

Delegated vs Non-delegated Municipalities

PCoCoGTA Meeting
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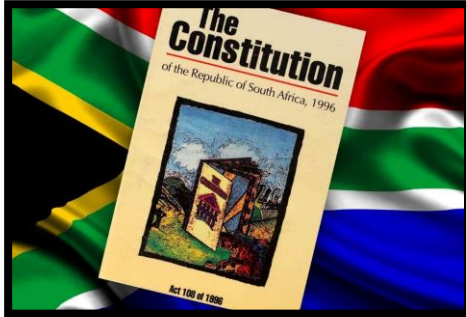
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Presentation outline

- National Treasury's (NT) mandate
- Delegation by the Minister of Finance
 - Non-delegated municipalities budget size
- Municipal Governance Oversight
- Non-delegated municipalities fiscal landscape
- Comprehensive Early Warning System and Monitoring System / Tools
- Tools and Process for Collaboration between Team Finance
- A New Approach To Financial Recovery
- Conclusion

The role of the National and Provincial Treasury in Municipal Finances – “Team-Finance”



- What constitutes Treasury norms and standards?
- The mandate of the NT is derived **directly** from sections 215 and 216 of the Constitution (it is not an inferred or implied responsibility but a direct one)
- National Treasury achieves its Constitutional obligations through:

Primary legislation

- PFMA
- MFMA
- Municipal Fiscal Powers and Functions Act
- Annual Division of Revenue Act
- Intergovernmental Fiscal Relations Act

Secondary Legislation

- Treasury Regulations

Tools

- Circulars
- Guidelines
- Tools
- Engagements
- Capacity Building

Other relevant legislation: Municipal Structures Act, Municipal Systems Act, Municipal Demarcation Act, Municipal Property Rates Act, sector legislation (Water Services Act, Electricity Regulation Act) and regulations promulgated under any of these acts

Delegation by the Minister of Finance

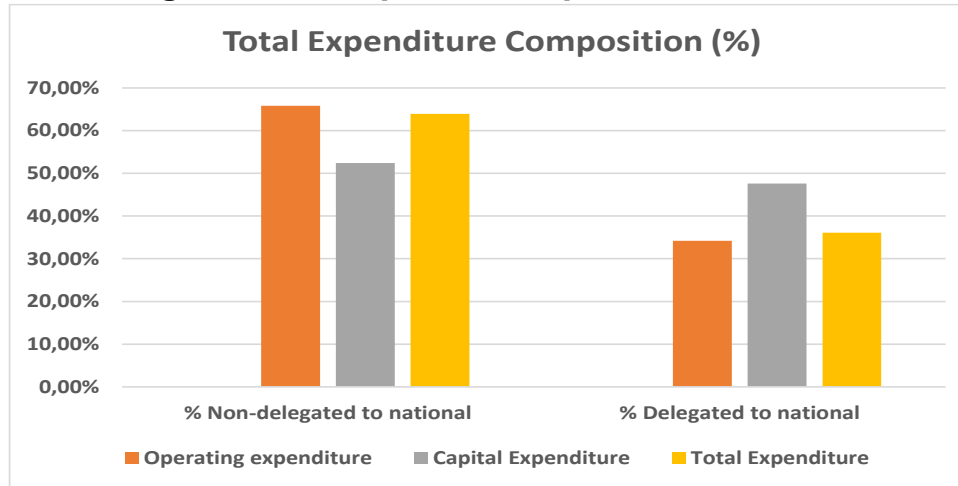
- Implementation of the MFMA – The MFMA was implemented in a phased-in approach
- The Minister of Finance delegated the oversight responsibility for some municipalities to the MECs of Finance
 - Delegations do not replace the **accountability** bestowed on the Minister of Finance as the custodian of the financial and fiscal matters
- The following factors were considered in determining non-delegated municipalities:
 - **Budget size** (at that time, non-delegated municipalities constituted 71% of size of the local government budget)
 - **Targeted approach** - if NT could get the non-delegated municipalities to embrace the MFMA and associated reforms, it will be successful in addressing a significant part of challenges in Local Government

Municipal Governance Oversight

- Municipal governance provides an enabling environment for sound financial management and effective service delivery, this is the provincial responsibility over all municipalities in the province including the non delegated – this determines the executive and administrative leadership and management of the municipality
- **Interventions** in non-delegated municipalities are led by Provinces (CoGTA and Provincial EXCO in terms of Chapter 13 of the MFMA):
 - Irrespective if it is a non-delegated municipality, the MFMA allow the province to intervene
 - The challenge is the reluctance of Provincial EXCO to intervene
- Many of municipalities are faced with challenges, which requires support and intervention, governance failure has been a major factor limiting the effectiveness of oversight

Non-delegated municipalities fiscal landscape

Non-delegated municipalities' expenditure – 2020/21



- There are 257 municipalities in SA of which **17 are non-delegated**
- The non-delegated municipalities are: Nelson Mandela Bay, Buffalo City, O.R. Tambo, Mangaung, City of Ekurhuleni, City of Johannesburg, City of Tshwane, eThekweni, Msunduzi, uMhlathuze, Polokwane, City of Mbombela, Sol Plaatje, Mafikeng, Rustenburg, George and Cape Town
- Non-delegated municipalities represent **63.9% of LG expenditure budgets allocations** and delegated municipalities 36.1%
- The operating expenditure is 65.8% and capital expenditure 52.4%
- Metropolitan municipalities occupy 2.4% of the land area; constitute 40% of SA's population; Employ 50% of the workforce and contribute 50% to the GVA

Total Expenditure Composition (R'000)	National	Non-Delegated municipalities	% Non-delegated to national	Delegated municipalities	% Delegated to national
Operating expenditure	419 274 480	275 943 835	65,8%	143 330 645	34,2%
Capital Expenditure	70 109 367	36 739 188	52,4%	33 370 179	47,6%
Total Expenditure	489 383 847	312 683 023	63,9%	176 700 824	36,1%

Collaboration between NT and
PTs is embedded in the
oversight framework (i.e. tools,
processes) over the
implementation of MFMA



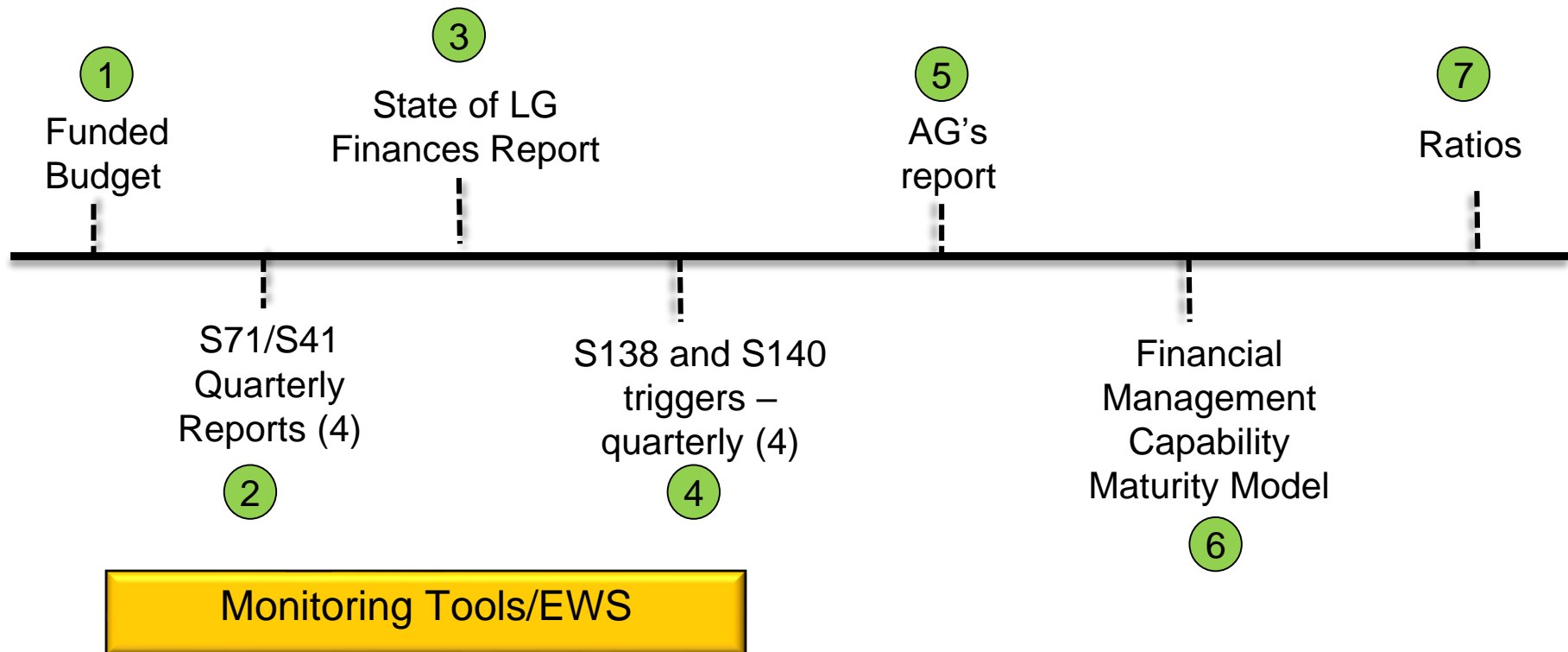
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Comprehensive Early Warning System and Monitoring System / Tools

- Several Early Warning Systems already built into our process and at our disposal as a preventative measure
- These are currently under-utilized and severely under-exploited
- A number of opportunities to identify potential financial troubles before they escalate



Tools and Process for Collaboration between Team Finance

- We have a centralised financial reporting system in the space of Local Government in the form of the Local Government Database and Reporting System (LGDRS)
 - All Provincial Treasuries have access to the LGBRS which is the only source of all LG Publications
 - All national sector departments have access to the LGBRS (DCoG, Office of the Auditor General, StatsSA, Reserve Bank and the SARS)
 - We have invested approximately 16 years of effort to improve the system to accommodate our monitoring and oversight responsibilities as team finance
- Conduct budget and benchmark assessment engagements for the 17 non-delegated municipalities by NT and all delegated municipalities by PTs
 - Uniform funding compliance methodology and assessment tool in terms of Section 18 of the MFMA
 - This service is provided to all municipalities by Team Finance
 - All reports are shared with provincial treasuries once concluded
- Conduct Mid-year Budget and Performance assessments for the 17 non-delegated municipalities by NT and all delegated municipalities by PTs and report on findings
 - This is done in terms of Section 72 of MFMA
 - This service is provided to all municipalities by Team Finance
 - All reports are shared with provincial treasuries once concluded
- Provincial Treasuries publish the Section 71 information monthly in terms of Section 71(6) of the MFMA **including** the information from non-delegated municipalities
 - Formats regulated in terms of the Municipal Budget and Reporting Regulations
- The MEC for Finance must submit a consolidated report 45 days after each quarter in provincial legislatures, including the non delegated municipalities within a province
- publish the consolidated / aggregated Section 71 information for all 257 municipalities quarterly in terms of Section 71 and 31(3)(a) of the DoRA

Challenges and approach to Interventions



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The content of Section 139

- S 139 of the Constitution provides for provincial (and national) interventions in municipalities as a last resort response to serious problems
- The Constitution envisages three different kinds of problems, with different responses to suit these, set out in the different sub-sections
 - 139 (1) is in response to “*failure to fulfil an executive obligation*”: these are **discretionary interventions**
 - 139 (4) is in response to *failure to pass a budget or associated measures*: these are **mandatory interventions**
 - 139 (5) is in response to serious financial problems - *material breach of financial obligations or ability to provide basic services*: these are **mandatory interventions**
- The role of the province is to assess the nature of the serious problem, and to respond as the relevant section requires
 - MFMA requires mandatory interventions under s139(5) to be undertaken through the Municipal Financial Recovery Service (MFRS)
- S 139 (7) is clear that if the province fails to promptly intervene when the conditions for a mandatory intervention exist, the national executive must do so
- The Mquma judgement provides more detail as to the nature of an executive judgment, and the MFMA provides more detail as to how to assess serious financial problems

Findings on the practice of Section 139

- **Extensive evidence of severe financial crises in a number of municipalities**
 - Growing public narrative of failure
- **Very low success rate for S139 interventions since 2004, in terms of multiple indicators, due to:**
 - Serious problems in LG not being matched with envisaged Constitutional remedies
 - Almost all (more than 90%) of interventions were in terms of S139(1), despite the conditions being met for applying using S139(5) in around 30% of cases.
 - Inappropriate use of the administrator model in response to a general misinterpretation of “executive obligation”.
 - Interventions taking place much later than the Constitution envisaged, most notably with respect to mandatory interventions
 - Weak oversight & reporting on interventions and their termination
 - Failure of national executive to respond as per S139(7)
- **Several court cases** with applicants asking for national government to be compelled to intervene in the municipalities as the relevant provinces have chosen not to intervene
 - **No comprehensive government strategy:** DCoG has resumed activity on the Intergovernmental Monitoring, Support and Interventions Bill

Confirmed by case studies

- *Interventions started too late, long after qualifying criteria met*
 - Created significant (insurmountable?) challenges due to embedded damage
- *All interventions possibly qualified to be S139(5) interventions, not S139(1).*
- *All interventions displayed limits of “administrator” model.*
 - “heroic individual” model not effective, and has no basis in law unless council is dissolved
 - S139(1)(b) only envisaged that the province would take over responsibility for a particular executive obligation, not entire administration.
- *Most failed to achieve sustainable long-term improvements in either service delivery or financial sustainability.*

Developing a New Approach to Financial Recovery Plans

- Even before COVID-19, it was evident that a new approach to financial recovery plans was required:
 - There were a number of municipalities who required FRPs and the capacity of the unit only allowed a minimal number of FRPs to be generated annually (less than 15 per year)
 - Municipalities were not adhering to the reporting requirements and there was poor implementation of the plan
 - Resources were being expended but there were no visible returns nor improvements in financial performance
 - Monitoring and oversight of progress was severely compromised as a result of poor and non-reporting
 - The FRP document was comprehensive (rightfully so) but led to reporting fatigue and disinterest on the part of municipalities
- A simplified approach to financial recoveries with a reduced financial recovery plan document was essential, designed to strengthen collaboration between national and provincial government in the implementation of intervention
- A phased approach to the financial recovery process was subsequently introduced in 2020 with the intervention in Mangaung Metro serving as a pilot
- The phased approach guides the municipality through the recovery process by focusing on a limited set of high-level indicators that must be met with three distinguishable phases

A New Approach To Financial Recovery

- The three phases of the new recovery process is depicted below
- Each phase is time-bound with measurable targets and defined reporting formats

PHASE 1

RESCUE

- Focus is on cash – and short term liquidity
- Selection of appropriate strategic financial indicators
- Selected high-level governance and service delivery indicators focused on visible wins

6 months to
1 year

PHASE 2

RECOVERY/STABILISATION

- “Plugging the holes and fixing the leaks”
- Focus is on the areas that are depleting the municipality’s financial resources
- Deeper focus on governance, service delivery and institutional pillars
- Longer-term liquidity s

From 12 to 24
months (or more)

PHASE 3

SUSTAINABILITY

- Focus on preventing a regression in performance
- Institutionalisation of progress in Phases 1 and 2
- Long-term financing strategy, revenue enhancements, etc.
- Technological improvements, innovation

From 24
months

Oversight Arrangements to Support the New Approach to FRPs and Interventions

- To support the new approach, a new reporting framework aligned to indicators in each phase had to be developed
- Two oversight committees have also been established in the Mangaung pilot
- These oversight committees consist of a Technical War Room which meets monthly to monitor progress and a Political Oversight Committee consisting of the DMs for Finance and Cooperative Governance, the Premier of the Province and the MECs for Finance and Cooperative Governance who meet quarterly
- A schedule of meeting dates has been circulated in advance to ensure that the regularity of meetings are not compromised and all relevant officials are available
- Some valuable lessons learned:
 - It is critical that a Terms of Reference is established to guide the intervention
 - Oversight meetings vetting reported progress have been found to be a successful oversight mechanism
 - Meetings must be scheduled a year in advance – specifying dates that reports are to be submitted for consideration
 - Clear reporting frameworks are essential

Conclusion

- The determination of non-delegated municipalities was made by the Minister of Finance as the Head of National Treasury
- Non-delegated municipalities constitute a significant percentage of the LG expenditure budget and makes substantial contributions to national economy and growth
- The oversight on MFMA is designed to ensure that there is collaboration between provincial and national government
 - all have access to early warning system and responsibility for municipal support and intervention
- NT continued responsibility on non delegated municipalities is enabling oversight and support to provinces, the major challenges is in poor governance, resulting in discontinuity in performance of municipalities and increasing numbers of municipalities in financial distress and service delivery failure

THANK YOU



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

www.municipalmoney.gov.za
open **local government budget** data portal

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



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

What is the Cities Support Programme?

Development Objective:

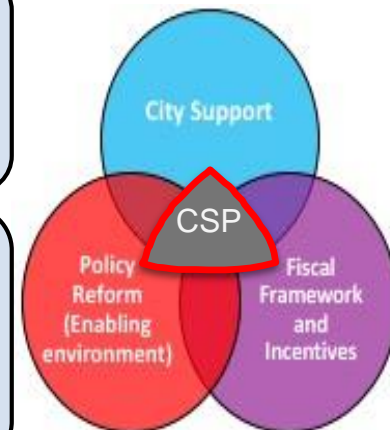
- Support the development of more compact, connected and transit-oriented cities through a programme of spatial transformation that is **driven by capable metropolitan governance systems, and supported by enabling policy and regulatory frameworks and an appropriate set of fiscal incentives.**

Desired outcomes

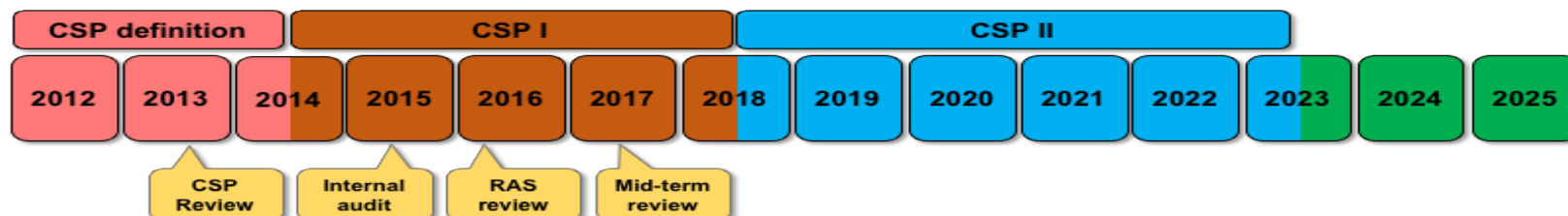
- **Metro's able to implement** strategies to accelerate inclusive economic growth and poverty reduction by building more inclusive, productive and sustainable cities;
- **Policy environments that support metros** to implement such strategies;
- **Fiscal incentives that support metros** to implement such strategies.

CSP Activities

- gather, generate and share innovative and appropriate practices in the fields of governance, urban planning, finance, human settlements, public transport, climate resilience, and economic development.



Specific five-year objective of institutionalising within national departments, provinces and metros a set of policies, practises and activities which supports development.



NATIONAL TREASURY'S LEGISLATIVE MANDATE

IGR Functions/Outputs	IGR Mandate	Legislation
<ul style="list-style-type: none"> Intergovernmental fiscal frameworks Policy reforms and proposals 	Cooperative governance & concurrency <ul style="list-style-type: none"> Functions and expenditures Own revenues, grants, borrowing 	Constitution- s214, 216, 228, 229 and 230 PFMA - s6 MFMA - s5 Prov Tax Reg Process Act Borrowing Powers of Prov Govts Act Muni Fiscal Powers & Functions Act
	Coordinate intergovernmental financial & fiscal relation <ul style="list-style-type: none"> Budget alignment 	
<ul style="list-style-type: none"> Division of revenue & grant allocations, oversight 	Facilitate the implementation of DoRA	Annual DoRAs PFMA - s6 MFMA - s5 IGFR Act FFC Act
<ul style="list-style-type: none"> Monitoring, analysis & reporting Regulating & enforcement 	Monitor the implementation of PG & LG budgets Management of fiscal distress	
<ul style="list-style-type: none"> Stakeholder engagement & intergovernmental coordination Advisory services & guidance Technical assistance and capacity building 	Promote good budgeting & fiscal management by PG & LG <ul style="list-style-type: none"> Political (Bdgt Council & Forum) Technical (TCF, CBF, MTEC) 	
	May assist in building capacity for efficient, effective & transparent financial management	

Challenges in Local Government can be summarised as follows

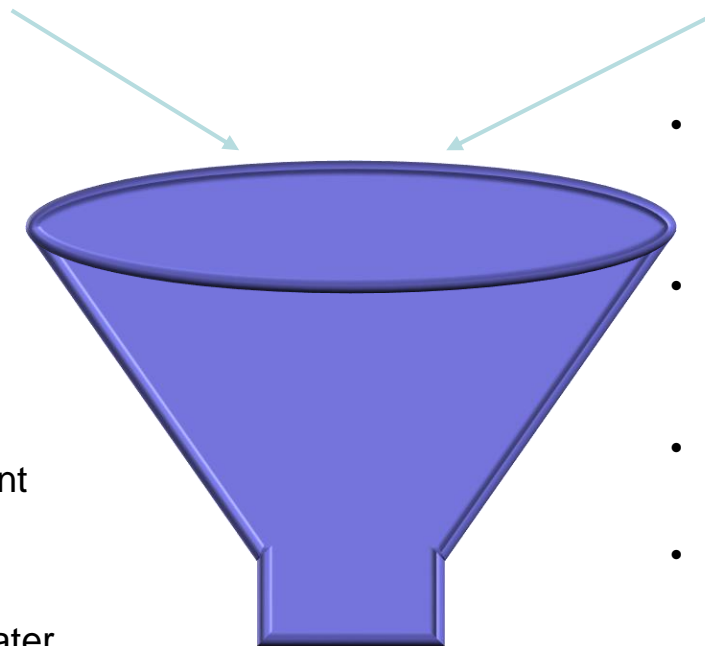
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- At the heart of local government challenges is **governance failure** which is not the core competency of the National Treasury
- Both a long and short answer....
- Long answer:

National/Prov. Factors

Municipal Factors

- Poor revenue management practices and systems
- Unfunded budgets and poor budget implementation
- Growth in outstanding debtors
- Insufficient investment in infrastructure asset management
- Mismanagement / consistent underspending of CGs
- Non-payment of Eskom and Water Boards
- No consequence management
- Poor SCM practices



- Poor implementation of capacity building programmes and initiatives
- Poor use of available information to inform decision making – applies to LG as well
- Reluctance to invoke S139 interventions
- Encroachment of inter-departmental roles and responsibilities
- Political acknowledgement of problems not backed by political action/intervention
- Weak oversight / monitoring

What have we done to date to address the challenges in Local Government

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- Enacted the MFMA – March 2003
- Issued a suite of Regulations – nine to date
- Extensive set of guidelines developed and issued to assist municipalities
- MFMA Circulars – 108 issued to date
- MFMA Helpline
- Development and implementation of a budgeting system for LG
- Development and implementation of a LG reporting system that serves as a ‘early warning system’
- Development and implementation of a LG grant monitoring and management system
- Rollout of the Financial Management Capability Maturity Model (FMCMM)
- Routine publication of municipal performance which serves in various forums
- Research and development of a Uniform System Solution for LG
 - Issued the Integrated Financial Management Transversal Tender on the 04 March 2016
 - Issued MFMA Circular No.80 on Municipal Financial Systems and Business Processes on the 08 March 2016
- Implementation of Standard Chart of Accounts (*m*SCOA) for local government
 - 1 July 2017

National Treasury provides strategic direction to municipalities, PTs and overseen the municipal budget and financial management reforms?

What have we done to date to address the challenges in Local Government

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- Developed a strategy to address municipal performance failures and obtained Budget Council endorsement during 2009, and reaffirmation during 2014 and 2019
- Introduced province specific strategies in 2014 to address LG performance failures and at the 2015 TCF and BC Lekgotlas, it was resolved that:
 - The key “**game changers**” required to address municipal performance failures in the next period are funded budgets, revenue management, *m*SCOA, asset management, SCM and audit outcomes
 - Aligned our capacity support programme with the game changers
- Quarterly Joint MFMA Meetings
- Dedicated CFO fora at national and provincial level
- The institutionalisation of annual municipal budget and benchmark engagements:
 - Conduct budget and benchmark assessment engagements for the 17 non-delegated municipalities by NT and all delegated municipalities by PTs
 - Verification of annual MTREF budget and audit outcome figures
- Municipal financial management monitoring and oversight:
 - Conduct Mid-year Budget and Performance assessments for the 17 non-delegated municipalities by NT and all delegated municipalities by PTs and report on findings
 - Quarterly verification of Section 71 submissions before publication
- Extensive support programmes – MFIP I, MFIP II, MFIP III, MFIPIIIx, PINK and FMISD

Sources of information on municipal budgets

- Information on municipal budgets:
 - Division of Revenue Act
<http://www.treasury.gov.za/documents/national%20budget/2019/DOR.aspx>
 - Individual municipalities' budgets – in new formats
 - Consolidated budget information – published by National Treasury
http://mfma.treasury.gov.za/Media_Releases/mbi/Pages/Municipal%20Budgets%20-%20Main%20Page.aspx
- Information on in-year spending:
 - Monthly budget statements – should be published by Provincial Treasuries
 - Section 71 reports – published quarterly by National Treasury
http://mfma.treasury.gov.za/Media_Releases/s71/Pages/default.aspx
- Information on end-year spending:
 - Municipalities' annual financial statements and annual reports
http://mfma.treasury.gov.za/Media_Releases/The%20state%20of%20local%20government%20finances/Pages/default.aspx
<http://mfma.treasury.gov.za/Documents/Forms/AllItems.aspx>
 - Consolidated expenditure information – published by National Treasury
<http://www.treasury.gov.za/publications/igfr/default.aspx>
- Information on the flow of funds:
http://mfma.treasury.gov.za/Media_Releases/Municipal%20Payment%20Schedule/Pages/default.aspx

Municipal Reporting

- MFMA: Section 71 Monthly budget statements and Section 72 Mid-year budget and performance assessments
- Quarterly financial reports available at
 - http://mfma.treasury.gov.za/Media_Releases/s71/Pages/default.aspx
 - High level analysis of expenditure at municipalities, with some detail on metros and secondary cities
- Detailed spreadsheets per municipality
 - Start at www.treasury.gov.za → Legislation (on left) → MFMA (underneath 'Legislation') → Publication and Media Releases → Section 71 Information
 - Excel spreadsheets per province (detailing each municipality), showing expenditure per quarter for all municipalities, including expenditure on conditional grants
 - This is readily available data that can be analysed in more detail