

**MINISTRY**

**COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTIONS FOR WRITTEN RESPONSE**

**QUESTION NUMBER PQ 2016/576**

**DATE OF PUBLICATION: 4 MARCH 2016**

**QUESTION**

**576. Mr B R Topham (DA) to ask the Minister of Cooperative Governance and Traditional Affairs:**

Whether, with reference to the reply to question 2483 on 28 July 2015; he has received the outstanding information from the provinces; if not, why not; if so, when will this information be made available as requested? NW682E

**REFERENCE**

**Mr K J Mileham (DA) to ask the Minister of Cooperative Governance and Traditional Affairs:**

(1) In each (a) metropolitan, (b) local and (c) district municipality, what is the total amount currently owed for rates and service charges by municipal councillors and/or traditional leaders serving on municipal councils which is over 90 days;

(2) in respect of each case, (a) who is the councillor or traditional leader involved, (b) what is the amount owed and (c) has a repayment agreement been reached with the councillor and/or traditional leader; if so, when will the amount be repaid in full;

(3) whether any action has been taken against such councillors and/or traditional leaders in terms of section 13 and 14 of the Code of Conduct for Municipal Councillors; if not, why not; if so, (a) who is the councillor and/or traditional leader involved and (b) what action has been taken;

(4) whether his department will take any action against the (a) municipality, (b) speaker of the municipal council and (c) municipal council in cases where no action has been taken in this regard? NW2852E

**RESPONSE**

**(1), (2) and (3):**

On receipt of the question from the Honourable Member, the Department of Cooperative Governance (“the Department”) requested all provincial departments responsible for Local Government to obtain the required information from the municipalities within their area of jurisdiction, and to submit same to the Department.

The total amount currently owed from (a) metropolitan, (b) local and (c) district municipality municipalities for rates and service charges by municipal councillors and/or traditional leaders serving on municipal councils which is over 90 days is **R 10 255 152, 78.**

In respect of questions 1, 2 and 3, the responses attached as an **Annexure** were received from provinces and municipalities, respectively.

The report shows that some councilors and traditional leaders have entered into payment agreements with their respective municipalities including radical actions such as accounts being handed over for collection or disconnection of services. However, we have also noted that no actions have been taken against some of the defaulting councilors and traditional leaders.

In summary the following status prevails:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **PROVINCE** | **NO. OF MUNICIPALITIES** | **NO. OF MUNICIPALITIES SUBMITTED** | **NO. OF MUNICIPALITIES**  **OUTSTANDING** | **NO. OF CLLRS. AND OR AND/OR TRADITIONAL LEADERS OWING** |
| KWAZULU-NATAL | 61 | 26 | 35 | 28 |
| EASTERN CAPE | 45 | 23 | 22 | 35 |
| WESTERN CAPE | 30 | 29 | 1 | 32 |
| NORTHERN CAPE | 32 | 13 | 19 | 53 |
| NORTH WEST | 23 | 15 | 8 | 90 |
| FREE STATE | 24 | 10 | 14 | 78 |
| MPUMALANGA | 21 | 18 | 3 | 31 |
| GAUTENG | 12 | 12 | 0 | 35 |
| LIMPOPO | 30 | 15 | 15 | 28 |
| **TOTALS** | **278** | **161** | **117** | **410** |

The breakdown in terms of debts owed by Councillors and Traditional Leaders, per province, is as follows:

|  |  |
| --- | --- |
| **PROVINCE** | **DEBT OWED FOR RATES AND SERVICE CHARGES BY MUNICIPAL COUNCILLORS AND/OR TRADITIONAL LEADERS** |
| KWAZULU-NATAL | R 199 621, 13 |
| EASTERN CAPE | R 54 551, 13 |
| WESTERN CAPE | R 130 346, 80 |
| NORTHERN CAPE | R 595 552, 00 |
| NORTH WEST | R 7 391 942, 72 |
| FREE STATE | R 673 812, 79 |
| MPUMALANGA | R 913 587, 08 |
| GAUTENG | R 168 358, 87 |
| LIMPOPO | R 127 379, 76 |
| **TOTALS** | **R 10 255 152, 78** |

**4(a), (b) and (c):**

It must be noted that in terms of Item 12A of the Code of Conduct for Councillors (“the Code”), a councillor may not be in arrears to the municipality for rates and service charges for a period longer than 3 months.

Item 14 Of the Code provides for breaches of the Code, and requires that a municipal council investigate and make a finding on any alleged breach of the Code, or appoint a special committee to do this.

If the council or a special committee finds that a councillor has breached a provision of the Code, the council may -

* 1. issue a formal warning to the councillor;
  2. reprimand the councillor;
  3. request the MEC for local government in the province to suspend the councillor for a period;
  4. fine the councillor; and
  5. request the MEC to remove the councillor from office.

If the council does not investigate a breach of the Code, the MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation as to the appropriate sanction mentioned above.

Item 15 of the Code provides for the application of the Code, in the same way they apply to councillors, to traditional leaders who participates or has participated in the proceedings of a municipal council in terms of section 81 of the Municipal Structures Act.

However, If a municipal council or a special committee in terms of item 14 (1) finds that a traditional leader has breached a provision of the Code, the council may issue a formal warning to the traditional leader; or request the MEC for local government in the province to suspend or cancel the traditional leader's right to participate in the proceedings of the council.

Additionally, the MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the right of the traditional leader to participate in the proceedings of the municipal council should be suspended or cancelled.

If the MEC is of the opinion that the traditional leader has breached a provision of this Code, and that such breach warrants a suspension or cancellation of the traditional leader's right to participate in the council's proceedings, the MEC may suspend that right for a period and on conditions determined by the MEC; or cancel that right.

The above provisions in the Code clearly place the responsibility on municipal councils, in consultation with the MEC for local government in the province, to take action against councillors and/or traditional leaders who are in default for paying for rates and service charges.

On 27 July 2016, the Department issued Circular 29 of 2016 to all Heads of Department of Local Government, and to all Municipal Managers. Item 3.2 (ii) of the Circular recommended to municipal managers to fulfil their responsibilities in terms of section 32 of Local Government: Municipal Finance Management Act 56 of 2003 ("MFMA") to ensure that those councillors who owe the municipality money to make arrangements to recover those monies owed by non-returning councillors, if possible and by agreement, from the last salary amounts payable to such councillors.