



AUDITOR - GENERAL
SOUTH AFRICA

MATERIAL IRREGULARITIES IN LOCAL GOVERNMENT

9 February 2024

A culture of accountability will improve service delivery





MISSION

The Auditor-General of South Africa has a constitutional mandate and, as the supreme audit institution of South Africa, exists to strengthen our country's democracy by enabling oversight, accountability and governance in the public sector through auditing, thereby building public confidence

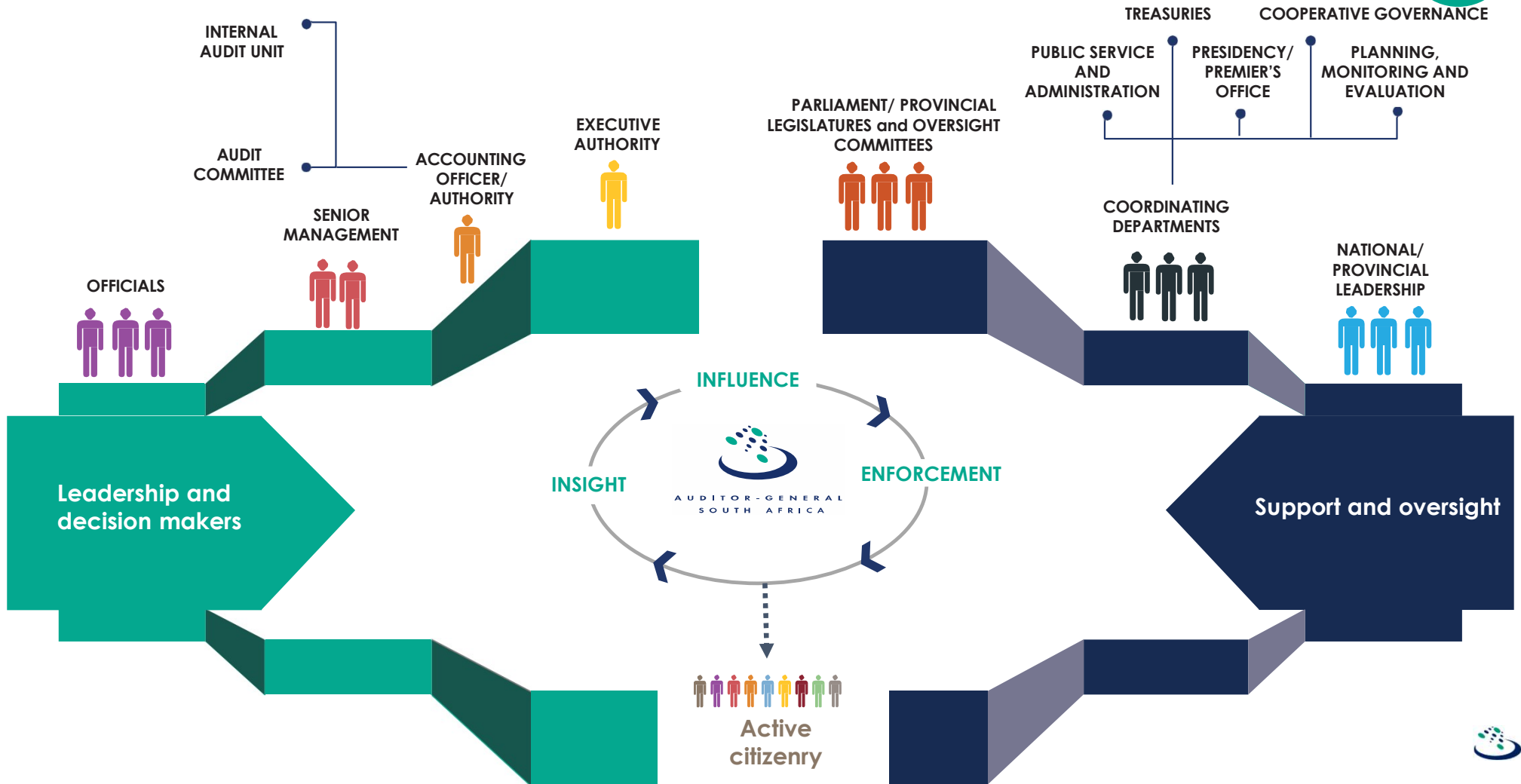


VISION

To be recognised by all our stakeholders as a relevant supreme audit institution that enhances public sector accountability

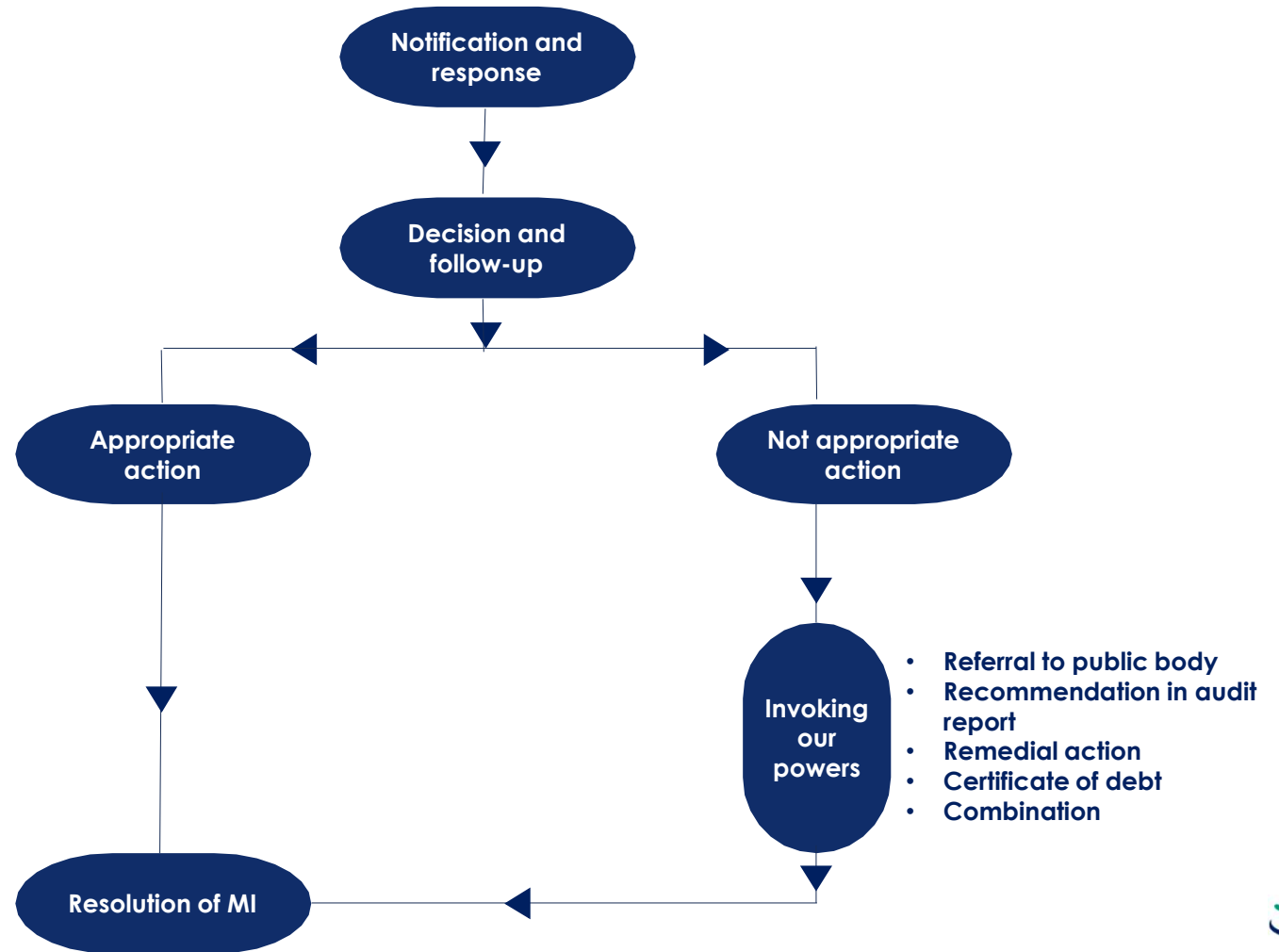


All have a role to play in accountability ecosystem



Material irregularity (MI) definition and process

Any **non-compliance** with, or **contravention** of, legislation, **fraud**, **theft** or a **breach of a fiduciary duty** identified during an audit performed under the Public Audit Act that **resulted in or is likely** to result in a **material financial loss**, the **misuse or loss** of a **material public resource**, or **substantial harm** to a **public sector institution** or the **general public**



Legal obligations of municipal manager to address an irregularity

If a municipal manager is made aware of an irregularity (non-compliance, fraud, theft or a breach of fiduciary duty), the Municipal Finance Management Act and its regulations typically prescribe the following steps to be taken:

1 Perform a preliminary investigation to determine the facts and collect information on what caused the transgression, who is responsible, and whether a financial loss was suffered (or will be).

If applicable



2 Prevent any losses or further losses

3 Institute a formal investigation if there are indications of fraud, corruption or other criminal conduct; if confirmed, take further action (e.g. report matter to the police)

4 Recover any financial losses from an external party

5 Take steps against the responsible official(s) (which can include a financial misconduct investigation)

6 Recover any financial losses from the responsible official(s)

The policies and procedures of a municipality typically describe how and when these steps should be taken.

The same steps should be taken if a municipal manager is notified of a material irregularity.



MI process addresses significant issues in local government

6



268 MIs on non-compliance and suspected fraud, resulting in:

194

Material **financial loss** (estimated R5,19bn)

- **Payments** for goods and services not received
- Unfair, uncompetitive or uneconomical **procurement**
- Ineffective use of financial reporting **consultants**
- **Value for money** not received
- **Revenue** not billed or not recovered
- Interest and penalties **on late or non-payments**
- **Asset and investment** losses

44

Substantial **harm to public sector institutions**

- Repeated **disclaimers**
- **Non-submission** of financial statements

29

Substantial **harm to general public**

- Pollution of water resources
- Poor **landfill site management**

Material irregularities could have been prevented by basic disciplines and processes – through the MI process we highlight these internal control weaknesses and track improvements to prevent recurrence

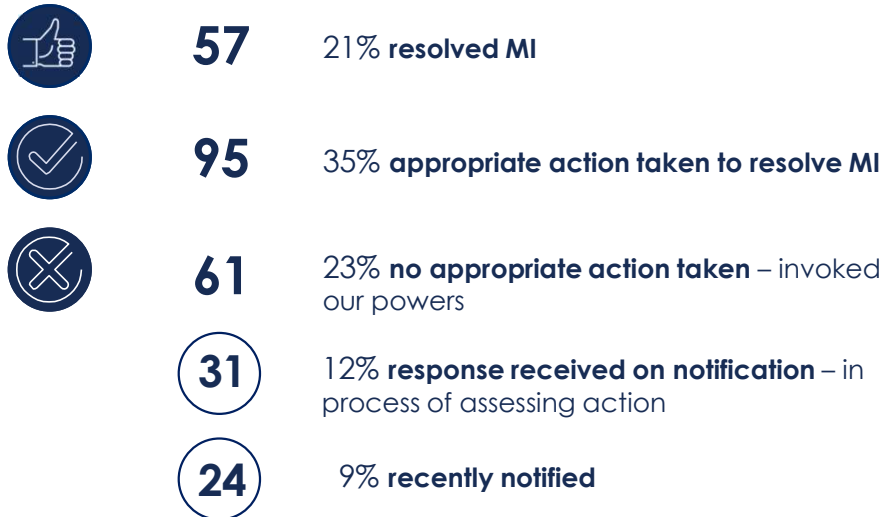


Accounting officers responding to material irregularities

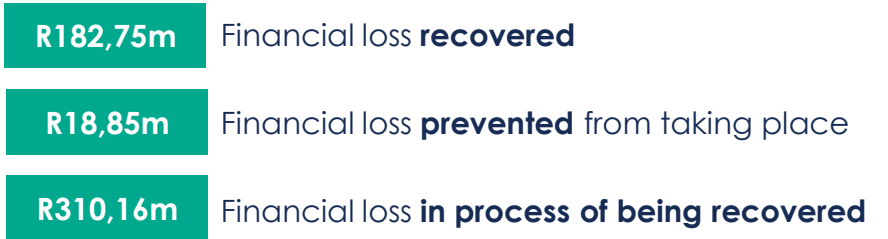
An MI is resolved when an accounting officer took all possible steps to:

- **Recover financial losses** or **remove/address harm caused**
- Implement **consequences**
- **Prevent** any further losses and harm; also through **improved internal controls**

Status of 268 MIs:



RESPONSIVE ACCOUNTING OFFICERS TOOK ACTION



Nature of MIs

Procurement and payment

9

Non-compliance in procurement processes resulting in **overpricing of goods and services procured or appointed supplier not delivering**

3

Uneconomical procurement resulting in overpricing of goods and services procured

38

Payment for **goods or services not received/of poor quality/ not in line with contract** or to **ineligible beneficiaries**

Fraud and compliance

3

Suspected fraud resulting in loss

1

Non-compliance resulting in penalties

Resource management

19

Assets not safeguarded resulting in loss

13

Loss of investments

17

Inefficient use of resources resulting in no/limited benefit derived for money spent

Harm to general public

24

Non-compliance with environmental legislation resulting in **pollution of water resources**

5

Landfill site mismanagement resulting in harm to public

Revenue management

22

Revenue not billed

2

Debt not recovered

Harm to public sector institution

24

Full and proper records not kept as evidenced by **repeat disclaimed opinions** resulting in substantial harm to municipalities

21

Non-submission of financial statements

Interest and penalties

49

Eskom, water boards, lenders and suppliers **not paid on time** resulting in interest

18

Payroll and value-added tax returns **not paid on time or incorrectly calculated** resulting in South African Revenue Service interest and penalties



If accounting officers do not respond, we take action

61

23%
Accounting officer not taking appropriate action – invoked our powers

Recommendations in audit report (19)

as AO took little or no action to address MI

- Beaufort West (WC)
- Chris Hani DM (EC)
- City of Matlosana (NW) – 2
- City of Mbombela (MP) – 2
- Emalahleni (MP) – 2
- Govan Mbeki (MP)
- Inxuba Yethemba (EC)
- Joe Morolong (NC)
- Mangaung Metro (FS)
- Matjhabeng (FS)
- Ngaka Modiri Molema DM (NW) – 2
- Raymond Mhlaba (EC)
- uMkhanyakude (KZN) – 3

Remedial action taken (25)

as our recommendations were not implemented

- City of Tshwane (GP) – 3
- Ditsobotla (NW)
- Dr Ruth Segomotsi Mompati DM (NW) – 2
- JB Marks (NW)
- Kai !Garib (NC)
- Kgetlengrivier (NW)
- Lekwa Teemane (NW)
- Madibeng (NW)
- Maluti-A-Phofung (FS)
- Mamusa (NW)
- Masilonyana (FS)
- Msunduzi (KZN)
- Naledi (NW)
- Ngaka Modiri Molema DM (NW) – 4
- Ramotshere Moiloa (NW)
- Tokologo (FS)
- uMkhanyakude DM (KZN) – 3

Notice of certificate of debt process (2)

- Ngaka Modiri Molema DM (NW) – 2

Referred to public bodies for further investigation (12)

- Chris Hani DM (EC)
- Emalahleni (MP)
- JB Marks (NW)
- Madibeng (NW) – 2
- Matjhabeng (FS)
- Ngaka Modiri Molema DM (NW) – 6

Recommendations in audit report and referral to public bodies (3)

- Amajuba DM (KZN)
- Ngaka Modiri Molema DM (NW) – 2

Non-responsiveness is most prominent in areas:

- Delays in investigations by auditees and/or public bodies
- Delays in recovery process
- Delays in identifying responsible officials and completing disciplinary process

Non-responsiveness can be addressed by accountability ecosystem through:

- Monitoring by council on quarterly basis
- Swifter investigations and actions – councils, municipal public accounts committees and disciplinary boards
- Stability in municipal manager positions



Recommendations in audit report (19) as AO took little or no action to address MI

- Beaufort West (WC)
- Chris Hani DM (EC)
- City of Matlosana (NW) – 2
- City of Mbombela (MP) – 2
- Emalahleni (MP) – 2
- Govan Mbeki (MP)
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- We issued an MI notification for **Govan Mbeki Local Municipality** (Mpumalanga) in June 2021 after it received **disclaimed opinions for three consecutive years** due to a **lack of full and proper financial records**
- The accounting officer's written submission on the steps to be taken to resolve the MI were **not appropriate**. We included **recommendations** in the auditor's report to **implement an action plan with anticipated timeframes to address poor record keeping, revenue collection, infrastructure management and effective management of its resources**
- There has been **slow progress to fully implement** the recommendations however the **accounting officer, supported by the council and provincial treasury, has taken actions to address poor record keeping**
- The municipality also **improved to a qualified audit opinion** in 2020-21 and 2021-22 and we provided the municipality with a further six months to finish implementing the recommendations in recognition of the progress made.



Remedial action taken (25) as our recommendations were not implemented

- City of Tshwane (GP) – 3
- Ditsobotla (NW)
- Dr Ruth Segomotsi Mompati DM (NW) – 2
- JB Marks (NW)
- Kai !Garib (NC)
- Kgetlengrivier (NW)
- Lekwa Teemane (NW)
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- In 2019-20, **Dr Ruth Segomotsi Mompati District Municipality (North West)** awarded a tender for VAT recovery services and incorrectly disqualified a bidder that quoted a lower commission fee percentage than the winning supplier. We notified the accounting officer of the material irregularity in December 2021.
- The municipality, terminated the contract with the supplier in February 2022. However, the accounting officer **did not provide commitments** or dates on **the recovery of financial losses** and there was **no progress on disciplinary action**.
- We concluded that the accounting officer **did not take appropriate action** to resolve the MI. We notified the accounting officer of **recommendations** which required **quantifying the financial loss, investigating the non-compliance, identifying person liable for losses and commencing disciplinary steps** by March 2023.
- The accounting officer did **not make satisfactory progress** with the implementation of the recommendations and the AG approved the taking of **remedial action**.



Notice of certificate of debt process (2)

- Ngaka Modiri Molema DM (NW) – 2

- Infrastructure and movable assets at **Ngaka Modiri Molema District Municipality (North West)** that could not be verified during 2018-19 and were presumed stolen, were written off due to lack of an internal control system to safeguard assets.
- The accounting officer did not take the steps to address the MI that he committed to and we subsequently **issued recommendations** to resolve the MI through performing a proper investigation, identifying the officials responsible and taking appropriate disciplinary or criminal action as well as implementing internal controls to prevent further losses. The recommendation were not adequately implemented resulting in remedial action being instituted.
- Incomplete and unsubstantiated responses to the **remedial action** resulted a notification to the accounting officer of our intention to start the **certificate of debt process** and a request for written submissions on reasons not to issue a certificate of debt.
- After considering the written representation and substantiating documents provided by the accounting officer in February 2023, we concluded that we will not proceed with the certificate of debt process at this time. On 20 July 2023, we granted the accounting officer an additional six months to complete the actions in progress to address the MI.
- We will assess the accounting officer's progress on implementing the required actions by the implementation date before deciding on the next steps in the process.



Referred to public bodies for further investigation (12)

- Chris Hani DM (EC)
- Emalaheni (MP)
- JB Marks (NW)
- Madibeng (NW) – 2
- Matjhabeng (FS)
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- Between April 2017 and June 2019, **Matjhabeng Local Municipality (Free State)** municipality made payments for the construction of an attenuation (flood-protection) dam in the Nyakallong stormwater system after it had been certified as complete. However, a site visit confirmed that the attenuation dam had not been built, resulting in overpayments on the project, which led to an estimated loss of R7,21 million. We issued an MI notification to the accounting officer of **in May 2020**.
- The accounting officer **did not provide sufficient and appropriate evidence on actions taken** to resolve the MI. In June 2021 we **referred the matter to the Hawks** for investigation.
- **Three individuals were arrested** and appeared in court during July 2023. The case was postponed to August 2023 and the accused were granted bai





OVERSIGHT

1

We urge all roleplayers in the national and provincial ecosystem to support, monitor and oversee the resolution of MIs.

2

Councils and municipal public accounts committees and provincial legislatures should request quarterly reports from accounting officers on the status of their MIs and should hold them accountable for any unreasonable delays in resolving the MIs.

3

Where there are delays in investigations, portfolio committees in Parliament responsible for public bodies should request regular reports on the status of these investigations and must hold the public bodies to account for unreasonable delays in the investigations.

S CoAG

1

Continue to showcase the positive impact of implementation of our expanded powers to parliamentary committees to encourage the swift resolution of MIs, thereby enabling greater impact.

2

Advocate to parliamentary committees for greater accountability where there are unreasonable delays by accounting officers and public bodies in resolving MIs.



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