through a well-targeted indigent policy.

In these tough economic times:

Many working-class people become single migrants in cities and many places of employment retrench or start with shorter working times. The questions are whether municipalities can:

• provide migrants with access to safe, affordable accommodation during working days?

• assist in finding short-term relief to slow down unemployment rates?

• create synergies between municipal markets/farming cooperatives and create fresh produce markets?

• extend library hours to allow students and scholars to study longer with access to electricity and the Internet?

• create accessible lists of skilled but unemployed people available for jobs such as building, renovations, and others?
How can municipal managers reduce the cost of doing business and support local businesses?

- Infrastructure is critical, provide basic services and transport
- Improve the quality of public services, regularity, reliability
- Streamline and escalate planning approval processes
- Use processes that are transparent, simple, relevant, quick and inexpensive
- Don’t discriminate against the poor and disadvantaged
- Align the location of human settlements and public-transport systems
- Locate the poor and unemployed on well-situated land
- Encourage business activity (including manufacturing) close to and in dense townships
- Recognising the rights of the street traders
- Create vibrant township economies – this is a gym in a township which I thought was quite an innovative arrangement
- Establish street infrastructure for the incubation of informal businesses – traders’ stalls have got to be on busy streets.
- Review the legislation and bylaws and their impact on traders and particularly the poor and less powerful – don’t create monolithic suburbs
- Focus on the night-time economy by encouraging retailers to stay open later; improve late-night transport, increase Wi-Fi hotspots, provide after-hours libraries and use interns to assist and provide solutions.

Municipalities can also use resources more efficiently, make resources more available and lower operating costs
to boost economic development. Multi-purpose facilities, such as halls, can be used by schools during the day and for community purposes at night.

Key local economic development issues are creating flexible human settlements – allow the flexibility, understand that people need the flexibility to move around, reduce the cost of living. Use government procurement better to reduce the racial patterns of ownership, wealth and income. Lower the cost of transport and logistics, red-tape and infrastructure. And align transport and housing infrastructure so that development programmes support rather than undermine one another.

In addition, and in terms of ...

Inclusive rural economies – strengthen the linkages between rural and urban areas through roads, transport systems, IT systems, and electrification. Rural growth needs urban markets and vibrant non-farm sectors, as well as infrastructure and delivery that bridge the areas.

Transforming human settlements – implement a robust, efficient and spatial municipal planning system and upgrade informal settlements to get people closer to work – it will make a huge difference to people’s lives.

Densification, access to better land – manage unsuitable peripheral developments by making centrally-located land available. Good spatial planning builds communities and social cohesion.

Improving education, training and innovation – early childhood development (ECD) matters, it makes a huge difference to the lives of children.

Building safer communities – conduct safety audits in all communities with a focus on crime and safety conditions. Focus on the needs of the most vulnerable, those who can’t afford security and assess how their lives are impacted by crime.

Building a capable and developmental state – staff at all levels must have the authority, experience, competence and support to do their jobs.

In conclusion

Local Government plays a central role in all the levers of the NDP, especially economic services that enable business activity and services that improve quality of life. The National Spatial Development Framework (NSDF), in addition to SPLUMA and the IUDF, is also part of the implementation of the NDP. The Framework is currently being developed as a joint partnership between the Department of Planning, Monitoring and Evaluation (DPME) and the Department of Rural Development and Land Reform (DRDLR). Active input by Local Government is critical to reflect the grassroots conditions in the country.

Municipal IDPs must focus on their key mandate and the services that Local Government provides. The National Planning Commission intends to interact with municipalities about their planning and the planning instruments available at the NPC, both the spatial and non-spatial, in the interest of continued improvement, as well as to improve the implementation of the NDP and the functioning of Local Government.
QUESTION & ANSWER SESSION

How can MMs plan effectively when confronted by so many different policies, priorities, programmes and legislations?

From a global perspective, South Africa’s Constitution is very advanced. The country is envied by many as one of only a few in the world where Local Government is enshrined in the Constitution. Municipalities have greater power than provinces. The challenge is to create a balance between the political and administrative spheres, to garner support and collaboration rather than adversity from the national and provincial structures.

Which areas should MMs focus on to make a difference?

Systemised planning is a significant tool. Stats SA has developed planning tools, such as an input-output table, to identify the inputs and outputs that form the basis for predicting and planning.

What is the 20% that MMs must focus on to gain 80% of the value?

Firstly, collaboration between the spheres of government, which is something that should be easy but is challenging. Everyone needs to pull the cart in the same direction. Secondly, the issue of politics and corruption that is destroying so many spheres of government are extremely worrying and needs urgent resolution. Thirdly, the counter-pointer to the power of continuity and time. Given time and support and the ability to carry on, Municipal Managers will get the job done. Removing people too quickly is disruptive to the country.

Create opportunities for small businesses in the informal sector within municipal spaces for people to start creating a better livelihood for themselves. Creating a liveable city or a liveable space requires small steps in terms of recreational public green spaces where the youth can play games, soccer, and people can go running. Even where the environment is tough, create a place for people to congregate and meet.

Municipalities should focus on spatial planning and roads, water, electricity and infrastructure. And if the other spheres of government could agree that this is what municipalities should do we would actually get things done. The problem is that national government abdicates some of their areas of responsibility to local municipalities who then neglect their own key focus areas.
4. Municipal Financial Viability & Sustainability

The financial viability and sustainability of municipalities is a long-term goal that will continue to feature prominently in this new term of Local Government. Challenges are at both the national systemic and structural level as well as individual municipal level. Issues for discussion will include billing systems, revenue enhancement pilots, intergovernmental debt and the Municipal Standard Chart of Accounts (mSCOA) implementation to provide an overview of the state of municipal finances and reflect on opportunities for revenue enhancement.

Presenters and panellists

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<td>Mr Jan Hattingh, Chief Director, Local Government Budget Analysis, National Treasury</td>
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<td>Mr Mbulelo Memani, Board Member, Chartered Institute of Government Finance, Audit and Risk Officers (CIGFARO)</td>
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<tr>
<td>Dr Mkhululi Ncube, Programme Manager, Local Government Unit, Financial and Fiscal Commission (FFC)</td>
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Panellists

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<td>Mr Simphiwe Dzengwa, Executive Director: Municipal Finance, SALGA</td>
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Facilitator

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<td>Mr Peter Ndoro</td>
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4.1 State Of Municipal Finances And Expenditure As At 30 June 2017  Mr Jan Hattingh, Chief Director Local Government Budget Analysis National Treasury

Some municipalities are failing to deliver services effectively, bill for services and collect the revenue due. Consequently, outstanding debtors are increasing and municipalities are unable to maintain positive cash flows to pay creditors within 30 days as legally prescribed. In addition, the governance at these municipalities have been weak with inadequate leadership and guidance.

Performance overall

- Revenue 91.2% = under-collection of about R34.7 billion in revenue;
- Expenditure 87.2% = underperformance of R51.3 billion;
- Capital at 79% or R14.4 billion and conditional grants at 3.9%

The key questions are whether (a) there is requisite cash to back the under-spending on grants and (b) whether there is sufficient cash to support rollover requests?

Debtors and creditors performance

- Overall debtors = R128.4 billion
- Overall creditors = R43.8 billion.

**Debtors:** This number is now more than National Government’s equitable share and grants contribution. Significantly greater effort is needed to collect outstanding debt for services from Government (5, 8%), households (64, 8%) and business (21%). The equitable share was meant to assist municipalities to get rid of backlogs but also to prove access to services. The increase in outstanding debtors is significant and impacts negatively on the ability to pay creditors within 30 days. Governance non-compliance seem to be at the heart of the challenges. Governance compliance will go a long way towards bringing stability and long-term financial sustainability.
Creditors: This number is spiralling out of control, with an increase of R9.2 billion in one year. This means creditors are not paid for services rendered, job creation and the implementation of important policy imperatives cannot be realised if municipalities fail to pay their creditors. While the Western Cape and Gauteng performed well, the other provinces are encouraged to support Local Government to deal with this matter. The creditors’ position of 20 municipalities has weakened and as a result, they failed to pay Eskom on time. Challenges include a lack leadership form a permanent municipal manager and CFO, persistent financial stress and consistent under-expenditure. So, this is the municipalities that we should target as a collective.

Perceived contributing factors to municipal failures

Some stakeholders argue Local Government is underfunded and the 9% share of nationally-raised revenue, as articulated in the annual Division of Revenue Act (DORA), 3 of 2016, is insufficient. Others argue that municipalities are not viable, that it is a governance failure, that the design of the intergovernmental system is flawed, that National Government is the reason for this failure or a combination of all the these.

Yet, municipalities collectively underspend each year despite substantial revenue sources assigned to them relative to provinces. The municipal share of the total national revenue raised is, in fact, 25%. According to the Auditor-General’s findings, mismanagement, a lack of internal controls, leadership challenges and massive water and electricity losses are the issues that need immediate remedial action.

The fiscal framework

The Local Government Fiscal Framework is premised on the understanding that there are economic inequalities across the country, where certain municipalities have less own revenue raising potential. The Local Government equitable share is designed to fill the fiscal gap, enabling Local Government “to provide basic services and perform the functions allocated to it” in terms of section 227(1)(a) of the Constitution, taking into account “the fiscal capacity” and “developmental and other needs” of municipalities.

The Local Government share of DORA increased from 3% in 2000/01 to the current 9%. The Local Government Equitable Share (LGES) formula allocates additional funding to municipalities with limited revenue raising capacity to subsidise administration costs, community services and provide special support for councillors’ salaries and ward committees.

Municipalities are expected to fund basic services and functions like the provision of water, electricity, refuse removal, fire-fighting and emergency services from their own revenue taken together with the equitable share and related allocations. Municipalities are also expected to use the equitable share to subsidise or fund the provision of municipal services to poor households. The equitable share cannot fund municipalities for a lack of revenue raising efforts and does not accommodate operational inefficiencies and financial mismanagement.

Redistribution of division of revenue

The DORA achieves a substantial redistribution of revenues raised through taxes in relatively wealthy (mainly urban) areas to areas where the demand for subsidised public services are the highest. As indicated in Figure 22, the most rural municipalities receive twice the allocation per household than Metros (although 70% of tax revenue is raised in Metros).
Figure 14: The per-household allocations to municipalities.

In most rural municipalities, the average households that the grant system compensate and the equitable share are now almost double the resources shared with Metros. This is factual information and should be included in planning processes. Although allocations have substantially increased between 2011-2016 (five years), there is less service delivery progress than between 2010-2011 (10 years), as reflected in Table 5.

Table 2 Number and percentage change in households with access to services

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<tr>
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</thead>
<tbody>
<tr>
<td>Electricity</td>
<td>4 427 127</td>
<td>57%</td>
<td>3 085 170</td>
<td>25%</td>
</tr>
<tr>
<td>Water</td>
<td>4 218 878</td>
<td>52%</td>
<td>1 769 242</td>
<td>14%</td>
</tr>
<tr>
<td>Refuse</td>
<td>4 248 215</td>
<td>68%</td>
<td>1 526 018</td>
<td>15%</td>
</tr>
<tr>
<td>Sanitation</td>
<td>3 187 490</td>
<td>45%</td>
<td>3 236 805</td>
<td>31%</td>
</tr>
</tbody>
</table>

Conditional grants

These grants actually compensate the poorer and rural municipalities. The Metros, for instance, have electricity backlogs of 35.8% and the grants compensate them only 6.1%. Metros get low allocations to address higher backlogs, while rural municipalities get high allocations to address lower backlogs, demonstrating the redistributive nature of the Fiscal Framework. The reality certainly is that more poor people are moving into the Metro space.
The only problem is the increased investment in rural municipalities does not find its way to the poorest of the poor but rather into bloated organisational structures.

**Impact of the new equitable share formula**

Lack of strategic prioritisation of additional resources by rural and small municipalities has nullified the impact of the new redistributive LGES formula implemented in 2012/13. There is a direct trade-off between personnel spending and other expenditures related to the delivery of services. In 2011/12, employee costs as a percentage of total operating expenditure was 27.8% for local municipalities. This increased to 33% by the end of 2015/16. The increase in allocations to rural municipalities has increased employee costs and did not result in higher service delivery expenditure. This trend should be reversed.

**What are the root causes?**

A number of potential risks could influence municipal financial sustainability. The Auditor-General’s report identified the risks as:

- A lack of leadership accountability in the management of municipal affairs, starting with appropriate planning focused on the needs of citizens
- Disrespect for the law in the running of municipalities and a lack of monitoring by political and administrative leadership
• A lack of consequences for mismanagement and non-performance
• Increase in vacancies for MMs, CFOs and head of the SCM unit.

**Root causes – external**

* Institutional arrangements
  • Municipalities perform functions on behalf of provinces without service level agreements result in unfunded or under-funded mandates
  • Municipalities perform non-core competency functions that are not as per the Constitution

* Powers and functions
  • The misalignment of funding to the district and local municipalities
  • The DCoG-led review of the functions of district municipalities not concluded and long overdue

* Impact of amalgamations
  • Combining two dysfunctional/distressed municipalities does not yield a viable municipality
  • Funding amalgamation is a zero-sum gain and could lead to reduced allocations
  • Weak amalgamation process despite funding made available
  • Transition of this nature takes time and the benefits noticeable only after three years

* Misalignment of legislation
  • The MSA/MFMA overlap does not support effective LG performance monitoring and oversight.

**Root causes - internal**

The complexities that underpin operational failures at the municipalities include:

• Weak governance and leadership, including ineffective councils and governance structures that contribute to weak fiscal discipline and the consequence of financial mismanagement, political/administrative instability and conflicting relationships, as well as bloated organisational structures
• Accountability is weaker at municipalities with “Acting” Municipal Managers who are less inclined to take decisions
• The absence of suitably competent CFOs is a risk to sound financial management, non-compliance to the legal framework and general mismanagement of public funds
• Poor implementation of financial management principles, weak budgeting capabilities, unacceptably low collection levels, ineffective budget planning and implementation, inadequate allocation for repairs and maintenance and asset management, weak internal controls and risk management and supply chain management challenges.
What have we done to date to address the challenges in Local Government?

- Developed and implemented a Local Government budgeting system and institutionalised the budget benchmark and mid-year performance engagements for municipalities
- Developed and implemented a Local Government reporting system and database with an ‘early warning system’
- Developed and implemented a grant monitoring and management system
- Developed and implemented a routine publication of municipal performance in terms of the legal framework
- Introduced province-specific strategies in 2014 to address LG finance performance failures

2015 Budget Council resolutions:

- key ‘game changers’ to address municipal performance failures are funded budgets, revenue management, mSCOA, asset management, SCM and improving audit outcomes
  - aligned capacity support programme with game changers by deploying MFIP and mSCOA advisors to PTs to support the implementation of province-specific strategies and exercise oversight over their execution
  - Reduced the number of funded budgets from 153/257 (2016/17) to 147/257 (2017/18).

Municipal Standard Chart of Accounts (mSCOA)

mSCOA brings together the relationship between planning and budgeting, planning, reporting and the accountability cycle. The IDP determines the strategy, objectives and service delivery targets for the municipality, while mSCOA, creates the environment to execute the accountability cycle, from IDP to Annual Report. mSCOA will provide direct evidence, in dashboard format, of the municipality’s achievement of its IDP strategy, objectives and service delivery targets and greatly limits unauthorised expenditure. Municipalities were given considerable time to prepare for SCOA and there is currently a 98% readiness. National Treasury will visit all municipalities on a quarterly basis to check their ability to transact into mSCOA.

![mSCOA in the broader FM landscape.](image-url)
mSCOA progress since 1 July 2017

- A large number of municipalities are not transacting live on mSCOA and planning and reporting do not integrate seamlessly across the accountability cycle.

- The onsite transacting validation tests verified actual transacting by municipalities on, but not limited to, the following processes:
  - Budget Management – Confirm that the budget was done on version 6.1
  - SCM – Confirm that the SCM module is functional and addresses mSCOA
  - Payments – Confirm that payments to suppliers can be made
  - Inventory – Confirm that inventory can be issued and addresses mSCOA projects
  - Assets – Confirm that the asset module is functional, integrated and addresses mSCOA
  - HR and Payroll – Confirm that salaries can be paid and HR module addresses mSCOA
  - Billing – Confirm that receipts can be issued, debtor accounts updated and that accounts can be levied
  - Reporting – Confirm that the required reporting submissions can be extracted from the system and submitted to NT.
Experience has shown that this may take up to two or three budget cycles to achieve.

The main risk is the ability of municipalities to effect payments and generate revenue.

**In conclusion**

Operational and financial mismanagement issues are contributors to the “culture of non-payment” and are insufficiently addressed in the Local Government audit outcomes. While National Treasury obtained a political resolution at the PCC meeting in 2015 to address the culture of non-payment in society, nothing practical has been undertaken to implement this resolution. Municipalities with these challenges are often those that lack effective internal controls, have poor cash flow management and struggle with operational inefficiencies. National Treasury supports the decision of state-owned entities and municipalities to implement their credit control initiatives as this is sound business practice and the only leverage that they have at their disposal to collect outstanding revenue.

At its 14 July 2017 meeting, the Budget Council endorsed the implementation of a holistic approach to improving financial management and sustainability by Government (DCoG, NT, SALGA and all appropriate role players in Local Government).

**4.1 Knysna Municipality Revenue Enhancement Project: Mr Mbulelo Memani, Board Member, Cigfaro**

“One of the critical things that we’re not doing is, after the budget is approved and the policies, to take our staff and do the same policy workshop that you are doing to councillors because we need these people that are going to implement these policies to understand what they are saying.”

The approach to revenue enhancement due to insufficient municipal funds is usually to look to National Treasury for additional funding, rather than looking at proper revenue management. With this in mind, the Knysna Municipality embarked on a revenue enhancement project by analysing the valuation roll against the Deeds Office and what is billed for services in the Simola, Sparrebosch, Pezula and Knysna Lifestyle Estates. The findings were remarkable.

**General valuation roll validation – Simola Country Estate**

The analysis of 14 properties on this estate revealed that:

- 10 improved properties were incorrectly categorised as vacant land
- 1 property with an incorrect valuation due to a clerical error
- 2 properties where the valuation appeared too low
- 1 property indicated incorrectly as PSI.

The affected properties were inspected and photographed and occupation certificates requested from Building Control for improved properties categorised as vacant land. Four occupation certificates were received and four interim forms requesting a review of category/valuation submitted to the municipal value for inclusion in the Supplementary Valuation Roll 1. The four properties were, according to the municipal roll, rated as vacant properties with related valuations. The value revalued the properties and discovered that due to the incorrect valuation on the Deeds Roll, the Municipality had lost R48,000 in property rates and taxes. One of the properties also had no occupation certificate but the neighbour indicated that it had been occupied since 2015.
### Table 8 Simola Country Estate valuations outcomes

<table>
<thead>
<tr>
<th>Erf</th>
<th>GV category</th>
<th>Valuation</th>
<th>Inspection category</th>
<th>Occupation Certificate</th>
<th>Revised category</th>
<th>Revised valuation</th>
<th>Additional rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>9791</td>
<td>Vacant</td>
<td>R2,5 m</td>
<td>Improved</td>
<td>6.10.15</td>
<td>Improved</td>
<td>R12 m</td>
<td>R48,051</td>
</tr>
<tr>
<td>9792</td>
<td>Vacant</td>
<td>R1,8 m</td>
<td>Improved</td>
<td>5.1.15</td>
<td>Improved</td>
<td>R11 m</td>
<td>R50,837</td>
</tr>
<tr>
<td>9801</td>
<td>Improved</td>
<td>R1,1 m</td>
<td>Improved</td>
<td>n/a</td>
<td>Improved</td>
<td>R11 m</td>
<td>R63,200</td>
</tr>
<tr>
<td>9823</td>
<td>Vacant</td>
<td>R1,7 m</td>
<td>Improved</td>
<td>9.6.11</td>
<td>Improved</td>
<td>R13 m</td>
<td>R66,158</td>
</tr>
<tr>
<td>9826</td>
<td>Vacant</td>
<td>R1,5 m</td>
<td>Improved</td>
<td>Not available</td>
<td>Improved</td>
<td>R9.5 m</td>
<td>R44,569</td>
</tr>
</tbody>
</table>

In summary, at the Simola Country Estate, we received feedback for six of the 14 interim submissions and the Municipal value provided “insert and delete” memorandums for the respective properties. The increased rates, based on the revised category and/or valuation in respect of the six properties amounted to R325,048 for the 2017/18 financial year. The increased rates and/or categories is subject to the objection process as provided for in subsection 54 of the Municipal Property Rates Act, 6 of 2004. The increased rates were implemented in August 2017. Unfortunately, the Property Rate Act changed on 1 July 2017 and municipalities are now precluded from backdating invoices for monies owed. However, had the validation of and the other properties not been undertaken, the municipality would still have been unaware of these existing but untapped revenue streams.

The initial findings at the Simola Country Estate, which were similar for the Sparrebosch and Pezula Estates, resulted in:

- 48 interim forms submitted to the Municipal valuer for revision
- Feedback on 27 of the 48 interim submissions received by 31 July 2017
- 25 of the 27 interim valuation requests were successful
- The successful interim requests resulted in an increase of R114,860,000 in the total valuation base
- The additional rates, based on the revised category and/or valuation, for the 2017/18 financial year amounted to R1,189,600 and the revised valuations and/or categories is subject to the objection process as provided for in subsection 54 of the Municipal Property Rates Act, 6 of 2004.

The increased rates are to be implemented in August 2017. For auditing purposes, the properties were inspected in-situ and GIS used to take pictures of the houses and linked to their stands. In total from the three estates validated, the Knysna Municipality can now earn additional revenue of R1,189,600. The final audit outcome on the Knysna Lifestyle Estate is still outstanding, although the Municipality is levying refuse, and will increase this amount even further.

Normally in the municipal environment, an accountant deals with the invoicing of services rendered for water, electricity, refuse and sewerage. In the case of the Knysna Lifestyle Estate, where the Municipality is levying refuse, the accountant should have queried the charging for refuse but not for water and sewerage. It may not be quite as simple as that because some developers have a service level agreement with the Municipality in terms of paying for water but not sewage, for instance, while the development is in progress.

The bottom line is that Municipal Managers need to appointment skilled and competent people who will recognise and action discrepancies and understand the processes and when documentation should be submitted to finance to institute billing for services.
“I want to highlight, for me what is important here is the process – our processes and the fact that we’re not speaking to one another in municipalities is a concern.”

The important lessons:

• Appoint skilled and competent people committed to the success of the Municipality to mitigate against high staff turnover and retain valuable intrinsic knowledge about systems and processes

• Review and improve all financial and related processes and ensure that employees fully understand the policies, legislation and regulations that affect and direct their work and outputs

• Ensure that the property valuer has the correct and critical information for the valuations

• Provide staff training to continuously increase competence and knowledge

• First investigate areas of potential untapped revenue streams before approach National Treasury for additional funding.

4.2 Financial Viability of Municipalities, Dr Mkhululi Ncube, Programme Manager Local Government Unit, Financial And Fiscal Commission

“I looked at the threats to the viability of Municipalities and what the FFC’s is doing to counter some of the threats and what other stakeholders can do to counter the threats. The biggest threat is the slowdown in economic activities but I am also going to dwell on vertical fiscal imbalances for which there is some anecdotal evidence.”

Vertical fiscal imbalances

Municipal Managers are well aware that the scales that hold revenue sources and expenditure responsibilities do not balance (see Figure 26). The numbers speak for themselves: for every 100 cents collected in taxes, 9c goes to the Local Government sector. These imbalances will always exist and the FFC acknowledges that, similarly, some municipalities will never be viable because there’s no revenue base. According to the Constitution, the division of revenue has to take care of those municipalities. The question is, is it adequate? Are those scales balancing? The FFC has identified a fiscal gap that is constraining the viability of a number of municipalities and will investigate this to provide evidence that either confirms or repudiates it.
Figure 19: The vertical fiscal imbalances.

**Unfunded mandates**

Municipal Managers do encounter requests for services for which there is no funding. Since the cost of basic services is not determined objectively and it is not clear whether the Local Government equitable share is adequate, the FFC and SALGA developed a cost-of-basic-services model that takes into account the topography, material used and everything that municipalities use to influence or determine the Local Government equitable share and other transfers. The model will be tested to determine its influence on the equitable share formula to establish whether the transfers are adequate – especially to those municipalities that are grappling with viability issues.
District Municipalities (DMs)

During the past seven years the RSC levies have been declining. This has put the District Municipalities under severe pressure. They need adequate funding. However, due to differential allocations, where C1s receive different allocations to C2s, the shares of the C1s are declining. The FFC has identified 13 district municipalities that receive allocations of less than R40m. CoGTA is attending to the issue but these DMs need assistance urgently.

Municipal and consumer debt

Municipalities currently owe Eskom over R10 billion, while simultaneously they are owed R113 billion by national and provincial spheres, businesses and households. This must be corrected.

What can the FFC do to improve the financial viability of municipalities?

- Review the vertical division of revenue urgently and incorporate objectively the determined costs to determine the LGES allocations
- Review existing powers and functions of DMs so that their funding is objective
- Resolve debt issues within the IGFR system and not the courts; IGFR forums should dedicate sufficient time to finding a lasting solution within the Local Government sector
- Approach debt fairly from both sides, exert equal pressure on all spheres of government to settle debts within the 30-day payment window
- Diagnose the root cause of non-payment and implement consequence management where due to bad management
- Impose stricter measures on individuals within municipalities who continuously flout MFMA rules
- Ring-fence electricity and water undertakings
- Encourage Eskom to implement the Board-approved concessions to:

  Assessment criteria by financial institution
  - Financial status of Municipality
  - Economy of the area
  - Management of the Municipality
  - Behavioural tendency of the Municipality
  - Infrastructure and maintenance
  - Legal compliance

  - extend payment to 30 days (previously 15 days)
  - decrease the interest rate for overdue balances (single/compound interest charged is yet to be resolved)
  - rationalise municipal tariffs to reduce tariff options from 11 to 3
  - change the payment allocation policy to allocate payments to capital first and then interest
- Increase alternative revenue streams, such as:
  - National Treasury improves access to credit markets for large cities by establishing a credit rating mechanism for municipalities
  - National Treasury PPP unit improves deal-flow within municipalities by:
    - streamlining the approval process by subjecting only high value (above R100 million) and complex projects to rigorous feasibility studies
    - using the financial management grant to build capacity within large cities in specialised skills in PPP development, procurement, negotiating and monitoring
    - National Treasury creates awareness of land value capture fiscal instruments among large cities
    - National Treasury ensures that the LGES and conditional grants are informed by objectively derived cost estimates to increase the viability of rural municipalities.

4.4 Improving Financial Viability And Sustainability: Mr Ben Pretorius, Head Public Sector, Standard Bank

“It is common knowledge that there is lack of investment in infrastructure. Borrowing to address this needs to be done in a responsible manner, firstly, and secondly, getting the balance right between municipal infrastructure grants, own funds and then borrowing from financial institutions. I think sometimes there is not a sufficiently clear understanding of how to access funds from the private sector.”

The bank’s valuation of the sector rests on two fundamentals – a sector analysis and a criteria-based, individual financial assessment of the Municipality. In addition, the bank looks at:

- a commitment to B2B to prevent wastage and loss
- an investment in infrastructure, specifically infrastructure that will generate income
- management stability, capability and capacity, especially where acting positions are pervasive
- Alignment with national priorities.

4.4 Improving Municipal Audit Outcomes And Masp Interventions. Mr Simphiwe Dzengwa, Executive Director, Municipal Finance Salga

Reflect on the 2015/16 municipal audit outcomes, share insights and implications for municipalities and discuss the interventions required to improve the results.

“The overall financial health of Municipalities, even some of those with clean audits, remains negative and needs to be dealt with. Municipalities must become proactive and sharpen their revenue generating capabilities, even under these difficult economic circumstances, to collect monies owing and increase their revenue streams.”

In terms of the financial viability and sustainability of Municipalities, the following:

**Equitable share:** A number of municipalities around the country depend entirely on this transfer, without which they would not exist, since there is no existing revenue collection in their areas.
CFO Forums: SALGA is working closely with existing provincial Forums and establishing others where they do not exist. The provincial Treasuries are involved in the process. SALGA is also sourcing views from CFOs about cost containment measures and the borrowing framework to ensure that its submission to National Treasury is well-informed about some of the issues.

The property rates issue: The Municipal Property Rates Act, 6 of 2004, amendment bill excludes some government facilities, ie servitudes and railway lines. In Eskom-reticulated areas, municipalities do not levy a charge, while some measurement instruments undermine revenue generation. Currently nothing fills that revenue gap and it is an issue that SALGA will take up with National Treasury.

Adequate funding: Between 2003 and 2017 Local Government moved from 1% allocation for equitable share to the current 5% (trend says 10.1%) (4% direct equitable share; 4,1% as grants). Not all municipalities receive grants or a fuel levy. Only Metro receive the housing/urban development grant. In essence, horizontal allocations affirm the small and poorer municipalities but vertically, allocations disadvantage Local Government.

SALGA action: Proposing a review of the equitable share allocations to the Budget Forum and Parliament (informed by work done with the FFC).

mSCOA: Implemented on 1 July 2017 to ensure that all Municipalities are compliant. Questions: What is the cost of these reforms in Municipalities? Do Municipalities have funds/budgets to procure the required systems? Do they have adequate resources to train employees? Will it build capacity? What are the cost implications?

The debt write-off: A cautionary note to all Municipalities is that this matter must be pursued in a disciplined and organised manner.

SALGA action: Proposal to National Treasury for measures to ensure that people pay for services, such as a prepaid system of which acquisition and installation by Municipalities is funded by a special grant and a special Bill to repeal all uncollectable debt so that this debt is dealt with once and for all.

Clean audits: The overall financial health of Municipalities, even some of those with clean audits, remains negative and needs to be dealt with. Municipalities must become proactive and sharpen their revenue generating capabilities, even under these difficult economic circumstances, to collect monies owing and increase their revenue streams.

SALGA action: Engage Municipalities in workshops and training programmes around implementing instruments such as a local business tax, pooled funding, bonds and MIG fund loading. Coordinate a Local Government trade fair to showcase municipal capabilities to attract and engage with potential investors.

Oversight structures: Where these are put in place and taken seriously, such as in the Steve Tshwete Municipality, improvement occurs. Internal audit units must be fully capacitated with sufficient resources and the reports taken seriously, submitted to council and the audit committee for feedback and the approved findings and recommendations implemented.

On a positive note:

- the AG report for the previous financial year indicated that 80% of the budget allocated to Local Government was spent in municipalities with clean and/or unqualified audits, which should give some confidence that the money is being spent in the right areas
- the non-financial census report on municipalities indicates an improvement in service delivery across the board and in all provinces and that money is being spent on services
- National Treasury’s Section 71 Report confirms that across the board and in three important variables on revenue collection, grants spending and expenditure generally, municipalities are all above 80%.
The converse to municipalities that have consistently clean audit reports for the past five to seven years, are those (12) with perennial disclaimers where the situation is not being turned around despite assistance from consultants, additional grants and support from SALGA and other role players.

It is prudent that in going forward, Municipal Managers are aware that risks such as the mSCOA implementation, pre- and post-election instability, new Municipal Managers and the concomitant loss of institutional memory and capacity, could affect clean audit outcomes. There is a need for an early warning system to engage municipalities proactively, on a quarterly basis if necessary, to timeously support their ability to achieve clean audits.

**In conclusion**

Over the past three years, SALGA has established a Municipal Support Programme that covers the four imperatives of leadership, governance, financial management and institutional capacity. The call is for colleagues to request support proactively before calling in consultants to, for instance, review financial statements or provide training.

4.6 Taking Accountability To Improve Audit Outcomes.  Mr Kimi Makwetu, Auditor-General Of South Africa (AgSA)

“A clean audit is not about the scores. The scores are just an expression for people who see audit outcomes. It’s not about being clean, or unqualified or with or without findings or disclaimers. That’s not the point. The point is where does the money come from? What is it intended to do? And who are the people who will stand firm in the face of abuse.”

**Financial accountability** is about those people who have accepted the responsibility of an accounting officer and at the end of a period compile – through the CFO – a statement of accounts that set out the things they claim to have done, the manner in which they did them and the laws that they complied with in the process.
And so, after the auditor has seen the statement of accounts that has been approved by the accounting officer; the compiled data is annotated based on the tests and judgements that the auditor applies, before a conclusion is reached about whether the compiler and signatory are on this or the other side of the good governance equation.

**The accounting officer** is ultimately directly responsible for ensuring that the financial statements are submitted on 31 August annually for auditing from 1 September onwards. The outcome is pronounced two months later.

**Municipal Managers**, now completing their first financial year in this term of Local Government, are the custodians of the accounts and monies they are given – whether directly from people paying for services or from the equitable share allocation.

Mistakes that occur have to be explained. Municipal Managers must check their processing environments, IT systems and control systems and measures to manage and minimise the likelihood of these mistakes occurring.
MFMA context for accountable municipal officers
- Fiduciary responsibilities
- Fidelity, honesty, integrity, best interest of municipality; full disclosure, prevent prejudice to financial interests
- Respect for law
- No personal gain/improper benefit to others
- General financial management
- Effective, efficient, economic use of resources
- Comprehensive records aligned with standards and requirements
- Effective, efficient and transparent risk and internal control systems
- Prevent unauthorised, irregular, fruitless and wasteful expenditure
- Appropriate disciplinary/criminal proceedings for financial misconduct
- Core policies (tariffs, rates, credit control, debt collection, SCM)
- Bank accounts
- Asset and liability management
- Revenue management
- Expenditure management
- Transferring funds
- Budgets and reports

That’s what auditors **look for** and that’s what Municipal Managers must **look after** because they know the rules, the policies, they can spot when an upper limit is not observed and they can take the necessary action. The ownership of the accounts remains the responsibility of the accounting officer and the institution that they represent through the accounting officer.

**Municipal audit outcomes**

The following series of Figures present the audit outcomes for Municipalities over the period 2013/4 to 2015/6 and indicate the internal control issues and root causes of poor audits that impacted on the overall results. The performance and challenges across the three levels of assurance – management/leadership, internal independent assurance and oversight and external independent assessment and oversight – are also indicated.
**11th National MM Forum Report**

![Audit Outcome Over Three Years](image1)

**Figure 22:** Municipal audit outcomes for the three-year period 2013-4 to 2015-6.

![2015-16 Audit Outcomes](image2)

**Figure 23:** 2015-16 audit outcomes.
Figure 24: Internal controls wrt leadership, financial and performance management and governance.

Table 9 Root causes for poor audit results

<table>
<thead>
<tr>
<th>Slow response to improving key controls and addressing risk areas</th>
<th>80% (171)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management (accounting officers and senior management), political leadership (mayor and council) and oversight bodies (MPACs and portfolio committees) do not respond with urgency to messages about addressing risks and improving internal controls</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Inadequate consequences for poor performance and transgressions</th>
<th>65% (140)</th>
</tr>
</thead>
<tbody>
<tr>
<td>If officials who deliberately or negligently ignore their duties and contravene legislation are not held accountable for their actions, such behaviour can be seen as acceptable and tolerated</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Instability or vacancies in key positions</th>
<th>61% (132)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The instability and prolonged vacancies in key positions can cause a competency gap that leads to a high demand for consultants and support</td>
<td></td>
</tr>
</tbody>
</table>
Figure 25: First level of assurance – management/leadership.

Figure 26: Second level of assurance – internal independent assurance and oversight.
Figure 27: Third level of assurance – external independent assurance and oversight.

**Consequence management and review of the Public Audit Act (PAA), 25 of 2004**

The Auditor-General has a constitutional mandate and exists to strengthen South Africa’s democracy by enabling oversight, accountability and good governance in the public sector through auditing, to build public confidence. The powers of the Auditor-General, as legislated by the PAA, is being reviewed in a structured process with the Standing Committee on the Auditor-General (SCoAG). An extensive and formalised referral mechanism is envisaged as an outcome of the review. In addition, the option of surcharging and disallowance as final steps in strengthening consequence management, is being considered.

Going forward, the Office of the Auditor-General will engage accounting officers in conversations that are insightful, relevant and have impact.
Figure 28: Topics on which the AG will engage accounting officers in insightful, relevant and impactful conversations.

Concluding remarks

There needs to be a clear understanding within Local Government about demarcation – what it is and what it does. Demarcation not a panacea to all ills but rather a long-term process that underpins the developmental agenda for Local Government. We therefore encourage municipalities to invest in long-term planning that, in turn, will result in further improving demarcation and spatial configuration for the country.

4.6 Lessons From Steve Tshwete Local Municipality: Mr Mandla Mnguni, Municipal Manager (Acting), Steve Tshwete Local Municipality

The challenges are both professional and political and managing internal control systems effectively is critical. Some suggestions for dealing with both …

“We have received a clean audit for at least seven consecutive financial years. I want share good practices and lessons learnt that may sound like a broken record but does bear repeating, especially in a Local Government environment where Municipal Managers are at times hindered from doing what they are supposed to do.”

Mr Mandla Mnguni, Acting Municipal Manager, Steve Tshwete Local Municipality

- Adopt the K I S S principle:
  - KEEP – identify that the essentials are and keep them
  - IMPROVE – identify the improvements recommended in the audit report and implement them
  - STOP – identify what is not adding value and stop doing it
  - START – identify what will drive success and start implementing that.
• Institute monthly/quarterly Forums to share best practices to assist the municipality in going forward.

4.7 Improving Municipal Audit Outcomes, Mr Ted Pillay, Municipal Manager, Sarah Baartman District Municipality

Running a municipality is running a business. A municipality is a business and if you do not get the fundamentals right then you going to be in trouble. In the private sector if you don’t get it right your shareholders will not invest in you and you will close down. The challenge is to make our municipality a business in which we use the money we get wisely.

After being taken out of the Nelson Mandela Bay Municipality, tough decisions meant downgrading and retrenchments. The main lesson was that an institution can and should survive on its own. Other important lessons included …

• **Financial health** is an imperative to pursue aggressively, which meant:
  - managing the cost of employment tightly
  - ensuring that reserves are funded sufficiently and debt and current ratios are acceptable
  - introduce stringent cost-cutting measures, such as outsourcing IT, internal audit, security and cleaning service despite a preference to rather employ people, because the cost of employment is one-and-a-half times that of an outsourced service – one of the tough decisions but critical when cost control is an imperative for survival to prevent even more people being unemployed.

• **Performance**
  - Clean audits: After seven years of clean and unqualified audits, suddenly a qualified audit last year because performance measures did not measure up. The lesson: avoid complacency – the better the performance the greater the scrutiny by the Auditor-General.
  - Impact meetings: Rotate or move meetings in the district to towns where projects have been implemented and after the Municipal Publics Accounts Committee meeting, visit and inspect the projects to better manage, monitor and evaluate progress.

• Identify **additional risk areas**: Quality of submitted AFS and performance reports, Information Technology and human resource management

• **Stability, internal control and governance**: Strong leadership, facilitated by senior management, creates stability to support effective internal control and oversight, robust financial and performance management reporting systems, governance and risk management, outsourced effective internal audit and an effective audit committee
5. Implications Of Amalgamation Of Municipalities And Post-2016 Local Government Coalition-Led Municipalities - Mr Syanda Nkehli, Department Of Cooperative Governance

“I want to rewind a bit so that we remember how the amalgamation of municipalities came about. The amalgamation process was kick-started by the Back-to-Basics programme, which analysed municipalities across the country and concluded that approximately one-third of all municipalities were not doing well and some were not financially sustainable.”

To address the challenges being experienced by municipalities around sustainability and viability, a range of options were considered, which included direct interventions, strengthening district municipalities, or disestablishing and amalgamating some local municipalities.

In 2013, the Demarcation Board had already determined to amalgamate some municipalities in Gauteng (Westonaria and Randfontein) and KwaZulu-Natal, where 15 municipalities were reduced to seven. Before the 2016 local government election, municipalities were reduced by 21 to 257.

Following the election, another 26 were amalgamated with nine in Limpopo, eight in KwaZulu-Natal, four in the Eastern Cape and one each in Mpumalanga, the Free State, North West and the Northern Cape.

The four indicators used to determine viability/sustainability were economic viability, tax sustainability, financial viability and dependence on inter-governmental transfers. The DCoG Ministerial Interim Committee (MIC) and Minister agreed on amalgamation and requested the Municipal Demarcation Board to effect 34 amalgamations that affected 90 municipalities.

The affected municipalities received transitional assistance from the CoGTA to deal with legal, policy, finance and human resource matters, integrated development planning, communication and institutional arrangements. Municipalities received a project management schedule to track critical issues. All affected provinces published notices in terms of Section 14(5) regarding the transitional institutional arrangements. The transitional structures included a Provincial Transformation Committee, Municipal Technical Change Management Committee and Municipal Political Change Management Committee.

National Treasury established a Municipality Demarcation Transition Grant of R409 million. An initial amount of R297 million was transferred during the 2016-17 financial year and R111 million set aside for the 2017-18 financial year of which the first tranche was paid on 31 July 2017. Forty percent of the allocated amount was transferred before the election and 60% earmarked for after the election.

Table 4 Total number of municipalities constituted from the 2016 Local Government election

<table>
<thead>
<tr>
<th>Province</th>
<th>Category A</th>
<th>Category B</th>
<th>Category C</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>2</td>
<td>31 (-6)</td>
<td>6</td>
<td>39</td>
</tr>
<tr>
<td>Free State</td>
<td>1</td>
<td>18 (-1)</td>
<td>4</td>
<td>23</td>
</tr>
<tr>
<td>Gauteng</td>
<td>3</td>
<td>6 (-1)</td>
<td>2</td>
<td>11</td>
</tr>
</tbody>
</table>
KwaZulu-Natal | 1 | 43 (-7) | 10 | 54
Limpopo | 22 (-3) | 5 | 27
Mpumalanga | 0 | 17 (-1) | 3 | 20
Northern Cape | 0 | 26 (-1) | 5 | 31
North-West | 0 | 18 (-1) | 4 | 22
Western Cape | 1 | 24 | 5 | 30
Total | 8 | 205 (-21) | 44 | 257 (-21)

**Key:**

**Category A** – Metropolitan municipality has exclusive executive and legislative authority in its area.

**Category B** – Local municipality shares executive and legislative authority with Category C municipality within whose area it falls.

**Category C** – District municipality has executive and legislative authority in an area that includes more than one municipality.

**Table 11 Post-2016 Local Government election amalgamated municipalities**

<table>
<thead>
<tr>
<th>Province</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gauteng</td>
<td>1</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>8</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>1</td>
</tr>
<tr>
<td>Free State</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>26</td>
</tr>
</tbody>
</table>

Municipalities are expected to provide monthly and quarterly reports to the Municipal Demarcation Transition Committee (MDTC) for an assessment on progress in finalising the transition. The reports thus far indicate good progress and some positive results.

The challenges included:

- **human resources**, specifically Bargaining Council challenges about staff placements that have delayed full functionality, as well as finalising job evaluations and dealing with pay parity issues
- litigation over **inherited contracts** that were not honoured
- **inherited liabilities** from low-revenue-based municipalities into cash flow and service delivery
- decrease in **equitable share allocations** vs increase in indigent register due to amalgamation formula.

**Hung municipalities:** The 2016 election resulted in 27 hung municipalities, with the most in KwaZulu-Natal (7) and the Western Cape (8). While this affected the amalgamation process, 26 Municipal Councils did complete their coalitions. The exceptions were the Nquthu Local Council, where the non-election of office bearers prevented its constitution and affected the constitution of the Umzinyathi District Council. This delayed post-2016 election service delivery in the affected areas for almost ten months.

In February 2017, CoGTA in KwaZulu-Natal announced the KwaZulu-Natal Executive Committee decision to implement Section 139 (c) of the Constitution to dissolve the municipalities where interventions to complete coalitions fail. The National Council of Provinces and the CoGTA Minister endorsed the decision. The IEC
scheduled by-elections in the municipality, which were held on 25 May 2017. The Municipal Councils in Nquthu and Umzinyathi were, therefore, constituted only approximately 10 months after the 2016 election.

**Recommendation** for future amalgamations: change the number of councillors to an uneven number to resolve any stalemate that occurs.

Inputs by **Mr Johann Mettle**, Municipal Manager, Nelson Mandela Bay Metro

“When it comes to amalgamations and coalitions, there are trained professionals who are not in your municipality who can do this. And frankly, people must first do a stint in Local Government before they try their hand at amalgamations.”

Nothing can prepare one for the effects of amalgamation or serving in a hung council. There are currently two hung councils and the Nelson Mandela Bay Metro is one of them. The situation is extremely complex and so is trying to navigate between administrative responsibilities and political issues.

**Personal Insight:**

“As a city manager you are the proxy battle. It’s not about you, but the battle is fought via you so you are targeted even while you have a municipality, an actual administration to run with services to be delivered and there’s nothing you can do. There’s nothing you can do about the circumstances of an amalgamation or a hung council or a coalition. That is what you’ve been given and you must work with that. If you can’t make it work then get out, you don’t belong there.”

In the face of these challenges, a basic approach to the following could be of benefit:

- **Trust** is important; it will allow you, with the Executive Mayor, to take control of the strategic planning process, which is critically important and cannot be delegated to the IDP manager or anyone else

- **Take control** of the strategic planning to manage the politicians who come into government with a plan of what they want to do in the first 100 days, regardless of existing plans, budgets and resources; the challenge is to convince the Mayor that structure follows strategy and where there is no budget or resources plans cannot be implemented

- **Stick to the basics and focus**, adhere to the business processes in supply-chain management, appointments and all else when the new government comes into power and wants to fix everything immediately and where you can get people, get ethical people first. There’s no accountability when the businesses processes break down. Focus on what is important to move forward, you can’t go forward while looking backwards

- **Lead**, you must lead, you cannot be indecisive, you must stand firm; as the accounting officer you are uncompromising on accountability to those that report to you.
6. Electricity Distribution Constitutional Challenge, Ms Jean De La Harpe, Executive Director, Municipal Infrastructure And Services, Salga

The energy value chain has been problematic for a long time. SALGA has engaged Eskom and relevant ministries to pursue a resolution to the energy and electricity challenges that range from the constitutional mandate on electricity to financial complications. The session provided information on progress and proposed solutions to update Municipal Managers on processes to improve the electricity value chain.

The ‘invisible’ black line on the maps in Figures 36 to 38 cuts across nearly every municipality in the country. Because of this line, the constitutional powers of municipalities are subverted and the development goal of Local Government is undermined. Some communities are prejudiced and municipal revenue collection is undermined.

This line represents a major underlying cause of the debt to Eskom. Does anybody know what the line does? It creates inequality: Those who live on the municipal side of the line pay a surcharge that contributes to services such as parks, libraries and pavements.

Their electricity is used as a credit control mechanism and should they default, their electricity is cut off. And they pay higher rates and taxes than those on the other side. They subsidise services for those living on the other ‘Eskom’ side, where no surcharge is paid.

So, for example, electricity in Alexandria is supplied by the municipality. On the other side, in Sandton, residents do not pay a surcharge or contribute much to subsidising other services, nor is their electricity cut off for not paying rates and taxes and they probably pay a lower tariff because they get their electricity from Eskom. So, in fact, we have a situation where Alexandria subsidises Sandton!
"We keep saying that Eskom is contributing to the problem of revenue collection. This is because Municipalities cannot exercise credit control in Eskom-supplied areas, which means that the collection rate is lower."

This means that...

- Municipalities are deprived of their constitutional and legislative powers to reticulate electricity.
- Customers are deprived of the executive authority of the council where councillors approve resolutions such as setting bylaws, participatory planning, integrated planning, the electricity master plan, the IDP – an authority function to ensure good governance and integrated development.

The governance or accountability triangle:

- allow customers to express their rights and interest through their right to vote
- councillors are accountable for services to those customers and when customers don’t like their councillors they vote someone else in
- the service provider provides the service and the customer pays for it
- the service provider reports to the authority
- the authority regulates and ensures that that service provider delivers services according to the bylaws and policy of the municipality.

The executive authority is also

- sets tariffs in line with the NERSA tariffs
- manages budgets
- decides on cross-subsidisation
- ensure access through developmental planning processes

The municipal right to manage distribution means either

- the municipality provides the electricity themselves or
- go through a Section 78 process and appoint another service provider.
So, what’s happening with Eskom?

There is a Municipal Council, customers and Eskom as a service provider

• Eskom provides the service, the customer pays and the municipality is not involved, which completely negates the accountability triangle

• Eskom dominates and replaces the executive authority (Figure 4).

Eskom acts like a public company without any reference to the Municipal Systems Act or a service delivery agreement (SDA) entirely on the strength of the licence issued by NERSA.

Eskom, a power utility, argues that the licence form NERSA authorises it as a provider and an authority, whereas a utility should not take over the executive authority of a municipality – except they have.

The results …

• the constitutional authority of municipalities is undermined
• without a SDA, municipalities cannot levy surcharges in the Eskom areas
• municipalities lose revenue because they cannot cross-subsidise other services or exercise credit control
• there is a lack of tariff parity between the municipal supply rea and the Eskom supply area. And as you all know this starts to call conflict in your communities.

SALGA argues …

• The licence issued by NERSA to Eskom is unconstitutional and defective as it bypasses the municipal executive authority, which is a constitutional authority.

• Without an SDA, Eskom’s service encroaches unlawfully upon the constitutional powers of every municipality within whose jurisdictional area they provide a service.

• Eskom has most of the high electricity users – while they distribute only to 15% of total customers, they distribute 66% of the total amount of electricity.

• Municipalities distribute only 30% but have to 85% of the customers.

• This brings about a number of structural and systemic problems which contribute to the escalating municipal debt.

• This vicious cycle is not being adequately addressed by other spheres of government.

SALGA action

Tackled the issue through the inter-governmental relations (IGR) process and taken it to the President’s Co-ordinating Council.

• Engaged with NERSA to include a SDA as a condition of the licence but NERSA disagrees.

• Met several times with Eskom and NERSA
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- Presented to the Portfolio Committee on Energy, GoGTA Portfolio Committee, Appropriations Committee
- Engaged with an inter-ministerial task team (IMTT) comprising the Minister of CoGTA, Minister of Energy, National Treasury, Public Enterprises and the SALGA Presidency.

Current status of constitutional, structural and systemic issues

<table>
<thead>
<tr>
<th>Constitutional issue</th>
<th>SALGA recommendations and other views</th>
</tr>
</thead>
</table>
| Lack of tariff parity     | - Different tariffs undermine equity, as some enterprises must absorb municipal costs, while those in Eskom areas are at an advantage
|                           | - Impacts on the actual and potential economic development of an area                                  |
|                           | - Affects Local Government objective of providing equitable and sustainable services to communities  |
|                           | - Impairs economic development                                                                        |

Recommendations to PCC
- No resolution found in the constitutional challenges that does not recognise the executive authority of municipalities for electricity reticulation
- PCC endorses the IMTT resolution to approach the High Court for a declaratory order on the opposing views about the constitutionality of electricity reticulation.

PCC response
Referred the matter back to the IMTT to resolve among Ministers and Deputy Ministers and report back with a solution by end October 2017

Structural challenges
### Public lighting
- The purpose of street lighting is to contribute to the safety of the public.
- Public lighting is part of the package of electricity reticulation services.

<table>
<thead>
<tr>
<th>SALGA recommendations and other views</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommendations to PCC</td>
</tr>
<tr>
<td>• Resolving structural challenges depends on resolving Constitutional challenges</td>
</tr>
<tr>
<td>• The Technical Task Team must resolve public and street lighting issues</td>
</tr>
<tr>
<td>• The DoE reconSIDers the role of municipalities in renewable energy to allow municipalities direct access to independent power producers</td>
</tr>
</tbody>
</table>

### Role of municipalities in renewable energy
- Clarify the role of municipalities in renewable energy through policy intervention.
- The City of Cape Town instituted legal action against the Minister of Energy for her refusal to approve the purchase of renewable energy from independent power producers.

<table>
<thead>
<tr>
<th>IMTT view</th>
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</thead>
<tbody>
<tr>
<td>The matter of street and public lighting needs to be addressed in the Technical Committee as the Department of Energy (DoE) has specific aspects it wants to address.</td>
</tr>
<tr>
<td>The City of Cape Town instituted legal action against the Minister of Energy for her refusal to approve the purchase of renewable energy from independent power producers</td>
</tr>
</tbody>
</table>

### Systemic challenges
- Eskom does not provide and regards public lighting (installation) in its supply areas as a municipal function.
- Eskom’s delays in activating street lights that municipalities install (due to specifications misalignment, standards and capacity) compromises public safety.
- Eskom continues to charge a high, flat-rate tariff in its supply areas where municipalities install energy efficient lighting (through the Energy Efficiency Demand Side Management Grant).

<table>
<thead>
<tr>
<th>IMTT view</th>
</tr>
</thead>
<tbody>
<tr>
<td>Renewable energy is critical policy issue.</td>
</tr>
<tr>
<td>Current policies and the Integrated Resource Plan do not include renewable energy sources</td>
</tr>
<tr>
<td>The Energy Summit will address these and other issues and look at ‘ubersation’ as a completely new and different way of doing things</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Consider matter at policy level with the DoE</th>
</tr>
</thead>
<tbody>
<tr>
<td>69</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Recommendations and other views</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>• Eskom credit control policy for municipal bulk accounts</strong></td>
</tr>
<tr>
<td><strong>• Unsustainable payment agreements between Eskom and municipalities</strong></td>
</tr>
<tr>
<td><strong>• Reconciliation of municipal debt to Eskom</strong></td>
</tr>
<tr>
<td><strong>• Notified maximum demand</strong></td>
</tr>
<tr>
<td><strong>• Historical debt owed to and by municipalities</strong></td>
</tr>
<tr>
<td><strong>• NERSA review of areas of supply</strong></td>
</tr>
<tr>
<td><strong>Eskom’s credit control policy for municipal bulk accounts is not aligned with the Local Government Municipal Finance Management Act, 56 of 2003 (MFMA)</strong></td>
</tr>
</tbody>
</table>

Concessions secured in June 2017:

- Municipal tariffs rationalised from 11 to 3 to reduce tariff options
- Reduction in interest rate on overdue balances from prime + 5% to prime + 2.5%
- Payment period on municipal bulk accounts increased from 15 to 30 days
- Amend Eskom payment allocation policy to allocate payments to capital debts first before allocating to interest charged

Further proposal:

- Complete review of the Eskom credit policy
- Interest charged at prime (with possible sliding scale of prime plus 1%) for continuous late payment

Recommendations

- Eskom aligns its credit control policy with that of municipalities to supports and assists municipalities with credit control within their supply areas
- National Treasury undertakes a comparative study on debt owed to municipalities by national and provincial government and the impact on the most indebted municipalities to bulk electricity accounts
SALGA recommendations and other views

- National Treasury-funded independent diagnostic of the 62 municipalities with highest debt to determine affordable and sustainable repayments
- Eskom waives all interest on historical debt owed by municipalities
- Eskom allocates municipal payments to outstanding capital

NERSA license application process

NERSA is updating its Geographic Information System (GIS) in the Free State and Northern Cape to review electricity distribution licences in the Eskom and municipal supply areas (Schedule 1).

Concerns: The ‘due diligence exercise’ is increasing the Eskom reticulation areas, since NERSA’s licence application procedures are not aligned with the definitions or processes in the founding legislation. Compliance with natural justice rules are also not clear and the administrative fairness of the process therefore doubtful.

SALGA action

Call for an urgent technical meeting with NERSA to address the areas covered by the relevant reticulation licences and the process of licencing, with a report back at the next PCC meeting.

Eskom revenue collection initiative

Eskom’s credit control policy for municipal bulk accounts is not aligned with the Local Government Municipal Finance Management Act, 56 of 2003 (MFMA).

While SALGA welcomes initiatives or innovations to assist municipalities with revenue collection, Eskom’s assistance with the installation of prepaid meters should be as an implementing agent and not as a revenue collector. SALGA does not support Eskom or its vendors supplanting municipal revenue collection prepaid meters, as this undermines accountability between customers and municipalities (both service authority and provider) and impacts on municipal financial management and control.

Eskom’s response

Eskom has applied for a 19.9% average increase that will result in a 1 July 2018 local-authority tariff increase for municipalities of 27.29%. Municipalities will continue to pay at 2017/18 rates from 1 April 2018 to 30 June 2018 as per the MFMA.

The application is due to lower sales volumes and an increase in primary energy costs as result of coal mix changes, the use of more IPPs and an increase in operating costs. According to Eskom, the above has been understated in the MYPD3 decision.
SALGA’s position

• Rejects the 27.29% increase as an unaffordable and indefensible price-shock effect on the market
• Supports a long-term pricing approach with a gradual increase or amendment that allows the market and role-players to adjust
• Questions the one-year Revenue Application process given the significant non-compliance with the Multi-Year Price Determination (MYPD) methodology
• Regards the reduction in consumption reduction due to the use of renewable energy as a ploy to increase the unit price.

SALGA recommendations

SALGA supports a multi-year pricing methodology that contributes to price stability and predictability and protects the economy from price shocks.

7. Identified Provisions and implementation challenges of the regulations of the municipal systems act, 32 of 2000, Mr Tebogo Motlashuping, Acting Deputy Director-General: Institutional Development, Department of Cooperative Governance (DocG)

Background

On 20 April 2017, the MinMEC resolved that the national CoGTA:

• initiates a comprehensive review of the Local Government: Municipal Systems Act, 32 of 2000 (Systems Act) to, inter alia, deal with the implementation challenges of the provisions of the Act to the appointment and conditions of service of senior managers in municipalities and s76 investigations (re: mechanisms for provision of municipal services).
• constitutes a Technical Team from national and provincial CoGTAs to identify the provisions of the Systems Act and its regulations that present implementation challenges.

At its first meeting on 8 June 2017, the Technical Team undertook to:

• request national CoGTA to urgently constitute a smaller team to:
  o finalise the identification of the provisions that impose implementation challenges
  o present a problem statement for each of the identified provisions for MinMEC input.

The team meeting on 4-5 July 2017 culminated in the final identification of MSA provisions and regulations that present implementation challenges with a problem statement for each identified provision. This information is summarised in Table 16.

7.1 MSA Identified Provisions, Regulations & Problem Statements
<table>
<thead>
<tr>
<th>Local Government Municipal Systems Act, 32 of 2000</th>
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<tbody>
<tr>
<td><strong>Current clause</strong></td>
<td><strong>Problem statement</strong></td>
</tr>
<tr>
<td><strong>Appointment of acting MMs</strong></td>
<td>The competency requirements for a MM exclude acting MMs.</td>
</tr>
<tr>
<td>MSA Clause S54A(2) states: A person appointed as a MM in terms of subsection (1) must at least have the skills, expertise, competency and qualifications as prescribed</td>
<td>Recommendation: Extend the competency requirement to include “acting Municipal Managers”.</td>
</tr>
<tr>
<td><strong>Appointment of acting MMs</strong></td>
<td>The clause excludes the appointment of former MMs and s56 managers from acting in the absence of persons suitable for secondment from the Offices of the MEC and Minister. Examples: Prolonged sick leave, suspensions, vacancies due to boundary re-determination and municipal mergers during the 2021 Local Government election. Some S54As could resign just before the election (eg nine months), while attracting suitable and competent managers willing to accept short-term employment may again, similar to the period before 2016 Local Government election, be a problem.</td>
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<tr>
<td>MSA Clause S54A(2A)(a) stipulates: A person appointed to act as a Municipal Manager or manager accountable directly to the Municipal Manager may not be appointed to act longer than three months (the MEC can grant an extension of three months if Council applies and shows good cause)</td>
<td>Recommendation: Insert a new clause in MSA S54A(6) (a) to cater for seconding/appointing acting MMs should a municipality not have a suitable person/s.</td>
</tr>
<tr>
<td><strong>Validity of contract of employment concluded between Municipal Council and MM</strong></td>
<td>The clause excludes signing employment contracts with acting Municipal Managers. This legal vacuum has resulted in the appointment of acting Municipal Managers without the minimum prescribed competence or unwilling to sign performance contracts/agreements that holds them accountable for performance during the acting appointment. (See comments below Table)</td>
</tr>
<tr>
<td>MSA Clause S54A(2A)(3) stipulates: A decision to appoint a person as MM and any contract concluded between the Municipal Council and that person in consequence of the decision, is null and void if (a) the person appointed does not have the prescribed skills, expertise, competences or qualifications or (b) the appointment was made in contravention of the MSA.</td>
<td>Recommendation: Extend the clause to include employment contracts with acting Municipal Managers to ensure that municipalities appoint competent and capable acting managers and that the provisions of S54A(2A)(3) are enforced.</td>
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<td>Local Government Municipal Systems Act, 32 of 2000</td>
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<tr>
<td><strong>Current clause</strong></td>
<td><strong>Problem statement</strong></td>
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<tr>
<td><strong>Timeframe for submission of appointment reports to MEC/Minister within 14 days of appointment receipt</strong></td>
<td>Only the Municipal Council employs municipal staff, not the MEC, Minister or the President. However, many municipalities do not adhere to the requirements to submit appointment reports to MECs within the prescribed 14-days timeframe. The lack of cooperation by municipalities makes it difficult for MECs to submit appointment reports/mandatory documents to the Minister within the stipulated 14 days. The situation is exacerbated where appointments are made in contravention of the MSA or where the MEC requires further legal advice from external sources to enforce compliance or declare the appointment null and void due to the contraventions.</td>
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<tr>
<td>MSA Clause S54A(7)(a) and (b) states: (a) The Municipal Council must, within 14 days, inform the MEC for Local Government of the appointment of the provinces and outcome as prescribed and (b) the MEC must, within 14 days of receipt of the information referred to in paragraph (a), submit a copy to the Minister.</td>
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<tr>
<td><strong>Enforcement of compliance/invocation of declaratory order</strong></td>
<td>Recommendation: Extension of the 14-day timeframes for both MMs and MECs to allow more time to obtain the required information to, for MMs, submit to MECs and, for MECs, institute the necessary corrective action.</td>
</tr>
<tr>
<td>MSA Clause S54A(8) and (9) states: If a person is appointed as Municipal Manager in contravention of this section, the MEC/Minister must, within 14 days of receiving the information provided in subsection (7), take appropriate steps to enforce compliance by the Municipal Council that may include a court application for a declaratory order on the validity of the appointment, or any other legal action against the Municipal Council. If the MEC fails to take appropriate steps referred to in subsection (8), the Minister may take the necessary steps.</td>
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<tr>
<td><strong>Approved period for acting appointment as S56 managers</strong></td>
<td>The period approved for the appointment of acting managers accountable directly to MMs is insufficient in cases where it is difficult to attract senior managers within the prescribed period, such as in an election year.</td>
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<tr>
<td>MS Clause S56(1)(c) stipulates: A person appointed as acting manager accountable directly to the MM may not be appointed longer than three months. A Municipal Council may, in special circumstances and good cause shown, apply in writing to the MEC to extend the period of the acting appointment for a further three months.</td>
<td>Recommendations: Amend the clause to enable MMs to determine an acting period of between three and 12 months to align it with the provisions of the draft municipal staff regulations and on condition that justifiable reasons are recorded.</td>
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### Local Government Municipal Systems Act, 32 of 2000

<table>
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<tr>
<th>Current clause</th>
<th>Problem statement</th>
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<tbody>
<tr>
<td>Minimum prescribed requirements for acting S56 managers</td>
<td>The clause negates initiatives to strengthen municipal capacity by subjecting acting managers and not other managers accountable directly to MMs to scrutiny. The clause is often ignored by municipalities that find it difficult to appoint acting managers accountable directly to MMs who meet the prescribed competence requirements for senior managers PLUS CPMD. The fact that minimum competence regulations for staff below management level will only be enacted into law during the 2017/18 financial year exacerbates the situation.</td>
</tr>
<tr>
<td>MSA Clause S56(2) stipulates: A decision to appoint a person as acting manager accountable directly to the MM, and any contract concluded between the Municipal Council and that person in consequence of the decision, is null and void if (a) the person appointed does not have the prescribed skills, expertise, competences or qualifications, or (b) the appointment was made in contravention of the Systems Act, unless the Minister has waived any of the requirements listed in subsection (1)(b).</td>
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<tr>
<td>Timeframe for submission of appointment reports to MEC/Minister within 14 days of appointment/receipt</td>
<td>MECs find it practically difficult to submit the appointment reports to the Minister within the prescribed 14-days timeframe due to some municipalities failing to submit the mandatory documents to the MECs timeously. This situation is exacerbated where an appointment contravenes the provisions of the Systems Act or the MEC needs legal advice from an external source to enforce compliance or declare the appointment null and void on the basis of the contravention.</td>
</tr>
<tr>
<td>MSA Clause S56(4A(a) and (b) states: (a) The Municipal Council must, within 14 days, inform the MEC for Local Government of the appointment provinces and outcome as may be prescribed and (b) The MEC must, within 14 days of receipt of the information referred to in paragraph (a), submit a copy to the Minister</td>
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<tr>
<td>Enforcement of compliance/invocation of declaratory order</td>
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<tr>
<td>MSA Clause S56(5) states: If a person is appointed as manager or acting manager accountable directly to the MM in contravention of this section, the MEC/Minister must, within 14 days of becoming aware of such appointment, take appropriate steps to enforce compliance by the Municipal Council with this section, which may include a court application for a declaratory order on the validity of the appointment, or any other legal action against the Municipal Council.</td>
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<tr>
<td>Local Government Municipal Systems Act, 32 of 2000</td>
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<tr>
<td><strong>Current clause</strong></td>
<td><strong>Problem statement</strong></td>
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<tr>
<td>Secondment/appointment of acting managers accountable directly to Municipal Managers</td>
<td>Section 56 does not provide for a MEC to second of a person to a municipality when there is a management vacancy accountable directly to Municipal Manager or the post is advertised and the municipality does not have a suitable person to act in the position. MECs have previously requested municipalities to second persons to senior manager positions other than the Municipal Manager position. The arrangement is not provided for in the Systems Act and can be discontinued by the MEC. Recommendation: Insert a corresponding clause to the one in S54A(6)(a) to cater for the secondment/appointment of acting managers accountable directly to MMs should the municipality not have a suitable person/s.</td>
</tr>
<tr>
<td>Employment contract of a Municipal Manager</td>
<td>The CoGTA is inundated with applications to renew Municipal Managers’ employment contracts. While the Act requires terms of renewal in a MM employment contract, it is absent from most contracts. Municipalities also confuse renewal in S57(6)(c) with extension in S57(6)(a). MM contract renewal has continued despite the regulatory frameworks (applicable to senior managers) that came into effect in 2011 and 2014. This creates MM remuneration problems as MMs want to retain their annual salary, which exceeds that of senior managers, as determined annually by the Minister.</td>
</tr>
<tr>
<td>MSA Section 56 does not make provision for the secondment of managers accountable directly to Municipal Managers.</td>
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<td>MSA Clause S57(6)(c) indicates: The employment contract of a Municipal Manager must stipulate the terms of the renewal of the employment contract but only by agreement between parties. MSA Clause S57(6)(a) states: The employment contract for a Municipal Manager may be extended for a period ending one year after the election of the next Council of the municipality.</td>
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<tr>
<td>Local Government Municipal Systems Act, 32 of 2000</td>
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<tr>
<td><strong>Current clause</strong></td>
<td><strong>Problem statement</strong></td>
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<tr>
<td>Permanent appointment of managers accountable directly to municipal managers</td>
<td>The repeal aimed to ensure the permanent appointment of managers accountable directly to Municipal Managers. The rationale was to preserve institutional memory and create continuity and stability in municipal administration following the end of tenure of councils, ushering in of new councillors and mass exodus of MMs and managers accountable directly to them, some with unblemished performance records. The repeal, however, has not achieved the desired policy goals. Recommendation: Insert a clause in the Systems Act that enables the permanent appointment of managers accountable directly to Municipal Managers to build resilient capacity, preserve institutional memory and create continuity and stability in municipal administration similar to the public service.</td>
</tr>
<tr>
<td>MSA Clause S57(7), which authorised Municipal Councils to extend the fixed-term contracts of Municipal Managers to managers accountable directly to Municipal Managers, was repealed in 2011.</td>
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<tr>
<td>Collective agreements</td>
<td>Contrary to the annual determination by the Minister, some MM employment contracts include annual salary increases based on collective agreements with the municipal Bargaining Council. Some contracts also indicate that upper limits of senior managers will apply only if they provide a better offer than what is provided for in the collective agreements. S72(2A) empowers the Minister to annually determine and gazette the remuneration of senior managers. Recommendation: Insert a clause that states that collective Bargaining Council agreements do not apply to senior managers in municipalities.</td>
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<tr>
<td>MSA Clause S71 states: Municipalities must comply with any collective agreement concluded by organised Local Government within its mandate on behalf of Local Government in the Bargaining Council established for municipalities.</td>
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<tr>
<td>Definitions</td>
<td>The current definition of senior manager excludes acting managers as contemplated in S56 of the Systems Act. This regulatory lacuna enables some municipalities to contend that acting senior managers are not subject to the Regulations.</td>
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<tr>
<td>Regulation 1: Definition of senior manager.</td>
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</table>
## Current clause

<table>
<thead>
<tr>
<th>Mobile and data cards</th>
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<tr>
<td>Regulation 1: Definition of total remuneration package, read with Regulation 40 of the Regulations.</td>
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</tbody>
</table>

## Problem statement

Since mobile phones and data cards are regulated in Chapter 5 of the Regulations under Benefits, there is a perceived disparity about whether these, based on the current definition, form part of the total remuneration package. Municipalities currently allocate monthly amounts for mobile phones and data cards in addition to the total remuneration package.

Recommendation: Regulation 40 should identify clearly such a benefit as a reimbursement and not part of the total remuneration package. This will address the variations in applying the provision.

## Selection panel

Regulation 12 stipulates that the panel constituted to select a municipal manager must consist of at least three but not more than five members, as follows:

The mayor, or delegate, as Chairperson, a Council-designated councillor and at least one other person who is not a councillor or a staff member of the municipality and who has experience or expertise in the area of the advertised post.

OR

The Municipal Manager, or delegate, as Chairperson, a Council-designated councillor and at least one other person who is not a councillor or a staff member of the municipality and who has experience or expertise in the area of the advertised post.

Regulation 15(5) provides that if consensus cannot be reached, a dissenting member may record his or her concerns in the minutes and the issue then voted upon, with each member of the selection panel entitled to one vote.

The current regulations describe explicitly three members of the selection panel for MMs and managers accountable directly to Municipal Managers consisting of five members. However, the regulations are silent about the other two members of the selection panel. The varying interpretation of Regulations 12(3) and (4) has resulted in unintended delays that threaten a collapse in governance in some municipalities.

Recommendation: Amend Regulation 12(3) and (4) to create legal certainty.

The word ‘consensus’ in Regulation 1(5) is ambiguous.

Recommendation: Replace the word ‘consensus’ with ‘majority view’ to create legal certainty.
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<th>Current clause</th>
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<tr>
<td>Submission of appointment reports to the MEC/Minister</td>
<td>Municipalities are mandated currently to submit signed reports, Council resolutions and minutes to the MEC/Minister to inform their executive oversight over appointments. Municipalities often use regulatory gaps as reasons for submitting unsigned documents. Recommendation: Amend the Regulations with an express provision that only signed documents must accompany the appointment report to the MEC/Minister.</td>
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Regulation 17(4)(d), (i) and (j) require that the report contemplated in sub-regulation (3)(b) contains:

- The Municipal Council’s resolution approving the selection panel and shortlisted candidates
- The details of executive committee members and recommendations, if the selection panel comprised of all members of the executive committee
- The recommendation of the executive committee or executive mayor to the Municipal Council, if any

Regulation 17(4) omits the need for naturalised persons to submit proof of residence.

Recommendation: Provide legal certainty by removing the sub-clauses referred to in the regulation. Insert a clause that mandates the submission of proof of residence by foreign nationals that have acquired permanent residence in South Africa.

Determination of the upper limits of senior managers

Regulation 35 stipulates: “The upper limit of the total remuneration package of senior managers for a financial year must be determined and gazetted by the Minister before 31 March of the following financial year; after taking into consideration consultations with the Minister for Public Service and Administration, Minister of Finance, MECs for Local Government and organised Local Government.”

Experience has shown that it is difficult to adhere to the 31 March timeline annually due to the need to benchmark the salaries of senior managers with the Bargaining Council established for municipalities and the public service at large, including the annual cost-of-living adjustments for public office bearers.

Recommendation: Delete the timeframe of ‘31 March’ from the regulation and allow the Gazetted notice to prevail until it is amended.
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<th>Local Government Municipal Systems Act, 32 of 2000</th>
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<tr>
<td><strong>Current clause</strong></td>
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<tr>
<td><strong>Secondment</strong></td>
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<tr>
<td>Regulation 20(5) requires a person seconded in terms of sub-regulation (1) must: (a) receive an allowance equal to the difference between the secondee’s current salary and the minimum budgeted salary of the acting position (b) receive compensation for S&amp;T incurred during the course and scope of duties, in accordance with the relevant policy of the municipality.</td>
</tr>
<tr>
<td><strong>Retirement</strong></td>
</tr>
<tr>
<td>Regulation 41 provides that a senior manager has the right to retire, and must retire, on the first calendar day of the month following the incumbent’s 65th birthday.</td>
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### Local Government Municipal Systems Act, 32 of 2000

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<tr>
<td><strong>Annexure A</strong></td>
<td>The ambiguity of this item creates problems for municipalities, especially when competency assessments are conducted and the interpretation by municipalities and MECs differ: 1) That a person who falls under basic competency is not suitable and therefore cannot be appointed and 2) That caution must be applied when appointing or promoting such persons, which suggests that such persons can be appointed. Municipalities are continuing to appoint persons found to have achieved the basic level of assessment as a result of this ambiguity. Recommendation: Delete the “caution should be applied in promoting and appointing such persons” wording to provide legal certainty.</td>
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<tr>
<td>Item 6.1 stipulates: “Individuals falling within the basic range are deemed unsuitable for the role of senior manager and caution should be applied in promoting and appointing such persons.”</td>
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</table>

| **Annexure B** | The required higher education qualification excludes unfairly a career path in Local Government for those with different qualifications. Recommendation: Insert an amendment to allow career pathing for core occupational streams relevant to municipal functions, inter alia, Finance, Development Planning and Technical Services. |
| The Annexure provides that a person appointed as Municipal Manager must at least have a higher education qualification: Bachelor degree in Public Administration/Political Sciences/Social Services/Law, or equivalent. | |

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**Note:**

The annexures refer to specific clauses within the Local Government Municipal Systems Act, 32 of 2000, and highlight areas where ambiguity or legal uncertainty exists. Recommendations are provided to address these issues, aiming to improve clarity and legal certainty in the appointment processes.
<table>
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<th>Current clause</th>
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| Circular No 4 of 2016  
The circular prohibits the appointment of senior managers whose competence was assessed by non-accredited DCoG assessment companies. | Regulation 72(1)(e) and (g) empowers the Minister to, inter alia, regulate or issue guidelines for the skills and competence required by Municipal Managers and managers accountable directly to Municipal Managers (senior managers). The regulations prescribe appointment procedures and competency criteria of senior managers.  
Regulation 16(1) oblige Municipal Councils to subject candidates recommended for senior manager posts to competence-based assessment prior to appointment to determine their proficiency. The prohibition of appointing senior managers assessed by companies that not trained and accredited by the DCoG to undertake competency assessment is not included in the regulations.  
Recommendation: Insert a clause that stipulates that only assessors trained by independent and accredited CoGTA service providers can assess competence in the sector. |

**ADDITIONAL COMMENTS…**

- The competence of senior manager candidates – the DoCG developed Local Government-specific competence assessment batteries and trained, accredited and appointed four service providers to apply these batteries. An agreement exists with the SALGA Centre for Leadership and Governance to make these batteries available to municipalities for competence assessments. In future, results will be accepted only from COGTA-accredited service suppliers who have been trained to use the batteries.

- Remuneration policy for senior managers – discussions are ongoing with SALGA, the Institute of Municipal Accounting Officers (ISAMAO), Institute of Local Government Managers (ILGM) and National Treasury regarding the Upper Limits Notice for salaries, allowances and benefits for senior managers for the 2017-18 financial year. The broader discussion between COGTA and SALGA about amending the overall remuneration policy of senior managers in municipalities is ongoing. COGTA has presented the draft Upper Limits Notice to all provinces and MMS had the opportunity to provide inputs. Those inputs have been included in the forthcoming Notice, inter alia, the removal of definitions that create problems; the total number of major municipalities or wards that are merging will determine the salaries of senior managers; and the addition of a 5.9% cost-of-living adjustment.

- Municipal categories – there is an agreement with MECs at MinMAC and provincial officials to extend the categorisation deadlines to address the outstanding provincial issues and move more municipalities from a lower to higher category. Until this has been resolved, municipalities need to remunerate new appointments according to the current categories determined by the Minister.
• For interest: Radical views voiced in this regard questioned the need for categorisation at all since all Municipal Managers have the same responsibilities according to the Systems Act and should be remunerated accordingly.

• The four-financial-year period will be adjusted to the norm in relation to expenditure patterns at national and provincial levels.

• Census results – decision to rather use the 2011 community services survey results until those results have been scientifically verified. The verified results will then be used from time to time rather than the old the census data.

7.2 Questions / Comments From Municipal Managers

Categorisation of Municipalities

• Categorisation of municipalities is providing huge challenges in areas such as remuneration and staff. What are the timeframes to finalise the categorisation processes?

• The issue of different grades is creating problems. When categorisation of municipalities’ takes place it should be uniform. It shouldn’t say for senior managers and politicians this is the grade and for the rest of the staff there is another grade. It creates problems for municipalities to manage these kinds of situations and tensions.

Minimum Competency vs Competency Assessment

• Some undergo competency assessment through various institutions and they’re declared competent after finishing those modules whether it be six or twelve months. When they write the assessment test which is done in a day then you’re declared basic.

• In terms of salary, there is minimum, mid-point and maximum, there are a number of factors considered for maximum, mid-point, and minimum. In the case of this competency assessment, this means a one day assessment supersedes all other factors. Qualification and experience gained over a number of years are not considered.

Salary Creep

• The Forum notes and thanks CoGTA for saying the issue of salary creep will be looked into. There are examples in the Western Cape that the Department did not allow the salary creep even where it was motivated by the mayor and the provincial government.

• The permanency of senior managers outside the municipal manager creates a situation where the senior managers are earning higher than the newly appointed Municipal Managers. Example - A senior manager is permanently appointed on a salary of 1.1m this year, 10 years down the line you appoint a municipal manager and the upper limits state that you can only appoint a municipal manager with 1m in the meantime that senior managers is on 2m already.

Market related salaries for MMS

• Local government is not able to attract and keep skilled MMs and senior managers because remuneration is not competitive. Western Cape sent COGTA several examples of advertisement that were advertised three, four, five times that cannot be filled because municipalities cannot offer competitive salaries;

• COGTA’s approved company, Work Dynamics, did a study on market-relatedness. According to this study, local government is 30% below market.
The upper limits really has done a lot of damage to the sector to such an extent that some municipalities have lost experienced and qualified personnel.

**Assessment**

During assessment, it must be clear who plays which role between SALGA and COGTA. Example - I have a situation in our municipality where we shortlisted nine candidates that all qualified. We shortlisted everybody, sent the list to SALGA. SALGA said MM can only take four – you can’t take more than four. SALGA is saying let’s go and do whatever we can do to say other qualified candidates must not go to that particular process. I said no, if SALGA says that then let’s go to Works Dynamics. But they’re also expensive. SALGA must clarify his position.

There must be no competition between SALGA and COGTA. Even SALGA instrument must undergo the assessment through a COGTA process and be accredited. There can’t be a process that’s not gone through because COGTA has a responsibility in terms of the Constitution to oversee this sphere of local government and therefore the instrument must also pass the test. Because if it doesn’t pass the test the issue of credibility will arise.

**Political Interference in Recruitment Processes**

The sector is suffering due to political interferences in recruitment processes. Example - You go to an interview, attend assessments, advance, get high marks in the interview but due to politics a person with a basic competence is appointed. A complete waste of time.

**Safety and Security of Municipal Managers**

MMs are living under constant fear from attacks. SALGA made a presentation to Moerane Commission on this matter. MMs don’t feel protected. Councillors can do the security risk assessment, but not for MMs. Your municipality either provide security if they wish or they don’t. MMs must be protected. If this matter is not pushed by COGTA and SALGA, no one will.

**Other Issues**

Inconsistencies: Western Cape MMs made a summary of all the letters received from provincial government and from COGTA. Municipalities get different outcomes for same issues. Request is that the department be consistent because MMs speak to one another and it is injustice if they are not treated consistently.

Systems Act: says a municipal manager cannot serve more than a year in a new term. I strongly feel that we need to repeal that section to say a contract of a municipal manager should be five years. DGs and Heads of Departments get contracts of five years and the same should be done for Municipal Managers.

Clarify the issue of “equivalent”: The definition of equivalent may not be the same. Kwa-Zulu Natal may determine equivalent in some different ways from Gauteng. There is a need to clarify what is meant by equivalent.

Notice for upper limits for 2018-2019: In March 2018, the Department must issue a notice for upper limits for 2018-2019. It is now September and the department is still struggling to conclude Notice for 2017-2018. It must be the last time that in September we are still dealing with the matter that should have concluded in March 2017. There are people who are employed full time to work on this matter.
8. Concluding Remarks

- In his closing remarks, Mr Xolile George, SALGA CEO thanked George Local Municipality and Western Cape for hosting the 11th National Municipal Managers Forum. Mr George indicated that the National Municipal Managers Forum has been hosted in all provinces of South Africa and back for the second time in the Western Cape. He further indicated that the next National Municipal Managers Forum will be hosted in Mpumalanga by the City of Mbombela Local Municipality. Mr George further highlighted the following issues:

  - It is important to take stock of this Municipal Managers Forum - the efficiency of the interventions; the effectiveness of the structure, and innovations to improve the work of the forum. The following inputs will assist in guiding this review of the MM Form:
    - Continue to clarify and emphasize the purpose and the objectives of the MM Forum and get support of all MMs through individual and collective engagements at provincial and national meetings;
    - Ensure that issues raised by MMs are repeatedly presented at the MM Forum until a resolution is agreed upon and that these form part of the KPIs of the MM Forum for implementation;
    - Explore the possibility of MMs championing particular issues and therefore participate in relevant Working Groups and possibly accompany Cllrs & SALGA officials to certain IGR platforms;
    - Acknowledge the sense of vulnerability faced by MMs. Work within SALGA and COGTA structures to address MMs concerns;
    - Send meeting notification early to ensure maximum participation and support;
    - Support the MM Forum with an electronic repository of key documents and reference material;
      - Resolutions of this Forum must find expression within the SALGA governance structures and ensure effective interface with National Treasury, COGTA and other government departments and entities;
      - Develop a repository of documents that will be key reference material for this Forum;
      - The safety of MMs remains a huge concern. We hear stories of MMs attacked. It is important that we are not only appalled by this, but identify the inherent risks faced by MMs and work with all parties to ensure the environment is improved and where there are early signs of danger, the safety of MMs is secured;
      - Going forward, it’s important to centre our conversations on innovation. There should be a, balancing ratio of policy talk, legislative talk, but in the main innovation. We need to know what’s happening in Kimberley about smart meters if they have that; we need to know what’s happening in Cape Town about sorting a billing problem so that Johannesburg can also learn something; we need to know what’s happening in Nelson Mandela so Buffalo City can learn. So, the more that we surface those issues, the better for us.
The next agenda of National Municipal Managers Forum will speak to the issues of innovation and bringing partners from outside to help improve service delivery. That is the core of salga – our task is to inspire strong leadership. Our task is to inspire capable administrations; our task is to inspire accountability and our task is to inspire good leadership and service delivery.

To have a cross-pollination of ideas and to benefit the structure of MMs in South Africa, SALGA will begin to invite MMs of capital cities of Africa. We may start with SADC countries and also target others outside of SADC that can benefit MMs. It will be good to hear from MMs of Addis Ababa, Cairo and even small capital cities such as Windhoek on how they are dealing with municipal service delivery issues;

Western Cape has a Whatsapp group for MMs. This is an important innovation for this province. We must encourage other provinces to establish a similar method of communication and support.

Thank you very much to all MMs who attended this meeting. Thank you to also to all speakers and guests for enriching this Forum. We believe that it was quite fruitful and productive and continues to bring us into greater coherence as team. We look forward to the next meeting. Travel safely to our respective provinces.
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